

Lower Thames Crossing

5.4.3.24 Final Agreed Statement of Common Ground between (1) National Highways and (2) Vodafone Limited (Clean version)

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Revision history

Version	Date	Submitted at
1.0	31 October 2022	DCO Application
2.0	18 July 2023	Deadline 1
3.0	5 December 2023	Deadline 8

Status of the Statement of Common Ground

This is the Final Agreed Statement of Common Ground between (1) National Highways (the Applicant) and (2) Vodafone Limited.

Both parties have reached agreement on the position on the status of all six matters. All six matters are agreed.

At Deadline 1, the Applicant and Vodafone Limited agreed that the Statement of Common Ground was an accurate description of the matters raised and the status of each. The Statement of Common Ground was left open during Examination in case new matters emerged; however, no new matters have emerged and so the Statement of Common Ground has been converted to a final iteration.

From: [REDACTED]
Sent: Wednesday, June 21, 2023 8:11 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: LTC - Vodafone Updated SoCG

Hi [REDACTED]

Apologies for the delay in response. On the whole I don't think there is any issue with the amended wording and Vodafone are happy to agree the SOCG as per your most recent draft.

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1 Introduction

1.1 Purpose of the Statement of Common Ground

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the Development Consent Order (DCO) application for the proposed A122 Lower Thames Crossing (the Project) made by National Highways Limited (the Applicant) to the Secretary of State for Transport (Secretary of State) under section 37 of the Planning Act 2008 on 31 October 2022.
- 1.1.2 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the Applicant and Vodafone Limited, and where agreement has not been reached.
- 1.1.3 This final version of the SoCG has been submitted at Examination Deadline 8.

1.2 Principal Areas of Disagreement

- 1.2.1 On the 19 December 2022 the Examining Authority made some early procedural decisions to assist the Applicant, potential Interested Parties and themselves to prepare for the Examination of the DCO application.
- 1.2.2 One of these procedural decisions was to use a tracker recording Principal Areas of Disagreement in Summary (PADS).
- 1.2.3 The PADS Tracker would provide a record of those principal matters of disagreement emerging from the SoCG and should be updated alongside the SoCG as appropriate throughout the Examination with the expectation that a revised PADS Tracker should be submitted at every Examination deadline.
- 1.2.4 Vodafone Limited elected not to produce a PADS Tracker, indicating to the Applicant that they did not have any principal areas of disagreement and were content that Table 2.1 within this SoCG adequately presented their matters.

2 Matters

2.1 Final position on matters

- 2.1.1 A position statement on engagement undertaken between the Applicant and Vodafone Limited is presented in Appendix A.
- 2.1.2 The outcome of this engagement is presented in Table 2.1 which details and presents the matters that are agreed between (1) the Applicant and (2) Vodafone Limited.
- 2.1.3 In Table 2.1, relevant issues relating to the dDCO articles and Requirements in Schedule 2 to the dDCO have been identified under the heading ‘DCO and Consents’.
- 2.1.4 At Examination Deadline 8, all six matters are agreed.
- 2.1.5 This is the final Statement of Common Ground between the Applicant and Vodafone Limited.

Table 2.1 Final position on matters

Topic	Item No.	Vodafone’s Comment	Applicant’s Response	Application Document Reference	Status
DCO and Consents					
Land Agreements	2.1.1	Vodafone understands that the apparatus to be interfered with as part of the works is all within public adopted highway and that, following completion of the works, will remain within public adopted highway. On that basis, the land position can be considered agreed. For the avoidance of doubt, if these assumptions are not correct then this matter would be considered 'Not Agreed' and Vodafone reserves the right to comment further.	The Applicant confirms that all Vodafone apparatus will remain in the adopted highway following the works for the Project.	Draft DCO [Document Reference 3.1 (10)]	Matter Agreed

Topic	Item No.	Vodafone's Comment	Applicant's Response	Application Document Reference	Status
Operation and Maintenance					
Redundant Assets	2.1.2	Vodafone will not be responsible for any redundant assets.	The Applicant will remove redundant assets during construction, if required. The Applicant will ensure service drawings regarding these assets are maintained during the construction period.	N/A	Matter Agreed
Construction					
Construction Contract	2.1.3	Vodafone has no objection to the delivery through the New Road and Street Works Act 1991 (NRSWA) save that the Communications Code and the agreed form protective provisions also need to be applied between the parties.	The Applicant welcomes the agreement from Vodafone that the works can be delivered through NRSWA. The Applicant acknowledges that Vodafone require further discussions on the status of the Electronic Communications Code (ECC) and protective provisions and hopes to reach a resolution shortly.	N/A	Matter Agreed
Protective Provisions					
Maintenance Access	2.1.4	The need for emergency access at all times is being discussed between the parties as part of the protective provisions.	Maintenance access to Vodafone's assets is protected in the protective provisions which use the ECC.	Protective provisions, Schedule 14, draft DCO [Document Reference 3.1 (10)]	Matter Agreed

Topic	Item No.	Vodafone's Comment	Applicant's Response	Application Document Reference	Status
Protection of existing Assets	2.1.5	Vodafone recognises that the draft protective provisions provide a mechanism for the protection of Vodafone's existing apparatus. Notwithstanding this, Vodafone considers that the cost recovery mechanism should be more closely aligned with that within the Electronic Communications Code, and Vodafone is discussing this point (and others) with the Applicant.	Vodafone's assets are protected via the protective provisions. These robust provisions effectively protect Vodafone and numerous other telecoms operators. Vodafone has agreed to the protective provisions from the Applicant.	Protective provisions, Schedule 14, draft DCO [Document Reference 3.1 (10)]	Matter Agreed
Protective Provisions	2.1.6	The parties continue to discuss the terms of the Protective Provisions. Vodafone has a statutory function to deliver a service and Vodafone needs to ensure that there is no detriment to its undertaking as a result of the works. Accordingly, Vodafone has put forward additional standard commercial terms in relation to ensuring that there will be adequate access to its apparatus at all times (including for emergency works) and adequate cost recovery provisions for any damage to its apparatus.	The parties have now agreed protective provisions and these will be formalised shortly.	Protective provisions, Schedule 14, draft DCO [Document Reference 3.1 (10)]	Matter Agreed

Appendix A Engagement activity

- A.1.1 The Applicant and Vodafone have had extensive engagement since the inception of the Project. There has been engagement and dialogue through the statutory and non-statutory consultation, the various design iterations and releases. The engagement has been in the form of face-to-face meetings, MS Team meetings, telephone calls and email correspondence.
- A.1.2 The parties are content for their engagement to be captured and presented in the SoCG in this manner.

Appendix B Glossary

Term	Abbreviation	Explanation
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
Electronic Communications Code	ECC	The electronic communications code (the Code) is set out in Schedule 3A of the Communications Act 2003. It is a set of rights that are designed to facilitate the installation and maintenance of electronic communications networks.
Statement of Common Ground	SoCG	A Statement of Common Ground is a written statement containing factual information about the proposal which is the subject of the appeal that the appellant reasonably considers will not be disputed by the local planning authority.
New Road and Street Works Act 1991	NRSWA	An Act to amend the law relating to roads so as to enable new roads to be provided by new means; to make new provision with respect to street works and, in Scotland, road works; and for connected purposes.

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