

Lower Thames Crossing

9.46 Final Agreed Statement of Common Ground between (1) National Highways and (2) Cole Family (Clean version)

Infrastructure Planning (Examination
Procedure) Rules 2010

Volume 9

DATE: December 2023
DEADLINE: 9A

Planning Inspectorate Scheme Ref: TR010032
Examination Document Ref: TR010032/EXAM/9.46

VERSION: 3.0

Revision history

Version	Date	Submitted
1.0	18 July 2023	Deadline 1
2.0	31 October 2023	Deadline 6
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 Cole Family.

Both parties have reached agreement on the position of the status of all 30 matters. Of the 30 matters contained within, 11 matters are agreed, 10 are agreed in principle, and nine are not agreed, leaving no matters outstanding.

On behalf of the Applicant

Name	[REDACTED]
Position	[REDACTED]
Organisation	National Highways
Signature	[REDACTED]

On behalf of the Cole Family

Name	[REDACTED]
Position	[REDACTED]
Organisation	BTF Partnership
Signature	[REDACTED]

Lower Thames Crossing

9.46 Final Agreed Statement of Common Ground between (1) National Highways and (2) Cole Family (Clean version)

List of contents

	Page number
1 Introduction	1
1.1 Purpose of the Statement of Common Ground.....	1
1.2 Parties to this Statement of Common Ground	1
1.3 Terminology	2
2 Matters	3
2.1 Final position on matters.....	3
Appendix A Engagement Activity	29

List of tables

	Page number
Table 1.1 Parties to the Statement of Common Ground (“the Cole family”).....	1
Table 2.1 Final position on Matters.....	5
Table A.1 Engagement activities between the Applicant and Cole Family since the DCO application was submitted on 31 October 2022	29

1 Introduction

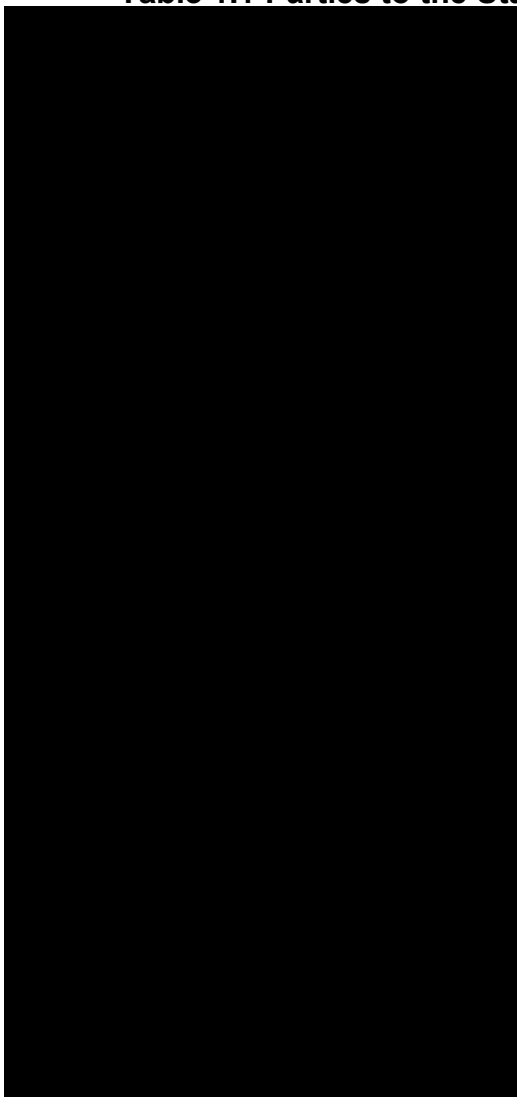
1.1 Purpose of the Statement of Common Ground

- 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 Cole Family and where agreement has not been reached.
- 1.1.3 This final version of the SoCG has been submitted at Examination Deadline 9A.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared in respect of the Project by (1) the Applicant and those listed in Table 1.1, hereafter referred to as (2) the Cole family.

Table 1.1 Parties to the Statement of Common Ground (“the Cole family”)



1.3 Terminology

- 1.3.1 In the Final position on Matters table in Section 2 of this SoCG, “Matter Not Agreed” indicates agreement on the matter could not be reached following engagement. “Matter Agreed” indicates where the issue has now been resolved and “Matter Agreed*” indicates a matter that is agreed in principal but where further discussion may take place during the detailed design stage of the Project to finalise detail, or is subject to contract (between the Cole Family and the Applicant).
- 1.3.2 However, any matter raised whether agreed or not agreed does not preclude the Cole Family from their rights under the Compensation Code.

