

By Email

Planning Inspectorate
Temple Quay
2 The Square
Temple Quay
Bristol
BS1 6PN

By email: eastparkenergyproject@planninginspectorate.gov.uk

Our reference LAGA/10026291/O170329984.1/LAGA

Your reference EN010141

11 September 2026

Dear Sir/Madam

East Park Energy – DCO Application Reference EN010141 – Response to Rule 17 Request and the Applicant's Response dated 1 September 2026 on behalf of PS Manor Farm Solar Ltd

We write again on behalf of our client, PS Manor Farm Solar Ltd, a company within the Foresight Group, in response to the Examining Authority's request for further information dated 20 August 2026 made under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (the "**Rule 17 Letter**") and in response to the Rule 17 Letter response submitted by BSSL Cambsbed 1 Ltd (the "**DCO Applicant**") dated 1 September 2026 (the "**Applicant's Response**").

Firstly, we did not receive the Applicant's Response directly from the Applicant nor were notified of it being uploaded to the project website until 07 September 2026, so we apologise for not providing comments earlier.

PS Manor Farm Solar Ltd is the leaseholder of Manor Farm Solar Farm, Pertenhall, Bedfordshire, which adjoins and is, in part, surrounded by the land proposed for the East Park Energy development. Our client holds a leasehold interest under a lease with T.J. Bates & Son and operates an existing solar farm on the land.

This letter should be read together with our initial representation dated 18 August 2026 (the "**Initial Representation**"), which set out our client's holding objection to the DCO Application.

In this letter, we: (i) enclose draft protective provisions for the protection of PS Manor Farm Solar Ltd, as requested by the Rule 17 Letter; and (ii) respond to the assertions made by the DCO Applicant in the Applicant's Response regarding the nature and extent of its engagement with our client.

Osborne Clarke LLP

Halo, Counterslip, Bristol, BS1 6AJ or DX 7818 Bristol T +44 117 917 3000 F +44 117 917 3005

Osborne Clarke LLP is a limited liability partnership registered in England and Wales with registered number OC397443 whose registered office is at One London Wall, London EC2Y 5EB. It is authorised and regulated in the UK by the Solicitors Regulation Authority (SRA) and is registered as a recognised body with SRA number 619990.

The term 'partner' refers to a member of Osborne Clarke LLP. A list of members of Osborne Clarke LLP and their professional qualifications is available for inspection at the registered office. Any advice given by any individual member, employee, or consultant is the responsibility of Osborne Clarke LLP and not the individual. Osborne Clarke LLP does not accept service by fax.

Osborne Clarke LLP is part of an international legal practice.

(i) Protective Provisions

The Rule 17 Letter noted the requirement for protective provisions to be agreed between the parties. Our client has prepared draft protective provisions for the protection of PS Manor Farm Solar Ltd (the "**Draft Protective Provisions**"), which are enclosed with this letter at Appendix 1 and have been provided to the DCO Applicant for its consideration and agreement. However, despite our Initial Representation, the DCO Applicant has not made any substantive engagement (bar providing an undertaking for costs on 8 September and draft head of terms for a cooperation agreement on 9 September) with our client.

The Draft Protective Provisions are necessary because the general protective provisions contained in Part 1 of Schedule 13 to the draft DCO are not adequate to address the specific circumstances of our client's operations. Our client operates an existing and operational solar farm on the land in question, with significant apparatus and infrastructure in situ. As the Order limits overlap the land subject to the operative planning permission for Manor Farm Solar Farm, the interaction between the authorised development and Manor Farm Solar Farm should be regulated by bespoke protective provisions. These should address, among other matters, the approval of specified works in proximity to our client's apparatus, insurance and security requirements, appropriate indemnities for damage to our client's apparatus and operations, and the protection of our client's existing access arrangements.

We note that the DCO Applicant states in the Applicant's Response that bespoke protective provisions are not required, relying on the protections afforded by Part 1 of Schedule 13. Our client does not accept this position. Part 1 of Schedule 13 contains general provisions for the protection of electricity undertakers and does not address the particular risks arising from the construction of HV cabling infrastructure in close proximity/overlapping elements of our client's operational solar farm, including the risk of damage to existing apparatus, operational disruption, and the need for coordination between two co-located energy generation facilities on the same land.

