

# A303 Amesbury to Berwick Down

TR010025

## Additional Submission AS 9 (1) Protective Provisions Update

APFP Regulation 5(2)(q)

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009

August 2019



Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning  
(Applications: Prescribed Forms and  
Procedure) Regulations 2009**

**A303 Amesbury to Berwick Down**

Development Consent Order 20[\*\*]

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**Protective Provisions Update**

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# 1 Introduction

## 1.1 Purpose of document

- 1.1.1 The Applicant has engaged with all relevant Statutory Undertakers, apparatus owners and relevant statutory parties in respect of protective provisions. An update on the status of the negotiations with all relevant parties is provided in the table in section 2 below.
- 1.1.2 The table in section 2 is marked as tracked changes showing the revisions compared to the protective provision update issued on 29 August 2019.

## 2 Protective Provisions Update Table

BT Group plc (Openreach)	Openreach confirmed on 20 February 2019 that it is satisfied in principle with the content and wording of the protective provisions for the protection of operators of electronic communications code networks included within the dDCO. Openreach did not propose any amendments to those protective provisions or request bespoke protective provisions.
CenturyLink Limited (managed by Instalcom Limited)	<p>CenturyLink has confirmed that it does not require bespoke protective provisions for the benefit of CenturyLink to be included in the dDCO. This is on the basis that CenturyLink is currently in discussions with the Applicant regarding the works required to CenturyLink's network as a result of various of the Applicant's proposed schemes, including the A303 Amesbury to Berwick Down scheme. CenturyLink has received assurances from the Applicant during these discussions that its requirements (as set out in its submission at Deadline 7) will be accommodated and is content to proceed on that basis.</p> <p>As a result of the above, bespoke protective provisions for the benefit of CenturyLink have not been included in the dDCO. In any event, the Applicant considers that adequate protection for CenturyLink's assets is included in the protective provisions in Schedule 11.</p> <p>In addition, the protective provisions set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>

Virgin Media Limited	<p>Virgin Media has not indicated that it requires bespoke protective provisions for the benefit of Virgin Media to be included in the dDCO. The Applicant notes that the Virgin Media cable is contained within a sub-duct in CenturyLink's duct and therefore will benefit from the assurances given by the Applicant to CenturyLink. This was explained by the Applicant in an email to Virgin Media on 25 July 2019 which also confirmed that to Virgin Media that CenturyLink does not require bespoke protective provisions to be included in the DCO. In the same email, the Applicant requested that Virgin Media let the Applicant know if this position is not acceptable to Virgin Media. Virgin Media has not responded to state that this is unacceptable.</p> <p>As a result of the above, bespoke protective provisions for the benefit of Virgin Media have not been included in the dDCO. In any event, the Applicant considers that adequate protection for Virgin Media's assets is included in the protective provisions in Schedule 11 to the dDCO.</p> <p>In addition, the protective provisions set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>
Sky UK Limited	<p><a href="#"><u>Sky has indicated that it has comments for the Applicant on the relevant protective provisions. However, the Applicant has not received these comments despite asking for them initially in a letter dated 14 February 2019 and following-up with Sky on numerous occasions since that date.</u></a></p> <p>In any event, the Applicant considers that adequate protection for Sky's assets is included in the protective provisions in Schedule 11 to the dDCO.</p> <p>In addition, the protective provisions set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>
SSE plc	<p>The Applicant and SSE have been negotiating bespoke protective provisions and a side agreement for the protection of SSE. <a href="#"><u>The protective provisions within the DCO and those aspects of the side agreement which relate to the protective provisions are agreed. The protective provisions and the side agreement are in an agreed form and the Applicant anticipates that engrossments will be sent out for signing shortly.</u></a></p>

<p>SSE Telecommunications Ltd (SSE Enterprise Telecoms)</p>	<p>SSE Enterprise Telecoms has not indicated that it requires bespoke protective provisions for the benefit of SSE Enterprise Telecoms to be included within the draft dDCO. The Applicant emailed SSE Enterprise Telecoms on 5 August 2019 to state that the Applicant will proceed on the basis that SSE Enterprise Telecoms does not require bespoke protective provisions to be included in the dDCO. SSE Enterprise Telecoms did not respond to this email and has not confirmed that bespoke protective provisions are required.</p> <p>In any event, the Applicant considers that adequate protection for SSE Enterprise Telecoms' assets is included in the protective provisions in Schedule 11 to the dDCO.</p> <p>In addition, the protective provisions set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>
<p>Wessex Water Services Limited</p>	<p>Wessex Water has reviewed the protective provisions included in the dDCO for the protection of drainage authorities and made requests for amendments to be made to the 'generic' protective provisions in Part 1 of Schedule 11 to the dDCO which were included in the dDCO submitted at Deadline 6 and on that basis HE regards these as agreed. It has not requested its own bespoke protective provisions to be included within the dDCO.</p> <p>On this basis, the Applicant considers that adequate protection for Wessex Water's assets is included in the revised protective provisions in Schedule 11 to the dDCO and that the tests set out in sections 127(3) and 127(6) of the Planning Act 2008 are satisfied.</p> <p>In addition, the protective provisions set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>

Southern Gas Networks plc	<p>The Applicant and SGN are negotiating bespoke protective provisions and a side agreement for the protection of SGN. <u>There are only a small number of points that are not yet agreed in the bespoke protective provisions and the side agreement. On that basis, the Applicant expects to reach an agreement with SGN in week commencing 9 September. Applicant expects to be in a position to finalise the protective provisions and the agreement by Deadline 8 on 6 September 2019.</u></p> <p>In any event and absent that agreement being completed prior to the end of Examination, the Applicant considers that adequate protection for SGN's assets is included in the protective provisions in Schedule 11 to the dDCO and that the tests set out in sections 127(3) and 127(6) of the Planning Act 2008 are satisfied.</p> <p>In addition, the protective provisions set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the test set out in section 138 of the Planning Act 2008 is satisfied.</p>
Esso Petroleum Company Limited	Bespoke protective provisions for the protection of Esso are agreed between the Applicant and Esso. The agreed version was inserted in the updated version of the dDCO submitted at Deadline 6.
Environment Agency	Bespoke protective provisions were agreed between the Applicant and the Environment Agency on 3 June 2019 and were inserted in the updated version of the dDCO submitted by the Applicant at Deadline 4.
Wiltshire Council	Bespoke protective provisions for the benefit of Wiltshire Council as drainage authority were agreed between the Applicant and Wiltshire Council on 27 August 2019. The agreed protective provisions will be inserted in the version of the dDCO to be submitted by the Applicant at Deadline 8.



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