



Immingham Green Energy Terminal

9.26 Final Agreed Statement of Common Ground
between Associated British Ports, Air Products (BR)
Limited and Cadent Gas Ltd (Tracked)

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Infrastructure Planning (Examination Procedure) Rules 2010
Volume 9

August 2024

Version 4.0

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Planning Inspectorate Scheme Ref: TR030008

Document Reference: TR030008/EXAM/9.26



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Version History

Version	Date	Submitted
1.0	13 March 2024	Deadline 1
2.0	3 May 2024	Deadline 3
3.0	4 June 2024	Deadline 4
<u>4.0</u>	<u>15 August 2024</u>	<u>Deadline 7</u>



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Status of the Statement of Common Ground

~~This is the Final Agreed Statement of Common Ground (SoCG) between Associated British Ports, Air Products (BR) Limited, and Cadent Gas Limited.~~

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Deleted: agree that this draft Statement of Common Ground (SoCG) is an accurate description of the matters raised and the current status of each matter.

On Behalf of Associated British Ports

Name	[REDACTED]
Position	Project Development Manager
Organisation	Associated British Ports
Signature	[REDACTED]

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On Behalf of Air Products (BR) Limited

Name	[REDACTED]
Position	Commercial Director
Organisation	Air Products
Signature	[REDACTED]

On Behalf of Cadent Gas Limited

Name	[REDACTED]
Position	Planning and Consents Manager
Organisation	Cadent Gas
Signature	[REDACTED]

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1. Introduction

Overview

- 1.1 This Statement of Common Ground (“SoCG”) has been prepared to accompany an application made to the Secretary of State for Transport (the “Application”) under Section 37 of the Planning Act 2008 (“PA 2008”) for a Development Consent Order (“DCO”) to authorise the construction and operation of the proposed Immingham Green Energy Terminal (“the Project”).
- 1.2 The Application is submitted by Associated British Ports (“ABP”). ABP was established in 1981 following the privatisation of the British Transport Docks Board. The **Funding Statement [APP-010]** provides further information on ABP.
- 1.3 The Project as proposed by ABP falls within the definition of a Nationally Significant Infrastructure Project (“NSIP”) as set out in Sections 14(1)(j), 24(2) and 24(3)(c) of the PA 2008.

The Project

- 1.4 ABP is seeking to construct, operate and maintain the Project, comprising a new multi-user liquid bulk green energy terminal located on the eastern side of the Port of Immingham (the “Port”).
- 1.5 The Project includes the construction and operation of a green hydrogen production facility, which would be delivered and operated by Air Products (BR) Limited (“Air Products”). Air Products will be the first customer of the new terminal, whereby green ammonia will be imported via the jetty and converted on-site into green hydrogen, making a positive contribution to the United Kingdom’s (“UK’s”) net zero agenda by helping to decarbonise the UK’s industrial activities and in particular the heavy transport sector.
- 1.6 A detailed description of the Project is included in **Environmental Statement (“ES”) Chapter 2: The Project [AS-069]**.

Parties to this Statement of Common Ground

- 1.7 This SoCG has been prepared by (1) ABP (as the Applicant), (2) Air Products and (3) Cadent Gas Ltd (“Cadent”).
- 1.8 ABP is the promoter of the Project and the owner and operator of the Port of Immingham.
- 1.9 Air Products is to be the first user of the new terminal with the construction and operation of its green hydrogen production facility.
- 1.10 Cadent is a licensed gas transporter under the Gas Act 1986, with a statutory responsibility to operate and maintain the gas distribution networks in North London, Central, East and North West England. Cadent’s primary duties are to operate, maintain and develop its networks in an economic, efficient, and coordinated way.
- 1.11 In this SoCG, ABP, Air Products and Cadent are collectively referred to as “the Parties”.

