

My ref: EPE.R17.11092026
Date: 11th September 2026
Contact: David Carford
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, Executive
Director

**Place and Sustainability
Environment, Planning and Economy**

Sent via the Planning Inspectorates on line form

Consents Team

PO Box 761

ALC2660

Huntingdon

Cambridgeshire
PE29 9QR

Dear Planning Inspectorate,

Application by BSSL Cambsbed 1 Limited for an order granting development consent for the East Park Energy project (EN010141)

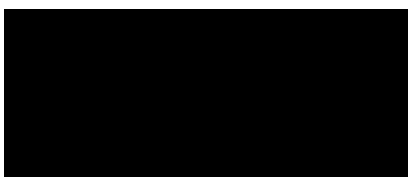
The Infrastructure Planning (Examination Procedure) Rules 2010 – rule 17. ExA request for suggested Protective Provisions.

In response to the rule 17 letter dated 27th August 2026 please find attached suggested protective provisions for the Local Highway Authorities.

Cambridgeshire County Council and Bedford Borough Council are negotiating a separate Highways Side Agreement with the Applicant which, if concluded, would remove the need for protective provisions to be included in the Development Consent Order. The agreement is close to being finalised, but it has not been possible to conclude it prior to Deadline 8 of the Examination. These protective provisions are based on those contained in Part 6 of Schedule 15 to the Cambridge Waste Water Treatment Plant Relocation Order 2025. Should the Legal Side Agreement be concluded with the Applicant, the Councils will notify the Examining Authority accordingly and confirm that the protective provisions submitted at Deadline 8 is no longer required.

If you have any queries regarding this submission or require any further information, please contact NSIPs@cambridgeshire.gov.uk.

Yours sincerely



Executive Director, Place and Sustainability

FOR THE PROTECTION OF LOCAL HIGHWAYS AUTHORITIES

Application etc.

1. The provisions of this Part of this Schedule apply for the protection of the local highway authority and have effect unless otherwise agreed in writing between the undertaker and the local highway authority.

Interpretation

2.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2), the latter prevail.

(2) In this Part of this Schedule—

“agreement fee” means a sum equal to eight and a half per cent (8.5%) of the works estimate in respect of the local highway authority’s technical approval, administration and inspection costs for keeping the specified works under observation and inspection during the period of construction from when any specified works begin to when the provisional certificate of completion is issued and undertaking the pre-maintenance inspection pursuant to paragraph 88(1) of this Part of this Schedule and final inspection pursuant to paragraph 90(6) of this Part of this Schedule;

“approved drawings” means those plans drawings, calculations and diagrams required to demonstrate that the specified works can reasonably be constructed within the local highway which shall be substantially in accordance with the highways plans and approved pursuant to this Part of this Schedule;

“approved programme and method statement and traffic management proposals” means respectively the detailed programme of works and the method statement and traffic management proposals as approved by the local highway authority as set out in paragraph 7 of this Part of this schedule reference to any of them and the term “the programme” must be construed accordingly;

“asset management fee” means the sum of £150.00 towards amending the local highway authority’s legal records; “asset planning fee” means the sum of £150.00 towards adding and amending the local highway authority’s highway asset inventory;

“cash deposit” means the sum equivalent to the works sum;

“CDM Regulations” means The Construction (Design and Management) Regulations 2015 (as amended);

“cessation of works notice” means a notice served by the local highway authority on the undertaker requiring the undertaker to forthwith cease carrying out the specified works specified in the notice;

“commencement notice” means at least twenty (20) working days’ notice to be given by the undertaker to the local highway authority of the undertaker’s intention to commence the specified works on the local highway;

“commuted sum” means a payment to the local highway authority calculated in accordance with the formulas pursuant to Cambridgeshire County Council’s ‘Highways Commuted Sums’ policy dates 1 April 2026;

“conditions of contract” means the contract for the specified works which must be let by the undertaker using the [NEC3] or version 4 2017 (NEC4) as amended in 2023 or such other contract as may be approved by the local highway authority;

“conditions survey” means a survey of the surface features of the existing local highway recording any existing defects, damage or missing elements and the required record shall include photographs and a location measured from the centre line of the proposed works noting the cardinal direction or intermediate directions for the side of the local highway;

“contractor” means a suitably qualified contractor nominated by the undertaker and approved by the local highway authority (such approval not to be unreasonably withheld or delayed);

“defects” means any damage or defects to the specified works identified by the local highway authority as part of the pre-maintenance inspection pursuant to paragraph 14(1) of this Part of this Schedule and the final inspection pursuant to 90(6) of this Part of this Schedule;

“final certificate” means the certificate issued by the local highway authority at the end of the maintenance period and following the stage 3 safety audit (or stage 4 audit, if necessary, as the case may be) signifying the specified works are satisfactory and any defects have been remedied and otherwise made good to the satisfaction of the local highway authority;

“health and safety file” means the health and safety documentation required under the CDM Regulations prepared by the undertaker and submitted to the local highway authority;

“designers response” as described in GG119 of the Design Manual for Roads and Bridges;

“Housing Estate Road Construction Specification” means the specification within Cambridgeshire County Council’s Development Management – General Principals of Development policy document published by the local highway authority on 7 March 2023;

“local highway” means any public, vehicular highway, way, route, footpath, cycle route, footway, carriageway, bridleway, byway-open-to-all-traffic which vests or is intended at the completion of specified works to vest in or be otherwise maintainable by the local highway authority at public expense;

“local highway authority” means the relevant highway authority with responsibility for the relevant local highway pursuant to the 1980 Act;

“maintenance period” means the period of not less than 12 months from the date of the provisional certificate of completion;

“overseeing organisation” has the meaning as described in GG119 of the Design Manual for Roads and Bridges;

