



Lower Thames Crossing

5.4.3.6 Final Agreed Statement of Common Ground between (1) National Highways and (2) Essex & Suffolk Water (Tracked changes version)

APFP Regulation 5(2)(q)

Infrastructure Planning (Applications:
Prescribed Forms and Procedure)
Regulations 2009

Volume 5

DATE: December 2023
DEADLINE: 9A

Deleted: October 2022

Planning Inspectorate Scheme Ref: TR010032
Application Document Ref: TR010032/APP/5.4.3.6

VERSION: 2.0

Deleted: 1

Revision history

| <u>Version</u> | <u>Date</u> | <u>Submitted at</u> |
|-----------------------|-------------------------|----------------------------|
| <u>1.0</u> | <u>31 October 2022</u> | <u>DCO Application</u> |
| <u>2.0</u> | <u>15 December 2023</u> | <u>Deadline 9A</u> |

Status of the Statement of Common Ground

This is the Final Agreed Statement of Common Ground between (1) National Highways (the Applicant) and (2) Essex & Suffolk Water (ESW).

Both parties have reached agreement on the position on the status of all 13 matters. Of the 13 matters contained within, five are agreed and eight will remain under discussion, subject to the completion of a Side Agreement between the parties, or to be discussed at the detailed design stage of the Project.

From: [REDACTED]

Sent: Friday, December 8, 2023 6:05 PM

To: [REDACTED]

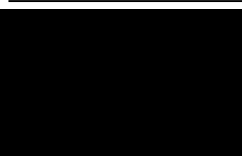
Cc: [REDACTED]

Subject: RE: LTC - ESW SoCG

[REDACTED]

We confirm that this clean version properly incorporates all of our comments.

Kind regards,



Winckworth
Sherwood



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Lower Thames Crossing

5.4.3.6 Final Agreed Statement of Common Ground between (1) National Highways and (2) Essex & Suffolk Water (Tracked changes version)

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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.

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1.1.2 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the Applicant and Essex and Suffolk Water, and where agreement has not been reached.

Deleted: <#>This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available in the deposit locations and/or the Planning Inspectorate website.¶

1.1.3 This final version of the SoCG has been submitted at Examination Deadline 9A.

Deleted: <#>parties to it

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1.2 Principal Areas of Disagreement

1.2.1 On 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 Application.

Deleted: <#>. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific matters that may need to be addressed during the examination

1.2.2 One such Procedural Decision was requested that a tracker recording Principal Areas of Disagreement in Summary (PADS) should be used.

Deleted: <#>Parties to this Statement of Common Ground¶

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.

Deleted: <#>prepared by (1) National Highways and (2) Essex & Suffolk Water Limited

1.2.4 This SoCG should be read in conjunction with the Essex and Suffolk Water PADS Tracker.

1.3 Terminology

1.3.1 In the final position on matters table in section 2 of this SoCG, "Matter agreed" indicates where the issue has now been resolved and "Matter Under Discussion*" where these points will be the subject to the completion of a Side Agreement between the parties, or to be discussed at the detailed design stage of the Project.

Deleted: <#>National Highways became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing National Highways made provision for all legal rights and obligations of the Highways Agency, including in respect of the Project, to be conferred upon or assumed by National Highways.¶

Essex & Suffolk Water Limited (ESW) are part of Northumbrian Water Group. ESW provide 1.9 million people with high-quality water every day operating in two distinct geographical areas: part of southern Norfolk & Suffolk and East London & Essex. With 25 drinking water treatment plants and over 110 service reservoirs, water is distributed through over 10,000 km of pipework throughout the ESW region.¶

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Deleted: not agreed" indicates agreement on the matter could not be reached, and "Matter under discussion" where these points will be the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. "Matter

2 Matters

2.1 Final Position on matters

2.1.1 ~~A position statement on engagement undertaken between the Applicant and Essex and Suffolk Water 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, or that remain, under discussion between (1) the Applicant and (2) Essex and Suffolk Water.~~

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 9A there are 13 matters in total of which five are agreed and eight that are under discussion*.~~

2.1.5 ~~With regards to the seven matters that will remain under discussion, It is acknowledged there are some matters where further discussion may need to take place during the detailed design or construction stages, of the Project to finalise detail, or are subject to the completion of a Side Agreement between the parties and these matters will remain 'under discussion' until that time. There are seven such matters in this SoCG and matters to which this applies have an asterisk (*) next to them.~~

