

# EN010118 / Longfield Solar Farm

## Post-examination Submissions

**Last updated:** 17 04 2023

**Date Examination Closed:** 18 01 2023

**Date of Recommendation Report:** 18 04 2023

**Date of Decision:** 26 06 2023

This document lists submissions that have been submitted by any party either to the Planning Inspectorate or the Department and accepted since the examination closed.

The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

<b>A. Submissions made to the Planning Inspectorate during Recommendation stage</b>				
No.	Name / Organisation	On behalf of	Receipt Date	Sent to SoS
PIR-001	Pinsent Masons	Longfield Solar Farm Limited	24 01 2023	Yes – 18 04 2023
PIR-002	Addleshaw Goddard LLP	Network Rail	24 01 2023	Yes – 18 04 2023
PIR-003	Ian Graves	National Grid Electricity Transmission plc (“NGET”)	24 01 2023	Yes – 18 04 2023
PIR-004	ESP Utilities Group Ltd	ESP Utilities Group Ltd	27 01 2023	Yes – 18 04 2023
PIR-005	BT Property & Facilities Services	BT Group	21 01 2023	Yes – 18 04 2023
PIR-006	Asset Protection Team – National Gas Transmission	National Gas Transmission	14 02 2023	Yes – 18 04 2023
PIR-007	Pinsent Masons	Longfield Solar Farm Limited	17 03 2023	Yes – 18 04 2023
PIR-007	Birketts LLP	Essex and Suffolk Water	17 03 2023	Yes – 28 04 2023

<b>B. Submissions made to the Department during Recommendation stage</b>			
No.	Name / Organisation	On behalf of	Receipt Date
DR-001	N/A		

<b>C. Submissions made to the Planning Inspectorate during Decision stage</b>				
No.	Name / Organisation	On behalf of	Receipt Date	Sent to SoS
PID-001	N/A			

<b>D. Submissions made to the Department during Decision stage</b>			
No.	Name / Organisation	On behalf of	Receipt Date
DD-001	N/A		

<b>Secretary of State consultation(s)</b>		
No.	Name / Organisation	On behalf of
<b>Secretary of State Consultation 1 dated 5 May 2023</b>		
C1-001	<a href="#">SoS consultation letter</a>	Department for Energy Security and Net Zero
C1-002	<a href="#">Longfield Solar Farm Limited Response Letter to Secretary of State Consultation</a>	Longfield Solar Farm Limited

## **A. Submissions made to the Planning Inspectorate during Recommendation stage**

Numbers PIR-001 – PIR-007

**From:** [REDACTED]  
**To:** [Longfield Solar Farm](#)  
**Cc:** [REDACTED]  
**Subject:** Longfield Solar Farm Application Ref. EN010118 - post examination submission  
**Date:** 24 January 2023 14:35:56

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Good afternoon,

I write on behalf of the Applicant, Longfield Solar Energy Farm Limited.

The Applicant wishes to confirm that:

1. The Applicant has completed a confidential side agreement with Eastern Power Networks plc / UK Power Networks on 19 January 2023, and therefore no matters remain outstanding between the parties in the context of the application for development consent; and
2. The Applicant has completed a confidential framework agreement with Network Rail Infrastructure Limited on 24 January 2023. Network Rail's legal advisors, Addleshaw Goddard, have been copied to this email for the purpose of confirming by reply to this email that as a result of completion of the framework agreement, Network Rail withdraws its objection to the Longfield Solar Farm project.

This submission follows the end of the Examination, however its purpose is to confirm a position that has been agreed between the Applicant and Eastern Power Networks / UKPN and Network Rail, and that is likely to assist the Secretary of State in making their decision. The Applicant requests that this email is therefore provided to the Secretary of State.

I would be grateful if you could confirm receipt of this email.

