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Reference: OR-0009011/01
Customer reference: EN010168
Interested Party ref: [REDACTED]

07 August 2026

Dear Examining Authority

Lime Down Solar Park – Development Consent Order (DCO) Application

Environment Agency Examination Deadline 5 Response: Responses to the Examining Authority's Second Written Questions, Comments on documents submitted at Deadline 4 and Standard Protective Provisions

This letter constitutes the Environment Agency's Deadline 5 Response to the above mentioned DCO application.

Our responses to the Examining Authority's Second Written Questions are set out in Appendix 1. Our response to the Lime Down E2. Hydraulic Modelling Report is set out in Appendix 2. Our updated comments and position on the issues raised in our Relevant Representation/ Written Representation/ Examination responses following review of the Deadline 4 submissions is presented in Appendix 3. Our standard Protective Provisions are set out in Appendix 4.

I trust this information is of use.

Yours faithfully

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Appendix 1: Responses to Examining Authority's Second Written Questions

ExQ2	Question to:	Question:	Environment Agency Response
		Draft Development Consent Order (dDCO)	
		Questions within this section refer to the dDCO updated at Deadline 4 [REP4-004] (clean version)/ [REP4-005] (tracked version)	
		General Matters	

DCO2.1	All Interested Parties and Statutory Undertakers	Residual Issues with the dDCO and Management Plans The dDCO is an important document and the ExA is under a duty to provide the SoS with a recommended version of the DCO. This is because the SoS is the decision maker. Therefore, even if the ExA were to recommend to the SoS that development consent should not be granted, the ExA must still append a recommended version of the DCO, thus it is important that the ExA is able to put forward the best DCO that it can. The dDCO has been revised four times during the examination to date. A proportion of what has been requested by interested parties has been included in the Order, another proportion has been addressed through the updating of associated management plans, and other elements the applicant has resisted with reasons. While the position of many interested parties and/or statutory undertakers may be that development consent should not be granted, without prejudice to your position, you are invited to:	1) If it is not possible to place the substation within Lime Down C1 outside of the mapped flood flow routes, further assessment will need to be undertaken at detailed design to determine if the placement of the substation within Lime Down C1 would increase flood risk elsewhere. If there is an increase to flood risk elsewhere, floodplain compensation will be provided, in consultation with the Environment Agency, to ensure that there is no increase in flood risk. Engagement with the Environment Agency will occur throughout the detailed design stage on the need, method of calculating volumes, modelling and design of any floodplain compensation that may be required. We would need to secure this through a requirement within the Development Consent Order. We would request the following wording to secure this: Additional Flood Mitigation Requirement <i>No development shall take place within Lime Down C1 until the location of the substation has been confirmed, an assessment of flood risk has been undertaken and a mitigation plan have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with the Environment Agency, and these works shall be carried out as approved.</i>
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ExQ2	Question to:	Question:	Environment Agency Response
		1) Outline any remaining or residual issues that you have with any articles, requirements or schedules of the dDCO, set out why the applicant has not yet resolved your concerns or why you are not content with the applicant's justification, and define what remedy or solutions you are seeking (including suggested redrafting if applicable) to address your concerns, and explain (make your case) why the applicant, the ExA and the SoS should consider such amendments to the dDCO. Statutory Undertakers are also alerted to ExQ2 DCO2.23 which specifically relates to protected provisions. 2) Outline any remaining or residual issues that you have with any of the management plans/ documents listed below, set out why the applicant has not yet resolved your concerns or why you are not content with the applicant's justification, and define what remedy or solutions or amendments you are seeking to address your concerns within the	<i>Note:</i> <i>Should the assessment show increased flood risk, the mitigation plan should include a Floodplain Compensation Scheme. Any proposed compensation scheme must demonstrate:</i> <i>a) no net loss of floodplain storage within the design flood event;</i> <i>b) compensation provided on a level-for-level and volume-for-volume basis where appropriate;</i> <i>c) no increase in flood risk elsewhere;</i> <i>d) implementation of compensatory storage prior to the associated floodplain loss; and</i> <i>e) appropriate maintenance of the compensation scheme is in place during the operation phase.</i> “Substantially in accordance with” requirements with the Environment Agency as a consultee. The use of the word ‘substantially’ in the dDCO requirements undermines the enforceability of proposals and/ or may erode the environmental protections put in place. The overarching plans provide a large scope for the detail to come later, and the Rochdale

ExQ2	Question to:	Question:	Environment Agency Response
		drafting of the relevant management plan(s)/ document(s): • Outline Construction Environmental Management Plan (Latest Version, Revision 5 [REP4-049]) • Outline Operational Environmental Management Plan (Latest Version, Revision 5 [REP4-051]) • Outline Decommissioning Strategy (Latest Version, Revision 3 [REP3-096]) • Outline Soil Resources Management Plan (Latest Version, Revision 2 [REP3-098]) • Outline Site Waste Management Plan (Latest Version, Revision 2 [REP1-102]) • Outline Public Rights of Way and Permissive Paths Management Plan (Latest Version, Revision 1 [APP-282]) • Outline Landscape and Ecological Management Plan (Latest Version, Revision 2 [REP3-100])	envelope applies – thus flexibility is built into the process. To resolve this matter, we request the words ‘substantially’ be removed from the requirements identified. Procedure for Discharge of Requirements We require a 15 working day consultation period as set out in our written representation REP1-151 2) Outline Construction Environmental Management Plan (Latest Version, Revision 5 [REP4-049]) We may be able to resolve EA-030 Thermal implications of cables if a commitment to secure assessment of thermal impacts, and route the cables accordingly, prior to construction can be included in the Outline Construction Environment Management Plan. This is under discussion with the applicant. We request that the applicant adds an additional commitment into their Outline Construction Environmental Management Plan that any fish rescue using equipment other than rod and line must have written permission from the Environment Agency under S27(a) of the Salmon and Freshwater Fisheries Act 1975. A full method statement