2.1.6 ~~This is the final Statement of Common Ground between the Applicant and Essex and Suffolk Water.~~

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A summary of the meetings and correspondence

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Status of the Statement of Common Ground¶

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Deleted: that has taken place to date, as set out in Appendix C.¶

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Matters¶

Matters agreed, not agreed or under discussion¶
Table 2.1

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Table 2.1 Final Position on Matters

| Topic | Item No. | Essex and Suffolk Water comment | The Applicant's Response | Application Document Reference | Status |
|-------------------------|----------|--|--|--|--------------------------|
| DCO and Consents | | | | | |
| Order Limits Boundary | 2.1.1 | <p>Essex & Suffolk Water Limited requested that all diversions of their apparatus be included within the Order Limits (OL) boundary.</p> <p>ESW objects to the inclusion of the Well as plot 24-133 within Order limits. That will jeopardise ESW's ability to carry out its statutory obligations including under its Water Resources Management Plan 2024 and its contractual obligations under its existing abstraction licence for public water supply, such as monitoring the water quality. ESW has made submissions on this point throughout the Examination process, including in its Written Representations (REP1-265), at Compulsory Acquisition Hearing 4 and its subsequent summary of oral submissions (REP6-157) and in its response to CAH4 action point 5 (REP7-224).</p> | <p>The latest Order Limits (OL) boundary has been shared with Essex & Suffolk Water Limited (ESW) and all works to ESW apparatus are within the OL.</p> <p>The Applicant and ESW submitted an agreed and signed SoCG at Deadline 1. While the Applicant understands ESW's position as communicated throughout the Examination, the Applicant has responded to ESW's submissions, notably in the Applicant's Comments on WRs Appendix B: Statutory Undertakers and its Post-event submissions, including written submission of oral comments, for CAH4.</p> <p>The Applicant considers this matter agreed, subject to completion of a Side Agreement which makes further provision for this matter.</p> | <p>Draft DCO [Document Reference 3.1 (11)]</p> <p>Statement of Common Ground between (1) National Highways and (2) Essex & Suffolk Water (version 1) [APP-107]</p> <p>Comments on WRs Appendix B: Statutory Undertakers [REP2-047]</p> <p>Post-event submissions, including written submission of oral comments, for CAH4 [REP6-088]</p> | Matter Under Discussion* |

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| Topic | Item No. | Essex and Suffolk Water comment | The Applicant's Response | Application Document Reference | Status |
|---|----------|--|--|--|---------------------------|
| Linford Borehole Pipe (Raw Water): Scope to reopen for the Tunnel Boring Machine operation (Scope due with LTC July 2020) | 2.1.2 | <p>The Linford Borehole site is meant to provide raw but chemically clean water (therefore not potable water under the Water Industry Act as it is untreated) for the Tunnel Boring Machine (TBM) use.</p> <p><u>There has been a misconception by the Applicant that it must acquire rights over the site to take its supply pipe (work MUT6) to make a connection directly with the Linford Well, because ESW does not have powers to lay the pipe. ESW itself does not have statutory powers to lay a brand new service pipe in third party land for a single customer, which is what is required here for work MUT6. However, ESW does have the necessary powers within plot 24-133 – which is its own operational land – to take a supply pipe from the Linford Well water supply to the site boundary, and that can connect to the Applicant's proposed work MUT6.</u></p> | <p>The pipeline is its own Works within the DCO and is listed in <i>Article 2, Schedule 1 Authorised Development</i> of the DCO as 'Work No. MUT6' [as shown on sheets 20, 22, 23 and 24 of the Works Plans and being the temporary installation of multi-utilities, to include the installation or diversion of underground utilities connections for the construction area CA5 within a multi-corridor located along East Tilbury, for approximately 3,184 metres in length.]</p> <p>The works are considered as part of the <u>Project's</u> Environmental Impact Assessment and included within the Environmental Statement and all relevant Chapters of it.</p> <p><u>The Applicant and ESW submitted an agreed and signed SoCG at Deadline 1. While the Applicant understands ESW's position as communicated throughout the Examination, the Applicant has responded to ESW's submissions, notably in the Applicant's Comments on WRs Appendix B - Statutory Undertakers and its Post-event submissions, including written submission of oral comments, for CAH4.</u></p> <p><u>The Applicant considers this matter agreed, subject to completion of a Side Agreement which makes further provision for this matter.</u></p> | <p>Draft DCO Document <u>Reference 3.1 (11)</u></p> <p><u>Statement of Common Ground between (1) National Highways and (2) Essex & Suffolk Water (version 1)</u></p> <p><u>[APP-107]</u></p> <p><u>Comments on WRs Appendix B: Statutory Undertakers [REP2-047]</u></p> <p><u>Post-event submissions, including written submission of oral comments, for CAH4 [REP6-088]</u></p> | Matter Under Discussion * |