“post-construction inventory” means an inventory of new highway assets listing the number and area of each element of the new assets within the specified works as specified by the local highway authority;

“provisional certificate of completion” means the certificate issued by the local highway authority confirming the specified works have been completed and have been found to be satisfactory to the local highway authority;

“specification” means the Housing Estate Road Construction Specification and where applicable the ‘Design Manual for Roads and Bridges’ and any other such specifications as reasonably required by the local highway authority and as may be amended from time to time;;

specified works” means any highway works and any street works carried out within the local highway as part of the authorised development and includes any part of the specified works (as the case may be);

“stage 2 safety audit” means the audit undertaken of the detailed design of the specified works prior to the commencement of the specified works. The audit shall be undertaken in compliance with the requirements of GG119 of the ‘Design Manual for Roads and Bridges’;

“stage 3 safety audit” means the audit undertaken following completion of the specified works in compliance with the requirements of GG119 of the ‘Design Manual for Roads and Bridges’;

“stage 4 safety audit” means the safety audit undertaken in compliance with the requirements of GG119 of the ‘Design Manual for Roads and Bridges’ at the discretion of the local highway authority following expiration of the maintenance period to assess the specified works in order to determine whether any remedial works are required prior to issue of the final certificate;

“statutory undertaker (highways)” means a statutory undertaker as defined in Section 329(1) of the Highways Act 1980 and all those bodies deemed to be statutory undertakers for the

^a (a) Section 329(1) was amended by Part 1 of Schedule 9 to the Gas Act 1986 (c. 44), Schedule 18 to the Electricity Act 1989 (c. 29) and Schedule 27 to the Water Act 1989 (c. 15). There are other amendments to section 329(1) which are not relevant to this Order.

purposes of the Highways Act 1980 and all those undertakers licensed in accordance with the New Roads and Street Works Act 1991;

“street lighting design review” means a review of street lighting comprised in the specified works, such review to include layout design and specification;

“technical approval” means approval granted to the undertaker by the local highway authority in connection with each of the specified works at a specific specified works location enabling these to progress to on site operations;

“third party notice information” means—

(a) a brief description of the specified works emphasising any changes to the appearance of the streetscape (e.g. removal of grass verges or significant changed in materials used);

(b) planned start date;

(c) contract period or planned completion date;

(d) name and address of contractor carrying out the specified works;

(e) details of the person responsible for supervision of the specified works including an address and telephone number to contact should a query arise;

(f) details of emergency contact(s) for the specified works which are to be available twenty four hours a day seven days a week for each area of specified works until the final certificate is issued and the contact details must include a telephone number and email address; and

(g) where further details of the proposed specified works may be viewed;

“third party notices” means at least 20 working days’ notice to be given by the undertaker to—

(a) the Parish, City or Town Council for the area in which the works are located; and

(b) the owner and occupier of every premises adjoining the part of the local highway on which the specified works are to be carried out by letter addressed to “the owner/occupier of [address]” and sent by first class post or delivered to each premises;

containing the third party notice information;

works estimate” means in relation to each part of the specified works the sum specified in the bill of quantities for the relevant part of the specified works in accordance with paragraph 102(5) of this Part of this Schedule;

“works sum” means the sum equivalent to the works estimate plus 10% (contingency).

3.—(1) Wherever in this Part of this Schedule provision is made with respect to the approval or consent of the local highway authority, that approval or consent must-

(a) not be unreasonably withheld or delayed; and

(b) be in writing and subject to such reasonable terms and conditions as the local highway authority may require.

Dispositions

4.—(1) Until issue (or deemed issue) of the final certificate the undertaker must give the local highway authority written notice of any disposition of any legal interest in the land adjacent to the specified works within 15 working days of completion of such disposals save in the following circumstances—

(a) where the disposal is to a—

(i) local authority;

(ii) statutory body or service supply company of an electricity substation gas governor pumping station, water pumping station or other statutory services which have been or are to be constructed or installed;

- (iii) local highway authority for the purpose of adoption of the roads and footpaths and cycle ways to be constructed; and/or
- (iv) a subsidiary of the undertaker;
- (b) where the disposal comprises or involves—
 - (i) the grant of a legal charge or any security but for the avoidance of doubt not a disposition by a mortgagee in possession or under a power of sale;
 - (ii) a compulsory sale or acquisition (whether permanent or temporary);
 - (iii) the grant of a garage lease with the use restricted to use in association with a dwelling.

Prior approvals and security

5.—(1) The specified works must not commence until in respect of that part of the specified works—

- (a) the quantum of the cash deposit and the works estimate have been agreed with the local highway authority;
- (b) the local highway authority has approved in writing the detailed design of the relevant part(s) of the specified works, the specification and the approved drawings;
- (c) the local highway authority has agreed the approved programme and method statement and traffic management proposals;
- (d) the commencement notice and the third party notices have been served by the undertaker on the local highway authority; the undertaker has obtained all necessary consents under the Street Works Act 1991 and the Traffic Management Act 2004 (as applicable).
- (e) the undertaker has obtained all necessary consents under the 1991 Act and the Traffic Management Act 2004 (as applicable);
- (f) All matters relating to the stage 2 safety audit have been fully resolved to the satisfaction of the overseeing organisation;
- (g) a condition survey of the existing local highway for a distance of not less than 50 metres either side of the centreline of the specified works has been undertaken by the undertaker in the presence of an officer of the local highway authority.

(2) If within 40 days after submission of the details required to be submitted for approval pursuant to paragraph 5(1)(a) and/or (b) of this Part by the undertaker the local highway authority has not approved or disapproved them, it is deemed to have approved the details as submitted.

(3) If the local highway authority refuses the details submitted to it under this paragraph 79 at any time, it shall provide with such refusal the reasons therefor.