ExQ2	Question to:	Question:	Environment Agency Response
		- Outline Ecological Protection and Mitigation Strategy (Latest Version, Revision 4 [REP4-055]) - Outline Skills, Supply Chain and Employment Plan (Latest Version, Revision 1 [APP-285]) - Outline Battery Safety Management Plan (Latest Version, Revision 3 [REP3-106]) - Outline Construction Traffic Management Plan (Latest Version, Revision 4 [REP4-057]) - Outline Archaeological Mitigation Strategy (Latest Version, Revision 1 [APP-230]) - Outline Drainage Strategy (Latest Version, Revision 4, [REP4-021], [REP4-023], [REP4-025], [REP4-027], [REP4-029], [REP4-031], [REP4-033], [REP4-035]) - Outline Water Resources Strategy (Latest Version, Revision 1 [APP-290])	should be submitted when applying for permission detailing on locations, timings, equipment being used, fish welfare measures and reason for rescue. Further information can be found here: Apply to use fishing instruments other than rod and line in England - GOV.UK Outline Ecological Protection and Mitigation Strategy (Latest Version, Revision 4 [REP4-055]). We have requested greater clarity on the timing of pre-construction surveys and for them to be undertaken two months before works. The applicant has agreed with this and we await a revised version of the document for our review. Outline Drainage Strategy (Latest Version, Revision 4, [REP4-021], [REP4-023], [REP4-025], [REP4-027], [REP4-029], [REP4-031], [REP4-033], [REP4-035]) <u>Lime Down C1</u> In terms of the mapped Surface Water flow route, it is worth noting that on the 28th May 2026, the Environment Agency published the

ExQ2	Question to:	Question:	Environment Agency Response
			<i>Flood Map for Planning – Surface Water Spatial Planning Extents</i> which includes an Upper allowance for climate change for the 2070s epoch (2061 to 2125). This is available here: Defra Data Services Platform This could serve as a valuable sensitivity test to understand how increasing rainfall and resultant flow might influence flood extent in the vicinity of the proposed substation in field C33. It would be sensible to review this dataset to ensure that there are no significant changes in flood extent and depth. <u>Lime Down D/BESS</u> The Gauze Brook runs through Lime Down D and is subject to ongoing hydraulic modelling updates and hence there may be a requirement to update some of the figures and information within the Flood Risk Assessment once this modelling is finalised. <u>Lime Down E2</u> The hydraulic modelling for Lime Down E2 is currently under review. Our initial comments are set out in Appendix 2.

ExQ2	Question to:	Question:	Environment Agency Response
Schedule 15 – Protected Provisions			

ExQ2	Question to:	Question:	Environment Agency Response
DCO2.23	All Statutory Undertakers Wiltshire Council	Status and Proposed Revisions As per the examination timetable, all Statutory Undertakers and Wiltshire Council are requested to submit their proposed version of protective provisions that they wish to see included for their benefit in the dDCO but have not been agreed by the applicant. Please also set out why you are not content with the applicant's version in Schedule 15 of Revision 4 of the dDCO [REP4-004], and explain why the ExA and Secretary of State should prefer your suggested drafting.	Please see Appendix 4 for our standard protective provisions which we require the applicant to include within the Development Consent Order to disapply the need for Flood Risk Activity Permits under the Environmental Permitting (England and Wales) Regulations 2016. We note the applicant has made changes to make the protective provisions in accordance with our standard protective provisions in their Draft Development Consent Order (Rev 4) (REP4-004). We are satisfied with the use of the <i>Order Limits</i> rather than <i>Limits of Deviation</i> in 96 <i>Maintenance of works</i> as Lime Down does not have any Limits of Deviation. However, there are still some minor discrepancies which we require to be amended in accordance with our standard protective provisions set out in Appendix 4 for consistency. For example in works not in accordance with the schedule 95; maintenance of works 96, agency access 98 and free passage of fish 99. Please can these be corrected.
Ecology and Biodiversity (EB)			
EB2.3	The Environment	Riparian Species <u>The Environment Agency:</u>	Our concern regarding the spot-checks was a separate issue to the concern regarding the riparian buffer width. However, a discussion with the

