

Lower Thames Crossing

5.4.3.9 Final Agreed Statement of Common Ground between (1) National Highways and (2) the Health and Safety Executive (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	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) the Health & Safety Executive.

Both parties have reached agreement on the position on the status of all three matters. Of the three matters contained within, all three matters are agreed, leaving no matters outstanding.

From: [REDACTED]
Sent: 12 December 2023 14:09
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: HSE response - LTC SoCG sign off request

H [REDACTED]
The attached SOCG has been approved by [REDACTED] today.

Kind regards

[REDACTED]

Lower Thames Crossing

5.4.3.9 Final Agreed Statement of Common Ground between (1) National Highways and (2) the Health and Safety Executive (Clean 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.
- 1.1.2 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the Applicant and the Health and Safety Executive (HSE), and where agreement has not been reached.
- 1.1.3 This version of the SoCG has been submitted at Examination Deadline 9A.

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.
- 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 HSE elected not to produce a PADS Tracker at pre-examination stage, 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 summary of engagement undertaken between the Applicant and the HSE is summarised in Appendix A.
- 2.1.2 The outcome of engagement is presented in Table 2.1 which details and presents the matters that are now all agreed between (1) the Applicant and (2) the HSE.
- 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 1 all three matters were agreed.
- 2.1.5 No new matters have been added during the Examination and at Examination Deadline 9A, all three matters remain agreed. There is however updated HSE narrative against matter 2.1.2.
- 2.1.6 This is the final Statement of Common Ground between the Applicant and the HSE.

Table 2.1 Final Position on Matters

Topic	Item No.	Health and Safety Executive Comment	The Applicant's Response	Application Document Reference	Status
DCO and consents					
Disapplication of existing explosive licence	2.1.1	The HSE notes that the proposed tunnel lies under the Higham Bight anchorage designated under the licence dated 28 May 1992 with the reference 9/92. That licence permits berthing and anchoring of vessels carrying explosives. The HSE has reviewed article 48 of the draft Development Consent Order and is content with the provisions included therein in relation to the existing licence.	The Applicant takes seriously the safety of road users and agrees that the existing licence will need to be disappplied. The draft Development Consent Order includes a provision which ensures that the parts of the existing licence which would authorise the berthing or anchoring of vessels carrying mass explosion hazards and projection hazards cease to have effect from the date the Order is made. The Applicant is keeping the Port of London Authority informed on discussion with the HSE.	Article 48 of draft DCO [Document Reference 3.1 (11)]	Matter Agreed
Hyperbaric working conditions - Dispensation for working above 3.45 Bar pressure in tunnelling	2.1.2	The HSE considers that The Work in Compressed Air Regulations 1996 (the Regulations) provides a framework for the management of health and safety risks for those working in compressed air whilst undertaking tunnelling work and other construction work. The Regulations require that all work in compressed air shall be undertaken by a contractor who is competent to carry out or supervise such work. The contractor who carries out or supervises the work in compressed air shall be appointed as the compressed air contractor by the principal contractor for the	The Applicant takes seriously the safety of its tunnelling contractors and agrees to the HSE position that only a Compressed Air Contractor undertaking the tunnelling activities can apply for dispensation from the 3.5 bar working limit. The Applicant will continue to work with its contractors and HSE to mitigate the need for hyperbaric working conditions where possible, or in the event that this cannot be achieved, support its contractors in seeking dispensation from HSE for working	N/A	Matter Agreed

Topic	Item No.	Health and Safety Executive Comment	The Applicant's Response	Application Document Reference	Status
		<p>project. The principal contractor may be the compressed air contractor, provided they have the relevant competence to perform the duties required by the Regulations.</p> <p>The Regulations require the compressed air contractor to ensure that no person is subjected to a pressure exceeding 3.5bar, except in an unforeseen emergency.</p> <p>The Regulations permit the HSE, by way of a certificate in writing, to grant an exemption to a compressed air contractor from any requirements of the Regulations, including the requirement that no work shall be carried out in a pressure greater than 3.5bar except in an emergency.</p> <p>The compressed air contractor may formally apply in writing to the HSE for an exemption from the Regulations to allow working in pressures above 3.5bar. The HSE will consider an application from the compressed air contractor, however the HSE will not grant any exemption to working above 3.5bar unless the HSE is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.</p> <p>In order to consider any application for an exemption, the compressed air contractor must in the first instance demonstrate to the HSE that all reasonably practicable measures to avoid working above 3.5bar have been considered, demonstrate why it is necessary to carry out work above 3.5 bar and that it is in the public interest</p>	<p>above the working limit. The Applicant does not consider there is a barrier to the grant of that permission in due course, should it be necessary.</p>		