(ii) Response to the Applicant's Claimed Engagement

In the Applicant's Response, the DCO Applicant asserts that the statements made in our Initial Representation are "entirely inaccurate" and claims to have undertaken extensive engagement with our client. The DCO Applicant relies on four principal categories of engagement:

- (a) the issuing of statutory consultation notices under sections 42 and 56 of the Planning Act 2008;
- (b) the sending of a Land Interest Questionnaire;
- (c) the placing of site notices; and
- (d) engagement with the landlord, T.J. Bates & Sons, and the landlord's agents, Brown & Co.

We address each in turn below.

(a) Statutory Consultation (Sections 42 and 56)

Our client does not dispute that the DCO Applicant complied with its statutory notification obligations under sections 42 and 56 of the Planning Act 2008 by sending consultation and acceptance notices to our client's registered address. We recognise the evidence of delivery within the Applicant's Response of delivery, but it should be noted that our client does not have any record of having received these. Nevertheless, compliance with statutory notification requirements is a legal obligation incumbent upon all applicants for development consent and does not constitute the "ongoing discussions" recorded in the Land Rights and Negotiation Tracker submitted to this examination by the DCO Applicant.

The section 42 consultation materials, being generic in nature, would not have alerted our client to the specific proposal to route HV cabling through its demise or to the need for variations to its lease. The

section 56 notice of acceptance similarly provided no detail as to the specific impact on our client's operations. The DCO Applicant's reliance on these mandatory statutory notifications as evidence of meaningful engagement is ill-founded.

(b) Land Interest Questionnaire

The DCO Applicant states that it sent a Land Interest Questionnaire to Julian Elworth, a director of PS Manor Farm Solar Ltd, in July 2025 and followed up by email in August 2025.

Our client acknowledges that a standard questionnaire was received. However, a Land Interest Questionnaire is a routine information-gathering exercise designed to gather and confirm the DCO Applicant's records of land interests. It is not, and cannot reasonably be characterised as, substantive engagement regarding the impact of the proposed development on our client's operations, the proposed cable route through our client's demise, or the need for protective provisions or a cooperation agreement.

Notably, despite having Mr Elworth's direct email address as early as 2023, the DCO Applicant made no attempt to engage with our client on any of these substantive matters until July 2026, a period of approximately three years.

(c) Site Notices

The placing of site notices is a further statutory requirement under the Planning Act 2008 and is directed at the general public rather than at specific affected parties. The DCO Applicant will have known that Manor Farm Solar Farm is unmanned and would likely only be attended occasionally by O&M contractors who may have no local knowledge that would lead to site notices being drawn to their attention. The fact that site notices were placed in the vicinity of Manor Farm Solar Farm does not constitute engagement with our client and adds nothing to the DCO Applicant's case on this point.

(d) Engagement with the Landlord and Agent

The DCO Applicant states that it engaged with our client "through the landowner's land agents who acted as intermediaries with Foresight's representatives". The DCO Applicant has misled itself on this matter. Brown & Co, the landlord's agents, are not and have not been authorised to act as intermediaries on behalf of PS Manor Farm Solar Ltd in relation to the DCO Application.

PS Manor Farm Solar Ltd is a separate and wholly unrelated legal entity from the landlord, T.J. Bates & Sons, with distinct commercial interests. The landlord has entered into an option agreement with the DCO Applicant which may not be aligned with our client's interests as tenant of the Manor Farm Solar Farm. Engagement with the landlord and the landlord's agents regarding the variation of our client's lease cannot properly be characterised as engagement with our client, particularly where our client was not a party to those discussions and did not instruct Brown & Co to act on its behalf in relation to the DCO Application.

Conclusion on Engagement

In summary, the DCO Applicant's claimed engagement with our client amounts to:

- (1) compliance with statutory minimum notification requirements;
- (2) the sending of a standard information-gathering questionnaire;
- (3) the placing of statutory site notices; and
- (4) discussions with a third party (the landlord and its agents) without our client's authority or involvement.

None of these steps constitutes the "ongoing discussions" recorded in the Land Rights and Negotiation Tracker, nor do they amount to meaningful engagement with our client regarding the substantive impact of the proposed development on its operations.