ExQ2	Question to:	Question:	Environment Agency Response
	Agency (EA) The Applicant	1) The EA's deadline 4 submission [REP4-097] confirms that spot checks undertaken by the applicant were not done as per Chartered Institute of Ecologists and Environmental Managers (CIEEM) guidelines. If the applicant adopted the 10m watercourse buffer would this overcome the EA's concerns regarding the survey work. 2) If this approach would not address the EA's concerns, please provide any further comment regarding the potential adverse effects on riparian species that could be caused by the applicant's approach, considering the applicant's justification in [REP4-086]. <u>The Applicant:</u> 3) Given the concerns raised by the EA regarding the spot checks methodology, can you confirm that you would provide for a 10m watercourse buffer throughout the Order limits to reduce the potential effects. Please note that your response could impact your reply to ExQ EB2.13.	applicant was held on 28th July 2026, following the Examination Hearing. We have now agreed with the applicant's proposal to maintain a minimum 8 metre watercourse buffer from ditches, following assurance from the applicant and a review of Confidential Appendix 9-8 (Schedule of Protective Ecological Buffers APP-205). The applicant has also provided further clarity around their planned pre-commencement surveys, and has agreed to update the Outline Ecological Protection and Mitigation Strategy (Latest Version, Revision 4 [REP4-055]). Subject to a review of the updated document, this would satisfy our concerns regarding survey work.

ExQ2	Question to:	Question:	Environment Agency Response
		Flood Risk, Hydrology and Water Resources (FHW)	

FHW2.3	The Environment Agency The Lead Local Flood Authority	Flood Risk Assessment – Hydraulic Modelling The EA, in its hearing submission [REP4-097], explains that for Lime Down D modelling there are unresolved issues regarding the data used and missing information and requests further information from the applicant. The applicant submitted at deadline 4 the hydraulic modelling report for Lime Down E2 [REP4-089]. <u>The Environment Agency:</u> 1) Can the EA confirm if all the required further information for Lime Down D modelling has been submitted? 2) Can the EA please provide an update of the review of the hydraulic modelling for Lime Down E2 at deadline 5 confirming if further information is required and highlighting any significant issues found? <u>The LLFA:</u> 3) Considering the EA response to ExQ1 FWM1.4 (2) [REP3-146], the outputs from the applicant's Gauze Brook and Rodbourne Brook modelling which include the 3.33%	1) We have undertaken a review of the applicant's hydraulic modelling for the Gauze Brook, which passes through the Lime Down D site. During our review, we requested that the applicant simulate the 3.3% (1 in 30) annual exceedance probability (AEP) event to define the extent of the functional floodplain (Flood Zone 3b). We also raised technical comments on the model itself relating to riverbank elevations within the model and the representation of the South Wales Main Line culvert. The applicant has subsequently simulated the 3.3% (1 in 30) AEP event and updated the hydraulic modelling report to include mapping of the corresponding flood extent. However, we have not yet received updated hydraulic model files for the Gauze Brook (Lime Down D) to enable a detailed review of any changes relating to riverbank representation and the South Wales Main Line culvert. We met with the applicant on 28 July 2026 and understand that they are currently updating and extending the Gauze Brook hydraulic model. Once these updates have been completed, the applicant intends to submit the revised model files to the Environment Agency for detailed review.
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ExQ2	Question to:	Question:	Environment Agency Response
		AEP scenario and the evidence presented by the Stop Lime Down report [REP1-176], does this information support an extension to Flood Zone 3b in Lime Down D? If so, to which fields? 4) If your response to question 3 is positive, please explain any potential impact on the sequential and exception tests results. <u>The LLFA:</u> In your response to ExQ1 FHW1.12 [REP3-142] in relation to an ordinary watercourse running between the fields D22 and D1 you requested the applicant to: • Undertake targeted topographic and channel survey of the watercourse corridor. • Provide proportionate hydraulic assessment (or equivalent evidence) to define flood extents, depths, and flow routes.	2) In relation to Lime Down E2, the applicant has submitted hydraulic model files and an associated hydraulic model report for Rodbourne Brook/Gabriel's Well. We are currently reviewing the modelling and supporting documentation. At this stage, we have not identified any significant issues with the modelling. However, our review is ongoing and we will provide detailed comments to the applicant in due course. Appendix 2 sets out our initial comments.

ExQ2	Question to:	Question: Environment Agency Response
		• Demonstrate that the layout maintains conveyance, including appropriate stand-offs and no obstruction of flow paths. • Confirm how the watercourse will be protected and managed. • Address any consenting requirements for works affecting an ordinary watercourse. 5) Considering the modelling provided for Lime Down D and its review by the EA, is your response to ExQ1 FHW1.12 still relevant or do you consider that the available information and the applicant's existing commitments will suffice?

FHW2.7	The Environment Agency The Lead Local Flood Authority	Construction – Impacts on Flood Risk and Drainage The EA requests in [REP4-097] (issue EA-051) a commitment to placing all construction compounds, material storage and plant outside of flood zone 3b and more detail about the mitigation to be implemented if compounds need to be located within the floodplain. The LLFA in [REP4-091] identifies the following issues as hydrology matters currently unresolved (noting that some of those issues can arise at other phases of the development, not just during construction): • <i>whether temporary drainage and sediment control measures during construction will be sufficiently robust;</i> • <i>whether watercourse buffers and low-lying drainage pathways will be protected in practice;</i> • <i>whether site-specific hydrological sensitivities identified in the Lime Down A-E desk studies are translated into monitoring and management controls;</i>	As of the most recent submission of the Outline Construction Environmental Management Plan ([REP4-049]) the applicant has now included sufficient commitments to the necessary mitigation through the construction phase. We consider no additional wording is required.
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ExQ2	Question to:	Question: Environment Agency Response
		<i>whether monitoring arrangements include clear triggers, responsibilities, reporting and corrective actions.</i> The oCEMP [REP4-049] includes a commitment in Table 5 to locate materials and compounds outside flood zone 3b and there is reference to monitoring requirements. Some of the other issues raised (temporary drainage, buffers) are also included in Table 5 either as standalone or as part of the WMP. <u>The EA and the LLFA:</u> Can you provide any further wording that you require in the oCEMP or other dDCO documents to address the impacts of construction on flood risk and drainage?