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| Topic | Item No. | Essex and Suffolk Water comment | The Applicant's Response | Application Document Reference | Status |
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| | | <u>In ESW's view, the connection to MUT6, and ultimately to the Linford Well, can therefore be done from the boundary of the plot and done by agreement, and indeed that is being discussed within the separate works and supply agreement which ESW is willing to enter into on reasonable commercial terms. There is therefore no reason for the Applicant, by compulsion, to temporarily occupy the Linford Well site or to seek rights or other powers over it.</u> | | | |
| Gunn Hill Water mains installation: Project Early Works: Pre DCO Grant | 2.1.3 | Essex & Suffolk Water Limited would like confirmation on whether there are any other early works requirements pre DCO that will be required, e.g. for soil mixing. Need confirmation that the full route of the proposed Gunn Hill water main is within the "Order Limit". | This relates to the pipeline promoted as Work No MU29 for the provision of Work No CA5, <u>the Northern Tunnel Entrance Compound</u> , and the requirements for soil mixing prior to the construction activities. <u>The Gunn Hill water main is within the OL.</u> <u>The Applicant</u> is open to discussions with ESW with regards to the appropriate mechanisms of delivering any early works that may be required. | N/A | Matter Under Discussion* |
| Design – Road, Tunnels, Utilities | | | | | |
| Diversions: Clashes with | 2.1.4 | Detailed design has been completed up to a certain point | <u>The Applicant acknowledges</u> that detailed design has been completed up to a certain | N/A | Matter Agreed |

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| Topic | Item No. | Essex and Suffolk Water comment | The Applicant's Response | Application Document Reference | Status |
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| Project Permanent Works | | where good progress can be made. Further work to be completed at a later stage that will contribute to the final detailed design packages for diversionary works. | point, further development will take place post DCO during the detailed design phase. | | |
| Outages (constraints) | 2.1.5 | The full requirements for outages and relevant constraints have not yet been fully developed and will form part of the further works required to contribute to the full detailed design and the construction programme. | These need to be developed and included in the main programme. As detailed design develops these constraints will be included in the programme. | N/A | Matter Agreed |
| Temporary / Permanent Connections | 2.1.6 | Temporary/permanent connections application received and in progress. | Proposals for these requirements have been shared and are under review by Essex & Suffolk Water Limited Developer Services and will be developed into the detailed design and programme once the requirements of the Applicant's Contractor are known. | N/A | Matter Agreed |
| Redundant Assets | 2.1.7 | The parties need to reach an agreement as to what to do with redundant new mains installed for potable water supply to construction compounds and any such redundant assets left behind after the project has been completed. | While the Applicant understands that an agreement may need to be reached on redundant assets, this is a matter to be discussed at the detailed design stage. | N/A | Matter Under Discussion* |

