

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

Infrastructure Planning (Examination
Procedure) Rules 2010

Volume 9

**DATE: December 2023
DEADLINE: 9**

Planning Inspectorate Scheme Ref: TR010032
Examination Document Ref: TR010032/EXAM/9.80

VERSION: 3.0

Revision history

Version	Date	Submitted at
1.0	19 September 2023	Deadline 4
2.0	31 October 2023	Deadline 6
3.0	11 December 2023	Deadline 9

Lower Thames Crossing

9.80 ExQ1 15.1.4 PA2008 s138 Statutory Undertakers’ Rights and Apparatus - LTC (Clean version)

List of contents

	Page number
1 Introduction	1
1.1 Purpose of this document	1
1.2 Section 138 of the Planning Act 2008	2

List of tables

	Page number
Table 1.1 ExQ1. 15.1.4: the Planning Act 2008 s138 Statutory Undertakers’ Rights and Apparatus: LTC.....	5

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 [**Document Reference 2.2 (8)**]
- b. Statement of Reasons [**Document Reference 4.1 (8)**] 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 [**Document Reference 4.2 (8)**]
- 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 [**Document Reference 9.77 (5)**]
- f. Status of Negotiations with Statutory Undertakers [**Document Reference 9.3 (5)**]
- g. Applicable Statements of Common Ground where referenced in the Status of Objection column
- h. 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 [Document Reference 4.2 (8)] 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 [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</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
	<p>Anglian Water Services Limited Cont'd</p>		<p>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.</p>			
2	<p>Cadent Gas Limited</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 [Document Reference 4.2 (8)] are:</p> <ul style="list-style-type: none"> in respect of rights granted by various deeds of grant; 	<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</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [Document Reference 3.1 (11)] contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers, which are agreed.</p>	<p>Withdrawn</p> <p>Cadent Gas notified the Planning Inspectorate on 20 July 2023 [AS-094] that <i>“On the basis that the agreed protective provisions</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
	<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 [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</p> <p>Separate agreement(s) (confidential) between the Applicant and Cadent Gas, which have concluded.</p>	<p><i>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 [Document Reference 4.2 (8)] are:</p>	<p>The Applicant believes that the Secretary of State can be satisfied with regard to the test in s138(4) that the</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 [Document Reference 4.2 (8)]):</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 	<p>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 the Environment Agency's apparatus and interests.</p>	<p>Environment Agency [Document Reference 3.1 (11)].</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [Document Reference 3.1 (11)].</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 believes that all matters pursuant to s138 are agreed.</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>inundation of land by sea 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.</p>			
4	<p>Essex and Suffolk Water Limited <i>(an operating arm of Northumbrian Water Limited)</i></p>	<p>Water undertaker as per the Water Industry Act 1991</p>	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [Document Reference 4.2 (8)] are:</p> <ul style="list-style-type: none"> in respect of rights granted by various deeds of grant; 	<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</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [Document Reference 3.1 (11)] contains Protective Provisions for the Protection of Electricity, Gas, Water and Sewerage Undertakers.</p>	<p>Existing objection to the Order.</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant 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>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 stopped up streets) of the draft Development Consent Order [Document Reference 3.1 (11)].</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 updated version of this agreement is under discussion between Essex and Suffolk Water's legal representatives following a successful meeting held in early November 2023. It is believed that matters relating to Linford Well, namely: water quality and Linford Well compulsory acquisition (plot 24-133), have reached or are close to</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>reaching agreement, 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 concluded prior to 20 December 2023 (end of examination).</p>
5	HS1 Limited	Nominated undertaker designated as per the Channel Tunnel Rail Link Act 1996	<p>The nature of the rights to be extinguished as noted in the Book of Reference [Document Reference 4.2 (8)] 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; 	<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</p>	<p>Protective Provisions, Schedule 14, Part 4 of the draft Development Consent Order [Document Reference 3.1 (11)] 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</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</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>		<ul style="list-style-type: none"> • in respect of rights granted by an agreement dated 16-09-2013; • 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>enable the construction 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>[Document Reference 3.1 (11)].</p> <p>Separate agreement(s) (confidential) between the Applicant and HS1, which are ongoing.</p>	<p>and statutory undertaking.</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</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
	<p>HS1 Limited Cont'd</p>		<ul style="list-style-type: none"> any station, apparatus and equipment belonging to HS1 and connected with any such railway. 			<p><i>submits that protective provisions in the DCO must prevent the exercise of compulsory powers by National Highways unless HS1 agrees to this".</i></p> <p>Ongoing negotiations regarding the Protective Provisions have taken place during the Examination period.</p> <p>The Applicant believes that there are no outstanding substantive issues however these agreements will not be concluded prior 20 December 2023 (end of examination). The Applicant is confident that these will be agreed during</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
						the recommendation stage.
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 [Document Reference 4.2 (8)] 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 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 	<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 London and Continental Railways / HS1's apparatus and interests.</p>	<p>Protective Provisions, Schedule 14, Part 4 of the draft Development Consent Order [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</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.

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>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. 			
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 [Document Reference 4.2 (8)] 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 connection with the provision of an electronic communications network; apparatus designed or adapted for a use which consists of or includes the sending or receiving 	<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</p>	<p>Protective Provisions, Schedule 14, Part 2 of the draft Development Consent Order [Document Reference 3.1 (11)] contains Protective Provisions for the Protection of Operators of Electronic Communications Code Networks.</p> <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in stopped up streets) of the draft Development Consent Order [Document Reference 3.1 (11)].</p>	<p>Existing objection to the Order.</p> <p>Discussions are ongoing regarding a separate side agreement between the Applicant and Lumen Technologies. The latest draft of this agreement is under discussion between Lumen Technologies and the Applicant's solicitors. The Applicant understands that Lumen</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>of communications or other signals that are transmitted by means of an electronic communications network;</p> <ul style="list-style-type: none"> • 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 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</p>	<p>within the region of Lumen Technologies’ apparatus and interests.</p>	<p>Separate agreement(s) (confidential) between the Applicant and Lumen Technologies, which are ongoing.</p>	<p>Technologies seeks to agree to vary statutory deferment of renewal costs as part of any agreement.</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>

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>to enclose other electronic communications apparatus.</p>			<p>It is anticipated that agreement will be concluded prior to 20 December 2023 (end of examination)</p>
<p>8</p>	<p>National Gas Transmission PLC (formerly <i>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 [Document Reference 4.2 (8)] 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 	<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</p>	<p>Protective Provisions, Schedule 14, Part 6 of the draft Development Consent Order [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</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</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>transmission, distribution or supply and includes any structure in which apparatus is or which gives access to apparatus.</p>	<p>interests. This matter is not contested by National Gas Transmission / National Grid.</p>		<p>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>"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</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
	<p>National Gas Transmission PLC Cont'd</p>					<p><i>required on the impact to its apparatus and rights".</i> The Applicant is confident that agreement on all matters will be concluded prior to 20 December 2023 (end of examination).</p>
9	<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 [Document Reference 4.2 (8)] 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; 	<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 7 of the draft Development Consent Order [Document Reference 3.1 (11)] 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</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</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>		<ul style="list-style-type: none"> • in respect of rights granted by various option agreements; • 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"> • 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>A122 and other development authorised by the grant of the Order within the region of National Grid Electricity Transmission / National Grid's apparatus and interests. This matter is not contested by National Grid Electricity Transmission / National Grid.</p>	<p>[Document Reference 3.1 (11)].</p> <p>Separate agreement(s) (confidential) between the Applicant and National Grid Electricity Transmission, which are ongoing.</p>	<p>apparatus and statutory undertaking.</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 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</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
	<p>National Grid Electricity Transmission PLC Cont'd</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 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>where the Applicant intends to acquire land or rights, or interfere with any of 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 concluded prior to 20 December 2023 (end of examination).</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
10	National Grid PLC	<p>Electricity transmission as per the Electricity Act 1989;</p> <p>and</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 [Document Reference 4.2 (8)] 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"> • 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, 	<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 National Grid Electricity Transmission / National Gas Transmission / National Grid's apparatus and interests. This matter is not contested by National Grid Electricity Transmission / National</p>	<p>Protective Provisions, Schedule 14, Part 6 of the draft Development Consent Order [Document Reference 3.1 (11)] contains Protective 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 [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</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, 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</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>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> <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 	<p>Gas Transmission / National Grid.</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>Transmission’s legal representatives and the Applicant’s solicitors, and 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</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>		<ul style="list-style-type: none"> 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>Transmission'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 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</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>agreement on all matters will be concluded prior to 20 December 2023 (end of examination).</p>
<p>11</p>	<p>Network Rail Limited</p>	<p>Railway licence holder as per the Railways Act 1993</p>	<p>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 [Document Reference 4.2 (8)] are:</p> <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; 	<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 [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</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,</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 respect of the subsoil up to the half width of the highway; • 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 			<p>between Network Rail Infrastructure 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 s138(4).</p> <p>The Applicant believes that there are no outstanding substantive issues</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>		<p>signalling or other communications; and</p> <ul style="list-style-type: none"> any station, apparatus and equipment belonging to Network Rail and connected with any such railway. 			<p>however these agreements will not be concluded prior 20 December 2023 (end of examination). The Applicant is confident that these will be agreed during the recommendation stage.</p>
12	<p>Northumbrian Water Limited <i>(operates as 'Essex and Suffolk Water' in the south east of England)</i></p>	<p>Water undertaker as per the Water Industry Act 1991</p>	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [Document Reference 4.2 (8)] 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 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</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</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>