Yours sincerely  
Alexis

Alexis Coleman  
Senior Associate  
for Pinsent Masons LLP

[REDACTED]

[REDACTED]

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**From:** [REDACTED]; [Longfield Solar Farm](#)  
**Cc:** [REDACTED]  
**Subject:** RE: Longfield Solar Farm Application Ref. EN010118 - post examination submission [ADDGDD-LIVE.FID3970095]  
**Date:** 24 January 2023 16:00:34  
**Attachments:** [image001.png](#)  
[image002.png](#)

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Dear Sir or Madam

Further to the email below, I write on behalf of Network Rail Infrastructure Limited and confirm that, as a result of the completion of the framework agreement with the Applicant, Network Rail withdraws its objection to the Longfield Solar Farm project.

Kind regards

Charlotte

**Charlotte Jones**

Associate

**[Addleshaw Goddard LLP](#)**

Tel +44 (0)113 209 2655  
[REDACTED]  
[REDACTED]

---

**From:** Alexis Coleman [REDACTED]@pinsentmasons.com>  
**Sent:** 24 January 2023 14:36  
**To:** Longfield Solar Farm <LongfieldSolarFarm@planninginspectorate.gov.uk>  
**Cc:** carly.vince [REDACTED]  
[REDACTED]  
[REDACTED]  
**Subject:** Longfield Solar Farm Application Ref. EN010118 - post examination submission

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Yours sincerely  
Alexis

Alexis Coleman  
Senior Associate  
for Pinsent Masons LLP

[REDACTED]

[REDACTED]

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Further information about us is available at [REDACTED]

**From:** [REDACTED]  
**To:** [Longfield Solar Farm](#)  
**Cc:** [REDACTED]  
**Subject:** Longfield Solar Farm DCO - Withdrawal of Relevant Representation - Our Client: National Grid Electricity Transmission plc [DLAP-UKMATTERS.FID5739939]  
**Date:** 24 January 2023 17:42:29  
**Attachments:** [image001.png](#)  
[image002.png](#)

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Dear Sir/Madam

We act for National Grid Electricity Transmission plc ("NGET").

We write to confirm that NGET would like to withdraw its relevant representation in respect of Longfield Solar Energy Farm Limited's Development Consent Order, having reached a satisfactory agreement with the promoter.

Yours faithfully,

**Ian Graves**

Legal Director

[REDACTED]

DLA Piper UK LLP  
[www.dlapiper.com](http://www.dlapiper.com)



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**From:** [REDACTED]  
**To:** [ni.mail.distribution@notifications.service.gov.uk](mailto:ni.mail.distribution@notifications.service.gov.uk)  
**Cc:** [Longfield Solar Farm](#)  
**Subject:** Reference: PE175201. Plant Not Affected Notice from ES Pipelines  
**Date:** 27 January 2023 11:58:28

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NI Mail Distribution  
NI Mail Distribution

27 January 2023

Reference: EN010118 – Longfield Solar Farm

Dear Sir/Madam,

Thank you for your recent plant enquiry at:

I can confirm that ESP Utilities Group Ltd has no gas or electricity apparatus in the vicinity of this site address and will not be affected by your proposed works.

ESP Utilities Group Ltd are continually laying new gas and electricity networks and this notification is valid for 90 days from the date of this letter. If your proposed works start after this period of time, please re-submit your enquiry.

### **Important Notice**

Please be advised that any enquiries for ESP Connections Ltd, formerly known as British Gas Connections Ltd, should be sent directly to us at the address shown above or alternatively you can email us at: [PlantResponses@espug.com](mailto:PlantResponses@espug.com)

**ESP have provided you with all the information we have to date however, there may be inaccuracies or delays in data collection and digitisation caused by a range of practical and unforeseeable reasons and as such, we recommend the following steps are taken as a minimum before work is commenced that involves the opening of any ground and reference made to HSG47 (Avoiding danger from underground services).**

- A. Plans are consulted and marked up on site**
- B. The use of a suitable and sufficient device to locate underground utilities before digging (for example the C.A.T and Genny)**
- C. Trial holes are dug to expose any marked up or traced utilities in the ground**
- D. If no utilities are shown on any plans and no trace is received using a suitable**