(4) The procedure specified in this paragraph 79 shall be repeated until such time as the relevant details are approved (or deemed approved) by the local highway authority.

(5) The undertaker must include in any submission made to the local highway authority under this paragraph 79 a statement that the provisions of sub-paragraph (2) apply and if the submission fails to include such statement the provisions of sub-paragraph (2) will not apply.

Construction of the specified works

6.—(1) The undertaker must carry out the specified works as follows—

- (a) in a good and workmanlike manner using all professional skill and care and in accordance with good practice for works of the type, size and complexity comprised in the specified works;
- (b) in accordance with—
 - (i) any reasonable instructions of the local highway authority given in writing or verbally (provided that instruction is confirmed by the local highway authority in writing within 2 working days) to the undertaker;

- (ii) the specification and approved drawings; and
- (iii) all relevant consents and approvals;
- (c) in compliance with—
 - (i) planning and other obligations whether under section 106^a of the [1990 Act] or other statutory provisions applicable to the specified works; and
 - (ii) all relevant legislation statutory orders and regulations affecting the specified works; and
- (d) with due diligence.

(2) The contract for the specified works must be in accordance with the conditions of contract and the local highway authority must have all rights and powers in relation to the construction, completion and maintenance of the specified works as if they were the service manager for the specified works (as defined in the contract) but only insofar as such rights and powers are necessary to ensure that the specified works are constructed, completed and maintained to their satisfaction.

(3) The undertaker must at its own expense—

- (a) make reasonable provision to prevent mud and other materials from being carried onto local highways as a result of undertaking the specified works (such provision to include mechanical wheel cleaning apparatus and mechanical road sweeping equipment) and for any local highways on which the specified works are being undertaken to be swept by mechanical means at the end of each working day and at such other times as the local highway authority may reasonably require during the duration of the specified works and in the event that the undertaker fails to respond to any such reasonable request by an officer of the local highway authority, the local highway authority shall be entitled to sweep/clear the local highway itself and recover any and all associated costs for such from the undertaker;
- (b) carry out or pay to be carried out such works as may reasonably be required from time to time by public utility companies or by the local highway authority at the request of public utility companies in relation to or in consequence of the construction of the specified works;
- (c) as soon as reasonably practicable after receipt of a written request from the local highway authority to do so and in a manner and by such reasonable time determined by the local highway authority (acting reasonably) construct such—
 - (i) boundary fence;
 - (ii) footpaths;
 - (iii) road barrier safety fencing; and
 - (iv) temporary and permanent regulatory warning signs (including foundation bases and the provision of road traffic sign illumination)
 as may in the local highway authority's reasonable opinion be required in relation to or in consequence of the construction of the specified works;
- (d) ensure the lighting and signing of the specified works comply with the specification and approved drawings and the provisions of Chapter 8 of the current edition of the Traffic Signs Manual (published by the Department for Transport) or any amendment thereto or republication thereof;
- (e) without prejudice to the provisions of Section 174^b (precautions to be taken by persons executing works in streets) of the Highways Act 1980 until the issue (or deemed issue) of the provisional certificate of completion keep the specified works safe and in a good state of repair;

^a Section 106 was amended by section 12(1) of the Planning and Compensation Act 1991 (c. 34), paragraph 3 of Schedule 2 to the Growth and Infrastructure Act 2013 (c. 27), paragraph 3(13) of Schedule 14 to the Environment Act 2021 (c. 30), section 174(2) of the Planning Act 2008 (c. 29). There are other amendments to section 106 which are not relevant to this Order.

^b Section 174 was amended by section 38 of the Criminal Justice Act 1982 (c. 48), paragraph 7 of Schedule 8 to the New Roads and Street Works Act 1991 (c. 22), section 71 of the Traffic Management Act 2004 (c. 18), paragraph 42 of Schedule 1 to the Infrastructure Act 2015 (c. 7) and S.I. 2001/1149.

- (f) pay the energy costs of any street lighting provided as part of the specified works from the date of commissioning/switching on of such street lighting until the issue (or deemed issue) of the final certificate;
- (g) during the period when the specified works are being executed—
 - (i) institute measures reasonably required to maintain the traffic flows on the highways in the vicinity of the specified works with such temporary traffic management arrangements to be operated to the reasonable satisfaction of the local highway authority and except in cases of any emergency the undertaker must give five working days' notice to the local highway authority of any intention to change the layout of any traffic management arrangements and must obtain the highway authority's consent before carrying out such changes; and
 - (ii) request any orders or notices statutorily required in connection with the specified works;
- (h) ensure that all operations reasonably necessary for the execution of the specified works must insofar as is reasonably practicable be carried on so as not to interfere unnecessarily or improperly with the public convenience or the access to or use or occupation of public or private roads and footpaths; and
- (i) provide road markings on the roads at the time and in the manner to be determined by the local highway authority.

Programme and method statement/commencement of the works

7.—(1) Prior to commencing any of the specified works the undertaker must produce-

- (a) a programme of works detailing the operations to be undertaken within the adopted public highway and the approximate duration of the specified works;
- (b) a method statement in respect of the specified works detailing the methods of construction which the undertaker proposes to adopt or use; and
- (c) a detailed traffic management proposal for each separate area of works within the adopted public highway for approval by the local highway authority.

(2) The undertaker must not commence any part of the specified works until—

- (a) the programme and method statement and detailed traffic management proposals referred to in paragraph 7(1) of this Part have been approved in writing (or deemed approved) by the local highway authority;
- (b) a permit in accordance with the local highway authority's permit scheme for road works and street works under the Traffic Management Act 2004 and pursuant to the Traffic Management Permit Scheme (England) Regulations 2007^a has been obtained by the undertaker; and
- (c) the requirements of the 1991 Act or the Traffic Management Act 2004 have been complied with.

