

# Lower Thames Crossing

## 5.4.3.10 Final Agreed Statement of Common Ground between (1) National Highways and (2) High Speed 1 Limited (Clean version)

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## Revision history

Version	Date	Submitted at
1.0	31 October 2022	DCO Application
2.0	18 July 2023	Deadline 1
3.0	19 September 2023	Deadline 4
4.0	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) High Speed 1 Ltd.

Both parties have reached agreement on the position of the status of all 19 matters. Of the 19 matters contained within, 12 matters are agreed, four are not agreed, and three remain under discussion, to be discussed at the detailed design stage of the Project.

### On behalf of National Highways

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

### On behalf of High Speed 1 Ltd

Name	[REDACTED]
Position	[REDACTED]
Organisation	HS1 Ltd
Signature	[REDACTED]

## Lower Thames Crossing

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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 High Speed 1 Limited 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 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 High Speed 1 Limited elected not to produce a PADS Tracker, indicating to the Applicant that they were content that the number of outstanding matters within the SoCG was insufficient to warrant the exercise.

## 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 significant engagement, “Matter Under Discussion\*” indicates further discussion may take place during the detailed design stage of the Project to finalise detail, or is subject to a side agreement (between High Speed 1 Limited and the Applicant) and “Matter Agreed” indicates where the issue has now been resolved.

## 2 Matters

### 2.1 Final position on matters

- 2.1.1 A summary of engagement undertaken between the Applicant and High Speed 1 Limited is summarised in Table A.1 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 either under discussion\*, agreed or not agreed between the Applicant and High Speed 1 Limited.
- 2.1.3 In the column 'Item No' in Table 2.1, 'RRN' indicates a matter entered into the SoCG as a result of content in the Relevant Representation, 'RRE' indicates an existing SoCG matter that was also raised in the Relevant Representation.
- 2.1.4 Since v3 was submitted at Deadline 4, the following matters have moved from 'Matter Under Discussion' to 'Matter Agreed':
- a. 2.1.9 Operation & Maintenance: Errant Vehicle Protection
  - b. 2.1.11 Operation & Maintenance: Surcharging
  - c. 2.1.12 Operation & Maintenance: Signage
- 2.1.5 Since v3 was submitted at Deadline 4, the following matters have moved from 'Matter Under Discussion' to 'Matter Not Agreed':
- a. 2.1.14 Terrestrial Biodiversity: Land to the south of SIMD/Church Road
  - b. 2.1.16 Protective Provisions: Inclusion within the DCO
  - c. 2.1.19 DCO and Consents: Consultation in relation to documents
- 2.1.6 Since v3 was submitted at Deadline 4, the following matters have moved from 'Matter Under Discussion' to 'Matter Under Discussion\*':
- a. 2.1.2 Land and Compulsory Acquisition: Singlewell Infrastructure Maintenance Depot
  - b. 2.1.5 Land and Compulsory Acquisition: Critical Infrastructure (UKPN and NGET Compounds)
  - c. 2.1.17. Protective Provisions: Legally Binding obligations
- 2.1.7 Three matters will remain under discussion as it is acknowledged there are some matters where further discussion may take place during the detailed design stage of the Project to finalise detail, or is subject to a side agreement (between High Speed 1 Limited and the Applicant). Matters to which this applies have an asterisk (\*) next to them.
- 2.1.8 At Examination Deadline 9A there are 19 matters in total, of which 12 are agreed, four are not agreed and three remain under discussion\*.

2.1.9 This is the final Statement of Common Ground between the Applicant and High Speed 1 Limited.

**Table 2.1 Final Position on Matters**

Topic	Item No.	HS1 Ltd Comment	The Applicant's Response	Application Document Reference	Status
<b>Land and compulsory acquisition</b>					
Singlewell Infrastructure Maintenance Depot (SIMD)	2.1.1 RRE	The SIMD is a critical facility for the operation and maintenance of the railway and is located between the A2 and HS1 on Henhurst Lane. Previous Land Use plans indicated that the whole of SIMD was an area to be used by the Project. This would not have been acceptable to HS1 and would have severely compromised the operation of the railway. We are therefore pleased to see that SIMD has been largely removed from the red line boundary of your site and it is no longer necessary to acquire this land.	The Applicant is committed to reaching agreement with HS1 Ltd as to the terms on which it can secure the interests it requires which impact HS1 Ltd. The parties are now agreed as to the Order Limits (formerly the 'red line boundary').	N/A	Matter Agreed
	2.1.2 RRE	HS1 Ltd would like to continue further discussions with you regarding the future use and ownership of land to the West of SIMD.	The Applicant is unable to progress this as part of the Proposed Development but the use of this land and any potential land swap can be discussed post DCO examination as a separate piece of work.	N/A	Matter Under Discussion*