**and sufficient device, trial holes are dug nonetheless using hand tools at the location or at regular intervals along the location that the work is being carried out depending on the length of excavation work being undertaken**  
**E. All location work is carried out by individuals with sufficient experience and technical knowledge who may choose to control this activity under a Safe System Of Work**

Yours faithfully,


Plant Protection Team  
**ESP Utilities Group Ltd**



Bluebird House  
Mole Business Park  
Leatherhead  
KT22 7BA



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**From:**   
**To:** [Longfield Solar Farm](#)  
**Subject:** Longfield Solar Farm - BT response  
**Date:** 27 January 2023 13:22:03  
**Attachments:** [image002.png](#)  
[Hatfeild Peverel Official Copy \(Title Plan\) - EX676673.pdf](#)  
[Hatfeild Peverel Official Copy \(Register\) - EX676673.pdf](#)  
[Little Waltham Official Copy \(Title Plan\) - EX676732.pdf](#)  
[Little Waltham Official Copy \(Register\) - EX676732.pdf](#)  
[Terling UAX Official Copy \(Title Plan\) - EX676694.pdf](#)  
[Terling UAX Official Copy \(Register\) - EX676694.pdf](#)  
[Boreham TE Official Copy \(Title Plan\) - EX681182.pdf](#)  
[Boreham TE Official Copy \(Register\) - EX681182.pdf](#)

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Dear Mr Raywood

I write with regard to the information received on the Longfield Solar Farm project.

For ease, I have provided copy HMLR plans of the BT properties in and around the area of proposed works. Noting that none appear directly impacted? However, I would appreciate your help in advising the same.


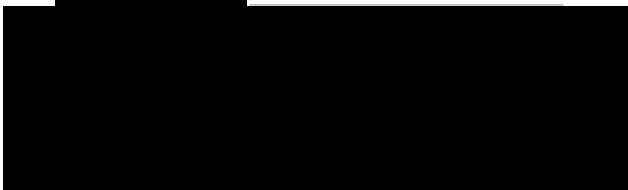
To assist, I have also passed your information onto the Openreach Networks team so they are aware of this proposal as I believe it will be the underground infrastructure that could be impacted directly by proposed works and as such hope you/your team are engaging with them under separate cover.

I hope the above is of use and would welcome further engagement on the matter should any BT properties be on your radar.

Thank you in advance, I look forward to hearing from you.

Kind regards

Dionne Herelle  
Property Professional  
BT Property & Facilities Services

This email contains information from BT that might be privileged or confidential. And it's only meant for the person above. If that's not you, we're sorry - we must have sent it to you by mistake. Please email us to let us know, and don't copy or forward it to anyone else. Thanks.

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British Telecommunications plc  
R/O : 1 Braham Street, London, E1 8EE  
Registered in England: No 1800000

Documents appended to the post Examination Submission dated 27 January 2023 from BT Group were Official Copies of Title Plans and Title Register Documents issued by HM Land Registry.

Due to copyright and document protection, these documents are not included in this bundle but copies of the Title Plan and Title Registry can be purchased from HM Land Registry via their Search for land and property information service, available at <https://www.gov.uk/search-property-information-land-registry>.

The following documents were provided to the Secretary of State for Energy Security and Net Zero:

- Title Plan for EX676673 issued 27 January 2023
- Title Register for EX676673 27 January 2023
- Title Plan for EX676732 issued 26 January 2023
- Title Register for EX676732 issued 26 January 2023
- Title Plan for EX676694 issued 26 January 2023
- Title Register for EX676694 issued 26 January 2023
- Title Plan for EX681182 issued 26 January 2023
- Title Register for EX681182 issued 26 January 2023

From: [Redacted]  
To: [Redacted]  
Subject: Fire Electrical Safety for Farms  
Date: 14 January 2021 12:18:45  
Attachments: [Redacted]

Trust,

Thank you for your email.

Regarding planning application 23010113 Langford Solar Farm, there are no National Grid Transmission assets affected in this area. However, I can see National Grid Electricity assets, I have passed this over to them.

