

Lower Thames Crossing

5.4.3.2 Final Agreed Statement of Common Ground between (1) National Highways and (2) Barking Power Limited (Clean version)

APFP Regulation 5(2)(q)

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Revision history

Version	Date	Submitted at
1.0	31 October 2022	DCO Application
2.0	15 December 2023	Deadline 9A

Status of the Statement of Common Ground


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

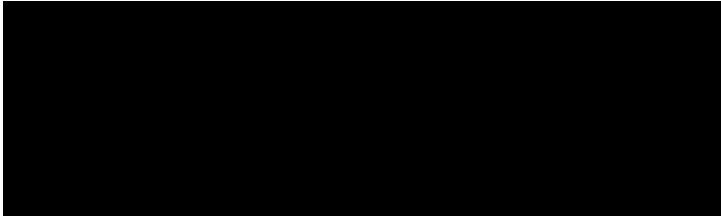
Both parties have reached a position on the status of all 10 matters. All 10 matters are agreed, leaving no matters outstanding.

Hi 

Thank you for your email and attachment.

Please find this email as confirmation that Deloitte, on behalf of Barking Power Limited (“BPL”), hereby confirms its agreement to document [reference](#) : TR010032/APP 5.4.3.2 ‘Final Agreed Statement of Common Ground between (1) National Highways and (2) Barking Power Limited’ as submitted for Deadline 9A on the 15th December 2023.

Many thanks 



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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 Barking Power Limited (BPL).
- 1.1.3 This final version of the SoCG has been submitted at Examination Deadline 9A.

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 The matters contained in the BPL PADS Tracker have been agreed separately between the parties. It is expected that BPL will notify the Examining Authority of this development and, as per convention, withdraw the PADS Tracker and any other representations in relation to the matters already resolved.
- 1.2.5 The matters contained in the BPL PADS Tracker have been agreed separately between the parties. It is expected that BPL will notify the Examining Authority of this development and as per convention, withdraw the PADS Tracker and any other representations in relation to the matters already resolved.

1.3 Terminology

- 1.3.1 In this SoCG and matters table at Section 2, references to “the BPL gas pipeline”, “the BPL pipeline” and “the pipeline” are all references to the pipeline which formerly connected the now decommissioned Barking Reach Power Station to the gas transmission network.

2 Matters

2.1 Final position on matters

- 2.1.1 A summary of engagement undertaken between the Applicant and Barking Power Limited (BPL) is summarised in Appendix A.
- 2.1.2 The outcome of this engagement is presented in Table 2.1 which details and presents the matters, which are now all agreed between (1) the Applicant and (2) Barking Power Limited (BPL).
- 2.1.3 The following matters have moved from ‘matter under discussion’ to ‘matter agreed’:
2.1.2, 2.1.5, 2.1.6, 2.1.8, 2.1.9, and 2.1.11
- 2.1.4 Discussions between the Applicant and BPL initially resulted in two new matters being added to the SoCG. These matters were 2.1.10 – ED1 and 2.1.11 – ED1. Matter 2.1.11 – ED1 was introduced by the Applicant to address the Examining Authority’s Issue Specific Hearing 1 topic dealing with the ‘Project Definition’. Matter 2.1.10 has subsequently been deleted from the SoCG as both parties have agreed that given it related to cost recovery that the SoCG did not provide the appropriate mechanism to record the matter.
- 2.1.5 In Table 2.1, relevant issues relating to the draft DCO articles and Requirements in Schedule 2 to the draft DCO have been identified under the heading ‘DCO and consents’.
- 2.1.6 In the column ‘Item No’ in Table 2.1, ‘Rule 6’ indicates a matter entered in the SoCG as a result of a request in the Rule 6 letter and ‘DL1’ indicates a new matter was added at/around Deadline 1.
- 2.1.7 At Examination Deadline 9A there are 10 matters in total, all of which are agreed.
- 2.1.8 This is the final Statement of Common Ground between the Applicant and Barking Power Limited.