Topic	Item No.	HS1 Ltd Comment	The Applicant's Response	Application Document Reference	Status
<b>Design – Road, Tunnels, Utilities</b>					
Support for the Project	2.1.3	HS1 has been working collaboratively with the project team for a number of years and is generally supportive of the proposal to provide an under river crossing to the east of Gravesham, especially given the congested nature of the A2 in the Ebbsfleet area and the delays that this regularly creates for users of HS1 services travelling to Ebbsfleet International Station. The additional capacity created on the A2 would, we believe be critical in terms of releasing development and regeneration opportunities in the Ebbsfleet area and in turn driving growth on the HS1 rail network through new housing and employment opportunities.	The Applicant is pleased to have the support of HS1 Ltd.	N/A	Matter Agreed
Design interface	2.1.4	The access to SIMD will also be affected by a new roundabout and the Project will need to accommodate vehicular movements into SIMD, both during construction and once the new roundabout is operational. SIMD was designed and built to have direct access to the A2 in both directions. Further to our previous comments we are now pleased that access to the coastbound route is now much easier to achieve from SIMD and this should help with our emergency response times to incidents on the railway.	The Applicant is committed to reaching agreement with HS1 Ltd. The parties are now agreed as to the access to the coastbound route.	N/A	Matter Agreed

Topic	Item No.	HS1 Ltd Comment	The Applicant’s Response	Application Document Reference	Status
Critical Infrastructure (UKPN and NGET Compounds)	2.1.5	<p>To the East of SIMD are located two electrical compounds which take power from the National Grid and then in turn supply power to HS1. These are critical facilities to the operation of HS1 and LTC will be expected to afford maximum protection to this infrastructure. HS1 is particularly keen to understand more detail about the potential relocation of electricity lines in the local vicinity, particularly as this may impact on electrical supply to the HS1 network and the level of resilience afforded to the railway. Consultation with UK Power Networks (UKPN) and National Grid Electricity Transmission (NGET) should also be held separately to any discussions with HS1.</p> <p>The compounds are accessed via a gravel track on HS1 land with a junction on Henhurst Lane. Access for large low loaders will be required for renewals and therefore a central access lane through the roundabout is required, we are pleased to see that this appears to have been included on the latest plans.</p> <p>Appropriate separation between new public roads and the electrical infrastructure will also need to be maintained.</p>	<p>The parties are engaged in ongoing discussion regarding the potential impact of proposed works to electrical infrastructure in the vicinity of HS1 assets.</p> <p>The Applicant committed to presenting the proposed NGET diversion to HS1 and a meeting was held on 30 November 2023. Further meetings are due to take place during the detailed design phase.</p>	N/A	Matter Under Discussion*

Topic	Item No.	HS1 Ltd Comment	The Applicant's Response	Application Document Reference	Status
Under track crossings	2.1.6  RRE	<p>In the past National Highways have raised the possibility of under track crossings for the redirection of utilities infrastructure, the requirement for these went away but should they be required again in the future then HS1's requirements are set out below.</p> <p>Although these types of crossings are common on other parts of the rail network, these would be the first such crossings installed under HS1 since its construction. Due to the High-Speed services using the railway, track movement, tolerance and action levels will be far higher than on the normal rail network. HS1 is likely to insist on owning any under track crossing (UTX) structure under the railway, although National Highways will be expected to pay a commuted sum for maintenance of the structure.</p>	The DCO design for the Project does not include any such crossings at present.	N/A	Matter Agreed
Access to the railway	2.1.7  RRE	<p>Access to HS1 access gates and maintenance strips must be maintained at all times throughout the construction of the Project. Thereafter an equivalent level of access must be afforded to that which existed prior to the development, including where necessary parking facilities for Network Rail High Speed (NRHS) vehicles at access gates.</p>	The Applicant is committed to working with HS1 to ensure access during and post construction is maintained to HS1 with minimal disruption and with any disruption being subject to agreement with HS1 in advance.	N/A	Matter Agreed