If you would like to view if there are any other affected assets in this area, please use an enquiry with <https://help.nationalgrid.com/uk/infrastructure/infrastructure>.

For more information on Xero's products and solutions, please visit <https://help.nationalgrid.com/uk/infrastructure/infrastructure>.

Kind regards,  
Asset Protection Team

-----Original Message-----

From: [Redacted]  
To: [Redacted]  
Subject: [Redacted]

Please open the attached document. It was sent to you using a Xero's notification printer.

Attachment File Type: pdf, Multi-Page  
Modification Printer Location: Warwick 02  
Device Name: XEROX3000P204

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Page: <https://help.nationalgrid.com/uk/infrastructure/infrastructure>

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**From:** [REDACTED]; [Longfield Solar Farm](#)  
**Cc:** [REDACTED]  
**Subject:** Re: Longfield Solar Farm Application Ref. EN010118 - post examination submission  
**Date:** 17 March 2023 16:37:04

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Good afternoon,

I can confirm that we act for Essex and Suffolk Water and that the information provided by Alexis is correct. The protective provisions provided by Applicant are agreed by Essex and Suffolk Water and my client would be grateful if they (and this emails correspondence) could be provided to the Secretary of State.

Yours sincerely

Chloe

**Chloe Glason** ([REDACTED])  
**Senior Associate | Planning and Environmental Team | For and on behalf of Birketts LLP**

Sent from [Outlook for iOS](#)

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**From:** Alexis Coleman ([REDACTED])@pinsentmasons.com>  
**Sent:** Friday, March 17, 2023 4:14 pm  
**To:** Longfield Solar Farm <LongfieldSolarFarm@planninginspectorate.gov.uk>  
**Cc:** carly.vince ([REDACTED]) Matt Bussey  
[REDACTED]; Beth Winstone  
[REDACTED]; Chloe Glason ([REDACTED])  
**Subject:** Longfield Solar Farm Application Ref. EN010118 - post examination submission

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Good afternoon,

I write on behalf of the Applicant, Longfield Solar Energy Farm Limited.

The Applicant wishes to confirm that the attached protective provisions have been agreed between the Applicant and Essex and Suffolk Water. Both parties invite the Secretary of State to treat these as replacing the protective provisions in Part 9 of Schedule 15 of the final DCO submitted at Deadline 7 [REP7-006].

Essex and Suffolk Water's legal advisors, Birketts, have been copied to this email for the purpose of confirming, by reply to this email, that the attached set of protective provisions for the protection of the Essex and Suffolk Water are agreed by Essex and Suffolk Water.

This submission follows the end of the Examination, however its purpose is to confirm a position that

has been agreed between the Applicant and Essex and Suffolk Water, and that is likely to assist the Secretary of State in making their decision. The Applicant requests that this email and the attached protective provisions are therefore provided to the Secretary of State.

I would be grateful if you could confirm receipt of this email and the document attached.

Yours sincerely  
Alexis

Alexis Coleman  
Senior Associate  
for Pinsent Masons LLP

[REDACTED]

[REDACTED]

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Further information about us is available at [REDACTED]

Office address:  
Providence House, 141-145 Princes Street, Ipswich, IP1 1QJ | +44 (0)1473 232300

**From:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Longfield Solar Farm Application Ref. EN010118 - post examination submission  
**Date:** 17 March 2023 16:14:16  
**Attachments:** [Longfield - Essex and Suffolk Water PPs - final form \(17.03.2023\)\(137688882.5\).docx](#)

---

Good afternoon,

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Alexis

Alexis Coleman  
Senior Associate  
for Pinsent Masons LLP

[REDACTED]

[REDACTED]

[REDACTED]

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## FOR THE PROTECTION OF ESSEX AND SUFFOLK WATER

1. For the protection of Essex and Suffolk Water, the following provisions shall, unless otherwise agreed in writing between the undertaker and Essex and Suffolk Water, have effect.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable ESW to fulfil its statutory functions in no less efficient and effective a manner than previously;