2 Matters

2.1 Final position on matters

- 2.1.1 Engagement between the Applicant and the Cole Family has been ongoing since May 2017 and has continued following the submission of their Relevant Representation [[RR-0176](#)]. These discussions are summarised in Annex B (page 950 of the Statement of Reasons [[REP5-028](#)]).
- 2.1.2 The outcome of discussions to date are presented in Table 2.1 which details and presents the matters which have been agreed or not agreed between (1) the Applicant and (2) the Cole family.
- 2.1.3 In Table 2.1 where a new matter has been added during the examination this has been indicated by 'DLX' after the item no (the X reflects the applicable deadline in which the new matter has been added).
- 2.1.4 It is acknowledged there are some matters where further discussion will take place during the detailed design stage of the Project to finalise detail, or is subject to contract (between the Cole Family and the Applicant), but the matter is agreed in principle. Matters to which this applies have an asterisk (*) next to them.
- 2.1.5 At Examination Deadline 1 there were 28 matters in total of which 3 were agreed, three not agreed and 22 under discussion.
- 2.1.6 At Examination Deadline 6 there were 29 matters in total of which 12 were agreed, three were not agreed and 14 under discussion.
- 2.1.7 Since version 2 of this SoCG was submitted at Deadline 6 the following matter has moved from 'Matter Under Discussion' to 'Matter Agreed';
- a. 2.1.2 – Carbon Offset and Biodiversity Net Gain
- 2.1.8 The following matters have also moved from either 'Matter Under Discussion' or 'Matter Agreed' to 'Matter Agreed*'.
- a. 2.1.3 – Management and access to areas of environmental mitigation
 - b. 2.1.9 – Mardyke Mink Control
 - c. 2.1.10 – Poplars Reservoir environmental mitigation
 - d. 2.1.11 – Bat boxes
 - e. 2.1.16 – Dedication of WCH routes
 - f. 2.1.20 – Low Street Irrigation reservoir and irrigation network (Mill House)
 - g. 2.1.21 – Irrigation network (Cherry Orchard)
 - h. 2.1.22 – New abstraction point (Bexlands Pond)
 - i. 2.1.25 – Farm access tracks
 - j. 2.1.26 – Accommodation works

- 2.1.9 The following matters have moved from ‘Matter Under Discussion’ to Matter Not Agreed’;
- a. 2.1.4 – Flood compensation
 - b. 2.1.5 – Environmental mitigation – re-wetting of Orsett Fen
 - c. 2.1.6 – Utility diversions – terms of easements
 - d. 2.1.14 – Orsett Fen replacement common land
 - e. 2.1.19 – Low Street irrigation reservoir
 - f. 2.1.27 – Dust and air pollution
- 2.1.10 At Examination Deadline 9A one new agreed matter was added (2.1.30) in relation to the Orsett Fen and there are now 30 matters in total of which 11 matters are agreed, 10 are agreed in principle and nine are not agreed.
- 2.1.11 This is the final Statement of Common Ground between the Applicant and the Cole Family.

Table 2.1 Final position on Matters

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
Land and Compulsory Acquisition					
Environmental mitigation	2.1.1	Whilst acknowledging that the Applicant has reduced the areas of permanent land take for environmental and ecological mitigation land, the Cole Family have concerns at the extent of the land required; the methodology adopted in assessing these areas;	The parties have worked together to refine the location of proposed environmental compensation and flood compensation areas (except at Low Street, see 2.1.4).	N/A	Matter Agreed
Carbon Offset and Biodiversity Net Gain	2.1.2	The Cole Family have concern that the Applicant is ultimately acquiring land for its own claim for Carbon Offset and Biodiversity Net Gain rather than simply for mitigation purposes.	None of the land to be acquired by the Applicant is for the sole purpose of generating biodiversity units as part of the Project's biodiversity net gain assessment. All land has a specific construction or operational requirement, including essential ecological mitigation to offset adverse effects from the Project. No land is proposed to be acquired for carbon offset. An exercise has been undertaken to calculate the emissions changes brought about by land use change, both negative and positive, arising from the construction and operation of the Project over 60 years.	N/A	Matter Agreed
Management and access to areas of environmental mitigation	2.1.3	The Cole Family have concerns regarding the ongoing management (including control of weeds) and access requirements of environmental mitigation areas.	The outline Landscape and Ecology Management Plan (oLEMP) outlines the proposed management of the landscape and ecological elements of the Project. Injurious weeds are to be eradicated and	Outline Landscape and Ecology Management Plan	Matter Agreed*

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
			disposed of off-site, as per the latest Defra/Natural England guidance. Grass swards that do not contain wildflowers can be selectively sprayed. Hand weeding will be required in areas of wildflower. The oLEMP commits the Applicant to eradicate weeds for a 5 year period, following which the Applicant would be responsible for ensuring compliance with the Weeds Act 1959 which lists injurious weeds and requires their control.	[Document Reference 6.7 (7)]	
Flood compensation	2.1.4	Concern regarding the requirement and implementation of the flood compensation area around Low Street reservoir (Work No. FCA1).	Flood compensation areas are required to offset the impact of the Project on existing floodplains. The requirement for the flood compensation area at Low Street is detailed in Environmental Statement (ES) Appendix 14.6: Flood Risk Assessment. The Applicant confirms that shallow groundwater levels have been recorded in vicinity of the proposed compensation area (FCA) as part of the ground investigation phases conducted by National Highways. The investigations also confirm a mixture of sands, silts, clays and gravels in the shallow strata and these vary laterally and vertically. The detailed design of the FCA would construct the majority of the FCA excavation above the water table, so that the excavation would be generally wide and	ES Appendix 14.6: Flood Risk Assessment [APP-460 to APP-464, REP1-171, APP-466 to APP-468 and REP7-130] Works Plans (Volume C) Composite [Document Reference 2.6 Volume C (7)] Draft Development	Matter Not Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
			<p>shallow. Preventing the FCA filling with groundwater is essential to its function (i.e. to ensure the required volumes of storage are available for fluvial flood waters). Where excavation would need to be locally deeper within the FCA, engineering measures may be required to exclude ingress of groundwater. There is a range of techniques available to achieve this, with the detailed design providing for a suitable solution.</p> <p>The detailed design of the FCA would be discussed with the Cole Family ahead of the construction and would aim to minimise the impact on the land as far as reasonably practicable.</p>	<p>Consent Order [Document Reference 3.1 (11)]</p>	
Environmental mitigation – re-wetting of Orsett Fen	2.1.5	Concerned about the impact of re-wetting part of the Orsett Fen (Work E36) within the Order Limits and the impact it may cause on the rest of the Fen. The area is very flat and it could make retained areas of the Fen un-farmable.	<p>The re-wetting of the Orsett Fen, including the creation of an extensive area of new ditch habitats, is designed to compensate for the loss of water vole habitat as a result of the Project. This is essential mitigation for a protected species. To provide high quality water vole habitat, the ground water level in this area would be increased, not only allowing the establishment of ditch profiles and vegetation cover but also resulting in wetter grassland conditions across the area. The area also provides for flood compensation (Work No. FCA3).</p> <p>The requirement for this compensation is set out in ES Chapter 8: Terrestrial Biodiversity.</p>	<p>ES Chapter 8: Terrestrial Biodiversity [Document Reference 6.1 ES Chapter 8 (2)] Works Plans (Volume C) Composite [Document Reference 2.6 Volume C (7)]</p>	Matter Not Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant’s Response	Application Document Reference	Status
			<p>Creation of new ditches and waterbodies is proposed on an area of land at Orsett Fen that would deliver environmental mitigation for water voles and floodplain compensation. The majority of the new water features would be situated to the west of the Project road and the waterbodies would be supplied by water from the Mardyke. Water levels in the wetland would be managed via 2No. hydraulic control structures at the connection points to the Mardyke (secured by REAC commitment RDWE050). These controls will operate to retained water in the wetland area when water levels in the Mardyke are low and water will flow over the weirs when the water level in the wetland area exceeds its target operational level. This system will prevent the ditches and waterbodies from overflowing/spilling onto surrounding land. In addition, the retained land parcel is drained by several ditches that bound and flow through the land parcel. These ditches will not be disturbed by the proposals and will continue to function to drain the land. Also, the underlying geology is of very low permeability and the created water features would be shallow, so there is a low risk of groundwater ingress to them and change to the current regime.</p>	<p>Draft Development Consent Order [Document Reference 3.1 (11)]</p>	