(3) Any temporary speed restrictions that will be in place for longer than the construction of any of the specified works should be signed as a permanent speed restriction with permanent signs in accordance the Traffic Signs Regulations and General Directions 2016 until such time as the restriction is no longer required and the signage can be removed.

(4) The undertaker must not undertake any specified works other than at the times specified in the approved (or deemed approved) programme and method statement and traffic management proposals unless prior written approval to make the appropriate variation to the approved programme and method statement and traffic management proposals has been obtained from the local highway authority.

^a S.I. 2007/3372.

(5) If within 40 working days after submission of the details required to be submitted for approval pursuant to this paragraph 81 by the undertaker the local highway authority has not approved or disapproved them, it is deemed to have approved the details as submitted.

(6) If the local highway authority refuses the details submitted to it under this paragraph 81 at any time, it shall provide with such refusal the reasons therefor.

(7) The procedure specified in this paragraph 81 shall be repeated until such time as the relevant details are approved (or deemed approved) by the local highway authority.

(8) The undertaker must include in any submission made to the local highway authority under this paragraph 81 a statement that the provisions of sub-paragraph (5) apply and if the submission fails to include such statement the provisions of sub-paragraph (5) will not apply.

Deviations from approved programme and method statement and traffic management proposals

8.—(1) If following approval (or deemed approval) of the programme the undertaker must wish to review the programme the undertaker must submit any revisions to the programme in writing to the local highway authority for its approval (not to be unreasonably withheld or delayed) at least twenty five (25) working days before the intended implementing of such revisions.

(2) If within 40 working days after submission of the details required to be submitted for approval pursuant to this paragraph 8 by the undertaker the local highway authority has not approved or disapproved them, it is deemed to have approved the details as submitted.

(3) The undertaker must as soon as reasonably practicable carry out such proposals referred to in sub-paragraph (1) as approved (or deemed approved) by the local highway authority and comply with such other reasonable requirements given by the local highway authority in writing or verbally (provided those requirements given verbally are confirmed in writing by the local highway authority within 2 working days).

(4) The undertaker must include in any submission made to the local highway authority under this paragraph 82 a statement that the provisions of sub-paragraph (2) apply and if the submission fails to include such statement the provisions of sub-paragraph (2) will not apply.

Completion of the works

9. The undertaker must complete the specified works in accordance with the approved programme and method statement and traffic management proposals.

Access, inspection and testing

10.—(1) The undertaker must during the progress of the specified works upon reasonable request give or procure for the local highway authority free access to each and every part of the specified works and permit the local highway authority to inspect the specified works as they proceed and all materials used or intended to be used therein and must give effect to any reasonable and proper requirements made or reasonable and proper direction given by the local highway authority to conform to the programme, the specification and the approved drawings.

(2) The undertaker unless otherwise directed by the local highway authority must not cover up or put out of view any works without its approval and must afford full opportunity for the local highway authority to examine any work which is about to be covered up or put out of view and to examine foundations before permanent work is placed thereon and must give at least five (5) working days' notice to the local highway authority whenever any such work or foundations is or are ready or about to be ready for examination.

(3) If within 40 days after requesting the local highway authority examines any works which the undertaker wishes to cover up or put out of view the local highway authority has not responded or undertaken an inspection, it is deemed to have approved the covering up or putting out of view of the relevant works.

(4) The undertaker will allow the local highway authority to test materials, plant and workmanship used or proposed to be used in the specified works and to reject any materials, plant or workmanship so tested which it may reasonably and properly find to be not in accordance with the specification and approved drawings and the costs reasonably incurred by the local highway authority in connection with such testing must be payable by the undertaker.

(5) The undertaker must as soon as is reasonably practicable replace or repair any materials plant or workmanship which have been found not in accordance with the specification and approved drawings with such as are so in accordance.

(6) For the purpose of paragraph 10(4) of this Part the undertaker must afford the local highway reasonable access and admission to the places where materials or plant for the specified works may be stored or are in the course of preparation, manufacture or use.

(7) The undertaker must as soon as is reasonably practicable remove such materials, plant and workmanship as are rejected by the local highway authority pursuant to sub-paragraph (4) which are not capable of repair or remedy from the site of the specified works and if the undertaker must wish to continue to store any rejected irreparable materials, plant or workmanship on the site of the specified works they must be stored separately from those materials, plant and workmanship which have not been so rejected or which the undertaker must wish in future to use in execution of the specified works.

(8) The undertaker must include in any request made to the local highway authority under this paragraph 84 a statement that the provisions of sub-paragraph (3) apply and if the request fails to include such statement the provisions of sub-paragraph (3) will not apply.

Inspection and testing (covered work and foundations)

11. During the construction of the specified works and prior to the issue (or deemed issue) of any provisional certificate of completion the undertaker must upon reasonable request from the local highway authority open up or expose any of the specified works which may have been covered up without previously being inspected by the local highway authority.

Statutory undertakers (highways)

12.—(1) During construction of the specified works prior to the issue (or deemed issue) of any provisional certificate of completion the undertaker must at no cost to the local highway authority carry out or procure the carrying out of such works of protection or alteration as are necessary as a result of the construction of the specified works to the plant, equipment and other apparatus of a statutory undertaker (highways) on the site of the specified works.

(2) The undertaker must cause all new highway or other drains or sewers, gas and water mains, pipes, electric cables (if any) or telecommunications cables and ducts (if any) or other apparatus which are to be laid by the undertaker under the specified works together with all necessary connections from them to the boundary of the specified works to be laid under the specified works before the foundation of the specified works are laid and must also cause the connections from electric cables to street lamps to be laid before the paving of any footways comprised in the specified works is carried out.

