

M25 junction 10/A3 Wisley interchange

TR010030

9.26 Schedule of Statutory Undertaker Representations with regard to S138 (reference 1.16.6 ExQ1)

Rule 8(1)(b)

Planning Act 2008

Infrastructure Planning (Examination Procedure) Rules 2010

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Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

M25 junction 10/A3 Wisley interchange

Development Consent Order 202[x]

9.26 Schedule of Statutory Undertaker Representations with regard to S138 (reference 1.16.6 ExQ1)

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Rev 3	13 March 2020	Deadline 5a
Rev 2	11 February 2020	Deadline 4
Rev 1	28 January 2020	Deadline 3
Rev 0	18 December 2019	Deadline 2

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1. Introduction

1.1.1 This document has been compiled in response to the Examining Authority's Written Question 1.16.6 regarding Planning Act (PA) 2008 s138 Statutory Undertakers Land/Rights, which requested:

“The Applicant is requested to review its proposals relating to CA or TP of land and/ or rights and to prepare and at each successive deadline update a table identifying if these proposals affect the relevant rights or relevant apparatus of any Statutory Undertakers to which PA2008 S138 applies. If such rights or apparatus are identified, the Applicant is requested to identify:

- a. *the name of the Statutory Undertaker;*
- b. *the nature of their undertaking;*
- c. *the relevant rights to be extinguished; and/or*
- d. *the relevant apparatus to be removed;*
- e. *how the test in S138(4) can be met; and*
- f. *in relation to these matters, whether any protective provisions and/ or commercial agreement are anticipated, and if so:*
 - i) *whether these are already available to the ExA in draft or final form,*
 - ii) *whether a new document describing them is attached to the response to this question or*
 - iii) *whether further work is required before they can be documented; and*
- g. *in relation to a Statutory Undertaker named in an earlier version of the table but in respect of which a settlement has been reached:*
 - i) *whether the settlement has resulted in their representation(s) being withdrawn in whole or part; and*
 - ii) *identifying any documents providing evidence of agreement and withdrawal.*

The table provided in response to this question should be titled ExQ1.16.6: PA2008 S138 Statutory Undertakers Apparatus etc. and provided with a version number that rolls forward with each deadline. If at any given deadline, an empty table is provided, a revised table need not be provided at any subsequent deadline unless the Applicant becomes aware that the data and assumptions on which the empty table was provided have changed.

1.1.2 Schedule 2 has been prepared detailing the requested information above.

1.1.3 This is the seventh revision of this Schedule, submitted at Deadline 11.

2. Schedule 2 - ExQ1.16.6: PA2008 S138 Statutory Undertakers Apparatus etc.

Apparatus or Rights currently affected

Undertaker	Nature of undertaking	Relevant right to be extinguished	Relevant apparatus to be removed	How Highways England meets s138(4)	Protective provisions
Affinity Water	Water	Easements and restrictive covenants in relation to water pipes	No pipes are to be removed, but may be diverted (see further Work Nos. 63(a) and (c))	Any relevant rights to be extinguished will be exercised in accordance with the protective provisions contained in Schedule 9, Part 1 of the dDCO. The protective provisions contain constraints on the exercise of these powers in order to safeguard statutory undertakers' interests, whilst enabling the Scheme to proceed. It is not proposed to extinguish any rights or remove any apparatus without a diversion being provided. Provision for carrying out such diversions has been included within the Works comprising the authorised development as set out in Schedule 1 to the dDCO.	Yes, Highways England has sent a draft agreement to Affinity Water for its consideration along with the standard protective provisions for water undertakers at Schedule 9, Part 1 of the dDCO. Discussions are ongoing to ensure that Affinity Water's apparatus and access rights are protected. Affinity Water will have the protection of the standard protective provisions for water undertakers contained in the dDCO in any event. An update will be provided at Deadline 12.
Arqiva	Telecoms	Easements and restrictive covenants in relation to communications cables	No cables are to be removed, but may be diverted (see further Work Nos. 40, 41, 62(i), 63(c), 65(a))		Highways England is in discussions with Arqiva. Arqiva has not raised any objections to the standard protective provisions contained in the dDCO.
BT	Telecoms	Easements and restrictive covenants in relation to communications cables	No cables are to be removed, but may be diverted		Highways England is in discussions with BT. BT have not raised any objections to the standard protective provisions contained in the dDCO.
Cornerstone Telecommunications	Telecoms	Easements and restrictive covenants in relation to communications cables	No cables are to be removed, but may be diverted (see further Work Nos. 4, 18, 18(b), 40, 23(d), 35(b), 61(d), 62(f) and 65(a))		Highways England is in discussions with Cornerstone. Cornerstone has not raised any objections to the standard protective provisions contained in the dDCO.
MBNL	Telecoms	Easements and restrictive covenants in relation to communications cables	No cables are to be removed, but may be diverted		MBNL have confirmed to Highways England that it is happy with the protective provisions contained in the dDCO.
National Grid	Electricity	Easements and restrictive covenants in relation to electricity cables	No cables are to be removed, but may be diverted (see further Work Nos. 17(a), 17(b), 40, 62(h), 64(g), 63(c), 65(a))		Yes, Highways England has reached agreement with NGET and protective provisions have been inserted into the dDCO submitted at Deadline 8. The side agreement with NGET completed on 2 July 2020.
Sky Telecommunications	Telecoms	Easements and restrictive covenants in relation to communications cables	No cables are to be removed, but may be diverted		Highways England is in discussions with Sky. Sky has not raised any objections to the standard protective provisions contained in the dDCO.

Undertaker	Nature of undertaking	Relevant right to be extinguished	Relevant apparatus to be removed	How Highways England meets s138(4)	Protective provisions
South Eastern Power Networks (SEPN)	Electricity	Easements and restrictive covenants in relation to electricity cables	No cables are to be removed, but may be diverted		Yes, Highways England has reached agreement with SEPN. Engrossments have been issued in respect of the side agreement and will be completed prior to the end of the examination.
Southern Gas Networks	Gas Provider	Easements and restrictive covenants in relation to gas pipes	No pipes are to be removed, but may be diverted (see further Work Nos. 18, 63(a) and (c))		Yes. Highways England has reached agreement with SGN and protective provisions have been inserted into Schedule 9, Part 5 of the dDCO. The side agreement with SGN completed on 2 July 2020.
Sutton and East Surrey Water	Water	Easements and restrictive covenants in relation to water pipes	No pipes are to be removed, but may be diverted		Sutton and East Surrey Water have confirmed their assets are not affected and they are happy with the protective provisions contained in the dDCO.
Thames Water	Water	Easements and restrictive covenants in relation to water pipes	No pipes are to be removed, but may be diverted (see further Work No. 27(a))		Highways England is in discussions with Thames Water. Thames Water has not raised any objections to the standard protective provisions contained in the dDCO.
Virgin Media	Telecoms	Easements and restrictive covenants in relation to communications cables	No cables are to be removed, but may be diverted		Virgin Media have confirmed they are happy with the protective provisions contained in the dDCO.

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