FHW2.8	The Applicant The Lead Local Flood Authority The Environment Agency Stop Lime Down	Construction – Water Management Plan The applicant in its rebuttal to Wiltshire Council's response to ExQ1 FHW1.9 [REP4-081] indicates that <i>The Water Management Plan forming part of the detailed CEMP will provide the phase-specific construction drainage and exceedance arrangements. It will identify:</i> <i>the existing drainage features and overland flow routes relevant to the construction phase;</i> <i>the proposed temporary drainage and runoff controls;</i> <i>the routing of flows exceeding the capacity of temporary drainage measures;</i> <i>the interaction with compounds, haul routes, stockpiles, excavations and watercourse crossings; and</i> <i>the measures required to maintain existing floodplain capacity and avoid diversion of flows towards sensitive receptors.</i> Some of the issues mentioned in the bullet points above are not included in the latest	1)/ 2) The Water Management Plan (WMP) is mentioned for water quality in Table 5: Hydrology, Flood Risk and Drainage in part 3.6 of the Outline CEMP [REP4-049] and OOEMP [REP4-052]. It includes details of pre-construction, construction, and post-construction water quality monitoring. However, we believe it is appropriate for it to be approved via these documents instead of a standalone certified document. The reasoning for this is in line with other DCOs, and therefore for contractors and statutory consultees it is easier to understand in this format and it would limit the reviewing of duplicated wording across the CEMP and the WMP. 3) If it was a standalone document we would require an additional requirement to be written in which the Environment Agency would need to be a named consultee for the discharge of the requirement securing it. 4) Groundwater and Contaminated Land We have previously agreed the need for groundwater monitoring in relation to construction activities in our discussions with the Applicant. This includes dewatering and cable installation via Horizontal Directional Drilling methods with the monitoring needed to help identify contamination
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ExQ2	Question to:	Question:	Environment Agency Response
		oCEMP [REP4-049]. <u>All parties:</u> 1) Given that the WMP is going to be an important management plan for the duration of this project (and also referred to in the oOEMP and the outline Decommissioning Strategy (oDS)) is it still adequate that it is approved through these documents, rather than being a standalone certified document? 2) If so, should it not have more overt relevance within the oCEMP, oOEMP and the oDS, possibly through the addition of a standalone section which explains its purpose, contents and links with other management plans, instead of being embedded in Table 5 of the outline management plans? 3) If a separate WMP that covers the lifetime of the development is the best way forward, please give reasons why. Please also include information regarding the approval mechanism and consultees. 4) As water management will be key for other topics such as soil and	risks. They have stated that where pre-construction ground investigation identifies shallow groundwater, or where shallow groundwater could materially affect cable installation, trench stability, dewatering requirements or controlled waters receptors, groundwater observation and monitoring will be included on a risk-based basis and with reference to BS 5930. Although these controls are secured through the Outline CEMP [REP4-049] and subsequent detailed CEMP, there is not a specific commitment in the Commitments Register for groundwater monitoring. A ground and surface water monitoring plan is mentioned in Table 13: Ground Conditions of the Outline CEMP but how it is reported and consulted on is not clear at this stage. It is not clear whether the ground and surface water monitoring plan will be the same as the Water Management Plan (WMP). The bullet points mentioned here in relation to the WMP do not cover the groundwater monitoring activities we would expect to see for the construction activities of dewatering and cable installation. We have also recommended that a period of groundwater monitoring, in accordance with the relevant British Standards, is carried out as part of the to the ground investigation works to verify ground

ExQ2	Question to:	Question:	Environment Agency Response
		ecology, should it also be referenced in the oSRMP, oEPMS and other outline management plans/strategies? If so, please set out which ones and the reasons why.	conditions at the site. Ecology The management of water is currently adequately mentioned in the Outline Ecological Protection and Mitigation Strategy (Latest Version, Revision 4 [REP4-055]). Section 7.4 (Rivers and Streams) and Section 7.5 (Ditches) mentions watercourse crossings and Section 8.2 (Precautionary Approach to HDD Works) states measures to reduce sedimentation and avoid impacts to watercourses. Section 7.5 and Section 6.2.7 mention the minimisation of drainage disruption and sediment release.

Appendix 2: Lime Down Solar Park. Lime Down E2. Hydraulic Modelling Report. July 2026. Environment Agency Flood Risk Modelling Comments ([REP4-089](#))

We do not have any comments to make on Lime Down E2 Hydraulic Modelling Report. The approach taken aligns with our expectations in terms of methods and reporting. We are currently reviewing the corresponding hydraulic model files. To date, no significant concerns have been identified with the model construct.