Purpose and Structure of this Document

- 1.12 The purpose of this document is to identify and summarise any agreement, disagreement or matters outstanding between the parties on matters relevant to the Examination so as to assist the Examining Authority in its consideration of the Application.
- 1.13 In preparing this SoCG, the guidance provided in Planning Act 2008: examination of application for development consent (Department for Communities and Local Government (as it then was), March 2015) has been fully taken into account. In addition, this SoCG has had due regard to the Examining Authority's **Rule 6 letter [PD-005]**.
- 1.14 Section 1 of this SoCG provides a general introduction to the Project and to the Parties.
- 1.15 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the Parties to date.
- 1.16 Section 3 of this SoCG sets out the matters which have been agreed or which remain outstanding, together with any matters upon which it has not been possible to reach agreement.
- 1.17 The Tables in Section 3 use a colour coding system to indicate the status of the matters between the Parties as follows:
- (a) Green – matter agreed
 - (b) Orange – matter ongoing
 - (c) Red – matter not agreed

2. Record of Engagement

- 2.1 A summary of the consultation and engagement between ABP, Air Products and Cadent up to the date of this SoCG in relation to the Project generally and concerning the matters raised in this SoCG specifically is presented in Table 2-1.
- 2.2 It is agreed by the Parties to this SoCG that Table 2-1 is an accurate record of the meetings and key correspondence between the Parties.

Table 2-1: Record of Engagement

Date	Form of Contact	Summary with key outcomes and points of discussion
Pre-application		
02/02/2023	Electronic Form submitted via the Cadent online portal	Electronic submission of application 130031744 setting out the Project requirements for a natural gas supply to the proposed facility, and noting that a high pressure gas pipeline is located within the proposed site boundary.
31/03/2023	Meeting between Air Products & Cadent	Meeting for Air Products to meet the Cadent representatives to provide context and answer initial questions on application no. 130031744. Discussion on Project's natural gas needs
18/04/2023	Meeting Air Products & Cadent	Meeting to verify Cadent's understanding of the Project scope and needs as submitted in application no. 130031744 to inform their modelling of the new connections in their gas network.
02/05/2023	Email from Cadent to Air Products	Cadent supplied process details (pressure & temperature) of the proposed supply to the site to enable Air Products to continue design work.
15/06/2023	Meeting Air Products & Cadent	Meeting for Cadent to update on progress of the Cadent gas network modelling and feasibility report. Air Products made a request for gas composition data and there was technical discussion on the protection requirements for Cadent's high pressure gas pipeline running through the West Site.
16/06/2023	Email Cadent to Air Products	Correspondence from Cadent to advise on the gas supply composition.
28/06/2023	Email Cadent to Air Products	Cadent request to Air Products to meet with their Plant Protection team regarding the high pressure gas pipeline. No connection is proposed to this pipeline as part of the Project, but it requires consideration in the Project design and execution to ensure that it is not damaged.

Date	Form of Contact	Summary with key outcomes and points of discussion
08/08/2023	Meeting Air Products & Cadent	Cadent presentation of feasibility report, update from Cadent on full design offer.
Post DCO Submission		
31/10/2023	Meeting Air Products & Cadent	Meeting with Cadent's Plant Protection Team for Air Products to present the proposed design with respect to the protection of Cadent's high pressure gas pipeline that runs through the West Site.
01/11/2023	Email from Cadent to Air Products	Correspondence from Cadent to request additional information to be submitted as part of the design review. Air Products agreed with the request and would provide as part of design submission.
04/01/2024	Email from Air Products to Cadent	Air Products request for update on the status of the offer for the connection to gas network.
10/01/2024	Email from Cadent to Air Products	Email correspondence advised that the Cadent internal assessment was almost complete.
25/01/2024	Email from Air Products to Cadent	Air Products request for update on the status of the offer for the connection to gas network.
25/01/2024	Email from Cadent to Air Products	Cadent requested information about land ownership around Laporte Road. Cadent are seeking to install boreholes to inform the design of the new connections.
02/02/2024	Meeting between Air Products and Cadent's Plant Protection Team: [REDACTED] – NPG Plant Protection Supervisor [REDACTED] – NPG Plant Protection Tech [REDACTED] – Air Products West Site Project Manager [REDACTED] – Air Products Interface Manager	Technical review of Air Products proposal, key conclusions: <ol style="list-style-type: none"> 1) Proposal was acceptable to Cadent. 2) Air Products agreed to trial pits to locate gas pipelines. 3) Air Products agreed to no back-filling over gas pipelines. 4) Air Products agreed to temporary fencing to restrict access to land that the pipeline passes through. 5) Air Products agreed that Cadent would have access to methodology documentation and could witness any works taking place within the agreed zone, noting that Air Products need to provide 14 days' notice ahead of the works.