Table 2.1 Final Postion on Matters

Topic	Item No.	Barking Power Limited Comment	The Applicant’s Response	Application Document Reference	Status
DCO and consents					
Affected asset	2.1.1	BPL require confirmation from National Highways as to how BPL assets are affected by the Project. Consider plans showing sections of BPL pipeline which interact with Project works.	The length of the pipeline considered to be affected by the Project is listed in Schedule 1 of draft DCO, as well as represented in the Works Plans (Works Nos. G8 and G9).	Draft DCO [Document Reference 3.1 (11)] Works Plans [Document Reference 2.6 Volume A (5), Volume B Composite (6), Volume B Utilities (5), Volume C (7)]	Matter Agreed
Description of works	2.1.2	BPL would like confirmation on how BPL pipeline and abandonment works associated with it are currently described in the DCO. BPL would like the proposed timeline and process for the BPL abandonment to be reflected in the DCO application.	The intent to either (a) divert the pipeline, or (b) cap and remove a section, was communicated at Community Impact Consultation. That has been superseded by the Applicant’s decision to cap and remove a section, rather than divert. Land associated with the diversion has been relinquished as communicated in the 2022 Local Refinement Consultation. In the event that BPL do not grout the relevant sections of their pipeline in advance of the works commencing, the Applicant will seek to treat the relevant sections of	Draft DCO [Document Reference 3.1 (11)]	Matter Agreed

Topic	Item No.	Barking Power Limited Comment	The Applicant's Response	Application Document Reference	Status
			the pipeline using the powers in the DCO. However, there is no diversion proposed within the current DCO. The proposal is to cap the pipeline at the locations within the Order Limits and remove where interfacing with the Project.		
Scope of works in DCO	2.1.3	DCO to reflect that the diversion of BPL gas pipeline is no longer required.	Diversion of the pipeline was previously proposed as it was believed to be a live/viable commercial asset. Now BPL consider it a redundant/disused asset, it is proposed to remove a section instead, without a diversion. The application reflects this position.	Draft DCO [Document Reference 3.1 (11)]	Matter Agreed
Assumptions on BPL assets	2.1.4	BPL would like National Highways to confirm whether the initial assumption is that the BPL pipeline will still be live and the necessary diversions and stopping off activities would need to be undertaken.	The Applicant confirms that the assumption is that BPL have not been successful in the extinguishing of their own pipeline and associated rights, and the draft DCO therefore contains the powers necessary to do so. However, there is no diversion in the current draft DCO. The proposal is to cap the pipeline at the locations within the order limits and remove where interfacing with the Project.	Draft DCO [Document Reference 3.1 (11)]	Matter Agreed
Utility Works Qualifying as NSIPs	2.1.11 ED1	BPL seeks confirmation that the works proposed to the affected BPL network do not qualify as an NSIP in their own right.	Those works required to the gas pipeline networks have been assessed by the Applicant in relation to Section 20 of the Planning Act 2008, in accordance with Counsel's advice and the approach	Environmental Statement - Appendix 1.3: Assessment of proposed	Matter Agreed

Topic	Item No.	Barking Power Limited Comment	The Applicant's Response	Application Document Reference	Status
			<p>taken on other DCO schemes. This assessment is detailed within Environmental Statement Appendix 1.3: Assessment of proposed gas pipeline works for the purposes of section 20 of the Planning Act 2008.</p> <p>The findings of the Applicant's assessment are that no Works to the affected BPL network qualify as an NSIP within their own right as they fail to meet one or more of the tests contained within Section 20.</p>	<p>gas pipeline works for the purposes of section 20 of the Planning Act 2008 [APP-334]</p>	
Consultation and engagement					
Health and Safety Executive (HSE) Engagement	2.1.5	<p>National Highways need to ensure HSE engagement is consistent and that they have common discussions with the HSE Pipeline Inspector for the region.</p> <p>Consultation with the HSE has confirmed their agreement to the strategy of grouting as the mechanism for abandonment to render the pipeline safe and harmless in accordance with the Pipeline Safety Regulations.</p> <p>On completion of the abandonment of the entire pipeline length the grouting</p>	<p>The Applicant will continue to engage with BPL regarding engagement with the HSE and their asset to ensure a consistent communication of intent and progression from both parties.</p> <p>The Applicant is engaging with the HSE on the basis that the BPL pipeline is categorised as a high-pressure pipeline at the point of works commencing, i.e. assuming that BPL's proposals have not progressed. However, the Applicant understands that BPL expects works to grout fill the decommissioned pipeline will be done during 2023. If completed, that would facilitate the Project's proposed removal of certain sections of</p>	N/A	Matter Agreed