However, we will provide our detailed review comments to the applicant as soon as possible.

General comments and observations on the model report (no action required by the applicant)

It is noted that maximum flood depth mapping is presented within the modelling report for the 3.33% Annual Exceedance Probability (AEP) (1 in 30 year), 1% AEP (1 in 100 year), 1% AEP plus 39% climate change (higher central allowance), and 0.1% (1 in 1000 year) AEP scenarios. The applicant has also simulated the 1% AEP plus 71% climate change (upper end allowance) scenario; however, the corresponding depth mapping and results have not been included within the modelling report. The depth mapping for the 1% AEP plus 71% climate change scenario is however included within the latest Flood Risk Assessment for Lime Down E2. On this basis it is not considered necessary to repeat this within the model report. The 0.1% AEP present-day flood extent is marginally larger than the 1% AEP plus 39% climate change scenario, but remains slightly smaller than the 1% AEP plus 71% climate change scenario.

A review of the hydrological inputs indicates that peak flows for the 1% AEP plus 71% climate change scenario are similar to, albeit marginally greater than, those applied to the 0.1% AEP (1 in 1,000 year) present-day scenario.

An 1d-2d linked modelling approach has been adopted using ESTRY-TUFLOW software (TufLOW build 2026.2.0-iSP). This is considered reasonable.

A model grid resolution of 2 metres has been adopted. This is considered reasonable and detailed.

The 2025 Flood Estimation Handbook (FEH) Statistical method has been used to determine the flood peaks to apply to the hydraulic model. These gave higher flows than the Revitalised Flood Hydrograph (ReFH2) approach and hence has been adopted on the basis of conservatism. The Flood Estimation Guidelines caution

against picking a method based on conservatism alone, however, given that the catchment is ungauged, this approach is considered reasonable in the context of the proposed development.

The following events have been simulated within the hydraulic model; the 3.3% (1 in 30) AEP scenario, the 1% (1 in 100) AEP scenario, and the 0.1% (1 in 1000) AEP scenario. Climate change uplifts of +39% and +79% have also been applied. These are reflective of the Higher Central and Upper End allowances for the 2080s epoch (2070 to 2125) for the Avon Briston and North Somerset Streams management catchment. These events are considered suitable in the context of Essential Infrastructure.

Only baseline modelling has been undertaken. Proposed “with development” modelling has not been undertaken. This is considered appropriate as there is no land raising within the modelled flood extents. The only development within the modelled flood extents are the solar panel support columns. Table 1 and 2 of the accompanying Flood Risk Assessment for Lime Down E2 note a total of 14 support columns within the 0.1% (1 in 1000) annual exceedance probability extent and a displaced volume of well below 1 cubic metre. It is therefore not considered necessary to undertake proposed “with development” modelling of the solar panel support frames. Their impact has already been assessed through volumetric analysis which is considered appropriate.

The modelled flood extents compare well with the existing Flood Map for Planning dataset, providing additional confidence that the model is reasonably representing the dominant flood risk mechanisms associated with the Rodbourne Brook.

Appendix 3: Updated comments and position on the issues raised in our Relevant Representation/ Written Representation/ Examination responses following review of documents submitted at Deadline 4

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
EA001-EA-011s summarise the issues below	See below	See below	NA
EA-012	REP4-004 3.1 Draft Development Consent Order (Rev 4)	Disapplying Flood Risk Activity Permits	Agree in principle We have now agreed in principle to the applicant's request to disapply the need for Flood Risk Activity Permits under the Environmental Permitting (England and Wales) Regulations 2016; based on the information in REP1-126 9.10 ES Volume 3 Appendix 9-9 Watercourse Crossing Schedule and subject to the inclusion of our standard protective provisions in the Development Consent Order. We note the applicant has made changes to make the protective provisions in accordance with our standard protective provisions in the 3.1 Draft Development Consent Order (Rev 4). We are satisfied with the use of the <i>Order Limits</i> rather than <i>Limits of Deviation</i> in 96 <i>maintenance of works</i> as Lime Down does not have any Limits of Deviation. However, there are still some minor discrepancies which we require to be amended in accordance with our standard protective provisions set out in Appendix 4 for consistency. For example in <i>works not in</i>