Date	Form of Contact	Summary with key outcomes and points of discussion
	<p>██████████ – Air Products Construction Director</p> <p>██████████ – Air Products Piping & Layout Lead</p>	<p>6) Cadent advised on their requirements for HDD installations in particular the requirement for a 4m or 10 pipeline diameters (whichever is larger) separation distance to the gas pipelines. Air Products agrees to this requirement.</p>
08/04/2024	Email from Cadent to Air Products	Confirmation that there are no comments from Cadent on the draft SoCG submitted to them 16 February 2024.
<u>24/04/2024</u>	<u>Email from solicitors for Cadent (Gowling) to solicitors for Air Products (Charles Russell Speechlys LLP (“CRS”))</u>	<u>Attaching mark-up of the draft Protective Provisions for consideration.</u>
07/05/2024	Email from Cadent to Air Products	Signed Draft SoCG returned for submission at Deadline 4.
<u>13/05/2024</u>	<u>Email from CRS to Gowling</u>	<u>Providing comments on mark up of Protective Provisions received on 24 April 2024.</u>
<u>15/07/2024</u>	<u>Email from Gowling to CRS</u>	<u>Noting the dDCO submitted at Deadline 5 did not include revised Protective Provisions.</u>
<u>23/07/2024</u>	<u>Email from CRS to Gowling</u>	<u>Confirming that the dDCO submitted at Deadline 6 will include on its face updated Protective Provisions in favour of Cadent and attaching the updated Protective Provisions for comment.</u>
<u>08/08/2024</u>	<p><u>Video call between Air Products’ and Cadent’s legal and technical teams:</u></p> <p><u>Gowling: ██████████</u></p> <p><u>BCLP: ██████████</u></p> <p><u>CRS: ██████████</u></p> <p><u>Air Products: ██████████</u></p>	<p><u>Air Products gave a recap of the Project, the interaction to date with Cadent, and outlined the approach of Air Products to the construction phase of the Project and its insurance.</u></p> <p><u>There was discussion concerning the outstanding matters on the Protective Provisions and the parties reached agreement in principle on the material points. CRS agreed to provide a list of points for Cadent to consider in line with the discussion and to share the list with Gowling with a view to formally reaching agreement on Monday 12 August 2024.</u></p>



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Date	Form of Contact	Summary with key outcomes and points of discussion
14/08/2024	Email from CRS to Cadent & Gowling	Final SoCG shared with Cadent for signing.
15/08/2024	Email from Cadent & Gowling to CRS	Signed copy of Final SoCG returned.

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3. Matters Agreed and Matters Not Agreed

- 3.1 It is agreed the following chapters of the **Consultation Report [APP-022]** submitted with the Application set out the consultation and engagement undertaken between the Parties in relation to the Application:
 - 3.1.1 Chapter 4; First Statutory Consultation. Cadent was consulted by the local authorities as part of their statutory obligations.
 - 3.1.2 Chapter 5; Second Statutory Consultation. Cadent was consulted by the local authorities as part of their statutory obligations.
 - 3.1.3 Chapter 6; Table 30: Summary of engagement activities with land interest consultees during Project Launch phase. Cadent was engaged ahead of Statutory Consultation.
 - 3.1.4 Chapter 6; Table 32; "Correspondence received outside of Statutory Consultation periods". A record of the correspondence with Cadent outside of the Statutory Consultation period.
- 3.2 Table 3-1 contains a list of 'matters agreed' (shaded green) ~~and~~ a list of matters in respect of which discussion is ongoing (shaded orange) ~~at Deadline 7,~~ along with a concise commentary of what the item refers to and how it came to be agreed between the Parties (as applicable).