Progress of the specified works

13.—(1) The undertaker must keep the local highway authority regularly informed of—

- (a) material measures taken and stages reached by the undertaker in performing its obligations;
- (b) the progress of the specified works; and
- (c) material problems or delays affecting the specified works.

(2) The undertaker must arrange for site meetings to be held as necessary between the local highway authority, the undertaker, the contractor and the project team in order to discuss the carrying out and execution of the specified works in accordance with the provisions of this part of the schedule.

Provisional Certificate of Completion

14.—(1) Subject to paragraph (2) when the local highway authority is notified by the undertaker that the specified works have been substantially completed which must mean that the specified works can be permanently used for the purpose and operate in the manner for which they were designed and the undertaker must clear away and remove from the site of the specified works all construction, plant and temporary works of every kind and leave the specified works in a good workmanlike condition and fully suitable for use as a public highway to the satisfaction of the local highway authority and traffic management measures have been removed from the site of the specified works the local highway authority must inspect the specified works as soon as is reasonably practicable (and in any event within 40 working days).

(2) The undertaker shall provide all the documents required under GG119 of the Design Manual for Roads and Bridges to enable the local highway authority to instruct the undertaking of the stage 3 safety audit of the specified works by the local highway authority's in-house audit team.

(3) Following the formal written approval by the overseeing organisation of the stage 3 safety audit process as defined under GG119 of the Design Manual for Roads and Bridges the local highway authority must notify the undertaker as soon as reasonably possible of any remedial works identified by the local highway authority both as a result of the inspection and the stage 3 safety audit referred to in sub-paragraphs (1) and (2) (respectively) provided that if the local highway authority does not notify the undertaker of any such remedial works within 40 working days from the date of the formal written approval of the overseeing organisation or issue a provisional certificate of completion within that period, the provisional certificate of completion is deemed to have been issued and dated on the day following the 40 working day period.

(4) Subject to sub-paragraph (9) being satisfied by the undertaker (if applicable), if following the expiry of 40 working days of the undertaker notifying the local highway authority pursuant to sub paragraph (1) the local highway authority has not inspected the specified works the provisional certificate of completion is deemed to have been issued and dated on the day following the 40 working day period.

(5) Where the specified works have not been completed within 24 months of their commencement the undertaker must within 10 working days of the undertaker notifying the local highway authority that the specified works have been substantially completed undertake and submit to the local highway authority a street lighting design review if required as part of the specified works and the local highway authority must notify the undertaker as soon as reasonably possible of any works of alteration or reconstruction required to the street lighting.

(6) The undertaker must comply in full to the local highway authority's reasonable satisfaction with all requirements identified by it both as a result of the inspection, the stage 3 safety audit and the street lighting design review (if applicable).

(7) If applicable, the undertaker must thereafter notify the local highway authority that the specified works are ready for a further inspection and the local highway authority must as soon as reasonably practicable following such further inspection issue the provisional certificate of completion.

(8) Subject to sub-paragraph (9) being satisfied by the undertaker (if applicable), if following the expiry of 40 working days after the undertaker notifying the local highway authority pursuant to sub-paragraph (7) the local highway authority has not further inspected the specified works or issued a provisional certificate of completion, the provisional certificate of completion is deemed to have been issued and dated on the day following the 40 working day period.

(9) The undertaker must (if necessary) secure without cost to the local highway authority any deeds of easement or such other deeds to secure to the local highway authority—

- (a) full drainage rights in respect of any parts of the surface water drainage system of the specified works;
- (b) rights to inspect, maintain and repair any lighting required by the specified works

lying outside the limits of the existing publicly maintainable highway and the local highway authority must not be liable for payment of compensation or legal or any other costs or fees arising

on account of the execution of any such deeds and the undertaker must indemnify the local highway authority in respect thereof.

(10) The undertaker must include in any notification or request for inspection made to the local highway authority under this paragraph 88 a statement that the provisions of sub-paragraphs (3), (4) and/or (8) apply (as applicable) and if the notification or request fails to include such statement the provisions of sub-paragraph (3), (4) and/or (8) (as applicable) will not apply.

Maintenance and defects correction

15.—(1) The undertaker must at its own expense maintain to the satisfaction of the local highway authority all the specified works undertaken during the maintenance period.

(2) During the maintenance period the undertaker must at its own expense execute all such works of repair, reconstruction and rectification of any and all defects and imperfections and of any and all other faults arising out of defective design materials or workmanship or of any other nature whatsoever (which for the avoidance of doubt must include all traffic damage whether accidental or otherwise) that may be required in writing by the local highway authority in relation to the specified works.

(3) If the undertaker fails to carry out or procure the carrying out of any such works as aforesaid the local highway authority may carry out such work by its own employees or by contractors or otherwise and the undertaker must within twenty (20) working days of demand pay to the local highway authority the total amount of the costs and expenses (including traffic management costs) reasonably incurred or to be incurred by the local highway authority in completing such works.

(4) The undertaker must at its own expense carry out under the direction of the local highway authority such searches, tests or trials as may be reasonably necessary in order to ascertain the cause of any defects or faults but only if so required in writing by the local highway authority.

(5) On receipt of a written request from the local highway authority the undertaker must allow access to the specified works for the purpose of conducting at the undertaker's expense any reasonably required borehole test and the undertaker must be responsible for reinstatement of the specified works.

Stage 4 safety audit

16.—(1) The undertaker must notify the local highway authority upon expiry of the maintenance period and invite the local highway authority to inspect the specified works and to reasonably determine whether or not a stage 4 safety audit is required.

(2) As soon as is reasonably practicable following the invitation to which sub-paragraph (1) refers (and in any event within 40 working days), the local highway authority must inspect the specified works and confirm in writing to the undertaker whether or not a stage 4 safety audit is required and the further remedial works to be undertaken (if any).