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
			<i>accordance with the schedule 95; 96 maintenance of works, agency access 98 and free passage of fish 99. Please can these be corrected.</i>
EA-013	REP3-006 3.1 Draft Development Consent Order (Rev 3)	Requirement 13 Construction environmental management plan (CEMP)	Agree- as per Deadline 4 response.
EA-014	REP3-006 3.1 Draft Development Consent Order (Rev 3)	Requirement 14 Operational environmental management plan (OEMP)	Agree as per Deadline 4 response.
EA-015	REP1-008 3.1 Draft Development Consent Order (Rev 2)	Requirement 17 Soil Management	Agreed- As per Deadline 2 response.
EA-016	Fisheries	Fish species protection	Agreed- As per Deadline 2 response.
EA-017	Fisheries, Biodiversity and Geomorphology	Watercourse Crossings	Agreed- As per Deadline 2 response.
EA-018	Fisheries, Biodiversity and	Commitments register:	Agreed- As per Deadline 2 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
	Geomorphology	mitigation	
EA-019	Fisheries, Biodiversity and Geomorphology	Ecological assessments	Agree- As per Deadline 2 response.
EA-020	Fisheries, Biodiversity and Geomorphology	Aquatic invertebrates	Agree- As per Deadline 2 response.
EA-021	Fisheries, Biodiversity and Geomorphology	Watercourse buffers	Agree We have now agreed with the applicant's proposal to maintain a minimum 8 metre watercourse buffer from ditches, following our request to provide a minimum 10 metre watercourse buffer. This was based on a discussion with the applicant dated 28th July 2026, and a review of Confidential Appendix 9-8 (Schedule of Protective Ecological Buffers APP-205) provided by the applicant. This provided us with the assurance that watercourse riparian zones were being adequately considered, and the measures proposed were proportionate. The applicant has updated the most recent iteration of the Outline Construction Environmental Management Plan (REP4-049), to a 15m buffer where biosecurity risks or sensitivities have been identified.
EA-022	Water Framework Directive	Groundwater Bodies	Agree- as per Deadline 4 response.
EA-023	Groundwater	Piling	Agree- as per Deadline 4 response

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
	er and Contamina ted Land		
EA-024	Groundwat er and Contamina ted Land	Battery Energy Storage System (BESS) foundation solution	Agree- as per Deadline 4 response.
EA-025	Groundwat er and Contamina ted Land	Fire water supply and storage within the Outline Battery Safety Manageme nt Plan (oBSMP)	Agree- as per Deadline 2 response.
EA-026	Groundwat er and Contamina ted Land	Ground infrastru ctu re will be left in-situ following the decommiss ioning phase	Agree- as per Deadline 2 response.
EA-027	Groundwat er and Contamina ted Land	Suitable mitigation where groundwat er may be encountere d.	Agree- as per Deadline 4 response.
EA-028	Groundwat er and Contamina ted Land	Per-and poly fluoroalkyl substances (PFAS)	Agree- as per Deadline 2 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
		based materials	
EA-029	Groundwater and Contaminated Land	Licensed groundwater abstractions	Agree-as per Deadline 4 response.
EA-030	Groundwater and Contaminated Land	Thermal implications of cables	Under discussion The applicant has stated that our advice regarding thermal impacts of cables has been noted and will be referenced in future submissions of ES Volume 1 Chapter 19 Ground Conditions (Rev 3) [REP3-023] and that detailed assessment of thermal impacts will be made once location-specific hydrogeological data is available from ground investigations to be completed prior to the construction phase. Our comments from the previous deadline therefore remain valid. We may be able to resolve this issue if a commitment to secure assessment of thermal impacts, and route the cables accordingly, prior to construction can be included in the Construction Environment Management Plan ES Volume 1 Chapter 19 Ground Conditions (Rev 3) [REP3-023] has been updated, including sections 19.10.2 and 19.11.10. 19.10.2 states that "Micro routing of the cable will ensure that no cables are located within 50m of abstractions or GWDTE or within SPZ1." Cable Route Southwest lies within a Source Protection Zone 1 (SPZ1). It is not clear how the micro-routing will ensure that no cables are within SPZ1.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
			Section 19.11.10 makes no reference to avoiding SPZ1. The Applicant has not demonstrated adherence to the conditions set out in the advice note we sent in February 2026. This includes proximity to SPZ1 and springs. More detail is required to demonstrate that the cables will not interact with these sensitive receptors. This should include depth to groundwater and anticipated ground conditions in sensitive groundwater areas.
EA-031	Groundwater and Contaminated Land	The Battery Energy Storage System (BESS) Area drainage outfall automatically self-actuating valves	Agree- as per Deadline 2 response.
EA-032	Groundwater and Contaminated Land	Ground conditions	Agree- as per Deadline 4 response.
EA-033	Groundwater and Contaminated Land	Discovery and Inspection Strategy	Agree- as per Deadline 2 response.
EA-034	Groundwater and Contaminated Land	Inconsistency in the walkover surveys carried out.	Agree- as per Deadline 4 response.
EA-035	Groundwater and	Soil contaminat	Agree- as per Deadline 4 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
	Contaminated Land	ion during the operational phase.	
EA-036	Groundwater and Contaminated Land	Groundwater risks have not been appropriately assessed.	Agree- as per Deadline 4 response.
EA-037	Groundwater and Contaminated Land	Storage and management proposals for batteries have not been provided.	Agree- as per Deadline 2 response.
EA-038	Groundwater and Contaminated Land	Mitigation proposals managing risks to groundwater have not been adequately addressed.	Agree- as per Deadline 4 response.
EA-039	Groundwater and Contaminated Land	No Preliminary Risk Assessments (PRAs) for the interconnecting corridors between the main	Agree- as per Deadline 4 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
		solar panel areas.	
EA-040	Groundwater and Contaminated Land	Maps and data searches in appendices 19-1, 19-2 and 19-5 are not complete or specific to those sites	Agree- as per Deadline 4 response.
EA-041	Groundwater and Contaminated Land	The PRA reports do not refer to the proposed Discovery and Inspection Strategy	Agree As per Deadline 2 response.
EA-042	Groundwater and Contaminated Land	PRA- off-site vehicle repair garage	Agree As per Deadline 2 response.
EA-043	Groundwater and Contaminated Land	Unclear whether ground investigation to confirm the conceptual model is proposed to be carried out for several parts of the Proposed	Agree As per Deadline 2 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
		Development.	
EA-044	Groundwater and Contaminated Land	Justification for selecting the distances beyond which off site contamination sources would not be significant.	Agree As per Deadline 2 response.
EA-045	Groundwater and Contaminated Land	Monks Park Mine	Agree- as per Deadline 4 response
EA-046	Groundwater and Contaminated Land	No drainage strategies are provided for the proposed 400kV and 132kV Substations.	Agree- as per Deadline 4 response.
EA-047	Groundwater and Contaminated Land	Present the SuDS options with consideration of the need for sealed drainage.	Agree As per Deadline 2 response.
EA-048	Groundwater	Table 4:	Agree