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>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>development authorised by the grant of the Order within the region of Essex and Suffolk Water / Northumbrian Water's apparatus and interests.</p>	<p>Separate agreement(s) (confidential) between the Applicant and Essex and Suffolk Water / Northumbrian Water, which are ongoing.</p>	<p>The latest updated version of this agreement is under discussion between Essex and Suffolk Water's legal representatives following a successful meeting held in early November 2023. It is believed that matters relating to Linford Well, namely: water quality and Linford Well compulsory acquisition (plot 24-133), have reached or are close to reaching agreement, 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</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>concluded prior to 20 December 2023 (end of examination).</p>
<p>13</p>	<p>Port of London Authority 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 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 [Document Reference 4.2 (8)] are:</p> <ul style="list-style-type: none"> in respect of river and bed thereof (River Thames) under the ownership of the PLA. <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 [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</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</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>functions of the Port of London Authority.</p> <p>The Applicant is confident that agreement on matters relating to s138 will be concluded prior to 20 December 2023 (end of examination).</p>
14	<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 [Document Reference 4.2 (8)] 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; 	<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</p>	<p>Protective Provisions, Schedule 14, Part 10 of the draft Development Consent Order [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</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>

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 riparian ownership; • in respect of Tilbury2 Port; and • 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 	<p>authorised by the grant of the Order within the region of the Port of Tilbury's interests.</p>	<p>Separate agreement(s) (confidential) between the Applicant and the Port of Tilbury, which are ongoing.</p>	<p>The latest draft of this agreement is under discussion between the Port of Tilbury's legal representatives and the Applicant's 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 believes that there are no outstanding substantive issues regarding s138 and is actively engaging with Port of Tilbury</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>		<p>equipment, weather monitoring equipment and road restraints.</p>			<p>London Limited to conclude agreements within the examination period (20 December 2023).</p>
<p>15</p>	<p>Royal Mail Group Limited</p>	<p>A provider of the Universal Postal Service as defined by the Postal Services Act 2011</p>	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [Document Reference 4.2 (8)] 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</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"> • [Document Reference 3.1 (11)] Requirement 10(1) and 10(2) of the draft Development Consent Order; and • [Document Reference 7.14 (9)] Outline Traffic Management Plan for Construction. <p>Articles 37 (Statutory Undertakers) and 38 (Apparatus and rights of statutory undertakers in</p>	<p>No objection to the Order known or envisaged.</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>Royal Mail Group Limited Cont'd</p>			<p>not contested by Royal Mail.</p>	<p>stopped up streets) of the draft Development Consent Order [Document Reference 3.1 (11)].</p>	
<p>16</p>	<p>Southern Gas Networks PLC</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 [Document Reference 4.2 (8)] 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>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 Southern Gas Networks' apparatus and interests. This matter is not</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)] 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</p>	<p>Withdrawn.</p> <p>Southern Gas Networks notified the Planning Inspectorate on 31 July 2023 [AS-095] 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
	<p>Southern Gas Networks PLC Cont'd</p>			<p>contested by Southern Gas Networks.</p>	<p>Development Consent Order [Document Reference 3.1 (11)]. Separate agreement(s) (confidential) between the Applicant and Southern Gas Networks, which have concluded.</p>	
<p>17</p>	<p>Southern Water Services Limited</p>	<p>Water and sewerage undertaker as per the Water Industry Act 1991</p>	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [Document Reference 4.2 (8)] 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 	<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</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</p> <p>Separate agreement(s) (confidential) between the</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 version of this agreement is</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>agreement under seal dated 03-09-1962; and</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"> • mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply. <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 	<p>Southern Water Services' apparatus and interests.</p>	<p>Applicant and Southern Water Services, which are ongoing.</p>	<p>under discussion, between Southern Water Services' legal representatives and the Applicant's solicitors. Points to be concluded relate to water quality, pollution and 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>