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
			For these reasons there is very low potential for the retained land to become unusable due to increased wetness/poor drainage.		
Utility diversions – terms of easements	2.1.6	<p>Queries remain outstanding regarding the form of easement and constraints that would be placed on land impacted by utility diversions including gas, electricity and water. Also, for the use of farming equipment and irrigation rain guns underneath re-aligned electricity cables and the impact on the Freehold value of the land because of the loss of compensation provisions that exist under current agreements with the Statutory Undertakers.</p> <p>Request that existing wayleave arrangements are replicated on diverted assets.</p>	Through collaborative engagement the parties have sought to refine utility diversion routes and reduce land required both permanently and temporarily. The proposed routes for utility diversions and the land required to construct, operate and maintain the assets is agreed. Details regarding easements and restrictions on the use of land would be provided as soon as reasonably practicable and no later than six months prior to works commencing.	N/A	Matter Not Agreed
Farm access to retained land	2.1.7	Ensuring access to retained land outside the Order Limits during construction.	<p>The parties have agreed to the location of accommodation works to ensure access to retained land.</p> <p>The Stakeholder Actions and Commitments Register commits the Applicant to provide access to all significant areas of retained farmland (ref. SACR-005). There are also two commitments specific to access to Cole land (ref. SACR-003 and SACR-004).</p>	Stakeholder Actions and Commitments Register [Document Reference 7.21 (7)]	Matter Agreed
Station Road yard access	2.1.8	The Cole Family require access to be always maintained to the yard on Station	The outline Traffic Management Plan for Construction states (page 20) in relation to	Outline Traffic Management	Matter Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
and general access to retained land		Road and other retained accesses during construction. Any new access needs to address security concerns. Any new land ways need to be constructed to a suitable specification to enable use by HGVs and combine harvesters.	local businesses, among other things, that: <i>'Access and egress to be maintained throughout the construction period with the exception of night-time and weekend closures when required for specific planned works'</i> . Any such works requiring short-term restrictions to access would be communicated to the Cole Family.	Plan for Construction [Document Reference 7.14 (9)]	
Mardyke mink control	2.1.9	The Cole Family are in ongoing discussion with the Applicant regarding a S253 agreement for the control of mink in the Mardyke.	The parties have agreed the principle of entering into a S253 agreement regarding the control of mink in the Mardyke River and are currently finalising the agreement.	N/A	Matter Agreed*
Poplars Reservoir environmental mitigation	2.1.10	Due to maintenance obligations relating to the Poplars irrigation reservoir. The Coles would like to ensure ownership of land proposed for environmental mitigation around the reservoir (Work Nos. E35 and BBr7).	The parties have agreed to progress a S253 agreement in relation to the mitigation once matters regarding ownership and the Orsett Fen are resolved. The Applicant shall always ensure access to the reservoir and associated infrastructure.	Works Plans (Volume C) Composite [Document Reference 2.6 Volume C (7)] Draft Development Consent Order [Document Reference 3.1 (11)]	Matter Agreed*