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
	er and Contaminated Land	SuDS Mitigation Indices is blank.	As per Deadline 4 response.
EA-049	Flood Risk Assessment	Functional Floodplain (Flood Zone 3b).	Under Discussion We welcome the addition of the 3.3% (1 in 30) annual exceedance probability scenario flood depth and extent mapping for the Gauze Brook. Lime Down E2 Model is under review- please see Appendix 2.
EA-050	Flood Risk Assessment	Fencing must not inhibit flood flow routes.	Agree- as per Deadline 4 response.
EA-051	Flood Risk Assessment	No assessment of the impacts the construction phase of the development will have on flood risk.	Agree This can be moved to resolved as the applicant has now included text in the Outline Construction Environmental Management Plan (REP4-050) which confirms all material storage and construction compounds will be placed outside of Flood Zone 3b.
EA-052	Flood Risk Assessment	It is not clear what freeboard allowances are proposed.	Agree Lime Down Solar Park. Environmental Statement Volume 3. Appendix 11-1: Flood Risk Assessment and Outline Drainage Strategy – Lime Down Covering Report. July 2026 (REP4-022) Section 3.2.1 Embedded Mitigation page 22 notes that where solar PV panels are located within the design flood extent, the lowest leading edge of the panels will be set to no

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
			less than 600mm above the design flood level. This is agreed.
EA-053	Flood Risk Assessment	Hydraulic model files for the Gauze Brook have not been reviewed.	Under Discussion The applicant has provided the hydraulic model files for the Gauze Brook and we have reviewed the modelling. The peak flows presented in Table 3 of the updated model report (June 2026) differ from those reported in the previous model report (April 2026). A reduction in the Gauze Brook design flow estimates has been identified in the updated submission. The reason for this change is not explained. In the absence of any justification or revised hydrological assessment, it would be expected that the design flows remain unchanged from the previous submission. As noted in the previous model review comments, the corresponding Flood Estimation calculation record should be provided to enable verification of the peak flows applied within the hydraulic model. The applicant has indicated they will submit updated modelling at Deadline 5 for our review.
EA-054	Flood Risk Assessment	It is not clear how the analysis extent area of 275,000m ² has been derived.	Agreed. As per Deadline 2 response.
EA-055	Flood Risk Assessment	Impacts of the solar panel support	Agree Lime Down Solar Park. Environmental Statement Volume 3. Flood Risk Assessment and Outline Drainage