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~~Deleted:~~ and a list of matters not agreed (shaded red) at the date of the Examination

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Table 3-1: List of Matters Agreed, Matters Outstanding and Matters Not Agreed

ID	Matter	Reference	Cadent Position	ABP / Air Products Position	Status	Date
1	Gas supply	7.7 Utilities Statement [APP-239]	<p>Cadent made an offer to supply the required volumes of gas (per the application No. 130031744) for the Project with two new connections to the gas network.</p> <p>Cadent has expressed a strong preference for the site works to avoid any intrusion into the easement zone, this was discussed with Air Products on the 2nd Feb and Air Products agreed to a methodology that was acceptable to Cadent in principle. This will need to be formally reviewed and approved by Cadent once the detailed documentation is available. It was agreed that no work could commence without Cadent's approval.</p>	<p>The offer is acceptable and meets the needs of the Project.</p> <p>Air Products acknowledges Cadent's request for the site works to avoid any intrusion into the agreed zone. The Air Products design has taken this into account and a methodology has been agreed in principle with Cadent. This will need to be formally reviewed and approved by Cadent once the detailed documentation is available. It was agreed that no work could commence without Cadent's approval.</p>	Agreed	08/04/24
2	Protective Provisions	<p>2.1 Draft Development Consent Order [REP6-004]</p> <p>10.1 Proposed Change Notification Report [REP2-024]</p>	<p>Cadent <u>agrees with ABP and Air Products' position in relation to the ongoing negotiation of the Protective Provisions</u>.</p>	<p><u>The Protective Provisions in Cadent's favour remain under discussion between the parties: good progress has been made, and only one matter remains outstanding. The parties are confident that an agreed way forward will be reached.</u></p> <p><u>ABP's preferred draft Protective Provisions were included with square brackets on the face of the draft DCO at Schedule 14, Part 7 submitted to the Examination at Deadline 6. In the iteration being submitted at</u></p>	Discussion ongoing	15/08/24

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Deleted: in the draft DCO in order to protect Cadent's assets within the site boundary, namely a high pressure gas pipeline that runs through the West Site. ¶
 Technical discussions are currently ongoing between Air Products and Cadent on how the Protective Provisions for the high-pressure gas pipeline will be met. ¶
 Cadent requests that no work in the vicinity (+/-6m distance) of the high pressure gas line can commence without Cadent approval of works. ¶
 Should the wording be agreed, appropriate protection will be in place for Cadent and, as a result, Cadent will not suffer any detriment to the carrying on of its undertaking as a result of the Project

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ID	Matter	Reference	Cadent Position	ABP / Air Products Position	Status	Date
				<p><u>Deadline 7, the square brackets will be removed, however these provisions are not yet agreed between the parties.</u></p> <p>ABP and Air Products <u>will provide a further update to the Examining Authority (ExA) after Deadline 7 in the event the draft provisions are agreed.</u></p>		

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 Air Products considers that the detailed design of the hydrogen production facility on the West Site will be able to accommodate appropriate above requirements and the retention of the high pressure gas pipeline. Following acceptance of proposed change to the application (summarised as Proposed Change 3 in [REP2-024] by Cadent, no further engineering design is needed, however both parties will continue to engage on the matter.¶
 The Protective Provisions currently being negotiated are capable of ensuring that sufficient protection and safeguards for Cadent's assets and interests are in place, in line with the above requirements.



4. Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
Air Products	Air Products (BR) Limited
<u>BCLP</u>	<u>Bryan Cave Leighton Paisner</u>
Cadent	Cadent Gas Limited
<u>CRS</u>	<u>Charles Russell Speechlys</u>
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
<u>ExA</u>	<u>Examining Authority</u>
HDD	Horizontal Directional Drilling
MMO	Marine Management Organisation
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom