

**Lower Thames Crossing
9.80 ExQ1 15.1.4 PA2008 s138
Statutory Undertakers' Rights
and Apparatus - LTC**

Infrastructure Planning (Examination
Procedure) Rules 2010

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Lower Thames Crossing

9.80 ExQ1 15.1.4 PA2008 s138 Statutory Undertakers' Rights and Apparatus - LTC

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1 Introduction

1.1 Purpose of this document

- 1.1.1 This document relates to the A122 Lower Thames Crossing (the Project) and has been submitted by National Highways (the Applicant) to the Planning Inspectorate acting on behalf of the Secretary of State for Transport. It relates to an application for a Development Consent Order (DCO) to permit and enable implementation of the Project made under section 37 of the Planning Act 2008 (as amended) (the 2008 Act).
- 1.1.2 A detailed description of the Project can be found in the Environmental Statement Chapter 2: Project Description [[APP-140](#)].
- 1.1.3 This document presents a Schedule identifying those Statutory Undertakers and telecommunications operators who retain rights under the Electronic Communications Code that have made a representation as part of the Examination process (on any matters) with rights and/or apparatus to which s138 of the Planning Act 2008 applies. It includes the status of their objection to the Order as at Deadline 4.
- 1.1.4 This document has been prepared and submitted in accordance with the Examining Authority's written questions and requests for information [[PD-029](#)] dated 15 August 2023, question Q(1)15.1.4.:

“The Applicant is requested to review RRs and WRs made as the examination progresses alongside its land and rights information systems and to prepare and at each successive deadline update as required a tabulated Schedule identifying and responding to any representations made by statutory undertakers with apparatus and rights to which PA2008 s 138 applies.

In relation to any such representations, the applicant is requested to identify:

- a. the name of the statutory undertaker;*
- b. the nature of the undertaking;*
- c. the relevant rights to be extinguished; and/or*
- d. the relevant apparatus to be removed or altered*
- e. how the test in s138(4) can be met; and*
- f. in relation to these matters, whether any protective provisions and /or commercial agreements 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 that statutory undertaker's representation(s) being withdrawn in whole or part; and*
 - ii. *identifying any documents providing evidence of agreement and withdrawal."*

1.1.5 This Schedule should be read in conjunction with the following documents:

- a. Land Plans [[REP3-011](#)] and [[REP3-013](#)]
- b. Statement of Reasons [[REP3-081](#)] including the following:
 - i. Appendix 1 explaining the land requirement for that land to which statutory undertakers as well as telecommunications operators who retain rights under the Electronic Communications Code own or have an interest
 - ii. Annex A explaining the purpose for which plots are required
 - iii. Annex B summarising engagement and negotiations
- c. Book of Reference [[REP3-085](#)]
- d. Applicant's comments on WRs Appendix B – Statutory Undertakers [[REP2-047](#)]
- e. Application Document 9.77 ExQ1.15.1.1: Schedule of CA and TP Objections [version 1 submitted at Deadline 4]
- f. Applicable Statements of Common Ground where referenced in the Status of Objection column
- g. Other DCO documents which are specifically referenced in the Status of Objection column.

1.1.6 The Schedule should be considered a live document which will be reviewed and updated during the examination period when the Applicant becomes aware that data and assumptions on which the previous deadline schedule submission was made have changed.

1.2 Section 138 of the Planning Act 2008

1.2.1 In response to Q(1)15.1.4(e) the Applicant is requested to identify "*how the test in s138(4) can be met*".

1.2.2 Section 138 of the Planning Act 2008 states:

138 Extinguishment of rights, and removal of apparatus, of statutory undertakers etc.

(1) *This section applies if an order granting development consent authorises the acquisition of land (compulsorily or by agreement) and—*

- (a) there subsists over the land a relevant right, or*
- (b) there is on, under or over the land relevant apparatus.*

(2) *“Relevant right” means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which—*

- (a) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking, or*
- (b) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.*

(3) *“Relevant apparatus” means—*

- (a) apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or*
- (b) electronic communications apparatus kept installed for the purposes of an electronic communications code network.*

(4) *The order may include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, [F1 only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates]*

[F2 (4A) In this section “statutory undertakers” means persons who are, or are deemed to be, statutory undertakers for the purpose of any provision of Part 11 of TCPA 1990.

[F3 (4B) In this section—

“electronic communications apparatus” has the meaning given in paragraph 5 of the electronic communications code;

“electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003;

“operator of an electronic communications code network” has the meaning given in paragraph 1(1) of Schedule 17 to the Communications Act 2003;]

F4 (5).

F4 (6).]

Textual Amendments

F1 Words in s. 138(4) substituted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 23(4)(a)**, [35\(1\)](#); [S.I. 2013/1124](#), [art. 4\(b\)](#) (with [art. 6](#))

F2 S. 138(4A)(4B) inserted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 23(4)(b)**, [35\(1\)](#); [S.I. 2013/1124](#), [art. 4\(b\)](#) (with [art. 6](#))

F3 S. 138(4B) substituted (28.12.2017) by [The Communications Act 2003 and the Digital Economy Act 2017 \(Consequential Amendments to Primary Legislation\) Regulations 2017 \(S.I. 2017/1285\)](#), [reg. 1\(1\)](#), **Sch. 1 para. 12(2)**

F4 S. 138(5)(6) omitted (25.6.2013) by virtue of [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 23(4)(c)**, [35\(1\)](#); [S.I. 2013/1124](#), [art. 4\(b\)](#) (with [art. 6](#))

Table 1.1 ExQ1. 15.1.4: the Planning Act 2008 s138 Statutory Undertakers' Rights and Apparatus: LTC

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
1	Anglian Water Services Limited	Water and sewerage undertaker as per the Water Industry Act 1991	<p>The nature of the right(s) to be extinguished, as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> • in respect of rights granted by various deeds of grant; • in respect of rights of services; and • in respect of apparatus. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> • any drain or works vested in the undertaker under the Water Industry Act 1991; and • any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreement to adopt 	<p>The Applicant believes that the Secretary of State can be satisfied with regard to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of Anglian Water Services' apparatus and interests. This matter is not contested by Anglian Water Services.</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers, which are agreed.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and Anglian Water Services, which have concluded.</p>	<p>Withdrawn</p> <p>Anglian Water Services notified the Planning Inspectorate on 18 July 2023 [REP1-218] that “<i>Anglian Water will only need to participate in the examination on any new issues or subsequent material changes to the draft DCO, should these prove to be more prejudicial to our interests</i>”.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	Anglian Water Services Limited Cont'd		sewers, drains or sewage disposal works at a future date) of that Act, including a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus.			
2	Cadent Gas Limited	Gas transporter as per the Gas Act 1986	The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are: <ul style="list-style-type: none"> in respect of rights granted by various deeds of grant; 	The Applicant believes that the Secretary of State can be satisfied with regard to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying	Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers, which are agreed.	Withdrawn Cadent Gas notified the Planning Inspectorate on 20 July 2023 [AS-148] that "On the basis that the agreed

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Cadent Gas Limited Cont'd</p>		<ul style="list-style-type: none"> • in respect of rights granted by various transfers; • in respect of rights granted by various conveyances; and • in respect of apparatus. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> • any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by the gas undertaker for the purposes of its undertaking. 	<p>out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of Cadent Gas' apparatus and interests. This matter is not contested by Cadent Gas.</p>	<p>Protective Provisions, Schedule 14, Part 5 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Specified Gas Undertakers, which are agreed.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and Cadent Gas, which have concluded.</p>	<p><i>protective provisions are included on the face of the Order (save for any grammatical, formatting or cross-referencing changes which may be required), Cadent hereby withdraws its objection to the Order”.</i></p>
3	<p>Environment Agency</p>	<p>Specific functions relevant to flood risk as per the Water</p>	<p>The nature of right(s) to be extinguished as noted in the Book of Reference [REP3-085] are:</p>	<p>The Applicant believes that the Secretary of State can be satisfied with regard to the test in s138(4) that the extinguishment or</p>	<p>Protective Provisions, Schedule 14, Part 9 of the draft Development Consent Order contains Protective Provisions for the Protection of the</p>	<p>Existing objection to the Order.</p> <p>The Protective Provisions have</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Environment Agency Cont'd</p>	<p>Resources Act 1991</p>	<ul style="list-style-type: none"> • in respect of Main Rivers; • in respect of riparian ownership; and • in respect of riparian rights. <p>The apparatus to be removed refers to (insofar as on land noted in the Book of Reference [REP3-085]):</p> <ul style="list-style-type: none"> • any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river; and • any bank, wall, embankment (and any berm, counterwall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artificial, against the inundation of land by sea 	<p>removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122, and other development authorised by the grant of the Order within the region of the Environment Agency's apparatus and interests.</p>	<p>Environment Agency [REP3-077].</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p>	<p>been agreed with the Environment Agency following the removal of paragraph 116(5). The Applicant notes that the Protective Provisions include protection for main rivers which the Environment Agency may have relevant rights / apparatus over / in, and that such provisions are agreed.</p> <p>The Applicant is confident that agreement on all matters will be reached during the Examination period.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	Environment Agency Cont'd		water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the Environment Agency's area against flooding, but excludes any sea defence works which are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949 or by any local authority or any navigation, harbour or conservancy authority.			
4	Essex and Suffolk Water Limited (an operating arm of Northumbrian Water Limited)	Water undertaker as per the Water Industry Act 1991	The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are: <ul style="list-style-type: none"> in respect of rights granted by various deeds of grant; 	The Applicant believes that the Secretary of State can be satisfied with regard to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying	Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers.	Existing objection to the Order. Discussions are ongoing regarding a separate side agreement between the Applicant and

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Essex and Suffolk Water Limited Cont'd</p>		<ul style="list-style-type: none"> • in respect of rights granted by indenture dated 16-03-1894; • in respect of rights granted by various conveyances; and • in respect of apparatus. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> • mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply. 	<p>out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of Essex and Suffolk Water / Northumbrian Water's apparatus and interests.</p>	<p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and Essex and Suffolk Water / Northumbrian Water, which are ongoing.</p>	<p>Essex and Suffolk Water, to provide further arrangements for the protection of Essex and Suffolk Water's apparatus and statutory undertaking.</p> <p>The latest draft of this agreement is under discussion between Essex and Suffolk Water's / Northumbrian Water's legal representatives and the Applicant's solicitors, supported by a series of progress meetings. Points to be concluded relate to Linford Well, namely: water quality, pollution and contamination risk and Linford Well compulsory</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Essex and Suffolk Water Limited Cont'd</p>					<p>acquisition over plot 24-133, of which the last matter relates to the Planning Act 2008 s138(4).</p> <p>The Applicant is confident that agreement on all matters will be reached during the Examination period.</p>
5	HS1 Limited	<p>Nominated undertaker designated as per the Channel Tunnel Rail Link Act 1996</p>	<p>The nature of the rights to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> • in respect of rights granted by a lease dated 30-09-2010; • in respect of rights granted by various deeds; • in respect of rights granted by various deed of grant; • in respect of rights granted by an 	<p>The Applicant believes that the Secretary of State can be satisfied with regards to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction</p>	<p>Protective Provisions, Schedule 14, Part 4 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Railway Interests.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p>	<p>Existing objection to the Order.</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and HS1, to provide further arrangements for the protection of HS1's apparatus and statutory undertaking.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>HS1 Limited Cont'd</p>		<p>agreement dated 16-09-2013;</p> <ul style="list-style-type: none"> • in respect of rights granted by various deeds of rectification; • in respect of the structure and apparatus of High Speed 1 railway; and • in respect of High Speed 1, Channel Tunnel Rail Link. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> • any lines, circuits, wires, apparatus or equipment which are owned or used by the HS1 for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications; and 	<p>and operation of the A122 and other development authorised by the grant of the Order within the region of London and Continental Railways / HS1's apparatus and interests.</p>	<p>Separate agreement(s) (confidential) between the Applicant and HS1, which are ongoing.</p>	<p>The latest draft of this agreement is under discussion between HS1's legal representatives and the Applicant's solicitors, supported by a series of progress meetings. Points to be concluded include matters pursuant to the Planning Act 2008 s127(3) and s127(6), with HS1 objecting to <i>"National Highways exercising powers of survey, compulsory acquisition or temporary possession ("compulsory powers") in relation to HS1 land under the DCO without HS1's consent. HS1 submits that protective provisions in the DCO must</i></p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	HS1 Limited Cont'd		<ul style="list-style-type: none"> any station, apparatus and equipment belonging to HS1 and connected with any such railway. 			<p><i>prevent the exercise of compulsory powers by National Highways unless HS1 agrees to this".</i></p> <p>The Applicant is confident that agreement on all matters will be reached during the Examination period.</p>
6	London and Continental Railways Limited	Railway licence holder as per the Railways Act 1993	<p>The nature of the rights to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> in respect of rights granted by a deed dated 30-09-1997; in respect of rights granted by a restriction dated 30-09-1991; and in respect of the subsoil <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> any lines, circuits, wires, apparatus or equipment 	<p>The Applicant believes that the Secretary of State can be satisfied with regards to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the</p>	<p>Protective Provisions, Schedule 14, Part 4 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Railway Interests</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p>	<p>The Applicant has not received any objections from London and Continental Railways but understands that their land interests are managed by HS1 which has a holding objection to the Order as communicated at HS1 Limited's entry.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>London and Continental Railways Limited Cont'd</p>		<p>which are owned or used by the London and Continental Railways / HS1 for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications; and</p> <ul style="list-style-type: none"> any station, apparatus and equipment belonging to London and Continental Railways / HS1 and connected with any such railway. 	<p>A122 and other development authorised by the grant of the Order within the region of London and Continental Railways / HS1's apparatus and interests.</p>		
7	<p>Lumen Technologies UK Limited</p>	<p>Operator of an electronic communication code network as per the Communications Act 2003</p>	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> in respect of apparatus. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> apparatus designed or adapted for use in 	<p>The Applicant believes that the Secretary of State can be satisfied with regards to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p>	<p>Protective Provisions, Schedule 14, Part 2 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks.</p>	<p>Existing objection to the Order.</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and Lumen Technologies. The</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Lumen Technologies UK Limited Cont'd</p>		<p>connection with the provision of an electronic communications network;</p> <ul style="list-style-type: none"> • apparatus designed or adapted for a use which consists of or includes the sending or receiving of communications or other signals that are transmitted by means of an electronic communications network; • lines; and • other structures or things designed or adapted for use in connection with the provision of an electronic communications network. <p>“lines” means any wire, cable, tube, pipe or similar thing (including its casing or coating) which is designed or adapted for use in connection with the</p>	<p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of Lumen Technologies' apparatus and interests.</p>	<p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and Lumen Technologies, which are ongoing.</p>	<p>latest draft of this agreement is under discussion between Lumen Technologies and the Applicant's solicitors. The Applicant understands that Lumen Technologies seeks to agree to vary statutory deferment of renewal costs as part of any agreement. This position is not agreed by the Applicant and deferment of renewal benefit has not been agreed. The offer of an agreement to cover Lumen Technologies' other concerns remains open.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Lumen Technologies UK Limited Cont'd</p>		<p>provision of any electronic communications network or electronic communications service.</p> <p>“structures” includes a building only if the sole purpose of that building is to enclose other electronic communications apparatus.</p>			<p>With respect to s138(4) the Applicant believes adequate provisions are contained within the Application for the benefit of Lumen Technologies to ensure the undertaking of the Authorised Development would not give rise to a detrimental effect regarding Lumen Technologies' apparatus or undertaking with regard to its obligations as an operator of electronic code network.</p> <p>The Applicant is confident that an agreement will be reached during the Examination period.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
8	<p>National Gas Transmission PLC</p> <p><i>(formerly National Grid Gas PLC)</i></p>	<p>Gas transporter as per the Gas Act 1986</p>	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> in respect of rights granted by various deeds of grant; in respect of rights granted by a transfer dated 05-04-2017; and in respect of apparatus. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables, or other apparatus belonging to, or maintained for the purposes of gas transmission, distribution or supply and includes any structure in which apparatus is or which gives access to apparatus. 	<p>The Applicant believes that the Secretary of State can be satisfied with regards to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of National Gas Transmission / National Grid's apparatus and interests. This matter is not contested by National Gas Transmission / National Grid.</p>	<p>Protective Provisions, Schedule 14, Part 6 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of National Gas Transmission as Gas Undertaker</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and National Gas Transmission, which are ongoing.</p>	<p>Existing objection to the Order</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and National Gas Transmission, to provide further arrangements for the protection of National Gas Transmission's apparatus and statutory undertaking.</p> <p>The latest draft of this agreement is under discussion between National Gas Transmission's legal representatives and the Applicant's solicitors. Points to be concluded include matters</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	National Gas Transmission PLC Cont'd					<p>pursuant to the Planning Act 2008 s138(4) with regard to "NGT's rights of access to inspect, protect, maintain, renew, repair and retain such apparatus must also be maintained at all times and that NGT's access to inspect and maintain such apparatus must not be restricted. [and] that, where the Applicant intends to acquire land or rights, or interfere with any of NGT's interests in land or NGT apparatus, NGT will require appropriate protection and further discussion is required on the impact to its apparatus and rights".</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>National Gas Transmission PLC Cont'd</p>					<p>The Applicant is confident that agreement on all matters will be reached during the Examination period.</p>
<p>9</p>	<p>National Grid Electricity Transmission PLC</p>	<p>Electricity transmission as per the Electricity Act 1989</p>	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> • in respect of rights granted by various deeds of grant; • in respect of rights granted by a transfer dated 30-09-1996; • in respect of rights granted by various wayleaves; • in respect of rights granted by various option agreements; • in respect of rights granted by various conveyances; and • in respect of apparatus. 	<p>The Applicant believes that the Secretary of State can be satisfied with regards to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of National Grid Electricity</p>	<p>Protective Provisions, Schedule 14, Part 7 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of National Grid Electricity Transmission as Electricity Undertaker.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and National Grid Electricity Transmission, which are ongoing.</p>	<p>Existing objection to the Order</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and National Grid Electricity Transmission, to provide further arrangements for the protection of National Grid Electricity Transmission's apparatus and statutory undertaking.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>National Grid Electricity Transmission PLC Cont'd</p>		<p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> • Electrical plant, meaning any plant equipment, apparatus or appliance used for, or for purposes connected with the generation, transmission, distribution or supply of electricity, other than— • an electric line; • a meter used for ascertaining the quantity of electricity supplied to any premises; or • an electrical appliance under the control of a consumer. <p><i>“electric line”</i> means any line which is used for carrying electricity for any purpose and includes, unless the context otherwise requires:</p>	<p>Transmission / National Grid’s apparatus and interests. This matter is not contested by National Grid Electricity Transmission / National Grid.</p>		<p>The latest draft of this agreement is under discussion between National Grid Electricity Transmission’s legal representatives and the Applicant’s solicitors. Points to be concluded include matters pursuant to the Planning Act 2008 s138(4) with regard to <i>“NGET’s rights of access to inspect, maintain, renew and repair such apparatus must also be maintained at all times and that NGET’s access to inspect and maintain such apparatus must not be restricted [and] that where the Applicant intends to acquire land or rights, or interfere with any of</i></p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	National Grid Electricity Transmission PLC Cont'd		<ul style="list-style-type: none"> any support of any such line, that is to say, any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended; any apparatus connected to any such line for the purpose of carrying electricity; and any wire, cable, tube, pipe or other similar thing (including its casing or coating) which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line. 			<p><i>NGET's interests in land or NGET's apparatus, NGET will require appropriate protection and further discussion is required on the impact to its apparatus and rights".</i></p> <p>The Applicant is confident that agreement on all matters will be reached during the Examination period.</p>
10	National Grid PLC	Electricity transmission as per the	The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are:	The Applicant believes that the Secretary of State can be satisfied with regard to the test in	Protective Provisions, Schedule 14, Part 6 of the draft Development Consent Order [REP3-077] contains Protective	Existing objection to the Order Discussions are ongoing regarding a

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>National Grid PLC Cont'd</p>	<p>Electricity Act 1989; and Gas transporter as per the Gas Act 1986</p>	<ul style="list-style-type: none"> in respect of apparatus. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> Electrical plant, meaning any plant equipment, apparatus or appliance used for, or for purposes connected with the generation, transmission, distribution or supply of electricity, other than— an electric line; a meter used for ascertaining the quantity of electricity supplied to any premises; an electrical appliance under the control of a consumer; and any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to, or maintained for the 	<p>s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of National Grid Electricity Transmission / National Gas Transmission / National Grid's apparatus and interests. This matter is not contested by National Grid Electricity Transmission / National Gas Transmission / National Grid.</p>	<p>Provisions for the Protection of National Gas Transmission as Gas Undertaker.</p> <p>Protective Provisions, Schedule 14, Part 7 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of National Grid Electricity Transmission as Electricity Undertaker.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreements (confidential) between the Applicant and National Gas Transmission, and the Applicant and National Grid Electricity Transmission, which are ongoing.</p>	<p>separate side agreement between the Applicant and National Grid Electricity Transmission, and the Applicant and National Gas Transmission to provide further arrangements for the protection of National Grid Electricity Transmission's and National Gas Transmission's apparatus and statutory undertaking.</p> <p>The latest drafts of these agreements are under discussion between National Grid Electricity Transmission's legal representatives and the Applicant's solicitors, and</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>National Grid PLC Cont'd</p>		<p>purposes of gas transmission, distribution or supply and includes any structure in which apparatus is or which gives access to apparatus.</p> <p><i>“electric line”</i> means any line which is used for carrying electricity for any purpose and includes, unless the context otherwise requires:</p> <ul style="list-style-type: none"> • any support of any such line, that is to say, any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended; • any apparatus connected to any such line for the purpose of carrying electricity; and • any wire, cable, tube, pipe, or other similar thing (including its casing or coating) which 			<p>National Gas Transmission’s legal representatives and the Applicant’s solicitors. Points to be concluded include matters pursuant to the Planning Act 2008 s138(4) with regard to National Grid Electricity Transmission’s and National Gas Transmission’s rights of access to inspect, protect, maintain, renew, repair and retain such apparatus must also be maintained at all times and that National Grid Electricity Transmission’s and National Gas Transmission’s access to inspect and maintain such</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>National Grid PLC Cont'd</p>		<p>surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line.</p>			<p>apparatus must not be restricted and that, where the Applicant intends to acquire land or rights, or interfere with any of National Grid Electricity Transmission's and National Gas Transmission's interests in land or apparatus, National Grid Electricity Transmission and National Gas Transmission will require appropriate protection and further discussion is required on the impact to its apparatus and rights.</p> <p>The Applicant is confident that agreement on all matters will be</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	National Grid PLC Cont'd					reached during the Examination period.
11	Network Rail Limited	Railway licence holder as per the Railways Act 1993	The nature of the rights to be extinguished, insofar that they are necessary for the completion of the Applicant's authorised development, as noted in the Book of Reference [REP3-085] are: <ul style="list-style-type: none"> • in respect of London, Tilbury and Southend Railway; • in respect of London, Tilbury and Southend Railway (Ockendon Branch); • in respect of rights reserved by various conveyances; • in respect of rights reserved by a transfer dated 04-03-2019; • in respect of the subsoil up to the half width of the highway; 	<p>The Applicant believes that the Secretary of State can be satisfied with regards to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of Network Rail's apparatus and interests.</p>	<p>Protective Provisions, Schedule 14, Part 4 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Railway Interests.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and Network Rail, which are ongoing.</p>	<p>Existing objection to the Order</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and Network Rail Infrastructure Limited to provide further arrangements for the protection of Network Rail Infrastructure Limited's apparatus and statutory undertaking.</p> <p>The latest draft of this agreement is under discussion, between Network Rail Infrastructure</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Network Rail Limited Cont'd</p>		<ul style="list-style-type: none"> • in regard to London and Blackwall Railway Company; • in respect of rights granted by a deed dated 06-02-1854; • in respect of rights granted by an agreement dated 19-04-1967; and • in respect of Great Eastern main line. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> • any lines, circuits, wires, apparatus, or equipment which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications; and 			<p>Limited's legal representatives and the Applicant's solicitors, supported by a series of progress meetings. Points to be concluded relate to the safety of the railway network, those parts of the scheme that interface with the operational network and those rights to be acquired via the powers contained within the draft Development Consent Order of which the last matter relates to the Planning Act 2008 s127(3) and s127(6).</p> <p>The Applicant is confident that agreement will be</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	Network Rail Limited Cont'd		<ul style="list-style-type: none"> any station, apparatus and equipment belonging to Network Rail and connected with any such railway. 			reached during the Examination period.