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>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>The Applicant is confident that agreement will be concluded prior to 20 December 2023 (end of examination).</p>
18	<p>Thames Water Utilities Limited</p>	<p>Sewerage undertaker (for areas within the Order Limits) as per the Water Industry Act 1991</p>	<p>The nature of the right(s) to be extinguished as noted in the Book of Reference [Document Reference 4.2 (8)] are:</p> <ul style="list-style-type: none"> in respect of apparatus. 	<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</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [Document Reference 3.1 (11)] contains Protective Provisions for the Protection of Electricity, Gas, Water and</p>	<p>Withdrawn</p> <p>Thames Water Utilities Limited notified the Planning Inspectorate on 24 February 2023 [RR-1060] that “<i>Thames</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
	<p>Thames Water Utilities Limited Cont'd</p>		<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 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, 	<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 Thames Water Utilities' apparatus and interests. This matter is not contested by Thames Water Utilities.</p>	<p>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 [Document Reference 3.1 (11)].</p> <p>Separate agreement(s) (confidential) between the Applicant and Thames Water Utilities, which have concluded.</p>	<p><i>Water have engaged with National Highways to address the risks of this scheme to our asset and its performance at Ockendon Road, Upminster, RM14 3QR”.</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
	<p>Thames Water Utilities Limited Cont'd</p>		<p>and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus.</p>			
19	<p>Thurrock Flexible Generation Limited <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 [Document Reference 4.2 (8)] 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 	<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</p>	<p>Protective Provisions, Schedule 14, Part 1 of the draft Development Consent Order [Document Reference 3.1 (11)] 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 [Document Reference 3.1 (11)].</p> <p>Separate agreement(s) (confidential) between the Applicant and Thurrock Flexible</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, to which s138(4) relates, are being discussed.</p> <p>The Applicant and Thurrock Flexible Generation Ltd 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>Thurrock Flexible Generation Limited) Cont'd</p>		<p>protections, cables or other apparatus belonging to or maintained by the gas undertaker for the purposes of its undertaking.</p>	<p>Generation's apparatus and interests.</p>	<p>Generation / Thurrock Power, which are ongoing.</p>	<p>been engaged throughout November 2023 to address those concerns raised, which will be resolved via the conclusion of an Interface Agreement which is in its final stages.</p> <p>The Applicant is confident that agreement will be concluded prior to 20 December 2023 (end of examination).</p>

If you need help accessing this or any other National Highways information, please call **0300 123 5000** and we will help you.

© Crown copyright 2023.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/

write to the **Information Policy Team, The National Archives, Kew, London TW9 4DU**, or email psi@nationalarchives.gsi.gov.uk.

Mapping (where present): © Crown copyright and database rights 2023 OS 100030649. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

If you have any enquiries about this publication email info@nationalhighways.co.uk or call **0300 123 5000***.

*Calls to 03 numbers cost no more than a national rate call to an 01 or 02 number and must count towards any inclusive minutes in the same way as 01 and 02 calls.

These rules apply to calls from any type of line including mobile, BT, other fixed line or payphone. Calls may be recorded or monitored.

Printed on paper from well-managed forests and other controlled sources when issued directly by National Highways.

Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ

National Highways Limited registered in England and Wales number 09346363