Topic	Item No.	HS1 Ltd Comment	The Applicant's Response	Application Document Reference	Status
<b>Construction</b>					
Construction management	2.1.8  RRE	Windblown debris causes more lineside neighbour incidents than anything else by far and could be avoided with good housekeeping. Management and reduction of foreign object debris should be required as part of any tender, this includes wind-blown debris/rubbish, materials left on site (which could be used as projectiles by vandals) and items dropped over fences by workforce. All plant or equipment with collapse radius within 4m of boundary fences must have a technical submission approval from HS1. Construction Management plans will be of particular interest to HS1 for any works taking place in the vicinity of the railway.	The Applicant commits to ensuring its Contractors provide all reasonably required submissions to HS1 to ensure the safety of planned work in the vicinity of the railway.  The Applicant confirms that it will adhere to the temporary works design in the Developer's Handbook provided by HS1 and will instruct its delivery partner accordingly.	N/A	Matter Agreed
<b>Operation &amp; Maintenance</b>					
Errant Vehicle Protection (EVP)	2.1.9  RRE	Of long-term importance to HS1 is the provision of suitably designed EVP. This is an essential requirement for the protection of the existing HS1 operational railway infrastructure, especially where any access/slip roads are located adjacent to HS1 infrastructure. Any proposal for EVP also needs to consider security cameras and lighting column protection along railway façade.	The Applicant will ensure Errant Vehicle Protection is a consideration during the design of the Project and has requested any guidance or standards information from HS1 on this matter.  The Applicant will agree appropriate mitigation measures with HS1.	N/A	Matter Agreed

Topic	Item No.	HS1 Ltd Comment	The Applicant's Response	Application Document Reference	Status
Security	2.1.10  RRE	HS1 is one of the best performing railways in Europe, however trespass onto the railway is the leading cause of delay minutes to HS1. Security of our infrastructure is therefore of paramount importance and any proposals that increase the potential for unauthorised access to the railway are unacceptable. Appropriate mitigation must be put in place to prevent such unauthorised access. Any diverted footpaths or access tracks alongside the railway may need enhanced security measures to be implemented as part of any proposal.	The Applicant will ensure that security is a consideration during design of the Project and requests any guidance or standards information from HS1 on this matter.  The Applicant will agree appropriate mitigation measures with HS1.	N/A	Matter Agreed
Surcharging	2.1.11  RRE	Attenuation and loads on top of any cutting will need to be checked for acceptability once a final design is being considered. This is to ensure the stability of the track and other structures and services and the safety and passing rail traffic.	The Applicant has requested to discuss this further with HS1 to understand HS1's specific requirements regarding this item.  The Applicant will agree appropriate mitigation measures with HS1.	N/A	Matter Agreed
Signage	2.1.12  RRE	HS1 would ask that National Highways seek to improve signage for road users to Ebbsfleet International Station from these proposed junctions to avoid any confusion from new road alignments in the area.	The Applicant notes this request and has requested to discuss this further to understand any specific suggestions for improvement HS1 may have.  The Applicant will agree appropriate mitigation measures with HS1.	N/A	Matter Agreed

Topic	Item No.	HS1 Ltd Comment	The Applicant's Response	Application Document Reference	Status
<b>Landscape and visual</b>					
Planting	2.1.13  RRE	This must be avoided near to existing HS1 fences, in order to prevent opportunities for trespass and damage from falling branches or trees.	The Applicant commits to consulting with HS1 on all proposed planting in the vicinity of their assets and boundaries.  The Applicant will ensure that appropriate planting locations are agreed with HS1 to ensure HS1 infrastructure is not impacted.	N/A	Matter Agreed
<b>Terrestrial biodiversity</b>					
Land to the south of SIMD / Church Road	2.1.14	HS1 note that on the latest set of consultation plans National Highways have included land to the south of Church Road as a potential site for ancient woodland compensation. As custodians of HS1 until December 2040 HS1 have a duty to safeguard for the future operation and growth of the high speed railway. Should SIMD ever need to expand in order to cater for additional HS1 services then the land south of Church Road would be an obvious potential site for development. Whilst accepting that it is located in the Green Belt and further alternative site analysis would be required, HS1 believe that “very special circumstances” could potentially make development on this land acceptable. Whilst there are no defined plans we consider it prudent to informally safeguard this land and therefore would request that alternative sites are considered for ancient woodland mitigation.	The Applicant has reviewed the plans for ancient woodland mitigation to this area and advises HS1 that it is not possible to amend the land use in this area.  The key objective of this compensatory planting is increased habitat connectivity. Any reduction in this area will negatively impact the quality the connection between woodland habitats and the overall quantum of the area being provided.	N/A	Matter Not Agreed

Topic	Item No.	HS1 Ltd Comment	The Applicant's Response	Application Document Reference	Status
<b>Road drainage and the water environment</b>					
Drainage	2.1.15  RRE	HS1 would not expect to see any surface water runoff or drainage discharge onto adjacent HS1 land, which could cause issues for HS1 infrastructure and undermine embankments. There is also a concern over the future of the balancing pond to the East of Henhurst Lane where current plans show a new LTC road being constructed. HS1 will require this balancing pond capacity to be maintained or re-provided in an appropriate alternative location.	The Applicant notes this concern and will work with HS1 to ensure its design provides satisfactory alternative arrangements if impacts are resulting from the Project's scope.  The Applicant agrees that surface water runoff or drainage discharge should not negatively impact HS1 infrastructure.  The Applicant will commit to the relocation of the balancing pond if required.	N/A	Matter Agreed
<b>Protective Provisions</b>					
Inclusion within the DCO	2.1.16  RRE	The DCO must include a suitable set of protective provisions for the benefit of HS1 Ltd on its face, which have been agreed with HS1.	Protective Provisions for railway undertakers, including HS1 Ltd, are included within the draft DCO (see Part 4 of Schedule 14) as submitted with the application.	Draft DCO [Document Reference 3.1 (11)]	Matter Not Agreed

Topic	Item No.	HS1 Ltd Comment	The Applicant's Response	Application Document Reference	Status
Legally binding obligations	2.1.17	<p>National Highways will be expected to enter into a Protective Provisions Agreement (PPA) with HS1, this is a legally binding document which assists in managing the risk from this project to the High Speed railway. National Highways will be expected to indemnify HS1 for any losses caused as a result of the project as well as carrying insurance up to £155 Million. The PPA will also cover the process involved in achieving signoff from HS1 on the detailed design of the Project.</p> <p>HS1 Limited does not accept the Applicant's proposed restriction on the indemnity to exclude indirect or consequential loss or loss of profits because HS1 Limited considers that it should:</p> <ol style="list-style-type: none"> <li>be indemnified for losses that would not have occurred but for the Applicant's Project;</li> <li>be indemnified for any losses caused by the Applicant that would ordinarily be recoverable under the general law; and</li> <li>receive the same degree of protection as has been afforded to Network Rail on other DCOs, including those promoted by the Applicant.</li> </ol>	<p>The parties are engaged in discussions as to the terms of a Framework Agreement (FA). In this context, any additions or alterations that may be necessary to the Protective Provisions can be agreed between the parties.</p> <p>Indemnity provisions have been provided to ensure adequate and appropriate protection.</p> <p>The Applicant has submitted a response to the Position Paper submitted by HS1 at Deadline 9 in the Applicant's Deadline 9 Hearing Actions, which includes a response on the reason for excluding indirect or consequential loss or loss of profits.</p>	<p>Draft DCO [Document Reference 3.1 (11)]</p> <p>Deadline 9 Hearing Actions [Document Reference 9.222]</p>	Matter Under Discussion*
Consent to the exercise of DCO powers	2.1.18  RRE	<p>HS1 Ltd considers that the railway protective provisions should include provision to the effect that National Highways should not exercise powers of survey, compulsory acquisition or temporary possession in relation to HS1 land under the DCO without its consent.</p>	<p>The Applicant does not agree that it is appropriate, necessary or proportionate for HS1 Ltd to enjoy authority over the Applicant's ability to exercise statutory powers conferred on it by the Secretary of State.</p>	<p>Draft DCO [Document Reference 3.1 (11)]</p>	Matter Not Agreed



Topic	Item No.	HS1 Ltd Comment	The Applicant's Response	Application Document Reference	Status
		<p>HS1 Ltd submitted a Position Statement at Deadline 8 on 5 December 2023 setting out the outstanding issues between the parties and attaching their preferred form of protective provisions [Document reference TR010032-005523]</p>	<p>The railway Protective Provisions include appropriate and well precedented provisions to allow HS1 to review and approve the details of works affecting its railway and to inspect those works as they are undertaken. Indemnity provisions have also been provided and therefore adequate and appropriate protections are already proposed.</p> <p>The Applicant has submitted a response to the Position Paper submitted by HS1 at Deadline 9 in the Applicant's Deadline 9 Hearing Actions.</p>	<p>Deadline 9 Hearing Actions [Document Reference 9.222]</p>	
<b>DCO and Consents</b>					
<p>Consultation in relation to documents</p>	<p>2.1.19  RRN</p>	<p>HS1 have requested they are consulted in relation to construction and handover environmental plans, landscaping and ecology, surface and foul water drainage, traffic management, construction travel plans and fencing. In many cases, this can be achieved by HS1 being added to the list of consultees set out in the following documents - Table 2.1 of the Code of Construction Practice; Table 2.1 of the outline landscape and ecology management plan and Table 2.1 of the outline traffic management plan.</p>	<p>The Applicant does not agree that HS1 should be a consultee on these documents as they do not have any relevant functions.</p> <p>The Applicant notes that for the construction traffic phase, HS1 may not be consulted on the Traffic Management Plan but they would be members of the Traffic Management Forum.</p>	<p>Draft DCO [Document Reference 3.1 (11)]</p>	<p>Matter Not Agreed</p>