(3) If it is determined that a stage 4 safety audit is required which provides for further remedial works to be carried out, then within 40 working days of receipt of the stage 4 road safety audit the undertaker must provide the local highway authority with a programme of works for such further remedial works to be approved by the local highway authority.

(4) The undertaker must comply in full to the local highway authority's satisfaction with all requirements identified by the local highway authority as a result of the inspection and where applicable the stage 4 safety audit and must at no cost whatsoever to the local highway authority reinstate and make good the defects including those which in the reasonable and proper opinion of the local highway authority must have arisen out of any defect in the design of the specified works or the use of defective workmanship or materials not in accordance with the specification and approved drawings during the construction of the specified works within the timeframes set out in the approved programme of works.

(5) The undertaker must thereafter notify the local highway authority that the specified works are ready for a further inspection.

(6) As soon as is reasonably practicable (and in any event within 40 working days) following the invitation to which sub-paragraph (5) refers, the local highway authority must further inspect the specified works.

Final Certificate

17.—(1) If after the expiration of the maintenance period and if following the further inspection referred to in paragraph 16(3) of this Part the specified works have been shown to be satisfactory and the defects have been remedied and the specified works reinstated and otherwise made good to the satisfaction of the local highway authority it must as soon as reasonably practicable issue the final certificate.

(2) Prior to the issue of the final certificate the undertaker must provide the local highway authority with—

- (a) a plan showing the land over which the specified works have been constructed;
- (b) a complete set of as-built drawings for the whole of the specified works in accordance with paragraph 32 of this Part of this Schedule;
- (c) the health and safety file;
- (d) the post-construction inventory; and

(3) If within 40 working days after the undertaker requesting an inspection by the local highway authority pursuant to paragraph 16(1) of this Part of this schedule the local highway authority has not inspected the specified works or specified whether or not a stage 4 safety audit is required, the final certificate is deemed to have been issued and dated on the day following the 40 working day period.

(4) If within 40 working days after the undertaker requesting an inspection by the local highway authority pursuant to paragraph 16(3) of this Part the local highway authority has not further inspected the specified works or issued a final certificate, the final certificate is deemed to have been issued and dated on the day following the 40 working day period.

(5) The undertaker must include in any request for inspection made to the local highway authority under paragraphs 16(1) and/or 16(3) of this Part of this Schedule a statement that the provisions of sub-paragraphs (3) or (4) apply (as applicable) and if the notification or request fails to include such statement the provisions of sub-paragraph (3) or (4) (as applicable) will not apply.

Indemnity

18.—(1) The undertaker must fully indemnify and keep indemnified—

- (a) the local highway authority and all persons authorised by it in respect of all actions, liabilities, claims, demands and proceedings arising out of or in connection with or incidental to the carrying out of the specified works including claims relating to the infringement or destruction of any right, easement or privilege, including but not limited to—
 - (i) the negligent and defective design and/or construction of the specified works including the use of defective workmanship or materials or methods of construction not in accordance with the specification and approved drawings and good practice current when the specified works are constructed;
 - (ii) in respect of depreciation in the value of any interest in land caused by or resulting from the proper execution and/or use of the specified works or any part thereof; and
 - (iii) in respect of nuisance, loss or damage caused during or by the proper execution and/or use of the specified works or any part thereof;
- (b) the local highway authority in respect of any and all actions, liabilities, claims, demands, proceedings or expenses arising out of or in connection with the use of the highway as modified by the specified works including for the avoidance of doubt claims under Part 1 of the Land Compensation Act 1973.

(2) The indemnities specified in paragraph (1) do not apply in respect of any actions, liabilities, claims, demands and proceedings that may arise as a result of the negligence of the local highway authority or any person authorised thereby.

Insurance

19.—(1) The undertaker must take out and maintain (or must procure that the contractor takes out and maintain) and whenever required must produce to the local highway authority satisfactory evidence that it has so taken out and maintained insurances—

- (a) against all liability (whether at common law or under statute) in respect of injury (fatal or otherwise) to persons employed or engaged in the execution of the specified works; and
- (b) against all third party risks (in respect of persons or property including employees of the local highway authority) arising out of or incidental to the specified works to the extent of not less than ten million pounds (£10,000,000.00) for any one claim.

(2) The insurances referred to in paragraph (1) must be effected with reputable insurance companies and must be continued until the issue of the final certificate.

(3) If the undertaker fails upon written request to produce to the local highway authority satisfactory evidence that there is in force the insurances which it is required to effect under this Part of this Schedule then in any such case the local highway authority may as agent for and on behalf of the local highway authority effect and keep in force any such insurance and pay such premium or premiums as may be necessary for that purpose and from time to time to recover the costs, charges and expenses of doing so from the undertaker as a civil debt.

(4) Whenever insurance is arranged in the joint names of the parties or on terms containing provisions for indemnity to principals the party effecting such insurance shall procure that the subrogation rights of the insurers against the other party are waived and that such policy shall permit either the co-insured or the other party as the case may be to be joined to and be a party to any negotiations litigation or arbitration upon the terms of the policy or any claim thereunder.

Variation to council specification and approved drawings

20.—(1) Save as provided in paragraph 21(2) of this Part and subject to paragraph 21(5) of this Part the undertaker must not make any variations (that is to say any alterations or additions or omission of anything from the specification and approved drawings nor the use of any materials in substitution for any specified in the specification and approved drawings) without the local highway authority giving prior written approval thereto (such approval not to be unreasonably withheld or delayed).

(2) The undertaker is entitled to make such variations as are insubstantial and immaterial and of a routine nature provided that this entitlement does not apply in respect of any variation consisting of substitution of materials specified in the specification and approved drawings.

(3) The undertaker must provide on request by the local highway authority a complete full sized hard copy set of the approved drawings as amended and revised from time to time for the duration of the specified works.