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
Bat boxes	2.1.11	The Cole Family would like to enter into a S253 agreement in relation to the proposed erection of bat boxes on their land (Work Nos E32, E37 and E39)	The parties are progressing a S253 agreement in relation to the erection of bat boxes on the following Land Plots: 23-16, 23-19, 23-21, 23-22, 33-194 and 37-05.	Works Plans (Volume C) Composite [Document Reference 2.6 Volume C (7)] Draft Development Consent Order [Document Reference 3.1 (11)]	Matter Agreed*
Damaged field drainage	2.1.12	The drainage systems in several of the Cole Family's fields were damaged by the Applicant's ground investigation works.	Following intrusive ground investigation on several areas of the farm in 2020 the parties agreed that drainage systems damaged by the works would not be repaired in locations that would be affected by the Project's permanent works. The landowner shall continue to farm these areas as best they can to mitigate losses however crop loss compensation will be payable for any losses arising. Should the Project not proceed it is agreed that the Applicant would pay for the repair or replacement of field drains in these areas. Any retained field parcels affected will need to be re-drained and a drainage scheme designed to tie in with the effect of	N/A	Matter Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
			the Project on land both temporarily and permanently taken.		
Tilbury Viaduct	2.1.13	The Cole Family wish to retain their ownership of land identified for permanent acquisition (part of plot 23-51 in the Land Plans) underneath the Tilbury Viaduct (Work No. 5C).	The Freehold of the viaduct piers and the airspace for the viaduct structure would be acquired by the Applicant. The Freehold ownership of the land under the viaduct would be retained by (or transferred back to) the Cole family subject to permanent rights of access and maintenance of the viaduct and utilities	Works Plans (Volume C) Composite [Document Reference 2.6 Volume C (7)] Draft Development Consent Order [Document Reference 3.1 (11)] Land Plans (Volume B) [Document Reference 2.2 (8)]	Matter Agreed
Orsett Fen replacement common land	2.1.14	Considering the implications of the replacement common land (Work Nos. OSC8 and OSC9) and other ways to implement the replacement land with the other Orsett Fen Rights Holders. The Cole Family do not agree to the compulsory acquisition of their freehold land for replacement land, which would be	The Applicant's position is that the replacement land (measuring approximately 619,671m ² as shown on Special Category Land Plans sheets 34, 35, 37 and 38) is no less advantageous and no less in area, in accordance with s131 of the Planning Act 2008.	Works Plans (Volume C) Composite [Document Reference 2.6 Volume C (7)]	Matter Not Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		vested with the Orsett Fen Rights Holders, as shown on Special Category Land Plans [REP4-026] sheets 34, 35, 37 and 38.		Draft Development Consent Order [Document Reference 3.1 (11)] Special Category Land Plans (Volume C) [Document Reference 2.4 (7)]	
Orsett Fen common land	2.1.30 DL9A	With regards to the temporary possession of land and permanent acquisition of rights for the management of environmental mitigation (water vole protection in the form of mink control) and the operation and maintenance of utilities (Orsett Fen Area B in Planning Statement Appendix D – Open Space [REP7-136]). The Cole Family confirm that replacement land is not required in accordance with S132(3) of the Planning Act 2008.	The Applicant notes the Cole Family position.	Planning Statement Appx D Open Space [REP7-136]	Matter Agreed
Tilbury Green (Drovers Road) common	2.1.15	With regards to the permanent acquisition of Tilbury Green, the Cole Family confirm the replacement land (measuring approximately 3,431m ² as shown on Special Category Land Plans [REP4-024]	The parties will continue discussions regarding the implementation of the proposed replacement common land.	Special Category Land Plans (Volume B) [Document	Matter Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		Sheet 20 and [REP4-026] Sheet 23) is no less advantageous and no less in area, in accordance with S131 of the Planning Act 2008. With regards to the temporary possession of land and permanent acquisition of rights for the diversion and modification of underground multi-utilities, and public right of way diversion. The Cole Family confirm that replacement land is not required in accordance with S132(3) of the Planning Act 2008.		Reference 2.4 (7)]	
Walton Common	2.1.29 DL6	Temporary possession of land and permanent acquisition of rights for the operation and maintenance of the underground multi-utilities. The Cole Family confirm that replacement land is not required in accordance with S132(3) of the Planning Act 2008.	Once the works are completed, the land would be returned to its existing use.	Special Category Land Plans (Volume B) [Document Reference 2.4 (7)]	Matter Agreed
Dedication of WCH routes	2.1.16	The Cole Family object to the permanent acquisition of land for the establishment of new public rights of way. They suggest that this could be achieved without permanent acquisition which would create ransom strips and sever access to retained land. They have requested an Issue Specific Hearing on the matter.	The Applicant requires land permanently to establish new public rights of way. The Applicant has prepared a draft agreement which would provide for the voluntary dedication of new WCH routes, resolving the concerns the Cole Family has regarding compulsory acquisition of the land. This agreement will be progressed if terms can be agreed.	N/A	Matter Agreed*

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
Design – Roads, Tunnels and Utilities					
Project design	2.1.17	Main alignment, side roads and infiltration basins.	The parties have worked together to refine the positioning of the main alignment, side roads and the siting of infiltration basins in several areas. The location of these elements is agreed.	N/A	Matter Agreed
Walkers, cyclists and horse riders	2.1.18	From the outset the Cole Family have expressed their concern and strong objection to any additional access rights that may be sought over their land. There is no statutory obligation to improve routes for walkers, cyclists, and horse riders in the statutory process. The concern specifically relates to anti-social behaviour and concern regarding safety, biosecurity and security. Criminal activities arise from misuse of existing public rights of way. Any additional public benefit arising from additional routes is outweighed by the impact to food security and impact on the Cole Family's freehold and farming businesses. Further detail is required regarding the robust design elements intended to prevent unauthorised access. They have requested an Issue Specific Hearing on the matter. To date no ISH has been scheduled. The Cole Family believe that the Applicant has had little or no regard to the imposition of the additional and upgrading of existing WCH's on their	The Applicant has set out the basis for the walkers, cyclist and horse riders (WCH) provision it is proposing in Project Design Report Part E: Design for Walkers, Cyclists and Horse Riders. In the Design Principles, see Clause PEO.06, the Applicant has committed to considering the use of robust design elements to prevent and mitigate the potential for misuse of the WCH network by unauthorised vehicles and to prevent and deter anti-social behaviour and unauthorised access to third-party land. The Applicant engaged with the Cole family regarding WCH routes prior to consulting more widely on the proposals. The Applicant considered feedback from multiple interested parties, including landowners, when determining new WCH routes.	Project Design Report Part E: Design for Walkers, Cyclists and Horse Riders [APP-512] Design Principles [Document Reference 7.5 (7)]	Matter Not Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant’s Response	Application Document Reference	Status
		<p>freehold land. This can be demonstrated by the clear statements set out in the document 7.4 Project Design Report Part E: Design for Walkers, Cyclers and Horse Riders [APP-512] dated October 2022. The document states: Paragraph 2.1.4 - “a latent demand to walk and cycle in the Tilbury area was theorised”.</p> <ul style="list-style-type: none"> • Paragraph 2.1.5 “the assessment (by Applicant) went on to suggest a series of changes to the PROW network to include a new cycle route between East Tilbury and Tilbury; improved WCH connectivity through the A13 junction”. • Paragraph 2.1.6 – “through further exploration of the existing PROW network, dialogue with stakeholders (not landowners) in the examination of the strategic opportunities outlined in the WCHAR assessment by the design team, a series of 15 specific proposals were examined in relation to journey time improvement, cost and were subsequently the topic of multi-disciplinary workshops – were landowners invited to these assessment and workshops?” • Paragraph 2.1.7 – “through further stakeholder consultation (not 			