It is particularly notable that the DCO Applicant had Mr Elworth's direct email address from as early as 2023 and yet made no attempt to contact our client directly to discuss the proposed cable route, the need for lease variations, or protective provisions until July 2026. Our client maintains that the assertions in our Initial Representation were accurate: our client was not engaged in ongoing discussions with the DCO Applicant at any time and certainly not since 2021 as is claimed, and the proposal to lay HV cabling within our client's demise was communicated to our client only in recent weeks prior to our Initial Representation.

Reservation of Position and Our request

In light of the above, our client reserves its position in full in respect of all rights sought by the DCO Applicant over its demise. This letter should not be construed as consent to, or acceptance of, the compulsory acquisition of any rights in the land comprising the Manor Farm Solar Farm (including the land in which its electricity cables are placed). Our client's position remains that the Draft Protective Provisions enclosed herewith must be incorporated into the draft DCO in order to provide adequate protection for our client's existing operations and apparatus.

Our client remains willing to engage constructively with the DCO Applicant to seek to resolve the outstanding matters by agreement, including the terms of the Draft Protective Provisions and any necessary cooperation arrangements. The DCO Applicant has shared on 9 September draft heads of terms (which we have reviewed and provided comment on to our client), and informed us they are committed to progressing such agreement. However, our client is aware of the limited time before close of examination and is aware of the potential need to obtain necessary information and consents, including the consent of its landlord and lenders to the side agreement and any proposed lease variation.

In the meantime, we would be grateful if the Examining Authority would:

- (a) note this letter as a further representation on behalf of our client and as a response to the Rule 17 Letter; and
- (b) require the DCO Applicant to include the Draft Protective Provisions enclosed at Appendix 1 (or provisions in substantially similar terms as may be agreed between the parties) in the draft DCO as a new Part of Schedule 13 for the specific protection of PS Manor Farm Solar Ltd.

Yours sincerely



Associate

for Osborne Clarke LLP



osborneclarke.com

PROTECTIVE PROVISIONS FOR THE PROTECTION OF PS MANOR FARM SOLAR LTD

1. For the protection of PS Manor Farm Solar, the following provisions have effect, unless otherwise agreed in writing between the undertaker and PS Manor Farm Solar.

2. In this Schedule—

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than: (i) "A-" if the rating is assigned by Standard & Poor's Ratings Group; and "A3" if the rating is assigned by Moody's Investors Services Inc;

"acceptable insurance" means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £20,000,000.00 (Twenty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance shall include (without limitation):

(a) a waiver of subrogation and an indemnity to principal clause in favour of PS Manor Farm Solar

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (Ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (Twenty million pounds) in aggregate;

"Acceptable Security" means either:

(a) a parent company guarantee from a parent company in favour of PS Manor Farm Solar to cover the Undertaker's liability to PS Manor Farm Solar to a total liability cap of £20,000,000 (Twenty Million Pounds) (in a form reasonably satisfactory to PS Manor Farm Solar and where required by PS Manor Farm Solar, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); and

(b) a bank bond or letter of credit from an acceptable credit provider in favour of PS Manor Farm Solar to cover the Undertaker's liability to PS Manor Farm Solar for an amount of not less than £15,000,000 (Fifteen Million Pounds) per asset per event up to a total liability cap of £20,000,000 (Twenty Million Pounds) (in a form reasonably satisfactory to PS Manor Farm Solar);

"alternative apparatus" means appropriate alternative apparatus to the reasonable satisfaction of PS Manor Farm Solar to enable PS Manor Farm Solar to fulfil its functions in a manner no less efficient than previously

"apparatus" means any electric lines or electrical plant as defined in the Electricity Act 1989 (including, for the avoidance of doubt, solar photovoltaic panels, inverters, transformers and associated mounting structures), belonging to or maintained by PS Manor Farm Solar for the purposes of the Manor Farm Solar Farm, together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of PS Manor Farm Solar for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as is given to the term "authorised development" in article 2(1) of this Order and includes any associated development authorised by the Order and for the purposes of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"PS Manor Farm Solar" means PS Manor Farm Solar Ltd (company number 08694630) whose registered office is at C/O Foresight Group LLP The Shard, 32 London Bridge Street, London, United Kingdom, SE1 9SG and any successor in title to the Manor Farm Solar Farm Site;

"PS Manor Farm Solar Operations" means the assets and operations within the Order limits vested in PS Manor Farm Solar;

"Manor Farm Solar Farm Site" means any of the Order land in which PS Manor Farm Solar owns the freehold or leasehold interest;

"in", in a context referring to apparatus in land, includes a reference to apparatus under, over, along or upon land;

"maintain" and "maintenance" shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of PS Manor Farm Solar: construct, use, repair, alter, inspect, renew or remove the apparatus;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil quality reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and risk assess the works to be executed;

"Specified Works" means any of the authorised works that will or may be situated on, over, under or within 15 metres of, or that may in any way adversely affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or that may in any way adversely affect PS Manor Farm Solar Operations;

"works details" means—

- (a) plans and sections;
- (b) details of the proposed method of working and timing of execution of works;
- (c) details of the vehicle access routes for construction and operational traffic; and
- (d) any further particulars provided in response to a request under paragraph **Error! Reference source not found.**

Streets

3. This Schedule does not apply to apparatus in respect of which the relations between the undertaker and PS Manor Farm Solar are regulated by the provisions of Part 3 (Streets) of the 1991 Act.

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 15 (temporary closure of streets and public rights of way), PS Manor Farm Solar is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus including any apparatus which at the time of the prohibition or restriction was in that street.

Protective works to buildings

5. The undertaker, in the carrying out of the Specified Works and the powers conferred by article 19 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of PS Manor Farm Solar.

Acquisition of Land

6.(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not—

- (a) appropriate or acquire or take temporary possession of any land or apparatus of PS Manor Farm Solar; or
- (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of PS Manor Farm Solar, otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between PS Manor Farm Solar and the undertaker) that is subject to the requirements of these Protective Provisions that will cause any conflict with or breach the terms of any easement or other legal or land interest of PS Manor Farm Solar or affect the provisions of any enactment or agreement regulating the relations between PS Manor Farm Solar and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as PS Manor Farm Solar reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between PS Manor Farm Solar and the undertaker acting reasonably and which must be

no less favourable on the whole to PS Manor Farm Solar unless otherwise agreed by PS Manor Farm Solar, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between the undertaker and PS Manor Farm Solar, the undertaker and PS Manor Farm Solar agree that where there is any inconsistency or duplication between the provisions set out in these Protective Provisions relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by PS Manor Farm Solar and/or other enactments relied upon by PS Manor Farm Solar as of right or other use in relation to the apparatus, then the provisions in these Protective Provisions shall prevail.

(4) Any agreement or consent granted by PS Manor Farm Solar under paragraph 9 or any other paragraph of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

7.(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Schedule and any right of PS Manor Farm Solar to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of PS Manor Farm Solar in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to PS Manor Farm Solar advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order PS Manor Farm Solar reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to PS Manor Farm Solar to its reasonable satisfaction the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, PS Manor Farm Solar must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for PS Manor Farm Solar to seek separate compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Schedule must be constructed in such manner and in such line or situation as may be agreed between PS Manor Farm Solar and the undertaker.

(5) PS Manor Farm Solar must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to PS Manor Farm Solar of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Schedule.

Facilities and rights for alternative apparatus

8.(1) Where, in accordance with the provisions of this Schedule, the undertaker affords to or secures for PS Manor Farm Solar facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and PS

Manor Farm Solar and must be no less favourable on the whole to PS Manor Farm Solar than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by PS Manor Farm Solar (acting reasonably).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to PS Manor Farm Solar than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 15 of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to PS Manor Farm Solar as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Consent of Specified Works under this Schedule

9. Not less than 56 days before starting the execution of any Specified Works, the undertaker must submit to PS Manor Farm Solar the works details for the Specified Works, and such further particulars as PS Manor Farm Solar may, within 28 days from the day on which the works details are submitted under this paragraph, reasonably require. The undertaker must also seek from PS Manor Farm Solar details of the underground extent of their electricity assets.

(1) In relation to Specified Works the plan to be submitted to PS Manor Farm Solar under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the Specified Works in relation to PS Manor Farm Solar's apparatus;
- (b) the level at which the Specified Works are proposed to be constructed or renewed;
- (c) the manner of the construction or renewal of the Specified Works including details of excavation, positioning of plant;
- (d) the position of all electric lines or electrical plant as defined in the Electricity Act 1989 to be constructed as part of the Specified Works;
- (e) by way of detailed drawings, every alteration proposed to be made to any of PS Manor Farm Solar's apparatus;
- (f) any intended maintenance regimes;
- (g) an assessment of risks of rise of earth potential issues; and
- (h) a methodology to demonstrate that all such works will have no adverse effect on the rating of the apparatus.