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| Topic | Item No. | Essex and Suffolk Water comment | The Applicant's Response | Application Document Reference | Status |
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| | | Northumbrian Water Group would like the option to buy each redundant water main for £1 after the scheme has been completed. | | | |
| Construction | | | | | |
| Construction Contract | 2.1.8 | The understanding is that this will be delivered under New Roads and Street Works Act (NRSWA) 1991. | The works will be delivered under New Roads and Street Works Act 1991 and the contract is subject to <u>the Applicant</u> , appointing its own Contractor. | N/A | Matter Agreed |
| Agreement for Linford Borehole site / water usage | 2.1.9 | The scope of requirements for the Linford Borehole is to be developed and a formal agreement put in place to between Essex & Suffolk Water Limited and National Highways. Date to be confirmed. | The necessary land rights are included in the DCO. In the meantime, <u>the Applicant</u> , remains open to discussions and hopes to be able to conclude these with an agreement between both parties. <u>The Applicant considers this matter agreed, subject to completion of a Side Agreement which makes further provision for this matter.</u> | N/A | Matter Under Discussion* |
| Maintenance Access | 2.1.10 | Access to existing apparatus within the confines of the Order Limits, requiring ongoing maintenance, ESW will need to have continued access throughout construction phase, and beyond construction phases. | Maintenance Access requirements will be developed with the <u>Contractor</u> , for both the temporary and permanent scenarios. The Protective Provisions for the protection of electricity, gas, water and sewage undertakers sufficiently protect ESW access to apparatus. The detailed access arrangements will be agreed and set at detailed design. | Protective Provisions in Schedule 14, of the draft DCO <u>Document Reference 3.1 (11)</u> . | Matter Agreed |

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| Topic | Item No. | Essex and Suffolk Water comment | The Applicant's Response | Application Document Reference | Status |
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| | | | <u>The Applicant considers this matter agreed, subject to completion of a Side Agreement which makes further provision for this matter.</u> | | |
| Diversion of Critical Asset: 900mm ST Trunk Main | 2.1.11 | An initial phase for the temporary diversion of the existing trunk main has been requested and detailed design to be progressed. | Discussions are <u>ongoing</u> between ESW and <u>the Applicant</u> and are largely dependent on the extent of the Ockendon Road closure. The initial phase proposal could potentially enable other works to commence that potentially could reduce the calendar length of the closure. The Works (Work No MU72) are a 2.9km long diversion of the 900mm trunk main and requires crossing of both the M25 and Network Rail assets. The diversion, including an initial phase, requires detailed consideration of constructability, including testing and commissioning plans. Outages will require detailed programming and planning to minimize disruption to the network. <u>This is to be resolved at the detailed design stage.</u> | N/A | Matter Under Discussion* |
| Long lead Materials | 2.1.12 | ESW are concerned about the challenges around the acquisition of the approximately 2.9km of 900mm steel pipe and considers this their main long lead item. | <u>The Applicant</u> notes that ESW have identified long lead delivery materials that have a long lead delivery requirement. ESW are currently projecting a period of 3-6 months for the acquisition of the 900mm pipe. | N/A | Matter Under Discussion* |

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| Topic | Item No. | Essex and Suffolk Water comment | The Applicant's Response | Application Document Reference | Status |
|-------------------------------|----------|---|---|---|---------------------------|
| | | Linford borehole submersible pumps may also be a long lead item. | ESW and the Applicant's Contractor are to establish early engagement on when these works are programmed for delivery to minimise any potential delays with procurement and the delivery of the works. The Applicant and ESW will continue to discuss this matter to ensure any changes in the procurement period are known. <u>The Applicant considers this matter agreed, subject to completion of a Side Agreement which makes further provision for this matter.</u> | | |
| Protective Provisions | | | | | |
| Protection of existing Assets | 2.1.13 | Asset protection requirements have not yet been fully explored between Essex & Suffolk Water Limited and National Highways. | The Protective Provisions for the protection of electricity, gas, water and sewage undertakers sufficiently protect ESW access to apparatus. <u>The Applicant notes</u> that these provisions are largely agreed between the parties. The detailed access arrangements and any required protection measures relating to ESW assets will be discussed and agreed at detailed design. <u>The Applicant considers this matter agreed, subject to completion of a Side Agreement which makes further provision for this matter.</u> | Protective Provisions in Schedule 14, of the draft DCO [Document Reference 3.1 (11)] | Matter Under Discussion * |

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Appendix A Engagement activity

A.1.1 A summary of the meetings and correspondence that has taken place between Highways England and Essex & Suffolk Water Limited in relation to the Application is outlined in Table A.1, below.

A.1.2 It is agreed that this is an accurate record of the key meetings and correspondence undertaken between (1) National Highways and (2) Essex & Suffolk Water Limited in relation to the matters addressed in this SoCG.