12	Northumbrian Water Limited <i>(operates as 'Essex and Suffolk Water' in the south east of England)</i>	Water undertaker as per the Water Industry Act 1991	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> in respect of rights granted by various deeds of grant; in respect of rights granted by indenture dated 16-03-1894; in respect of rights granted by various conveyances; and in respect of apparatus. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> mains, pipes, or other apparatus belonging to or maintained by that undertaker for the 	<p>The Applicant believes that the Secretary of State can be satisfied with regards to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of Essex and Suffolk Water</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and Essex and Suffolk Water / Northumbrian Water, which are ongoing.</p>	<p>Existing objection to the Order.</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and Essex and Suffolk Water, to provide further arrangements for the protection of Essex and Suffolk Water's apparatus and statutory undertaking.</p> <p>The latest draft of this agreement is under discussion between Essex and Suffolk Water's /</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Northumbrian Water Limited Cont'd</p>		<p>purposes of water supply.</p>	<p>/ Northumbrian Water's apparatus and interests.</p>		<p>Northumbrian Water's legal representatives and the Applicant's solicitors, supported by a series of progress meetings. Points to be concluded relate to Linford Well, namely: water quality, pollution and contamination risk and Linford Well compulsory acquisition over plot 24-133, of which the last matter relates to the Planning Act 2008 s138(4).</p> <p>The Applicant is confident that agreement on all matters will be reached during the Examination period.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
13	Port of London Authority Limited	Statutory harbour authority established by The Port of London Act 1908 to govern the Port of London. Statutory powers and duties pursuant to the Port of London Act 1968.	<p>The nature of right to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> in respect of rights reserved by a transfer dated 14-09-2001. <p>No apparatus is to be removed.</p>	<p>The Applicant believes that the Secretary of State can be satisfied with regards to the test in s138(4) that the extinguishment is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of the Port of London Authority's interests.</p>	<p>Protective Provisions, Schedule 14, Part 8 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of the Port of London Authority.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and the Port of London Authority, which are ongoing.</p>	<p>Existing objection to the Order</p> <p>The latest draft of the Protective Provisions is under discussion between the Port of London Authority's legal representatives and the Applicant's solicitors, supported by a series of progress meetings. Points to be concluded relate to the Planning Act 2008 s138 with regards to the ability for the Applicant to construct and operate the Project without having a detrimental effect on the statutory functions of the Port of London Authority.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Port of London Authority Limited Cont'd</p>					<p>The Applicant is confident that agreement will be reached during the Examination period.</p>
<p>14</p>	<p>Port of Tilbury London Limited</p>	<p>Statutory harbour authority established by The Port of London Act 1908 to govern the Port of London. Statutory powers and duties pursuant to the Port of London Act 1968.</p>	<p>The nature of the rights to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> • in respect of rights granted by various deeds; • in respect to rights reserved by various conveyances; • in respect of rights granted by various conveyances; • in respect of riparian rights; • in respect of riparian ownership; • in respect of Tilbury2 Port; and 	<p>The Applicant believes that the Secretary of State can be satisfied with regard to the test in s138(4) that the extinguishment is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of the Port of Tilbury's interests.</p>	<p>Protective Provisions, Schedule 14, Part 10 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of the Port of Tilbury.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and the Port of Tilbury, which are ongoing.</p>	<p>Existing objection to the Order</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and the Port of Tilbury, to provide further arrangements for the protection of the Port of Tilbury's statutory undertaking.</p> <p>The latest draft of this agreement is under discussion between the Port of Tilbury's legal representatives and the Applicant's</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Port of Tilbury London Limited Cont'd</p>		<ul style="list-style-type: none"> • in respect of the subsoil up to the half width of the highway. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> • street furniture, apparatus, services, plant and other equipment in a street, or in, under or above, other land, including mains, sewers, drains, pipes, hydrants, cables, ducts, masts, poles, associated cabinets or substations, lights, and cofferdams; and • road traffic signs, gantries, signage, variable message signs, signals, emergency telephones, closed circuit television (CCTV), traffic detection equipment, weather monitoring equipment and road restraints. 			<p>solicitors, supported by a series of progress meetings. Points to be concluded relate with regard to the ability for the Applicant to construct and operate the Project without having a detrimental effect on the statutory functions of the Port of Tilbury.</p> <p>The Applicant is confident that agreement for matters relating to the Planning Act 2008 s127 and s138 will be reached during the Examination period.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
15	Royal Mail Group Limited	A provider of the Universal Postal Service as defined by the Postal Services Act 2011	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> • in respect of apparatus. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> • access points to meet the reasonable needs of users of the universal postal service. 	<p>The Applicant believes that the Secretary of State can be satisfied with regard to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of Royal Mail's apparatus and interests. This matter is not contested by Royal Mail.</p>	<p>To enable Royal Mail to carry out its duties as a provider of the Universal Postal Service, they are a named attendee and consultee for those matters regarding traffic management and the traffic management plan for construction, which is secured via:</p> <ul style="list-style-type: none"> • [REP3-077] Requirement 10(1) and 10(2) of the draft Development Consent Order; and • [REP3-120] Outline Traffic Management Plan for Construction. <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p>	No objection to the Order known or envisaged.
16	Southern Gas Networks PLC	Gas transporter as per the Gas Act 1986	The nature of the right(s) to be extinguished as	The Applicant believes that the Secretary of State can be satisfied	Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order	Withdrawn.