(4) The undertaker must take such steps as are necessary to procure for the local highway authority the full right and entitlement to use the ‘as built’ drawings on licence without further payment or liability for further payment for the purpose of constructing, repairing, rectifying, adjusting and/or maintaining the specified works and will execute all such deeds and documents as may be required to perfect such licence.

(5) If within 40 working days after the undertaker requesting any variations pursuant to paragraph 21(1) of this Part the local highway authority has not responded, the variations are deemed approved as submitted.

(6) The undertaker must include in any submission made to the local highway authority under this paragraph 20 a statement that the provisions of sub-paragraph (5) applies and if the submission fails to include such statement the provisions of sub-paragraph (5) will not apply.

Default

21.—(1) If the undertaker fails to complete or maintain the specified works in accordance with Part 6 the local highway authority (including its own employees or by contractors or otherwise) may after not less than thirty (30) working days' notice in writing to the undertaker carry out the specified works or any such part or parts thereof as is or are not completed by the undertaker in accordance with Part 6 and the undertaker must within twenty (20) working days of written demand pay to the local highway authority the total amount of the reasonable costs and expenses incurred or to be incurred by the local highway authority in completing the specified works or if such payment is not made the local highway authority must recover the total amount of the reasonable costs from the cash deposit in accordance with paragraph 27 of this Part of this Schedule.

(2) In the event of the local highway authority executing the specified works pursuant to paragraph (1) the undertaker must remove any temporary buildings, plant, tools, equipment, goods and materials belonging to or hired by it and in the event of any failure to do so the local highway authority may sell or otherwise dispose of such items and from the proceeds of sale of any such items the local highway authority may retain any costs or expenses incurred in connection with such sale and disposal and may apply any surplus in set off against any costs and expenses incurred pursuant to paragraph (1) before accounting to the undertaker.

(3) Without prejudice to paragraph (1) the local highway authority may serve a cessation of works notice where in the local highway authority's reasonable opinion all or any part of the specified works are being carried out in breach of the terms this part of this Schedule.

(4) The undertaker must forthwith upon receipt of a cessation of works notice stop carrying out any works specified in that notice and must not recommence those works without the local highway authority's prior written approval (which must not be unreasonably withheld or delayed) or until the local highway authority gives further notice to the undertaker withdrawing the cessation of works notice provided that in respect of any period of cessation of works arising out of a notice served the period provided for completion of the specified works referred to in paragraph 9 of this part of this Schedule must be extended by an equivalent period.

(5) If within 20 working days after the undertaker requesting recommencement of the specified works following the receipt of a cessation of works notice pursuant to sub-paragraph (3) the local highway authority has not responded, the undertaker may recommence the specified works.

CDM Regulations

22. The undertaker shall assume the obligations of the client for the purposes of the CDM Regulations and shall ensure that the execution of the specified works complies with the CDM Regulations and in the course of carrying out those obligations the undertaker shall act as principal designer and appoint a principal contractor in respect of the specified works in accordance with the CDM Regulations.

Telecommunications apparatus

23. Save as provided in the specification and approved drawings the undertaker must not at any time give consent to any telecommunications company for the installation of any services in the specified works without the prior written consent in writing of the local highway authority such consent not to be unreasonably withheld or delayed.

Commuted sum

24. – (1) If a commuted sum is required by the local highway authority the undertaker will pay the agreed commuted sum to the local highway authority prior to commencement of the part of the specified works to which the commuted sum relates.

(2) The undertaker shall pay the asset management fee and the asset planning fee to the local highway authority prior to commencement of the specified works.

Safety Audit Costs

25. The undertaker must within 10 working days of the local highway authority's request pay all costs incurred by the local highway authority in undertaking any road safety audit (whatever their stage) which shall include all costs incurred in testing of materials.

Cash deposit

26.—(1) The undertaker shall prior to the commencement of the specified works deposit with the local highway authority the cash deposit as security for the performance by the undertaker of its obligations in this Part of this Schedule provided that if the undertaker—

- (a) carries out, completes and maintains the specified works in accordance with this Part of this Schedule; and
- (b) makes all payments in respect of damages, indemnity, reimbursement or otherwise which may have become payable by the undertaker under the terms hereof or in respect of any breach, non-observance or non-performance of any of the terms hereof; and
- (c) in all other respects duly perform their obligations hereunder

the cash deposit plus any accrued interest (at a rate of 1% below the Bank of England's base rate or 0% whichever is the greater) shall be refunded to the undertaker (but less any part of the cash deposit and interest thereon properly used by the local highway authority in accordance with this Part of this Schedule to defray the costs to the local highway authority arising from the failure of the undertaker to fulfil its obligations or any of them under this Part of this Schedule.

(2) In the event of the costs to which sub-paragraph (1) refers being less than the amount of the cash deposit plus interest accrued due the balance shall be repaid to the undertaker by the local highway authority within 20 working days of the final costs to the local highway authority arising from the default of the undertaker having been ascertained.

(3) In the event of the costs to which sub-paragraph (1) refers being greater than the amount of the cash deposit plus the interest accrued due the balance of such costs shall be a debt due to the local highway authority and payable by the undertaker within 20 working days of notice being issued by the local highway authority to the undertaker of the amount of the said balance.

(4) Following issue of the provisional certificate of completion the local highway authority shall refund to the undertaker so much of the cash deposit so that the amount of the cash deposit retained by the local highway authority amounts to fifty percent (50%) of the original value of the cash deposit.

(5) The remainder of the cash deposit shall subject to sub-paragraph (1) be refunded in full upon issue of the final certificate by the local highway authority.

Dispute provisions

27.—(1) Article 43 (Arbitration) of the Order does not apply to this Part of this Schedule.