“apparatus” means the following items belonging to or maintained by ESW within the Order limits-

- (i) mains, pipes, wells, boreholes, tanks, service reservoirs, pumping stations or other apparatus, structure, tunnel, shaft or treatment works or accessories (as defined in section 219(1) of the Water Industry Act 1991) belonging to or maintained or used by ESW for the purposes of water supply; and
- (ii) any water mains or service pipes which are the subject of a notice of intention to adopt under section 51A of the Water Industry Act 1991;

“ESW” means Northumbrian Water Limited, t/a Essex and Suffolk Water, company number 02366703, whose registered office is at Northumbria House, Abbey Road, Pity Me, Durham, DH1 5FJ;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes sections, drawings, specifications and method statements and drawings submitted for approval must include a plan to the scale of 1:500 based on the ordnance survey to locate the work in question, and plans and sections to a scale of between 1:200 to 1:25 to give details of the work in question; and

“specified work” means so much of the authorised development as is in, on, under, over or within the standard protection strips; and

“the standard protection strips” means strips of land falling the following distances to either side of the medial line of any relevant pipe or apparatus—

- (a) 3 metres where the internal diameter of the pipe is less than 300 millimetres;
- (b) 4.5 metres where the internal diameter of the pipe is over 300 and up to and including 600 millimetres;
- (c) 6 metres where the internal diameter of the pipe exceeds 600 millimetres

unless otherwise agreed.

### *Retained apparatus*

3. (1) Before commencing construction of a specified work, the undertaker must submit to ESW plans of the specified work and such further particulars available to it as ESW may reasonably require within 28 days of the submission of the plans.



- (2) A specified work must not be constructed except in accordance with such plans as may be approved in writing by ESW or determined under paragraph 13.
- (3) Any approval of ESW required under this paragraph—
  - a. must not be unreasonably withheld or delayed;
  - b. is deemed to have been given if it is neither given nor refused within 42 days of the submission of the plans for approval, or submission of further particulars (where required by ESW under sub-paragraph (1)) whichever is the later; and
  - c. may be given subject to such reasonable requirements as ESW may make for the protection of its apparatus taking into account the terms of this Order.
- (4) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.
4. Without limiting the scope of paragraph 3, the requirements which ESW may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work as are reasonably necessary taking account of the terms of this Order to safeguard any apparatus against damage by reason of any specified work.
5. —(1) Subject to sub-paragraph (2), any specified work, and all protective works required by ESW under paragraph 4, must be constructed—
  - (1) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; and
  - (2) to the reasonable satisfaction of ESW,and an officer of ESW is entitled to watch and inspect the construction of such works.
  - (1) The undertaker must give to ESW—
    - a. not less than 28 days' notice in writing of its intention to commence construction of any specified work; and
    - b. notice in writing of its completion not later than seven days after the date on which it is brought into use.
6. If by reason of the construction of a specified work or of the failure of any a specified work any apparatus is damaged, the damage must be made good by the undertaker as soon as reasonably practicable to the reasonable satisfaction of ESW and, if the undertaker fails to do so, ESW may make good the damage and recover from the undertaker the expense reasonably incurred by it in doing so.
7. The undertaker must make reasonable compensation for costs, charges and expenses which ESW may reasonably incur—
  - (1) in the examination or approval of plans under this Part of this Schedule;
  - (2) in inspecting the construction of the specified work or any protective works required by ESW under this Part of this Schedule; and
  - (3) in carrying out any surveys or tests by ESW which are reasonably required in connection with the construction of the specified work.

### *Removal of apparatus*

8. —(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that ESW's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of ESW to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of ESW in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to ESW 56 days written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order ESW reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to ESW the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, ESW must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between ESW and the undertaker both acting reasonably with a view to securing the efficient implementation of the necessary work, the avoidance of unnecessary delay and the continued fulfilment by both parties of their service obligations, which in the case of ESW shall be to a standard no less than that achieved prior to the removal of the apparatus which the alternative apparatus replaces, or in default of agreement settled by arbitration in accordance with article 40 (arbitration).