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Southern Gas Networks PLC Cont'd</p>		<p>noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> in respect of rights granted by various deeds of grant; and in respect of apparatus. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by the gas undertaker for the purposes of its undertaking. 	<p>with regard to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of Southern Gas Networks' apparatus and interests. This matter is not contested by Southern Gas Networks.</p>	<p>[REP3-077] contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers, which are agreed.</p> <p>Protective Provisions, Schedule 14, Part 5 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Specified Gas Undertakers, which are agreed.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and Southern Gas Networks, which have concluded.</p>	<p>Southern Gas Networks notified the Planning Inspectorate on 31 July 2023 [AS-149] that <i>"In light of the Promoter and SGN having reached an agreement in relation to SGN's protective provisions which the Promoter seeks to include and retain in the Order, SGN hereby withdraws its objection to the Order application"</i>.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
17	Southern Water Services Limited	Water and sewerage undertaker as per the Water Industry Act 1991	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> • in respect of rights granted by various deeds of grant; • in respect of rights granted by various transfers; • in respect of rights granted by various conveyances; • in respect of rights granted by a grant under seal dated 23-03-1939; • in respect of rights granted by an agreement under seal dated 03-09-1962; and • in respect of apparatus. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> • mains, pipes or other apparatus belonging to or maintained by that undertaker for the 	<p>The Applicant believes that the Secretary of State can be satisfied with regards to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of Southern Water Services' apparatus and interests.</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and Southern Water Services, which are ongoing.</p>	<p>Existing objection to the Order</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and Southern Water Services, to provide further arrangements for the protection of Southern Water Services' apparatus and statutory undertaking.</p> <p>The latest draft of this agreement is under discussion, between Southern Water Services' legal representatives and the Applicant's solicitors. Points to be concluded relate to water quality, pollution and</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Southern Water Services Limited Cont'd</p>		<p>purposes of water supply.</p> <p>The apparatus to be removed with regard to the function as sewerage undertaker refers to:</p> <ul style="list-style-type: none"> • any drain or works vested in the undertaker under the Water Industry Act 1991; and • any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreement to adopt sewers, drains or sewage disposal works at a future date) of that Act, and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that 			<p>contamination risk of their water source and compulsory acquisition powers which” <i>If made, the DCO would authorise the exercise of powers over or near land in which SWS maintains assets and/or has other rights for the purposes of discharging its statutory duties. Unchecked, the exercise of such powers in respect of SWS’s interests would cause severe detriment to it”.</i></p> <p>The Applicant is confident that agreement will be reached during the Examination period.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	Southern Water Services Limited Cont'd		Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus.			
18	Thames Water Utilities Limited	Sewerage undertaker (for areas within the Order Limits) as per the Water Industry Act 1991	The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are: <ul style="list-style-type: none"> in respect of apparatus. The apparatus to be removed refers to: <ul style="list-style-type: none"> any drain or works vested in the undertaker under the Water Industry Act 1991; and any sewer which is so vested or is the subject of a notice of intention to adopt given under 	The Applicant believes that the Secretary of State can be satisfied with regard to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates. The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction	Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers, which are agreed. Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077] .	The Applicant believes objection to have been withdrawn following the conclusion of agreements between the Applicant and Thames Water Utilities. The Applicant has requested Thames Water Utilities to submit a notification of withdrawal to the

