

**Planning, Infrastructure and
Economic Development Policy
Advisory Committee**

7 December 2023

**Draft Statement of Common Ground – Lower Thames
Crossing**

Timetable	
Meeting	Date
Planning, Infrastructure and Economic Development Policy Advisory Committee	7 December 2023
Cabinet Member for Planning, Infrastructure and Economic Development	By 14 December 2023

Will this be a Key Decision?	No
Urgency	Call in has been waived to allow the decision to be implemented immediately and this has been agreed by the Mayor and the Overview and Scrutiny Chairman
Final Decision-Maker	Cabinet Member for Planning, Infrastructure and Economic Development
Lead Head of Service	Karen Britton (Head of Spatial Planning and Economic Development)
Lead Officer and Report Author	Erik Nilsen (Principal Planning Officer)
Classification	<p>Public report with Exempt Appendix.</p> <p>Appendix 1 – Draft Statement of Common Ground between Maidstone Borough Council and National Highways</p> <p>The Appendix contains exempt information as classified in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining this exemption outweighs the public interest in</p>

	<p>their disclosure. The Statement of Common Ground is a draft document and is currently unsigned and contains sensitive cross boundary matters. The draft document contains information affecting the business affairs of another authority. The Statement of Common Ground will be published once agreed and signed by both parties.</p>
Wards affected	All

Executive Summary

The draft Statement of Common Ground (SoCG) appended to this report summarises the key strategic matters between Maidstone Borough Council and National Highways (Exempt Appendix 1). This is specifically with respect to the Lower Thames Crossing Development Consent Order proposal, which is currently undergoing independent examination. The report recommends that members recommend approval of this updated Statement of Common Ground as set out in the Exempt Appendix 1.

Purpose of Report

To provide background to and the current version of the Draft Statement of Common Ground between Maidstone Borough Council and National Highways regarding the Lower Thames Crossing. To seek views from Planning, Infrastructure and Economic Development Policy Advisory Committee on the Draft Statement of Common Ground as appended to this report (Exempt Appendix 1) prior to a decision being sought from the Cabinet Member for Planning, Infrastructure and Economic Development.

The report makes the following recommendation to the Cabinet Member for Planning, Infrastructure and Economic Development.

1. That the draft Statement of Common Ground on the Lower Thames Crossing between Maidstone Borough Council and National Highways, attached at Exempt Appendix 1 to this report, be approved.

Draft Statement of Common Ground – Lower Thames Crossing

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>Accepting the recommendations will materially improve the Council’s ability to achieve the corporate objectives.</p>	Karen Britton, Head of Spatial Planning and Economic Development
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendation supports the various strands of the Council’s ongoing strategic planning work.</p>	Karen Britton, Head of Spatial Planning and Economic Development
Risk Management	The Statement of Common Ground and associated protocol have been produced as part of both our ongoing strategic planning work with adjacent and other authorities in relation to their planning functions, and our own current the Local Plan Review, both of which take into account the key requirements and therefore addresses associated risks.	Karen Britton, Head of Spatial Planning and Economic Development
Financial	There are no financial implications to note, any costs will be accommodated within existing budgets.	Adrian Lovegrove, Head of Finance
Staffing	We will deliver the recommendations with our current staffing.	Karen Britton, Head of Spatial

		Planning and Economic Development
Legal	Accepting the recommendation will fulfil the Council's duties (particularly evidencing the duty to co-operate) under Planning and Compulsory Purchase Act 2004 (as amended), the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and the National Planning Policy Framework.	Russell Fitzpatrick (MKLS (Planning) Team Leader
Information Governance	The recommendation does not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council Processes.	Senior Information Governance Officer
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment.	Nicola Toulson, Equalities & Communities Officer
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Karen Britton, Head of Spatial Planning and Economic Development
Crime and Disorder	There are no implications to Crime and Disorder.	Karen Britton, Head of Spatial Planning and Economic Development
Procurement	Not applicable.	Karen Britton, Head of Spatial Planning and Economic Development
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and wider cross-boundary matters relate to numerous actions of the Biodiversity and Climate Change Action Plan, namely cross boundary strategies related to flood elevation, biodiversity improvements, rewilding and maintaining ancient woodlands, sustainable transportation, and renewable energy generation.	James Wilderspin, Biodiversity and Climate Change Manager

2. INTRODUCTION AND BACKGROUND

- 2.1 Pursuant to s.33A of the Planning and Compulsory Purchase Act 2004 (as amended) local planning authorities and county councils (in two-tier areas) are subject to a legal duty to cooperate with each other, and with other prescribed bodies (as set out in regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), on strategic matters that cross administrative boundaries.
- 2.2 In order to demonstrate effective and on-going joint working, the National Planning Policy Framework (NPPF) requires strategic policy-making authorities to prepare and maintain one or more Statements of Common Ground (SoCG).
- 2.3 SoCG are written records of the progress made by policy-making authorities during the process of planning for strategic cross-boundary matters. They document where effective cooperation is and is not happening throughout the plan-making process. They are a way of demonstrating at examination that plans are deliverable over the plan period, and based on effective joint working across local authority boundaries even if there are still matters to be resolved. In the case of local planning authorities, SoCG also form a key part of the evidence required to demonstrate that they have complied with the duty to cooperate.
- 2.4 A SoCG may also be used as an effective tool for demonstrating cooperation between the Local Planning Authority and those who play a part in helping deliver their Plan.
- 2.5 This report brings before the committee a SoCG that sets out the position between National Highways and Maidstone Borough Council regarding the Lower Thames Crossing (LTC) Development Consent Order (DCO) proposal. The application for the LTC DCO was submitted by National Highways to the Planning Inspectorate in October 2022 and was subsequently accepted for independent examination in November 2022. The examination of the LTC DCO is currently ongoing. National Highways has requested the SoCG and, subject to it being formally agreed, intends to submit the SoCG to the Examining Authority.
- 2.6 It is noted that a SoCG with National Highways on the LTC DCO proposals was previously prepared and then endorsed by the Council (via Lead Member for Planning and Infrastructure) on 21 October 2022. This was countersigned by National Highways on 25 November 2022. At the request of National Highways the endorsed SoCG was retained for internal use only and therefore not submitted to the Examining Authority.
- 2.7 Subsequently, a revised SoCG was prepared during summer to autumn 2023, and this included an updated position on key issues and new evidence introduced by National Highways late in the process. Despite the draft SoCG not being endorsed by the Council, it was submitted by National Highways to the Examining Authority (at Examination Deadline 6) and has been published as part of the LTC DCO Examination Library. Maidstone

Borough Council has now written to the Examining Authority via the Planning Inspectorate to request that clarifications are provided in the public record that the draft SoCG is not endorsed by the Council. Officers have also considered the latest updates made by National Highways to the draft SoCG and suggested revised text, which is set out in Exempt Appendix 1 of this report. This text has also been sent to National Highways for their consideration. The aim for the revised SoCG to be agreed by both parties and then forwarded to the Examining Authority as a final published document.

- 2.8 This SoCG notes the position of the Council regarding various components of the LTC, including the need for the project, route alignment, traffic modelling and impacts. It reflects previous formal consultation responses made by the Council on the LTC DCO application and re-asserts its concerns with specific elements of the scheme and the latest evidence base associated with it. Previous consultation and engagement activities are also listed.
- 2.9 Members may wish to note that there is a separate SoCG between the Council and National Highways in relation to the Maidstone Local Plan Review, which was published as part of the Local Plan Review examination.
- 2.10 There is also a need for urgency for this decision (i.e., to waive call-in). The SoCG must be submitted by the deadline set by the Planning Inspectorate for the receipt of new evidence, including Statements of Common Ground, for the examination on the LTC DCO proposals. The next 'Examination Deadline' (i.e., ED9) on 15th December 2023 is the final such deadline programmed, and therefore the last opportunity for the Council to confirm its latest position on the project.

3. AVAILABLE OPTIONS

- 3.1 Option 1: That the draft SoCG (Exempt Appendix 1) is approved by the Cabinet Member for Planning, Infrastructure and Economic Development. This would allow this document to be finalised and signed, in accordance with the agreed protocol, in order that it may be submitted by National Highways to the Examining Authority for the LTC DCO, appointed by the Secretary of State.
- 3.2 Option 2: That the draft SoCG (Exempt Appendix 1) be approved by the Cabinet Member for Planning, Infrastructure and Economic Development, subject to further comments and changes, which would also need to be agreed by National Highways. While this would allow the SoCG to be finalised and signed, in accordance with the agreed protocol, it may cause delays in submission of the SoCG by National Highways to the Examining Authority for the LTC DCO.
- 3.3 Option 3: That the draft SOCG (Exempt Appendix 1) is not approved by the Cabinet Member for Planning, Infrastructure and Economic Development.

However, this would mean the document could not be finalised and signed, and thus prevent the submission of the SoCG by National Highways to the Examining Authority for the LTC DCO.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1. That the draft SOCG (Exempt Appendix 1) is approved by the Cabinet Member for Planning, Infrastructure and Economic Development. This would allow the SoCG to be finalised and signed, in accordance with the agreed protocol, in order that it may be submitted by National Highways to the Examining Authority for the LTC DCO.
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5. RISK

- 5.1 The risk associated with the recommendation, including the risks should the Council not act as recommended, have been considered in line with the Council's Risk management Framework.
- 5.2 If agreement is secured, per the recommendations, then we are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
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6. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Exempt Appendix 1: Draft Statement of Common Ground between Maidstone Borough Council & National Highways (regarding the Lower Thames Crossing).
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