(5) ESW must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 40 (arbitration), and after the grant to ESW of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to ESW that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by ESW, may, subject to the written consent of ESW, which shall not be unreasonably withheld, and in accordance with ESW's requirements and

specifications, be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of ESW.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

(8) When alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use all reasonable endeavours to comply with Northumbrian Water's reasonable requests for a reasonable period of time to enable Northumbrian Water to:

(1) make network contingency arrangements; or

(2) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

9. —(1) Where, in accordance with the provisions of this part of this Schedule, the undertaker affords to ESW facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and ESW or in default of agreement settled by arbitration in accordance with article 40 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus the arbitrator must:

(1) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker; and

(2) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus for which the alternative apparatus is to be substituted and have regard to ESW's statutory obligations.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to ESW than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to ESW as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

10. (1) Subject to the following provisions of this paragraph, the undertaker must repay to ESW the reasonable expenses incurred by it in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 8(2).

- (1) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal.
- (2) If in accordance with the provisions of this part of this Schedule—
  - a. apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
  - b. apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 40 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to ESW by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

- (3) For the purposes of sub-paragraph (3)—
  - a. an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 8 (2); and
  - b. where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

#### *Costs*

11. —(1) Subject to sub-paragraphs (2) and (3), if for any reason or in consequence of the construction, maintenance or failure of any of the authorised development by or on behalf of the undertaker or of any of the works referred to in this Part of this Schedule or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of ESW, or there is any interruption in any service provided, or of any access to any apparatus, or in the supply of any goods or services, by ESW or the performance of ESW's functions, or any disruption to the normal operation of ESW's apparatus resulting in an increase in the costs incurred by ESW in performing its functions or in any loss, damages or penalty or fines, or ESW becoming liable to pay any amount to any third party, the undertaker must—
  - (a) bear and pay within 30 days of demand the cost reasonably incurred by ESW in making good any damage or restoring the supply or service;

- (b) make reasonable compensation to ESW for any other expenses, loss, damages, penalty or costs incurred by ESW; and
- (b) indemnify ESW against claims, demands, proceedings, damages, penalty or costs incurred by or recovered from ESW,
- (c)

by reason or in consequence of any such damage or interruption or disruption or ESW becoming liable to any third party as aforesaid.

(2) The fact that any act or thing may have been done by ESW on behalf of the undertaker or in accordance with a plan approved by ESW or in accordance with any requirement of ESW or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of ESW, its officers, servants, contractors or agents.

(4) ESW must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which will not be unreasonably withheld or delayed by the undertaker and which, if the undertaker withholds such consent, it has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

*Other*

12. Any agreement or approval of ESW required under these provisions—
  - (a) must not be unreasonably withheld or delayed;
  - (b) is deemed to have been given if it is neither given nor refused within 42 days of the date of submission of a request for such agreement or approval, or, in the case of a refusal, if it is not accompanied by a statement of the grounds of refusal; and
  - (c) any request for agreement or approval of ESW required under these provisions must be sent to [companysecretary@nwl.co.uk](mailto:companysecretary@nwl.co.uk) or such other address as ESW may from time to time appoint instead for that purpose and notify to the undertaker in writing.
13. Any dispute arising between the undertaker and ESW under this Part of this Schedule must be referred to and settled by arbitration under article 40 (arbitration) unless otherwise agreed in writing between the undertaker and ESW.
14. If in consequence of the exercise of the powers conferred by the Order, previously unmapped mains or other apparatus are identified by the undertaker, notification of the location of such assets will immediately be given to ESW and afforded the same protection as other ESW assets.

**B. Submissions made to the Department during  
Recommendation stage**

Numbers DR-001 – DR-xxx

## **C. Submissions made to the Planning Inspectorate during Decision stage**

Numbers PID-001 – PID-xxx

## **D. Submissions made to the Department during Decision stage**

Numbers DD-001 – DD-xxx