

# **A12 Chelmsford to A120 widening scheme**

**TR010060**

## **8.4 Statement of Common Ground with Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited**

Rule 8 (1)(e)

Planning Act 2008  
Infrastructure Planning (Examination Procedure)  
Regulations 2010

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Planning Act 2008

The Infrastructure Planning  
(Examination Procedure) Rules 2010

**A12 Chelmsford to A120 widening scheme**  
Development Consent Order 202[ ]

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**Statement of Common Ground with Essex Waterways Limited on behalf  
of Chelmer and Blackwater Navigation Limited**

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<b>Regulation Reference</b>	Rule 8 (1)(e)
<b>Planning Inspectorate Scheme Reference</b>	TR010060
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<b>Author</b>	A12 Project Team and National Highways

<b>Version</b>	<b>Date</b>	<b>Status of Version</b>
P01.1	02/2023	DRAFT for Deadline 2

## STATEMENT OF COMMON GROUND

**This Statement of Common Ground has been prepared and agreed by (1) National Highways Company Limited and (2) Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited.**

Signed.....

**[NAME]**

**Project Manager**

**on behalf of National Highways**

**Date: [DATE]**

Signed.....

**[NAME]**

**[POSITION]**

**on behalf of Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited**

**Date: [DATE]**

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# 1 Introduction

## 1.1 Purpose of this document

- 1.1.1 This Statement of Common Ground ("SoCG") has been prepared in respect of the proposed A12 Chelmsford to A120 Widening Scheme ("the Application") made by National Highways Company Limited ("National Highways") to the Secretary of State for Transport ("Secretary of State") for a Development Consent Order ("the Order") under section 37 of the Planning Act 2008 ("PA 2008").
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available in the deposit locations and/or the Planning Inspectorate website.
- 1.1.3 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has not (yet) been reached. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the examination.

## 1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by (1) National Highways as the Applicant and (2) Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited.
- 1.2.2 National Highways became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing National Highways made provision for all legal rights and obligations of the Highways Agency, including in respect of the Application, to be conferred upon or assumed by National Highways.
- 1.2.3 The Chelmer and Blackwater Navigation, built between 1793 and 1797, links Chelmsford with the Blackwater estuary, allowing suitably dimensioned boats to reach the centre of Chelmsford from the open sea via the sea lock at Heybridge Basin. The Chelmer & Blackwater Navigation Limited own the River Chelmer including banks, and for more than 200 years the company maintained the waterway and acted as the navigation authority. Since 2005, the day-to-day management and maintenance of the navigation is undertaken by Essex Waterways Limited (a division of the Inland Waterways Association (a registered charity). Approximately 839 square meters (0.21 acres) of their interest fall within the extents of the DCO boundary. The land is required to accommodate a new outfall / headwall from the proposed attenuation pond to the north of the river.
- The River Chelmer is located between Springfield (to the south of Junction 19) and the village of Sandon (junction 18), running along the eastern side of the A12 within the local authority area of Chelmsford.

1.2.4 It is open for the general public both on water and land (via the adjoining tow path) for recreational use.

## 1.3 Terminology

1.3.1 In the tables in the Issues chapter of this SoCG, “Not Agreed” indicates a final position, and “Under discussion” where these points will be the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties. “Agreed” indicates where the issue has been resolved.

1.3.2 It can be taken that any matters not specifically referred to in the Issues chapter of this SoCG are not of material interest or relevance to the Chelmer and Blackwater Navigation Limited, and therefore have not been the subject of any discussion between the parties. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to the Chelmer and Blackwater Navigation Limited.

## 2 Record of Engagement

2.1.1 A summary of the meetings and correspondence that has taken place between National Highways and Essex Waterways Limited on behalf of the Chelmer and Blackwater Navigation Limited in relation to the Application is outlined in table 3.1

2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) National Highways and (2) Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited in relation to the issues addressed in this SoCG.