Topic	Item No.	Cole Family Comment/Issue	The Applicant’s Response	Application Document Reference	Status
		<p>landowners), continued dialogue with the design team and review by the National Highways Design Review Panel, these enhancements were refined to form part of the proposals presented at supplementary consultation in early 2020 and these included:</p> <ul style="list-style-type: none"> – D) Stifford Clays Road incremental improvements to extend cycle routes between Orsett and William Edwards School – F) Fenland access – to provide a better WCH access to the fenland and Mardyke by connecting existing PROWs and upgrading them to new shared use tracks” • Paragraph 4.1.2 – “there is a real drive to encourage more walking and cycling in this area. The assessment highlights the key policies Essex County Council and Thurrock Council wish to promote healthier choices and double the amount of cycling trips. Within Thurrock this is reflected in the Council’s aspirations, which seek high quality off road routes, to establish active travel behaviours through a network of walking and cycling routes”. • Paragraph 4.1.6 – “consultation was carried out with user representatives 			

Topic	Item No.	Cole Family Comment/Issue	The Applicant’s Response	Application Document Reference	Status
		<p>and local authorities (not landowners). There are strong desires from some to convert all PROW’s to bridleways to encourage multimodal use. Sustrans has strong ambitions to connect all the links along NCR 13 from Purfleet to East Tilbury. Thurrock Council has strong aspirations for a comprehensive walking and cycling network. Horse riding is mainly focused on key bridleways (i.e. junction 29 A127, bridleway (BR) 219 on the Mardyke, around the A13 and BR 58. These are considered important and require preservation/upgrades. Thurrock Council focused on the proposed expansion of the area and the need for an extensive network of walking and cycling routes. Thurrock Council also stated that the project should provide a shared use track along both sides of the project route to enable linkages and circular routes”.</p> <p>The document does not provide any details of the consultations undertaken other than to simply state that consultation was carried out with ‘user representatives and local authorities’. There is no serious consideration of the detrimental impact that these new and upgraded routes will have on those that actually own the land</p>			

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		concerned. If consultation had been carried out and landowners were invited to workshops etc, why does the document not state this rather than just user representatives and local authorities? Other than a minor alteration to the routes proposed north of Stifford Clays and by the attenuation ponds, the routes have been presented to us as a fait de complis.			
Construction					
Low Street irrigation reservoir	2.1.19	The Cole Family have concerns regarding the impact of construction and operation of the A122 road on the Low Street irrigation reservoir and proposals for the reservoir's reconfiguration (Work No. 5K).	ES Appendix 2.2: Code of Construction Practice contains commitments in Chapter 7 – the REAC – in relation to the Low Steet reservoir. REAC commitment RDWE054 states that the utility and main works shall be designed to prevent drainage from the reservoir or barrier effects reducing groundwater flow to the reservoir. Construction During the construction phase good construction practice would be applied in line with CIRIA publication C648 (CIRIA, 2006). Some of the main mitigation measures are included in the Environmental Statement (ES) Chapter 14: Road Drainage and the Water Environment (paragraph 14.5.10) and include, among others, the development of a site drainage plan that will include climate change and pollution control systems designed in line with Control of Water	ES Appendix 2.2: Code of Construction Practice [Document Reference 6.3 ES Appendix 2.2 (9)] Works Plans (Volume C) Composite [Document Reference 2.6 Volume C (7)] Draft Development Consent Order	Matter Not Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant’s Response	Application Document Reference	Status
			<p>Pollution from Construction Sites C532 (CIRIA, 2001) or as agreed with the Secretary of State.</p> <p>The Applicant has secured commitments to protect the surface and groundwater quality during site drainage related with construction activities: the REAC item RDWE002 (Temporary drainage design) and RDWE006 (Construction Water management) are included in the Code of Construction Practice, First Iteration of Environmental Management Plan.</p> <p>Operation</p> <p>The drainage strategy for the North Portal to Ockendon Link (catchments EFR-2 to EFR-4) is covered in Section 3 of the Flood Risk Assessment - Part 7. The drainage system for these catchments would be designed to rapidly remove surface water from the carriageway. The proposed drainage strategy would primarily be based on the use of gravity drainage networks that outfall to retention ponds prior to discharge to watercourses. This strategy is secured by the Design Principles. To the north of the Thames, the Project would drain via surface water outfalls discharging to the Gobions Sewer, the West Tilbury Main, the Mardyke, the Mardyke West and several unnamed tributaries of the Mardyke.</p>	<p>[Document Reference 3.1 (11)]</p> <p>ES Chapter 14: Road Drainage and the Water Environment [APP-152]</p> <p>ES Appendix 14.6: Flood Risk Assessment - Part 7 [APP-466]</p> <p>Design Principles [Document Reference 7.5 (7)]</p> <p>ES Appendix 14.3: Operational Surface Water Drainage Pollution Risk Assessment [APP-456]</p>	