Topic	Item No.	Barking Power Limited Comment	The Applicant's Response	Application Document Reference	Status
		<p>contractor and BPL will sign a Certificate of Abandonment which will be submitted to the HSE. On acceptance of this certificate the HSE will change the status of the BPL pipeline to abandoned and remove it from the Land Use Planning Register.</p>	<p>the pipeline, because there would be no need for capping. However, as the Applicant cannot be certain that the works would be carried out as currently envisaged, the DCO as applied for will contain sufficient powers, as a contingency, to enable the Applicant to cap the pipe such that all works as may be necessary to remove the relevant sections of pipeline are authorised by the DCO. The Applicant is engaging with the HSE on this basis and ensuring the consistency of messaging with BPL.</p>		
Landowner Engagement Strategy	2.1.6	<p>A landowner engagement strategy should be developed which outlines a common approach from National Highways and BPL and gives a common message for the works being undertaken by both with respect to the gas pipeline.</p> <p>The intent is to notify relevant landowners of the change in the proposal to the BPL pipelines, Work Nos G8 and G9 and ensure BPL and the Project deliver a consistent message to the affected landowners.</p>	<p>Via engagement with the relevant landowners, the Applicant has notified its intent to no longer divert the pipeline and to cap and remove the pipeline for those sections as promoted shown as Work Nos. G8 and G9.</p> <p>The Applicant has notified relevant landowners that they are working with BPL and understand there is an overlap in the intentions of both parties, however the Applicant's proposals are included within the draft DCO in the eventuality that BPL's proposals do not materialise. This development has given rise to the need for a combined Landowner Engagement Strategy, which the Applicant has agreed to share with BPL.</p>	N/A	Matter Agreed

Topic	Item No.	Barking Power Limited Comment	The Applicant's Response	Application Document Reference	Status
			The Applicant will provide BPL with a draft copy of its Landowner Engagement Strategy, and text contained within for the benefit of landowners, once it has been formed. BPL will have the right to object to such draft Strategy where it considers it has concerns for the impact on both its own works and landowner strategy.		
Design – road, tunnels, utilities					
Treatment of redundant pipeline	2.1.7	The pipeline will remain in situ on abandonment and be filled with cementitious grout to render pipeline safe and harmless to satisfaction of the HSE.	Agreed. The Applicant's contractor will remove the sections of pipe that interface with the project. The landowners will be notified of these locations where relevant.	N/A	Matter Agreed
Construction					
Timing of works given proposed change to asset	2.1.8	Timing of BPL and the Project works and that the BPL pipeline status is likely to change from its current live status (with 2 bar N ₂) to abandoned (with grout infill) in the period of the Project DCO process.	The Application contains necessary powers to modify the existing pipeline for the requirements of the construction of the A122. The Applicant proposes this in the context of the pipeline being categorised as an operational high-pressure gas pipeline. The Applicant acknowledges that the categorisation of the pipeline may change during the submission and examination period but are proceeding on the basis that BPL's proposals do not materialise.	Draft DCO [Document Reference 3.1 (11)]	Matter Agreed