**Table 2.1 Record of Engagement**

Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
	Statutory consultation comments	<p>Drawing from National Highways (HE 551497-DR-C-0001) shows new surface water attenuation ponds with outfalls both directly and indirectly to the Chelmer &amp; Blackwater Navigation and a proposed maintenance access roadway to the ponds running parallel to the A12.</p> <p>1. The proposed surface water drain crosses Navigation Company land which includes public footpaths FP17 and FP18 (the Navigation tow path) and discharges into the Navigation.</p> <p>2. Details of any new surface water outfall will need to be agreed with Essex Waterways Limited and subject to licence. Environment</p>

Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
		<p>Agency consent may also be required.</p> <p>3. Surface water outfalls by their operational nature cause silting of the adjoining waterway which requires regular dredging in order to maintain the depth for navigation. What provision/assistance will be made available?</p> <p>4. As the Navigation is operated as a recreational asset for public benefit and in order to assist maintenance of the outfall, tow path and waterway, Essex Waterways Limited request vehicular rights for this purpose over the proposed maintenance access roadway including extending this beyond its proposed limit up to the Navigation tow path (FP18).</p> <p>5. Requested confirmation on the future use of the attenuation ponds and adjoining area and how these will be maintained in the future?</p>
4 <sup>th</sup> February 2022	Email	<p>Email from Neil Edwards to Theresa Tschainer.</p> <p>Requested additional information about intended works.</p>
4 <sup>th</sup> February 2022	Email	<p>Email from Theresa Tschainer to Neil Edwards.</p> <p>Confirmed the proposed works involve a new attenuation pond and outfall to River Chelmer.</p>
6 <sup>th</sup> February 2022	Email	<p>Email from Neil Edwards to Theresa Tschainer.</p> <p>Key concerns detailed:</p> <ul style="list-style-type: none"> <li>• The river needs to be kept open for boat movements at all times</li> <li>• The towpath needs to be kept open for walkers at all times as it is a public right of way</li> <li>• Any siltation entering the river from the ponds needs to be minimised and arrangements need to be put in place to clear any that does arise</li> </ul> <p>Access tracks to the river</p>
8 <sup>th</sup> February 2022	Letter from National Highways	Land Use Design Changes Letter.

Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
21 <sup>st</sup> February 2022	Microsoft Teams meeting	<p>Microsoft Teams meeting held. Roy Chandler, Andrew Goodwin, Asit Modi, Nick Dexter and Theresa Tschainer in attendance.</p> <p>Key topics discussed:</p> <ul style="list-style-type: none"> <li>• Timescales</li> <li>• Junction 19 outfall</li> <li>• Water quality</li> <li>• Maintenance of permanent features</li> <li>• Access</li> <li>• Temporary diversion of the tow path</li> </ul> <p>Requirement to keep the river open at all times for boat movement</p>
12 <sup>th</sup> April 2022	Microsoft Teams meeting	<p>Microsoft Teams meeting held. Neil Edwards, Roy Chandler, Andrew Goodwin, Nuno Fernandes, Asit Modi, Theresa Tschainer and Megan Doherty in attendance.</p> <p>Key topics discussed:</p> <ul style="list-style-type: none"> <li>• Byelaws</li> <li>• Update on programme</li> <li>• Access</li> <li>• Ongoing river maintenance and excavation works</li> <li>• Headwall design</li> </ul>
1 <sup>st</sup> June 2022	Email	<p>Email from Neil Edwards to Hugo Rawstone. Clarified that byelaws made by Essex County Council concerning country parks do not apply to Navigation, confirmed that EWL are happy to discuss the disapplication of certain Navigation byelaws, a deed of easement and works agreement for the proposed drainage discharge into the Chelmer and related works to the towpath.</p>
1 <sup>st</sup> June 2022	Email	<p>Email from Hugo Rawstone to Neil Edwards. Link to Byelaws provided. Answers to questions attached.</p>
14 <sup>th</sup> June 2022	Microsoft Teams meeting	<p>Microsoft Teams meeting held. Neil Edwards, Roy Chandler, Andrew Goodwin, Nuno Fernandes, Asit Modi, Hugo Rawstone and Laura Crumpton in attendance.</p> <p>Key topics discussed:</p>



Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
		<ul style="list-style-type: none"> <li>• Land ownership</li> <li>• Tow paths</li> <li>• Byelaws</li> <li>• DCO timeline</li> <li>• Latest proposals</li> <li>• Access</li> <li>• Ground levels</li> </ul> <p>Statement of Common Ground</p>
15 <sup>th</sup> June 2022	Email	<p>Email from Hugo Rawstone to Neil Edwards. Land registry data shared; Land plans attached; legal fees clarified. Statement of Common Ground attached [correct as of 15<sup>th</sup> June 2022]. Screen shot of Streets, Rights of Way and Access Plans for the subject area.</p>
23 <sup>rd</sup> June 2022	Email	<p>Email from Neil Edwards to Hugo Rawstone. Details of legal arrangements RE: A138 viaduct crossing attached (the original notice and Statutory Instrument) and the Notice to aid with byelaws. Also attached an extract from the Land Registry search map. Confirmed ownership. Incorrect registration of EX563273.</p>
7 <sup>th</sup> July 2022	Microsoft Teams meeting	<p>Microsoft Teams meeting held. Neil Edwards, Roy Chandler, John Pomfret, Andrew Goodwin, Richard Guyatt, Sarah Phillips, Hugo Rawstone, Laura Crumpton and Asit Modi in attendance.</p> <p>Key topics discussed:</p> <ul style="list-style-type: none"> <li>• Previous meeting actions</li> <li>• Project update</li> <li>• Headwall</li> <li>• Land ownership</li> <li>• Working space</li> <li>• Footpath</li> <li>• Statement of Common Ground</li> <li>• Byelaws</li> <li>• AOB</li> </ul>
12 <sup>th</sup> July 2022	Email	<p>Email from Hugo Rawstone to Neil Edwards.</p>

Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
		Confirmed that National Highways are unable to pick up fees regarding the Land Registry tow path issue.
26 <sup>th</sup> July 2022	Letter from National Highways	Early negotiation letter.
25 <sup>th</sup> July 2022	Email	Email from Hugo Rawstone to Neil Edwards. Fee clarification provided.
26 <sup>th</sup> July 2022	Letter from National Highways	Early negotiations letter.
31 <sup>st</sup> July 2022	Email	Email from Neil Edwards to Laura Crumpton. Completed early negotiations form attached. Confusion over wording in the letter and land take.
31 <sup>st</sup> July 2022	Email	Email from Richard Guyatt to Neil Edwards. Draft DCO attached.
31 <sup>st</sup> July 2022	Email	Email from Neil Edwards to Hugo Rawstone. Confirmed that solicitors are working on the Deed of Rectification to correctly register the towpath with Land Registry.
1 <sup>st</sup> August 2022	Email from Laura Crumpton to Neil Edwards	Email from Laura Crumpton to Neil Edwards. Confirmed receipt of completed form and clarified the land take will be temporary possession with permanent rights.
20 <sup>th</sup> September 2022	Letter from National Highways	Section 56 letter.
14 <sup>th</sup> October 2022	Microsoft Teams meeting	<p>Microsoft Teams meeting held. John Pomfret, Neil Edwards, Roy Chandler, Antonia Nelson, Miguel Machado, Asit Modi, Nuno Fernandes, Hugo Rawstone and Isabel Doyle in attendance.</p> <p>Key topics discussed:</p> <ul style="list-style-type: none"> <li>• Update</li> <li>• Access</li> <li>• Amendment of boundary of the Boltons' property to exclude the towpath as this is owned by Essex Waterways/Navigation.</li> <li>• Statement of Common Ground</li> </ul>

Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
		<ul style="list-style-type: none"> <li>• Trees</li> <li>• Access for maintenance to the outfall</li> <li>• Towpath</li> <li>• Environmental Management Plan</li> </ul> Legal Representation and fees
14 <sup>th</sup> October 2022	Email	Email from Hugo Rawstone to John Pomfret. Rights of Way plan attached.
15 <sup>th</sup> November 2022	Email	Email from Hugo Rawstone to Roy Chandler, John Pomfret, Anthony Comber and Neil Edwards.  Provided an update that the outfall design is being progressed.

2.1.3 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) National Highways and (2) Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited in relation to the issues addressed in this SoCG.

### 3 Issues

#### 3.1 Issues agreed

Table 3.1 Issues agreed.

Ref	Issue	Doc Reference	Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited Position	National Highways Position	Status	Date

#### 3.2 Issues in discussion

Table 3.2 Issues in discussion.

