Dear Sir/Madam,

Planning Act 2008 (as amended) – section 89 and the Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 8

Application by C GEN Killingholme Limited for an Order Granting Development Consent for the North Killingholme Power Project

I write further to the above and the written representations submitted to date by Anglian Water Services limited (“AWS”).

I can confirm I am now in receipt of the application, together with supporting documentation, from the Applicant dated 15 November 2013 pursuant to section 127 and section 138 of the Planning Act 2008.

The Applicant has confirmed in this application that negotiations have taken place between us regarding the Protective Provisions. The state of these negotiations is reflected in the attached document marked Appendix 1.

AWS can agree the Protective Provisions save for clause 10 which is objected to.

AWS as a water and sewerage undertake has, unlike other undertakers, pipe laying powers pursuant to the Water Industry Act 1991 (“WIA 1991”).

Within the protective provisions, the Applicant has agreed in paragraph 4 (b) that any alteration, extension, removal or relocation of apparatus laid in the
ground by AWS will not be implemented in order to facilitate the development until the appropriate application required under the Water Industry Act 1991 ("WIA 1991") is made and approved.

The appropriate application is under section 185 of the WIA 1991. A copy of section 185 WIA is attached at Appendix 2.

The relevant section is at 185 (5),

“Where a relevant undertaker carries out any works under this section by virtue of a notice having been served by any person under sub section (1) above the undertaker shall be entitled to recover any expenses reasonably incurred in carrying out those works from that person”.

No reference is made to a reduction in such costs by way of betterment as is suggested by clause 10 of the Protective Provisions. AWS’ pipes and apparatus are laid under statute and removed in accordance with the same statute. AWS have few, if any, pipes less than 7 and a half years old, and in the ordinary course of events determine how funds are allocated for the renewal of pipes or apparatus.

Renewal is not dictated by requests for removal or alteration by new developments and if it is subject to section 185. The Applicant agrees to this as set out in paragraph 4 (b) of the Protective Provisions.

I am happy to provide any further information on this point if the Examining Authority wishes but would be grateful if this correspondence could be placed before the Examining Authority during the course of tomorrow when the protective provisions are discussed. A copy of this letter has been sent to the Applicant.

Finally, it is agreed between AWS and the Applicant that the following amendment (marked in red) will be made to Article 14 of the DCO.

Discharge of water
14.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain subject to the obtaining of consent and approval pursuant to paragraphs 3 and 4 below.

Yours sincerely,

Kathryn Taylor
Assistant Regulation Solicitor
Anglian Water Services Limited