Topic	Item No.	Barking Power Limited Comment	The Applicant's Response	Application Document Reference	Status
			If BPL have completed the decommissioning works and has received confirmation that the gas pipeline has been removed from the Land Use Planning Register, BPL will notify the Applicant of such status.		
Protective Provisions					
Land & Property – extinguishment of easements	2.1.9	The draft DCO currently proposes to discharge and extinguish the rights for the BPL gas pipeline in areas within the Project boundary. BPL needs clarity on what will happen with the easements.	The draft DCO reflects BPL's proposal to grout infill the pipeline. The draft DCO provides that the protective provisions for statutory undertakers, which would have obliged the Applicant to provide a new pipeline in place of the part being removed, do not apply to BPL with respect to the pipeline. Schedule 14, Part 1 (Protective Provisions for the protection of electricity, gas, water and sewerage undertakers) of the draft DCO states at paragraph 7(9) that ' <i>No part of this paragraph, or this Schedule, apply to the disused pipeline (comprised in Works Nos. G8 and G9) in plots 37-05, 38-04, 38-06, 38-07, 38-08, 38-11, 38-22, 38-26, 38-27, 38-31, 38-32, 38-36, 38-39, 38-41, 38-42, 38-43, 38-47, 38-64, 39-03, 39-07, 39-10, 39-23, 39-24, 39-47, 39-60, 39-62, 39-67, 39-68, 39-77, 39-78, 39-79, 40-09, 40-20, 40-21, 40-22 and 40-23 as shown in the land plans</i>	Draft DCO [Document Reference 3.1 (11)]	Matter Agreed

Topic	Item No.	Barking Power Limited Comment	The Applicant's Response	Application Document Reference	Status
			<p><i>unless otherwise agreed with the City of London Corporation.'</i></p> <p>The following plots have the BPL pipeline located within it, that are within the Order Limits for the purposes of delivering other parts of the Project: 37-05, 38-41, 38-42, 38-43, 38-47, 40-09 and 40-20</p> <p>The following plots have the BPL pipeline located within it, or potentially have rights associated with the pipeline, that are within the Order Limits for works associated with the pipeline: 38-01, 38-03, 38-04, 38-05, 38-06, 38-07, 38-08, 38-11, 38-12, 38-15, 38-21, 38-22, 38-26, 38-27, 38-31, 38-32, 38-36, 38-37, 38-39, 38-40, 38-59, 38-64, 38-65, 39-02, 39-03, 39-04, 39-07, 39-10, 39-11, 39-22, 39-23, 39-24, 39-25, 39-47, 39-60, 39-62, 39-63, 39-64, 39-65, 39-66, 39-67, 39-68, 39-77, 39-78, 39-79, 40-21, 40-22, 40-23, 42-127 and 42-104</p>		

Appendix A Engagement activity

Table A.1 Engagement activities between the Applicant and Barking Power Limited

Date	Overview of Engagement Activities
1 June 2022 to 15 February 2023	Various emails and calls to progress SoCG, Cost Recovery Agreement and Representations
15 Feb 2023	Status update between the Applicant, Arup and Deloitte, in particular, related to SoCG
8 March 2023	Applicant sought clarifications as to BPL's Representation to DCO and on SoCG matters
30 March 2023	Review of outstanding matters between the Parties including Cost Recovery Agreement, SoCG and draft Side Letter of Agreement.
April 2023	Various emails on the SoCG, side agreement and Cost Recovery Agreement
May 2023	Review of further NH comments on SoCG and Cost Recovery Agreement
June 2023	Review of further NH comments on SoCG
July 2023	Review of further NH comments on SoCG and Cost Recovery Agreement
August 2023	Review of Cost Recovery Agreement and side agreement letter
September 2023	Review of Cost Recovery Agreement and side agreement letter
November 2023	Agreement to CRA and side agreement letter

Appendix B Glossary

Term	Abbreviation	Explanation
Barking Power Limited	BPL	Barking Power Limited operates as an independent power generating company whose sole shareholder is City of London Corporation.
City of London Corporation		The City of London Corporation is the municipal governing body of the City of London.
Development Consent Order	DCO	A DCO is a means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects under the Planning Act 2008.
Draft Development Consent Order	Draft DCO	The draft document obtaining permission for developments categorised as Nationally Significant Infrastructure Projects.
Health & Safety Executive	HSE	The Health and Safety Executive (HSE) is Britain’s national regulator for workplace health and safety. It prevents work-related death, injury and ill health.
Order Limits		The Order Limits are the outermost extent of the Lower Thames Crossing indicated on the Plans by a red line. This is the Limit of Land to be Acquired or Used (LLAU) by the Lower Thames Crossing. This is the area in which the DCO would apply.
Statement of Common Ground	SoCG	A written statement containing 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.

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