(2) In the event of a dispute between the parties, each agrees that—

- (a) they will use their reasonable endeavours to seek to resolve the dispute by entering into negotiation and discussion—
 - (i) should such negotiation and discussion not resolve the dispute then the undertaker, the contractor and the local highway authority will use their reasonable endeavours to agree to jointly instruct and enter into mediation on the basis of both parties paying their own costs;
 - (ii) in the event of mediation not resulting in an agreed solution (within a reasonable time of such process), then either one or both parties may refer the dispute to an expert for determination—
 - (aa) such expert must be an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the President for the time being of the Institution of Civil

Engineers, unless otherwise agreed between the parties. Such person must act as an expert whose decision must be final and binding on both parties in the absence of any manifest error or fraud;

- (bb) any expert howsoever appointed must be subject to the express requirement that a decision must be reached and communicated to both relevant parties within the minimum practical timescale allowing for the nature and complexity of the dispute and in any event not more than 20 working days after the conclusion of any hearing that takes place or 20 working days after he has received any file or written representation;
- (cc) the expert must be required to give notice to each of the said parties requiring them to submit to him within 10 working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further 10 working days.

(3) Nothing in this clause must prevent either party having recourse to law, including necessity for court action in relation to public safety.

Documents submitted for approval

28.—(1) Any documents submitted by the undertaker to the local highway authority shall conform to the following requirements—

- (a) In respect of construction details – the Housing Estate Road Construction Specification;
- (b) Where required by the local highway authority – the design manual for roads and bridges and the accompanying suite of documents;
- (2) Any and all copyright requirements of the undertaker and its representatives shall be waived in respect of the normal requirements of the local highway authority and such permission shall be provided in writing.
- (3) If deemed necessary by the local highway authority for each part of the specified works the undertaker shall provide all documentation required under GG119 of the Design Manual for Roads and Bridges to undertake a stage 2 safety audit.
- (4) Where a stage 2 safety audit has been required by the local highway authority no part of that specified works shall be undertaken until the stage 2 safety audit has been completed to the satisfaction of the overseeing organisation.
- (5) Prior to the specified works commencing the undertaker will submit to the local highway authority for approval a provisionally priced bill of quantities for the specified works and any land to be dedicated as public highway as part of the specified works and such bill of quantities must—
 - (a) comply with the layout and requirements of the specified works; and
 - (b) include elements for traffic managementand this figure will be the works estimate.

Agreement Fee

29.—(1) The undertaker will pay to the local highway authority upon technical submission an amount being 50% of the undertaker's reasonable calculation of the agreement fee.

(2) The undertaker and the local highway authority will agree the works estimate prior to the issuing of technical approval by the local highway authority.

(3) The undertaker will pay to the local highway authority the remaining balance of the agreement fee (as established following the agreement of the works estimate pursuant to sub paragraph (2)) prior to the issuing of technical approval by the local highway authority.

(4) The deeming provisions to which paragraph 79(2) of this Part of this Schedule refers shall not apply to the technical submission to which sub-paragraph (1) refers unless and until the undertaker has paid the agreement fee in full to the local highway authority in accordance with this paragraph 29 provided that this sub-paragraph does not affect such deeming provisions insofar as they relate

to approval of the works estimate (or any other approval required to be given) by the local highway authority.

Additional technical vetting costs

30. Additional technical vetting costs are applicable in respect of all road safety audits, structures, traffic signals and street lighting within the local highway.

Submissions of Drawings

31.—(1) The undertaker must supply electronic versions of the drawings and all other information required.

(2) All plans shall be at a true scale of no less than 1:500 and the construction specification drawings shall be at a scale of 1:20.

(3) The undertaker shall provide the local highway authority with the following minimum information for the specified works— 162 Certified copy from legislation.gov.uk Publishing

(a) The extent of the specified works within the public highway (coloured as below) at a true scale of not less than 1:200—

(i) specified works within existing public highway shall be coloured green (the shade of green shall conform to Hue 80, Saturation 117, Luminance 131 (#58BC4A Hex number));

(ii) if any land is to be offered for adoption by the local highway authority then such areas shall be coloured in pink (the shade of pink shall conform to Hue 223, Saturation 205, Luminance 208 (#F6AAE4 Hex number)); and

(iii) gullies, connections to the publicly maintained surface water sewer and any lengths of highway drain shall be marked blue; (b) the proposed longitudinal and cross sections;

(c) the proposed layout of the street lighting;

(d) the construction drawings for the specified works;

(e) a plan showing the areas drained by each gully within the area of the specified works and such plan shall—

(i) identify the areas drained by varying the direction of a simple 45° line hatching;

(ii) show the areas drained by each gully in numbers;

(iii) show the direction and fall to the gully expressed as a factor of 1 (i.e. 1:150); and

(iv) identify the level of the high point and gully;

(f) a plan showing the proposed surface course material using different hatches or colours to differentiate between the materials being proposed;

(g) a plan showing all kerbing and edging types to be used;

(h) a copy of the geo-technical report for the site and the design California bearing ratios for the foundation must comply with the requirements of the Housing Estate Road Construction Specification;

(i) general arrangement drawing showing location and nature of utilities/ statutory undertakers' apparatus; and

(j) all changes to drawings through the technical vetting process must be clouded in red.

As built drawings

32.—(1) The undertaker will immediately prior to the issuing of the final certificate for each of the specified works at a specific specified works location provide to the local highway authority six copies of an as built drawing at a true scale of not less than 1:500, showing the following information—

(a) Any key alterations to the layout/ adoptable areas which may have occurred through the construction process.

- (b) The location and type of all street furniture, including, street lighting columns, lit and unlit bollards and the like.
- (c) Gully locations and connections to the adopted sewer system, including lengths protected with concrete bed and surround.
- (d) Lengths of highway drain.