Table A.1 Engagement activities between the Applicant and Essex & Suffolk Water Limited

| Date | Form of contact/ correspondence | Key topics discussed and key outcomes |
|--------------|---------------------------------|--|
| 05/06/2018 | Meeting | <ul style="list-style-type: none"> LTC project update Indicative diversion plans Contracts and next steps |
| 03/07/2018 | Meeting (senior managers) | <ul style="list-style-type: none"> LTC project update Agreements (SoCG and PPs) |
| 20/08/2018 | Meeting (technical) | <ul style="list-style-type: none"> LTC project update ESW diversion update Update on C3 progress |
| Oct-Dec 2018 | Statutory consultation | <ul style="list-style-type: none"> Statutory consultation Opportunity to comment on Project proposals. |
| 12/12/2018 | Meeting (progress) | <ul style="list-style-type: none"> Contract – options and next steps Agree scope of services Requirements for asset surveys |
| 20/02/2019 | Meeting (technical) | <ul style="list-style-type: none"> LTC ground investigations and ESW requirements LTC programme update (including indicative design releases) Indicative compound locations and supply requirements Update on the progress of ESW contract |
| 04/04/2019 | Meeting (progress) | <ul style="list-style-type: none"> LTC ground investigations and ESW requirements LTC programme update (including indicative design releases) Indicative compound locations and supply requirements |

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 Documents considered within this Statement of Common Ground¶
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 List of engagement activities¶

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| Date | Form of contact/ correspondence | Key topics discussed and key outcomes |
|------------------------|---|--|
| 01/06/2019 | Workshop | <ul style="list-style-type: none"> Statement of Common Ground Workshop |
| 08/11/2019 | Meeting (senior managers) | <ul style="list-style-type: none"> Progress of design proposals LTC programme Ways of working |
| 08/03/2019 | Document | <ul style="list-style-type: none"> Protective Provisions (Document Number BDB-BDB1.FID9982427). Still under review |
| 12/12/2019 | Meeting (progress/ Technical) | <ul style="list-style-type: none"> LTC Design and ESW Diversion Proposals DR2.14 discussed |
| 15/01/2020 | Letter | <ul style="list-style-type: none"> Project update and steps to achieve DCO. |
| Jan-March 2020 | Supplementary consultation | <ul style="list-style-type: none"> Supplementary consultation |
| 07/02/2020 | Meeting (Progress) | <ul style="list-style-type: none"> LTC Design and ESW Diversion Proposals DR2.14 discussed |
| 26/03/2020 | Meeting (progress/ Technical) | <ul style="list-style-type: none"> LTC Design and ESW Diversion Proposals Site Compound supplies Review of C3 output for Diversions |
| Jul-Aug 2020 | Design refinement consultation | Design refinement consultation |
| 2020 - 2023 | Numerous | Design, Delivery, Consultation, Agreements , SoCG |

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Appendix B Glossary

| <u>Term</u> | <u>Abbreviation</u> | <u>Explanation</u> |
|--|---------------------|--|
| <u>Development Consent Order</u> | <u>DCO</u> | <u>Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.</u> |
| <u>Environmental Impact Assessment</u> | <u>EIA</u> | <u>A report prepared for a consenting authority who, when deciding whether to grant consent for a project which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision making process.</u> |
| <u>Essex & Suffolk Water Limited</u> | <u>ESW</u> | <u>Essex & Suffolk Water Limited are part of Northumbrian Water Group. ESW provide 1.9 million people with high-quality water every day operating in two distinct geographical areas; part of southern Norfolk & Suffolk and East London & Essex.</u> |
| <u>Lower Thames Crossing</u> | <u>LTC</u> | <u>The proposed A122 Lower Thames Crossing (the Project)</u> |
| <u>New Roads and Street Works Act</u> | <u>NRSWA</u> | <u>Legislation for the co-ordination of street works and works for road purposes and related matters.</u> |
| <u>Order Limits</u> | <u>OL</u> | <u>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.</u> |
| <u>Statement of Common Ground</u> | <u>SoCG</u> | <u>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.</u> |
| <u>Town and County Planning Act</u> | <u>TCPA</u> | <u>The Act that forms part of the land use planning regime in the UK and (among other things) establishes the legal framework in respect of applications for, and determination of, planning permissions.</u> |
| <u>Tunnel Boring Machine</u> | <u>TBM</u> | <u>Machine used to excavate tunnels with a circular cross-section.</u> |

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Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ

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