Ref	Issue	Doc Reference	Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited Position	National Highways Position	Status	Date
1.	Land take along River Chelmer around Junction 19 and how it might impact temporarily and permanently on the ability of the general public to		The proposed DCO boundary affects circa 945 square meters of land owned by the Chelmer and Blackwater Navigation Limited. A new outfall feature will be required as part of the scheme (due to the additional water that will run off from the A12 and impact on the river and	If it was not possible to keep the towpath open, a temporary diversion would be put in place to ensure continued use/ access is possible. It is also noted that the current design is a preliminary one, considerations are being	Under discussion	Feb 23

Ref	Issue	Doc Reference	Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited Position	National Highways Position	Status	Date
	use the waterway & towpath [including land parcel 1/11g and 1/11a]		<p>surrounding flood mitigation areas); the outfall feature would be connected via underground pipe to the river.</p> <p>Key concerns:</p> <p>The river needs to be kept open for boat movements at all times.</p> <p>The towpath needs to be kept open for walkers at all times, loss of width would not be an option</p> <p>More detail on the timing of the works will be required in due course</p> <p>More detail on the design of the headwall and the outfall will be required</p>	made to work around constraints and keep impact to recreational users, flora and fauna to a minimum.		
2.	Access to the towpath		There is potential for adverse effects on EWL's waterway operations during the construction of the relevant works, particularly regarding access to the towpath.	There will be a temporary minor diversion of PRow 234/18 as shown in Table 8.1 of the [App 7.7] Outline Construction Traffic Management Plan (OCTMP) and also detailed in the Construction Phase Plans (Sheet 1) notes a	Under discussion	Feb 23

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Ref	Issue	Doc Reference	Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited Position	National Highways Position	Status	Date
				temporary minor diversion around drainage works. Where practicable, access will be maintained. NH will use reasonable endeavours to investigate alternative temporary access to Chelmer Navigation along the pond access track.		
3.	Use of the towpath		The towpath is used extensively by members of the public and by EWL for access for plant to maintain waterway structures, control vegetation, undertake dredging and so on.	National Highways will work to minimise any disruption on EWL's waterway operations.	Under discussion	Feb 23
4.	Adverse effect on navigation due to permanent changes to the towpath		EWL believes that there is potential for adverse effects on navigation during the operational phase of the Scheme, due to permanent changes to the towpath, obstruction of the navigation through the outfall structure intruding into the waterway channel.	The proposed scheme outfall location shown on the Drainage and Surface Water Plans - Part 2, Sheet 1 of 21 [APP-034] is indicative and informed through preliminary surface water drainage design. The proposed outfall details will be developed as part of design development process to ensure the	Under discussion	Feb 23

## Statement of Common Ground with Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited

Ref	Issue	Doc Reference	Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited Position	National Highways Position	Status	Date
				existing towpath will be reinstated in its current form and that the proposed outfall does not intrude upon navigation. The proposed scheme land take allows for the flexibility in determining an appropriate location for the outfall to accommodate such design amendments.		
5.	Adverse effect on siltation arising from discharge of surface water drainage from the highway		Any siltation entering the river from the ponds needs to be minimised, and arrangements put in place to clear any that does arise.	It is noted that the towpath may have to be temporarily diverted during the construction phase to allow the construction of the outfall arrangement. Discharges to surface water courses will follow the appropriate legislation. The applicant will gain Discharge consents from the appropriate stakeholder (e.g., Environment Agency) or follow the appropriate exemptions prior to discharge taking place. The Applicant will take measures to control	Under discussion	Feb 23

## Statement of Common Ground with Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited

Ref	Issue	Doc Reference	Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited Position	National Highways Position	Status	Date
				<p>sediment runoff during construction, ensuring that best practice guidance is followed prior to discharging any water to surface water courses. During operation the proposed attenuation ponds will intercept sediment runoff from the road and will ensure it does not affect the navigation. It is considered that the provision of an attenuation pond will provide a reduced risk of pollution and sediment runoff to the watercourse over the existing situation.</p>		



