



Fenwick Solar Project Limited

Unit 5e Park Farm | Chichester Road |
Arundel | West Sussex | BN18 0AG

The Planning Inspectorate
National Infrastructure Planning
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SENT BY EMAIL

3 September 2025

Dear Mr Cridland,

Applicant Update Letter, Fenwick Solar Project Limited

Application Ref: EN010152

This letter provides an update on the negotiations between Fenwick Solar Project Limited (the Applicant) and the DANVM Drainage Commissioners (together, the parties) in respect of the protective provisions in favour of the DANVM Drainage Commissioners to be included within the Development Consent Order (DCO) for the Fenwick Solar Farm (the Scheme).

As of the Applicant's closing submissions provided at Deadline 5 on 21 August 2025, the parties had agreed all but one remaining clause within the protective provisions for drainage authorities at Part 3 of the draft DCO. As of 3 September, the parties have resolved their negotiations on this clause, and are in agreement as to the drafting of the protective provisions.

The parties therefore provide an updated version of the protective provisions for drainage authorities, which they kindly request the Examining Authority to include within the final DCO for the Scheme. This final version is attached at **Appendix A**, and includes a new clause 23. This new clause requires the undertaker to maintain any works constructed within IDB watercourses during the lifetime of the Scheme.

With this change included, the Applicant understands all remaining concerns of the IDB have now been resolved, and the IDB will subsequently withdraw its objection to the Scheme.



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Should you require any further information or have any questions regarding this submission please do not hesitate to contact the project team.

Yours sincerely,

[Redacted signature]

[Redacted name]

Project Manager, Boom Power

On behalf of Fenwick Solar Project Limited | Unit 5e Park Farm | Chichester Road |
Arundel | West Sussex | BN18 0AG



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Appendix A – Amended Protective Provisions for the Protection of Drainage Authorities

PART 3

FOR THE PROTECTION OF DRAINAGE AUTHORITIES

18. The provisions of this Part of this Schedule have effect for the protection of the drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

19. In this Part of this Schedule—

“authorised development” has the same meaning as in article 2(1) (interpretation) of this Order and (unless otherwise specified) for the purposes of this Part of this Schedule includes the operation and maintenance of the authorised development and the construction of any works authorised by this Part of this Schedule;

“construction” includes execution, placing, altering, replacing, relaying and removal, and “construct” and “constructed” must be construed accordingly;

“drainage authority” means in relation to an ordinary watercourse—

- (a) the drainage board concerned within the meaning of section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991; or
- (b) in the case of any area for which there is no such drainage board, the lead local flood authority within the meaning of section 6 (other definitions) of the Flood and Water Management Act 2010;

“drainage work” means any ordinary watercourse and includes any bank, wall, embankment or other structure, or any appliance constructed for land drainage or flood defence which is the responsibility of the drainage authority;

“ordinary watercourse” has the meaning given by section 72 (interpretation) of the Land Drainage Act 1991;

“plans” includes sections, drawings, specifications and method statements; and

“specified work” means so much of the authorised development as is in, on, under, over or within 9 metres of a drainage work or is otherwise likely to affect the flow of water in any watercourse.

20.—(1) Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may reasonably require within 28 days of the submission of the plans.

(2) A specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph ~~2726~~.

(3) Any approval of the drainage authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 56 days of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) whichever is the later; and
- (c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work or for the prevention of flooding or pollution or discharge of its environmental functions.

(4) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

21. Without limiting the scope of paragraph 20, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary taking account of the terms of this Order—

- (a) to safeguard any drainage work against damage by reason of any specified work; or
- (b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired, and that the risk of flooding is not otherwise increased beyond the level of flood risk that was assessed in the environmental statement, by reason of any specified work.

22.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 21, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority—

- (a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and
- (b) notice in writing of its completion not later than seven days after the date on which it is brought into use.

(3) If the drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of the specified work to which the protective works relate.

(4) If any part of a specified work or any protective work required by the drainage authority is constructed other than in accordance with the requirements of this Part of this Schedule, the drainage authority may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to the reasonable satisfaction of the drainage authority.

(5) Subject to sub-paragraph (6) and paragraph 26-27 if, within a reasonable period, being not less than 56 days beginning with the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice and any expenditure reasonably incurred by the drainage authority in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in the case of an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 27-28.

23.—(1) Subject to sub-paragraph (5) from the completion of the construction of any:

- (a) specified work as constructed in accordance with paragraph 22; or
- (b) protective work as constructed in accordance with paragraph 21;

(2) If any such specified work or protective work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority, the drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work and any protective work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.

(3) Subject to sub-paragraph (4), if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any specified work or protective work is

served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is reasonably necessary for such compliance and any reasonable expenditure incurred by the drainage authority in so doing is recoverable from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 28.

(5) This paragraph does not apply to specified works or protective works where no permanent works or assets constructed by the undertaker remain within or cross above the drainage work.

23-24. If by reason of the construction of a specified work or of the failure of any specified work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or that drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker as soon as reasonably practicable to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

24-25. If by reason of construction of the specified work the drainage authority's access to land drainage infrastructure, flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the drainage authority to maintain the land drainage infrastructure, flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of or as soon as reasonably practicable after the undertaker becoming aware of such obstruction.

25-26. The undertaker must make reasonable compensation for costs, charges and expenses which the drainage authority may reasonably incur—

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in inspecting the construction of the specified work or any protective works required by the drainage authority under this Part of this Schedule; and
- (c) in carrying out any surveys or tests by the drainage authority which are reasonably required in connection with the construction of the specified work or protective work.

26-27.—(1) The undertaker must make reasonable compensation for liabilities, costs and losses which may be reasonably incurred or suffered by reason of—

- (a) the construction of any specified works or protective works comprised within the authorised development; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others while engaged upon the construction of the authorised development.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand.

(3) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(4) The drainage authority must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(5) The drainage authority will, having regard to its statutory functions, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(6) The drainage authority will, at the request of the undertaker and having regard to its statutory functions, afford all reasonable assistance for the purpose of contesting any such claim or action, and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

(7) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part of this Schedule.

(8) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of the drainage authority or the breach of a statutory duty of the drainage authority, its officers, servants, contractors or agents.

~~27.28.~~ Any dispute arising between the undertaker and the drainage authority under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 42~~-~~ (arbitration).



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