Topic	Item No.	Cole Family Comment/Issue	The Applicant’s Response	Application Document Reference	Status
			<p>Pollution risks to surface water bodies that would receive discharges of highway drainage (routine runoff) and the risk of pollution being caused by an accidental spillage incident have been assessed, and the detailed results are presented in ES Appendix 14.3: Operational Surface Water Drainage Pollution Risk Assessment. These assessments conclude that with the mitigations in place the impacts on surface water receptors would not be significant. Safeguarding the quality of surface watercourses during the long-term operation of the Project would also protect the integrity of existing surface water abstractions for water supply.</p> <p>The Project has secured a commitment in the REAC to maintain the drainage infrastructure during operation. RDWE012 (Operational drainage maintenance) would ensure the drainage infrastructure and treatment systems would continue to operate to their design standard to safeguard surface and groundwater quality. RDWE025 (Operational drainage design) secures that the drainage design would include treatment measures for highway runoff designed in accordance with DMRB CG 501 and CD 532.</p>		

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
Low Street Irrigation reservoir and irrigation network (Mill House)	2.1.20	The Cole Family remain concerned about the reconfiguration of the reservoir underneath the proposed Tilbury Viaduct and its impact on the Mill House irrigation network (Work No. 5K (ii)). These concerns are both during construction and operation of the road.	The farm irrigation network would be extensively impacted by the Project. The parties are actively discussing an agreement to mitigate the impact of construction works on the irrigation network which is fed from an abstraction point at the Low Street reservoir. ES Appendix 2.2: Code of Construction Practice contains commitments in Chapter 7 – the REAC – in relation to the Low Steet reservoir. REAC commitment RDWE015 states that the irrigation system would be reconfigured prior to works in agreement with the landowner.	ES Appendix 2.2: Code of Construction Practice [Document Reference 6.3 ES Appendix 2.2 (9)]	Matter Agreed*
Irrigation Network (Cherry Orchard)	2.1.21	Impact on irrigation network to north and south of Green Lane, fed from Poplars reservoir. Cole Family legal rights to the abstraction and discharge into the Mardyke must be retained or re-provided on similar terms.	The farm irrigation network would be extensively impacted by the Project. The parties are discussing requirements in relation to this interface. The irrigation network would be reconfigured to ensure a continuous equivalent supply of water as far as reasonably practicable. As with matter 2.1.20, this matter will be addressed via a private agreement with the Cole Family.	N/A	Matter Agreed*
New abstraction point (Bexlands Pond)	2.1.22	The Cole Family have raised concern about impact on a new abstraction point they are using to feed their new reservoir at Mill House. They are abstracting from Bexlands Pond which requires re-modelling (Work No. 6K).	This matter will be addressed as part of discussions regarding the Mill House irrigation network agreement (matter 2.1.20).	Works Plans (Volume C) Composite [Document Reference 2.6 Volume C (7)]	Matter Agreed*

Topic	Item No.	Cole Family Comment/Issue	The Applicant’s Response	Application Document Reference	Status
				Draft Development Consent Order [Document Reference 3.1 (11)]	
Gammon Field Travellers Site	2.1.23	Object to the use of compulsory powers to acquire their freehold land to relocate the Gammon Field Travellers’ Site “ (Work No. 7R).	<p>Land at Gammon Field Travellers Site is required on a permanent basis to incorporate the new link between the A1089 northbound and the A122 northbound (Work 7Z). This impact on the site was set out in the 2016 consultation that informed the selection of the Preferred Route in 2017, as well as in subsequent consultations and was part of the consideration in the selection of the proposed alignment.</p> <p>Two options for the location of the replacement Travellers Site were identified on land near to the existing site. These locations took account of both existing and Project construction constraints and permanent land requirements in the vicinity including utility works, main construction works and replacement special category land.</p> <p>At Supplementary Consultation in January 2020 two options for the relocation of the Travellers Site were consulted upon. The outcome of the public consultation, and</p>	Works Plans (Volume C) Composite [Document Reference 2.6 Volume C (7)] Draft Development Consent Order [Document Reference 3.1 (11)]	Matter Not Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
			feedback from the current residents of the Travellers Site, was that the site proposed in the DCO application was the preferred option.		
Impact on future diversified opportunities	2.1.24	The Applicants have been informed that their scheme will have a detrimental effect on existing development opportunities to include development Option agreements in place. In addition, the Cole's land known as Shed Marsh and Walton Common has been subject to Local Plan Promotion. The developable area of circa 70 hectares is located to the east of Tilbury Power Station, south of the railway line and west of east Tilbury. The site has been promoted for employment land through the Thurrock emerging Local Plan with representations to the Regulation 18 Call for Sites Consultation (2018) and the Regulation 18 Issues and Options 2 Consultation (2019). This land was included as a potential growth location for employment land within the Issues and Options 2 Consultation. The majority of the land has been identified as being required for the Lower Thames Crossing both in terms of permanent land acquisition for construction and temporary land required for utilities, and permanent acquisition of rights for easements. This is a significant land take of a location identified for	The Applicant considers that the land included within the Order Limits is the minimum amount of land required to construct, operate, maintain, protect and mitigate the Project necessary to achieve the objectives of the Project. This is set out in detail in the Statement of Reasons and the Book of Plans. Compensation for temporary use, and permanent acquisition of land and rights, would be due in accordance with the Compensation Code.	Statement of Reasons [Document Reference 4.1 (8)] Book of Plans [Document References 2.1 to 2.18]	Matter Not Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
		strategic employment growth. As a result of the Lower Thames Crossing the Shed Marsh area and other land has been "blighted" and will almost certainly be identified as being undeliverable. Subsequently it is anticipated that through the emerging Local Plan process significant areas of the Cole's land will be excluded. The result will be that the Cole's will suffer significant financial loss due to the inability to bring forward these sites.			
Farm access tracks	2.1.25	Request that farm access tracks are design to appropriate specification to accommodate farm vehicles, including harvesters and HGVs.	In the Design Principles, see Clause PEO.12, the Applicant has committed to provide access tracks that are appropriately constructed and surfaced for their intended use. Access tracks shall be designed in accordance with the Standards for Highways specifications CD225 ¹ and CD226 ² . Article 10 of the draft DCO provides that access tracks must be constructed to the reasonable satisfaction of landowners.	Design Principles [Document Reference 7.5 (7)] Draft Development Consent Order [Document Reference 3.1 (11)]	Matter Agreed*
Accommodation Works	2.1.26	The Cole Family have concerns regarding the detailed design and implementation of accommodation works, such as gates and fencing.	Accommodation works to be discussed during detailed design including implementation and management of the works.	Design Principles [Document	Matter Agreed*