## Appendix A Engagement activity

**Table A.1 Engagement activities between the Applicant and High Speed 1 Limited since the DCO Application was submitted on 31 October 2022**

Date	Overview of Engagement Activities
31 October 2022 – present	The Applicant and HS1 have continued to engage in discussions as regards a suite of legal agreements to govern the interface between the Project and the operational railway.
01 November 2022	Engagement with High Speed 1 Limited Ground movement workshop
24 November 2022	Engagement with High Speed 1 Limited Ground movement workshop
01 December 2022	Engagement with High Speed 1 Limited Senior team relating to Land acquisition proposals
08 December 2022	Engagement with High Speed 1 Limited Ground movement workshop
12 January 2023	Engagement with High Speed 1 Limited Senior team; Project update and actions
18 January 2023	Engagement with High Speed 1 Limited Ground movement workshop
18 January 2023	Engagement with High Speed 1 Limited Senior team; Project update and actions
15 February 2023	Engagement with High Speed 1 Limited Senior team; Project update and actions
01 March 2023	Engagement with High Speed 1 Limited Senior team; Project update and actions
29 March 2023	Engagement with High Speed 1 Limited Senior team; Project update and actions
18 May 2023	Engagement with High Speed 1 Limited Ground movement workshop
24 May 2023	Engagement with High Speed 1 Limited team; Project update and actions
29 June 2023	Engagement with High Speed 1 and DFT; Land discussion and Land agreement
26 July 2023	Engagement with High Speed 1 Limited team; Project update and actions
27 July 2023	Engagement with High Speed 1 and DFT; Land discussion and Land agreement
02 August 2023	Engagement with High Speed 1 Limited and DLA Piper; SoCG workshop
23 August 2023	Engagement with High Speed 1 Limited team; Project update and actions
11 September 2023	Engagement with High Speed 1 Limited and DLA Piper; SoCG workshop
27 September 2023	Engagement with High Speed 1 Limited team; Project update and actions

<b>Date</b>	<b>Overview of Engagement Activities</b>
25 October 2023	Engagement with High Speed 1 Limited team; Project update and actions
17 November 2023	Engagement with High Speed 1 Limited and DLA Piper; SoCG workshop
20 November 2023	Engagement with High Speed 1 and DFT; Land discussion and Land agreement and Legal Review
22 November 2023	Engagement with High Speed 1 Limited Senior team; Project update and actions

## Appendix B Glossary

Term	Abbreviation	Explanation
Asset Definition Scope of Impact	ADSI	A document outlining the high-level scope of the Project and its impact on third-party assets.
Development Consent Order	DCO	Means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
Errant Vehicle Protection	EVP	A barrier to protect from the travel of errant vehicles after leaving the carriageway.
Framework Agreement	FA	A form of agreement proposed to be entered into between the Applicant and HS1 Limited to make overarching provision for the legal documentation to be agreed between them.
High Speed Rail Limited	HS1 Ltd	A 109km high-speed railway between London and the UK end of the Channel Tunnel. The line carries international passenger traffic between the UK and continental Europe; it also carries domestic passenger traffic to and from stations in Kent and east London, as well as Berne gauge freight traffic.
A122 Lower Thames Crossing	Project	A proposed new crossing of the Thames Estuary linking the county of Kent with the county of Essex, at or east of the existing Dartford Crossing.
National Grid Electricity Transmission	NGET	A UK company that builds and maintains the electricity transmission network in England and Wales.
Network Rail High Speed	NRHS	A separate company to Network Rail which maintains HS1.
Planning Performance Agreement	PPA	A planning performance agreement is a project management tool which local planning authorities and applicants can use to agree timescales, actions and resources for handling particular applications.
Preferred Route Announcement	PRA	Preferred Route Announcement by government of the preferred route for a new road or crossing.
Singlewell Infrastructure Maintenance Depot	SIMD	Singlewell infrastructure maintenance depot is a critical facility for the operation and maintenance of the railway and is located between the A2 and HS1 on Henhurst Lane.
UK Power Networks	UKPN	An energy network operator. Owns and maintains the electricity cables in South East England, the East of England and London.
Under Track Crossing	UTX	A conduit to carry cables, etc. from one side of the line to the other.

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