(2) Any approval of PS Manor Farm Solar required under sub-paragraph (1) must not be unreasonably withheld or delayed but may be given subject to such reasonable requirements PS Manor Farm Solar may require to be made for the protection of the apparatus, or for securing access to it, and PS Manor Farm Solar is entitled to watch and inspect the execution of those works.

(3) The works referred to in sub-paragraph (1) must be carried out in accordance with the works details approved under sub-paragraph (2) and any requirements imposed on the approval under sub-paragraph (3)2 and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (4) or (6) by PS Manor Farm Solar for the protection of apparatus (including alteration or otherwise) or for securing access to it.

(4) In relation to any work to which sub-paragraph (1) or (2) apply, PS Manor Farm Solar may require such modifications to be made to the works details as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(5) Where there has been a reference to an arbitrator in accordance with paragraph 15 and the arbitrator give approval for the works details, the works referred to in sub-paragraph (1) must be carried out in accordance with the approval and conditions contained in the decision of the arbitrator under paragraph 15.

(6) Where PS Manor Farm Solar requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to PS Manor Farm Solar's reasonable satisfaction prior to the commencement of any authorised development (or any relevant part thereof) (unless otherwise agreed by PS Manor Farm

Solar, acting reasonably) for which protective works are required and PS Manor Farm Solar must give notice of its requirement for such works as soon as reasonably practicable and in any event within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(7) If PS Manor Farm Solar in accordance with sub-paragraphs (5) or (6) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(8) Nothing in this paragraph precludes the undertaker from submitting at any time, but in no case less than 56 days before commencing the execution of any Specified Works, any new part of the works details instead of the part of the works details previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(9) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency in the 1991 Act or where it must take emergency steps to ensure the continuing operation or viability of the authorised development but in that case, it must give to PS Manor Farm Solar notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) insofar as is reasonably practicable in the circumstances.

(10) Following completion of the work the undertaker shall submit a written report demonstrating that the works have had no adverse effect on the rating of the apparatus.

(11) Nothing in this paragraph authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or alternative apparatus, or execute any filling around the apparatus or alternative apparatus (where the apparatus or alternative apparatus is laid in a trench) within 600 millimetres of the point of connection or disconnection of PS Manor Farm Solar's apparatus.

Expenses

10.(1) Save where otherwise agreed in writing between PS Manor Farm Solar and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to PS Manor Farm Solar within 30 days of receipt of an itemised invoice or claim (accompanied by supporting evidence) from PS Manor Farm Solar all charges, costs and expenses reasonably and properly incurred by PS Manor Farm Solar in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by PS Manor Farm Solar in connection with the acquisition of rights or the exercise of powers for such apparatus including without limitation all costs incurred by PS Manor Farm Solar as a consequence of PS Manor Farm Solar exercising any compulsory purchase powers in the Order transferred to or benefitting PS Manor Farm Solar;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the supervision and surveillance of all Specified Works by PS Manor Farm Solar and its engineers including the cost of travel; and
- (g) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in these Protective Provisions.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of these Protective Provisions and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of these Protective Provisions—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 15 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under these Protective Provisions exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to PS Manor Farm Solar by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to PS Manor Farm Solar in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on PS Manor Farm Solar any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) PS Manor Farm Solar must use its reasonable endeavours to mitigate in whole or in part and to minimise any charges, costs and expenses to which this paragraph applies. If requested to do so by the undertaker, PS Manor Farm Solar must provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation pursuant to this paragraph.

Indemnity

11. Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction use maintenance or failure of any authorised works, or any subsidence resulting from any of these works, carried out by or on behalf of the undertaker (or any person employed or authorised by him) including, without limitation, works carried out by the undertaker under this Schedule any damage is caused to PS Manor Farm Solar Operations, or there is any interruption in any service provided, or in the supply of any goods, by PS Manor Farm Solar, or PS Manor Farm Solar becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by PS Manor Farm Solar in making good such damage or restoring the supply; and
- (b) reimburse to PS Manor Farm Solar for any other expenses, loss, damages, penalty or costs incurred by PS Manor Farm Solar, by reason or in consequence of any such damage or interruption or PS Manor Farm Solar becoming liable to any third party.