¹ <https://www.standardsforhighways.co.uk/search/0d63993a-89f1-4312-bd71-d3b019a32810>

² <https://www.standardsforhighways.co.uk/tses/attachments/9654b4de-efa7-4843-8598-295019387077?inline=true>

Topic	Item No.	Cole Family Comment/Issue	The Applicant's Response	Application Document Reference	Status
				Reference 7.5 (7)]	
Air Quality					
Dust and Air Pollution	2.1.27	Concern regarding dust and air pollution to understand the potential impact on these elements and how these will affect high value crops planted in the vicinity of the construction areas. As an example, if dust and other contaminants become airborne and affects crops grown for human consumption, which are not processed, then this will also have a catastrophic effect on the Cole's farming businesses and exposes them to loss of valuable agreements and to potential prosecution. The Cole Family requested an indemnity in relation to the impacts of dust on crops, however understand that the Applicant is not able to provide this. Therefore, to mitigate some of the impact from the potential dust, the Cole Family would propose an agreement in relation to crop loss whereby a gross margin loss is compensated for not growing high value crops outside the Order Limits in the immediate vicinity of the works.	The construction dust assessment for the Project has been undertaken in accordance with Design Manual for Roads and Bridges (DMRB) LA 105 Air Quality and the results are presented in ES Chapter 5: Air Quality. The construction dust assessment seeks to describe and assess the risk of dust arising from construction activities that have the potential to result in statutory nuisance. The assessment assumes that dust emissions occur along the boundary of the Order Limits and is therefore considered to be precautionary. The overall dust risk potential of the Project was rated 'large' based on the size and duration of the project, therefore the receiving environment sensitivity to construction dust is 'high' up to 100m and 'low' 100–200m from the Order Limits in accordance with DMRB. However, these effects would be temporary in nature and dust impacts are to be controlled using good practice measures commensurate with the assessed high sensitivity of area and so are not considered to trigger a significant air quality effect on human and ecological receptors. ES Chapter 10: Geology and Soils (paragraph 10.6.31) states that with	ES Chapter 5: Air Quality [APP-143] ES Chapter 10: Geology and Soils [APP-148] ES Appendix 2.2: Code of Construction Practice [Document Reference 6.3 ES Appendix 2.2 (9)]	Matter Not Agreed

Topic	Item No.	Cole Family Comment/Issue	The Applicant’s Response	Application Document Reference	Status
			<p>mitigation measures in place, there is a negligible magnitude of impact on human health receptors in relation to pollution arising from potentially contaminated fugitive dust.</p> <p>The REAC outlines the construction dust mitigation measures that will be implemented by the Contractor to ensure that the impacts of construction dust emissions are not significant in relation to effects such as soiling and compliance with Air Quality Strategy objectives. These are detailed in REAC commitments AQ001 to AQ005 and includes measures to prevent, reduce and suppress any dust emissions.</p> <p>Dust monitoring and inspection would be undertaken to ensure that the mitigation measures remain effective during the construction works. As described in REAC commitments AQ005, AQ006 and AQ008, the level of monitoring will range from on and offsite inspections of dust, to where necessary, monitoring using particulate analysers. REAC commitment AQ006 describes how the monitoring strategy would be determined by the Contractor, and that any monitoring locations would be agreed with the Secretary of State in conjunction with the relevant local authorities.</p>		

Topic	Item No.	Cole Family Comment/Issue	The Applicant’s Response	Application Document Reference	Status
Geology & Soils					
Soil Management	2.1.28	Concern over the lack of evidenced soil management plans for areas of land affected by the scheme on a temporary basis. Request that soil survey results for Cole land within the Order Limits are provided in advance of works being undertaken.	<p>The Applicant is committed to produce a Soil Management Plan (SMP) as part of the Second Iteration of the Environmental Management Plan (EMP2) prior to commencement works. This is stated in the Introduction to the Application, see paragraph 14.3.13 (b).</p> <p>This would be based on the Agricultural Land Classification/Soil Resources Surveys which have been completed. The SMP will detail out roles and responsibilities, how soils will be protected during site establishment, how soils will be stripped and stockpiled and how soils will be reinstated once construction works are complete. This would cover land being returned to agriculture as well as land being returned to landscape planting or habitat creation. Soil survey results for Cole land within the Order Limits which is to be returned to agriculture post construction would be provided prior to temporary possession of the land being taken by the Applicant.</p>	Introduction to the Application [REP4-002]	Matter Agreed