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	<p>Thames Water Utilities Limited Cont'd</p>		<p>section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreement to adopt sewers, drains or sewage disposal works at a future date) of that Act, and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus.</p>	<p>and operation of the A122 and other development authorised by the grant of the Order within the region of Thames Water Utilities' apparatus and interests. This matter is not contested by Thames Water Utilities.</p>	<p>Separate agreement(s) (confidential) between the Applicant and Thames Water Utilities, which have concluded.</p>	<p>Planning Inspectorate following the conclusion of agreements between the parties. [Application Document to be added at the deadline following inclusion within the Examination Library]</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
19	<p>Thurrock Flexible Generation Limited</p> <p><i>(formerly Thurrock Power Limited)</i></p>	<p>Electricity generation as per the Electricity Act 1989</p>	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [REP3-085] are:</p> <ul style="list-style-type: none"> in respect of rights granted by various option agreements; in respect of rights granted by an option for lease dated 05-04-2019; and in respect of rights granted by a framework agreement dated 12-01-2022. <p>The apparatus to be removed refers to:</p> <ul style="list-style-type: none"> any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by the gas undertaker for the purposes of its undertaking. 	<p>The Applicant believes that the Secretary of State can be satisfied with regard to the test in s138(4) that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.</p> <p>The extinguishment of the relevant rights, or the removal of the relevant apparatus is required to enable the construction and operation of the A122 and other development authorised by the grant of the Order within the region of Thurrock Flexible Generation's apparatus and interests.</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [REP3-077] contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [REP3-077].</p> <p>Separate agreement(s) (confidential) between the Applicant and Thurrock Flexible Generation / Thurrock Power, which are ongoing.</p>	<p>Existing objection to the Order</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and Thurrock Flexible Generation / Thurrock Power. Matters regarding the execution of overlapping compulsory acquisition powers are being discussed.</p> <p>Further to a meeting held on 19 May 2023, the Applicant awaits the provision of Protective Provisions from Thurrock Power's solicitors for review and agreement.</p>

No.	Undertaker	Nature of undertaking	Right(s) to be extinguished and/or apparatus to be removed or altered	Accordance with test in s138(4)	Protective Provisions and/or agreements	Status of objection
	Thurrock Flexible Generation Limited) Cont'd					The Applicant is confident that agreement will be reached during the Examination period.

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