<p>6.</p>	<p>Disapplication of the original 1793 C&amp;BN Act and waterway byelaws identified in Schedule 10, where these conflict with the rights established by the DCO</p>		<p>Under Articles 55 and 56, the draft DCO also includes powers to disapply parts of the original 1793 C&amp;BN Act and waterway byelaws identified in Schedule 10, where these conflict with the rights established by the DCO.</p> <table border="1" data-bbox="795 523 1211 978"> <tr> <td data-bbox="795 523 981 978"> <p>Chelmer and Blackwater Navigation Byelaws 1994</p> </td> <td data-bbox="981 523 1211 978"> <p>Byelaw 3 (Damage etc); Byelaw 13 (Harassment); Byelaw 27 (Obstruction of Officers); Byelaw 28 (Enforcement); and Byelaw 29 (Penalty and Defence)</p> </td> </tr> </table> <p>EWL has contributed to pre-application consultation but still has a number of concerns about the proposed development [as detailed in Relevant Representation RR-071-001].</p>	<p>Chelmer and Blackwater Navigation Byelaws 1994</p>	<p>Byelaw 3 (Damage etc); Byelaw 13 (Harassment); Byelaw 27 (Obstruction of Officers); Byelaw 28 (Enforcement); and Byelaw 29 (Penalty and Defence)</p>	<p>National Highways will continue to discuss the proposed application of byelaws detailed in the DCO with the Interested Party. The disapplication is proposed to allow National Highways to proceed with the construction of the proposed scheme without the need for further applications for consent from the IP, which may delay implementation of the authorised development.</p>	<p>Under discussion</p>	<p>Feb 23</p>
<p>Chelmer and Blackwater Navigation Byelaws 1994</p>	<p>Byelaw 3 (Damage etc); Byelaw 13 (Harassment); Byelaw 27 (Obstruction of Officers); Byelaw 28 (Enforcement); and Byelaw 29 (Penalty and Defence)</p>							

## Statement of Common Ground with Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited

7.	Review of detailed design and construction method statements relating to works on EWL		EWL is unable at this stage to confirm that the works will not have any adverse effects on its interests.	National Highways will consult with EWL once detailed design is available.  Any required Consents or Approvals will be gained from the appropriate Statutory Bodies prior to the commencement of works.	Under discussion	Feb 23
8.	Water quality impacted by new outfall from A12		The A12 scheme proposes a new outfall to the River Chelmer from junction 19/ the attenuation pond.	The attenuation pond will intercept sediment runoff and will provide appropriate mitigation to pollutant loading from the road runoff. The flow restrictions to attenuation pond and interception of sediments are designed to meet the DMRB requirements, which will offer reduced risk of pollution to the watercourse over the existing situation from this specific road drainage catchment.	Under discussion	Feb 23
9.	Adverse effects on EWL interests		To date [February 2023], detailed designs for the works on waterway land or affecting the navigation are not available, nor are construction method statements, so EWL is unable	The information is not available until the detailed design has progressed further.  Any required Consents or Approvals will be gained	Under discussion	Feb 23

			at this stage to confirm that the works will not have any adverse effects on its interests.	from the appropriate Statutory Bodies prior to the commencement of works.		
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## Acronyms

Abbreviation	Term
NH	National Highways
EWL	Essex Waterways Limited
C&BN	Chelmer and Blackwater Navigation
PRoW	Public Right of Way
DCO	Development Consent Order
IP	Interested Party
AOB	Any Other Business
DMRB	Design Manual for Roads and Bridges
RR	Relevant Representation

## References

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**For each of those areas that are in dispute, it would be beneficial if each party would put their estimation as to the likelihood that disagreement will remain by the end of the Annex F**

**F2 Examination. This should be done on a ‘Low’, ‘Medium’ and ‘High’ traffic light model. This will allow the ExA to assess those areas where oral discussions may be most beneficial.**

	Low
	Medium
	High

Issue/ Matters under discussion	RAG Status Estimation National Highways	RAG Status Estimation Essex Waterways Limited on behalf of Chelmer and Blackwater Navigation Limited
Land take along River Chelmer around Junction 19 and how it might impact temporarily and permanently on the ability of the general public to use the waterway & towpath [including land parcel 1/11g and 1/11a]		
Access to the towpath		
Use of the towpath		
Adverse effect on navigation due to permanent changes to the towpath		
Adverse effect on siltation arising from discharge of surface water drainage from the highway		
Disapplication of the original 1793 C&BN Act and waterway byelaws identified in Schedule 10, where these conflict with the rights established by the DCO.		

Review of detailed design and construction method statements.		
Shared NH and EWL use of attenuation pond access track		
Water quality impacted by new outfall from A12		
Adverse effects on EWL interests		
Access to the towpath		
Use of the towpath		
Adverse effect on navigation due to permanent changes to the towpath	TBC	

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