Appendix A Engagement Activity

Table A.1 Engagement activities between the Applicant and Cole Family since the DCO application was submitted on 31 October 2022

Date	Overview of engagement activities
5 September 2022	Regular update meeting with agent
6 September 2022	Email correspondence with agent regarding voluntary agreement
22 September 2022	Email correspondence regarding technical query
3 October 2022	Meeting to progress various matters and Statement of Common Ground
7 October 2022	Regular update meeting with agent
25 October 2022	Email correspondence regarding voluntary agreement
28 November 2022	Regular update meeting with agent
28 November 2022	Email correspondence regarding voluntary agreement
7 December 2022	Email correspondence regarding voluntary agreement
12 December 2022	Email correspondence regarding voluntary agreement
13 December 2022	Email correspondence regarding Statement of Common Ground
16 December 2022	Email correspondence regarding voluntary agreement
19 December 2022	Regular update meeting with agent
20 December 2022	Email correspondence regarding meeting
3 January 2023	Email correspondence regarding consultation on change to foul water connection
9 January 2023	Regular update meeting with agent
17 January 2023	Meeting to progress Statement of Common Ground
18 January 2023	Email correspondence regarding voluntary agreement
3 February 2023	Email correspondence regarding voluntary agreement
6 February 2023	Regular update meeting with agent
14 February 2023	Email correspondence regarding Statement of Common Ground
7 March 2023	Regular update meeting with agent
9 March 2023	Meeting to progress Statement of Common Ground and voluntary agreements
20 March 2023	Email correspondence regarding plough clearance for gas pipeline diversion
22 March 2023	Email regarding meeting notes
29 March 2023	Email correspondence to agent requesting update on Statement of Common Ground progress and other matters
12 April 2023	Regular update meeting with agent

Date	Overview of engagement activities
4 May 2023	Regular update meeting with agent
9 May 2023	Email correspondence regarding sharing data
12 May 2023	Email correspondence with agent regarding progress with statement of common ground
16 May 2023	Email correspondence regarding Minor Refinements Consultation
16 May 2023	Email correspondence from agent regarding voluntary agreement
17 May 2023	Meeting to discuss biodiversity net gain and carbon
22 May 2023	Regular update meeting with agent
5 June 2023	Email correspondence sending updated draft statement of common ground
7 June 2023	Sending updated Statement of Common Ground
15 June 2023	Meeting with agent to discuss progress with various matters and statement of common ground
15 June 2023	Email to agent sending updated Statement of Common Ground
15 June 2023	Regular update meeting with agent
16 June 2023	Email from agent regarding minor refinement consultation, confirming the Cole Family accept the proposed changes west of Linford.
20 June 2023	Email to agent regarding statement of common ground and voluntary agreement
22 June 2023	Email to agent regarding statement of common ground
22 June 2023	Meeting with agent regarding statement of common ground
27 June 2023	Meeting regarding statement of common ground and voluntary agreement
10 July 2023	Meeting regarding to landowner's agent and lawyer regarding voluntary agreement
10 July 2023	Regular update meeting with agent
18 July 2023	Email with agent regarding voluntary agreement
7 August 2023	Regular update meeting with agent - matters progressing
15 August 2023	Email to agent regarding WCH proposals
17 August 2023	Email to agent regarding WCH proposals
23 August 2023	Meeting with agent to discuss voluntary agreement and Statement of Common Ground
1 September 2023	Email regarding compulsory acquisition of new WCH routes
11 September 2023	Email to agent requesting an update on information requested in relation to the irrigation network.
18 September 2023	Regular update meeting with agent - awaiting further information to progress irrigation voluntary agreement. Meeting arranged for 5/10/23 to progress Statement of Common Ground.
21 September 2023	Email to agent and solicitor regarding Mardyke mink S253 agreement

Date	Overview of engagement activities
27 September 2023	Email correspondence regarding voluntary agreements
5 October 2023	Meeting to progress Statement of Common Ground
5 October 2023	Email following up on actions from meeting
11 October 2023	Email regarding Statement of Common Ground and voluntary agreement
13 October 2023	Meeting regarding Statement of Common Ground
21 November 2023	Email regarding Statement of Common Ground
27 November 2023	Meeting regarding Statement of Common Ground
29 November 2023	Meeting regarding Statement of Common Ground

If you need help accessing this or any other National Highways information, please call **0300 123 5000** and we will help you.

© Crown copyright 2023.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/

write to the **Information Policy Team, The National Archives, Kew, London TW9 4DU**, or email psi@nationalarchives.gsi.gov.uk.

Mapping (where present): © Crown copyright and database rights 2023 OS 100030649. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

If you have any enquiries about this publication email info@nationalhighways.co.uk or call **0300 123 5000***.

*Calls to 03 numbers cost no more than a national rate call to an 01 or 02 number and must count towards any inclusive minutes in the same way as 01 and 02 calls.

These rules apply to calls from any type of line including mobile, BT, other fixed line or payphone. Calls may be recorded or monitored.

Printed on paper from well-managed forests and other controlled sources when issued directly by National Highways.

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

National Highways Limited registered in England and Wales number 09346363