(2) The fact that any act or thing may have been done by PS Manor Farm Solar on behalf of the undertaker or in accordance with a plan approved by PS Manor Farm Solar or in accordance with any requirement of PS Manor Farm Solar as a consequence of the authorised works or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless PS Manor Farm Solar fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to—

- (a) any damage or interruption to the extent that it is attributable to the act, neglect or default of PS Manor Farm Solar, its officers, employees, servants, contractors or agents; and/or

- (b) any indirect or consequential loss of PS Manor Farm Solar or any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable, save that this exclusion shall not apply to any loss of revenue from the generation of electricity or loss of any feed-in tariff, contract for difference, renewable obligation certificate or other subsidy payment that is directly attributable to physical damage to or interruption of the operation of PS Manor Farm Solar's apparatus.

(4) PS Manor Farm Solar must give the undertaker reasonable notice of any third party claim or demand and no settlement or compromise is to be made unless payment is required in connection with a statutory compensation scheme without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) PS Manor Farm Solar must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 11 applies, which expressly excludes any obligation to mitigate liability arising from third parties which is outside of PS Manor Farm Solar's control.

(6) PS Manor Farm Solar must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(7) If requested to do so by the undertaker, PS Manor Farm Solar must provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph (1).

(8) The undertaker shall only be liable under this paragraph 11 for claims reasonably incurred by PS Manor Farm Solar.

(9) PS Manor Farm Solar's liability to the undertaker for negligence or breach of contract, in respect of each diversion, shall be limited to the value of that diversion and PS Manor Farm Solar shall not otherwise be liable to the undertaker for any losses or costs incurred by the undertaker resulting from delays to the authorised development as a result of its failure to undertake works to deliver any alternative apparatus.

(10) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by PS Manor Farm Solar or in respect of which PS Manor Farm Solar has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of PS Manor Farm Solar's apparatus until the following conditions are satisfied:

- (a) unless and until PS Manor Farm Solar is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and PS Manor Farm Solar has confirmed the same to the undertaker in writing; and
- (b) unless and until PS Manor Farm Solar is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to PS Manor Farm Solar that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and PS Manor Farm Solar has confirmed the same in writing to the undertaker.

(11) The undertaker agrees that if, at any time, the acceptable security or acceptable insurance expires or terminates, ceases to fulfil the criteria of acceptable security or acceptable insurance, ceases to be in full force and effect or becomes invalid or unenforceable for the purpose of this Part of this Schedule or an insolvency-related event occurs in respect of the undertaker, then the relevant security or insurance will no longer constitute acceptable security or acceptable insurance and will promptly be replaced by the undertaker with alternative acceptable security or acceptable insurance as approved by the undertaker, to the extent any acceptable insurance and acceptable security is still required under this Part of this Schedule.

(12) In the event that the undertaker fails to comply with sub-paragraph (10) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent PS Manor Farm Solar from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

12. Save to the extent provided for to the contrary elsewhere in this Schedule or by agreement in writing between PS Manor Farm Solar and the undertaker, nothing in this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and PS Manor Farm Solar in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

13.(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or PS Manor Farm Solar requires the removal of apparatus under paragraph 7(2) or PS Manor Farm Solar makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker shall use its reasonable endeavours to co-ordinate the execution of any works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of PS Manor Farm Solar's undertaking and PS Manor Farm Solar shall use its reasonable endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever the consent of PS Manor Farm Solar, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

14. If in consequence of the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable PS Manor Farm Solar to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

15. Any difference or dispute arising between the undertaker and PS Manor Farm Solar under this Schedule must, unless otherwise agreed in writing between the undertaker and PS Manor Farm Solar, be referred to and settled by arbitration in accordance with article 43 (arbitration).

Notices

16. Notwithstanding article 40 (*service of notices*), any plans submitted to PS Manor Farm Solar by the undertaker pursuant to paragraph 9 must be submitted to PS Manor Farm Solar at its registered office or to such other address as PS Manor Farm Solar may from time to time appoint instead for that purpose and notify to the undertaker in writing.