Topic	Item No.	Health and Safety Executive Comment	The Applicant's Response	Application Document Reference	Status
		<p>to permit such work. If the compressed air contractor fails to demonstrate there are no other reasonably practicable means, and it is not in the public interest to do so, the application will be rejected before the full review is carried out.</p> <p>If the initial screen is successful, the compressed air contractor shall demonstrate to the HSE via a detailed safe system of work that suitable and sufficient measures and procedures will be implemented to ensure the health and safety of persons will not be affected as a result of any exemption. The safe system of work shall include but not be limited to;</p> <ul style="list-style-type: none"> • proposed compression and decompression procedures; • emergency procedures; • suitability of plant and equipment; and • details of breathing gases and medical processes. <p>The compressed air contractor shall also demonstrate to the HSE that suitable and sufficient measures will be implemented to;</p> <ul style="list-style-type: none"> • prevent sudden pressure losses in the tunnel or equipment used; • maintain geotechnical stability of the tunnel; • prevent exposure to substances hazardous to health; and 			

Topic	Item No.	Health and Safety Executive Comment	The Applicant's Response	Application Document Reference	Status
		<ul style="list-style-type: none"> control physical risks arising from work in and around tunnelling and construction machinery. <p>Any exemption granted by the HSE, to permit the compressed air contractor to work in pressures in excess of 3.5bar, may be subject to conditions and to a time limit.</p> <p>The HSE cannot provide any guarantee as to how long the review of an exemption application will take, or that an application will be successful either at initial screen or following full review of the system of work.</p>			
The capping off and removal of sections of the former Barking Power Station gas pipeline	2.1.3	<p>City of London is currently the pipeline operator for the Horndon to Barking Pipeline, irrespective of the decommissioned status of the pipeline and as the pipeline operator still has duties under The Pipeline Safety Regulations 1996, Regulation 14 to leave the pipeline in a safe condition.</p> <p>The current proposals from the pipeline operator include full decommissioning of the nitrogen fill system that has protected the pipeline since Barking Power Station was decommissioned, shutdown and removal of the cathodic protection system, removal of all above ground installations, removal of above ground marker posts and any pipeline markings and fully fill the pipeline with an adequate filler material.</p> <p>City of London are not planning to remove any sections of the pipeline and they will inform the HSE once the pipeline is deemed safe and ready</p>	<p>The Horndon to Barking Power Limited (BPL) pipeline formerly connected the Barking Power Station to the gas transmission network. The pipeline is now redundant. A section of the pipeline transects the Project.</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 the pipeline, because there would be no need for capping. However, as the</p>	N/A	Matter Agreed

Topic	Item No.	Health and Safety Executive Comment	The Applicant's Response	Application Document Reference	Status
		<p>for abandonment, they will also inform HSE's Land Use Planning team to remove the planning zones distances.</p> <p>It is likely that the full decommissioning works of the pipeline will happen before the LTC project is under construction and in that case, it is right that LTC propose removing altogether the abandoned sections of pipeline, as the filler material would not have been designed for any particular loading other than the normal soil weigh and existing infrastructures with associated loading.</p> <p>If the pipeline is to remain in situ HSE would expect to see how the long term stability of the filled void is ensured.</p>	<p>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 Project 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>		

Appendix A Engagement activity

Table A.1 Engagement activities between the Applicant and the HSE

Date	Overview of Engagement Activities
27 March 2019	General update between HSE and the Project
22 May 2019	General update between HSE and the Project
02 July 2019	Discussion on hyperbaric working conditions associated with tunnelling activities
04 September 2019	Discussion on hyperbaric working conditions associated with tunnelling activities
10 October 2019	Discussion on hyperbaric working conditions associated with tunnelling activities
15 November 2019	Discussion on hyperbaric working conditions associated with tunnelling activities
24 January 2020	Discussion on hyperbaric working conditions associated with tunnelling activities
05 August 2022	Discussion about disapplication of existing explosive licence as part of Project DCO
06 September 2022	Overall Project update with HSE Principal Inspectors and discussion of SoCG topics
11 November 2022	Email correspondence from HSE advising that based on legal advice, they would not sign a SoCG.
14 November 2022	Email correspondence from HSE providing updated commentary to the draft SoCG provided in the DCO application.
24 February 2023	Email correspondence from HSE requesting a copy of the current draft SoCG
06 March 2023	Email correspondence from the Applicant providing the original SoCG. Also provided confirmation of updated text for Table 2.1 Matters, seeking confirmation of no objection to updated wording.
07 March 2023	Email and phone conversation confirming HSE had not lodged as an Interested Party.
02 May 2023	Email correspondence from the Applicant providing link to Rule 6 letter and seeking confirmation of no objection to updated wording provided in updated SoCG. [As of Deadline 1, no response received from HSE]
13 June 2023	Email correspondence from the Applicant requesting an update on the status of the Alpha Jetty explosive licence
28 June 2023	Email correspondence from HSE confirming the Alpha Jetty explosive licence is being revoked.
12 December 2023	Email correspondence to the HSE to agree final positions and final endorsement.

Appendix B Glossary

Term	Abbreviation	Explanation
Horndon to Barking Pipeline	BPL	Redundant high pressure gas pipeline between Horndon and the Barking Power Station and the gas transmission network
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
Health and Safety Executive	HSE	Britain's national regulator for workplace health and safety
Statement of Common Ground	SoCG	This document detailing the issues agreed, under discussion, or not agreed at the time of examination

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