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
		frames on flood flow conveyance is not discussed. Lime Down D/BESS	Strategy – Lime Down D/BESS. July 2026 (REP4-032) Section 2.3.19 notes that where solar PV panels are located within the design flood extent the lowest leading edge of the panels will be no less than 600mm above the design flood level. This is agreed. No other comments at this stage. The Gauze Brook runs through Lime Down D and is subject to ongoing hydraulic modelling updates and hence there may be a requirement to update some of the figures and information within the Flood Risk Assessment once this modelling is finalised.
EA-056	Flood Risk Assessment	It is not clear how the analysis extent area of 175,580m ² has been derived.	Agreed As per Deadline 2 response.
EA-057	Flood Risk Assessment	Impacts of the solar panel support frames on flood flow conveyance is not discussed. Lime Down E2	Under Discussion Lime Down E2 Model is under review- please see Appendix 2.
EA-058	Outline Decommisioning Strategy	No clear commitment to the production	Agreed As per Deadline 2 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
		of an outline or detailed Decommissioning Environmental Management Plan.	
EA-059	Cable Route Construction Method Statement	Cable Route Construction Method Statement	Agree We note the amendment to the Outline Construction Environmental Management Plan [REP2-019] to include reference to the discovery strategy and updates to Table 13 in relation to the proposed ground investigation. Appendix 3-2 Cable Route Construction Method Statement [REP4-040] has been updated to include reference to the discovery strategy.
EA-060	Biodiversity Net Gain	Trading Rules	Agree As per Deadline 2 response.
EA-061	Biodiversity Net Gain	Full Biodiversity Net Gain Metric has not been provided.	Agree- As per Deadline 2 response.
EA-062	Outline Landscape and Ecological Management Plan	Planting strategy misses opportunities to enhance the environment.	Agree- As per Deadline 2 response.
EA-063	Water Framework	Change the	Agree As per Deadline 2 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
	Directive Assessment	description from “Supports Good” to “Not High” and possibly add an explanation.	
EA-064	Water Framework Directive Assessment	The assessment does not identify or discuss Groundwater Dependent Terrestrial Ecosystems (GWDTEs)	Agree As per Deadline 2 response.
EA-065	Water Framework Directive Assessment	Subsurface infrastructure such as the Cable Corridor could impact the status of WFD Groundwater Bodies and should not be excluded from assessment.	Agree As per Deadline 2 response.
EA-066	Outline Battery	Provide details of	Agree As per Deadline 2 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
	Safety Management Plan	the products to be used in the proposed liquid cooling systems, and the means by which it will be contained, captured and disposed.	
EA-067	Outline Battery Safety Management Plan	Provide more detail about the inspection and maintenance frequency and protocols for key controls at the BESS site.	Agree As per Deadline 2 response.
EA-068	Outline Battery Safety Management Plan	No details are provided of the proposed testing suite or sampling protocol for potentially contaminat	Agree As per Deadline 2 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
		ed firewater captured at the BESS in a fire event.	
EA-069	Outline Battery Safety Management Plan	It is not clear whether the proposed lining of the drainage system at the BESS would be impermeable.	Agree As per Deadline 2 response.
EA-070	Outline Construction Environmental Management Plan	Water Quality Mitigation Measures are insufficient	Agree As per Deadline 4 response.
EA-071	Outline Site Waste Management Plan	No inclusion that waste will be assessed in accordance with Waste Technical Guidance WM3	Agree As per Deadline 2 response.
EA-072	Permitting	Permitting Informative	Agree
EA-073	Flood Risk	Compensa	Under Discussion.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
	Assessment	tory flood storage	If it is not possible to place the substation within Lime Down C1 outside of the mapped flood flow routes, further assessment will need to be undertaken at detailed design to determine if the placement of the substation within Lime Down C1 would increase flood risk elsewhere. If there is an increase to flood risk elsewhere, floodplain compensation will be provided, in consultation with the Environment Agency, to ensure that there is no increase in flood risk. Engagement with the Environment Agency will occur throughout the detailed design stage on the need, method of calculating volumes, modelling and design of any floodplain compensation that may be required. We would need to secure this through a requirement within the Development Consent Order. We would request the following wording to secure this: Flood Mitigation Requirement <i>No development shall take place within Lime Down C1 until the location of the substation has been confirmed, an assessment of flood risk has been undertaken and a mitigation plan have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with the Environment Agency, and these works shall be carried out as approved.</i> <i>Note:</i> <i>Should the assessment show increased flood risk, the mitigation plan should include a Floodplain Compensation Scheme. Any proposed compensation scheme</i>

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
			<i>must demonstrate:</i> <i>a) no net loss of floodplain storage within the design flood event;</i> <i>b) compensation provided on a level-for-level and volume-for-volume basis where appropriate;</i> <i>c) no increase in flood risk elsewhere;</i> <i>d) implementation of compensatory storage prior to the associated floodplain loss; and</i> <i>e) appropriate maintenance of the compensation scheme is in place during the operation phase.</i>
EA-074	Outline Landscape and Ecological Management	Herbicide use	Agree- as per Deadline 4 response.
EA-075	Outline Ecological Protection and Mitigation Strategy	Improvements to document	Agree As per Deadline 2 response.
EA-076	Firewater Drainage	Detail of fire water management. A standalone drainage plan is strongly recommended.	Agree As per Deadline 2 response.
EA-077	BESS and Substation Drainage	Proposed drainage layout for the BESS	Agree As per Deadline 2 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
		and 400kv Substation development.	
EA-078	Lime Down E Desk Study	former RAF airfield at Hullavington.	Agree As per Deadline 2 response.
EA-079	outline Battery Safety Management Plan	Battery replacements	Agree As per Deadline 2 response.
EA-080	Intrusive Ground Investigations	Intrusive Ground Investigations	Agree As per Deadline 2 response.
EA-081	Decommissioning	Decommissioning of cables	Agree As per Deadline 2 response.
EA-082	Ground Investigations	Purpose, scope and extent of ground investigations	Agree As per Deadline 2 response.
EA-083	Battery Safety Management Plan	Manual isolation of BESS systems	Agree As per Deadline 2 response.
EA-084	Battery Safety Management Plan	Battery storage infrastructure should not be delivered to site before all firewater containment	Agree As per Deadline 2 response.

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
		nt arrangements are installed and commissioned.	
EA-085	Battery Safety Management Plan	Emergency Response Plan	Agree As per Deadline 2 response.
EA-086	Foundation Design	Piling Risk Assessment references	Agree As per Deadline 2 response..
EA-087	Commitments Register	Horizontal Directional Drilling	Agree As per Deadline 2 response..
EA-088	Commitments Register	Siting of construction compounds and stockpiles	Agree As per Deadline 2 response.
EA-089	Commitments Register	Plant maintenance	Agree As per Deadline 2 response.
EA-090	Commitments Register	Breakout contingency procedures	Agree As per Deadline 2 response..
EA-091	Commitments Register	Per- and polyfluoroalkyl substances (PFAS)	Agree- As per Deadline 2 response.
EA-092	Commitments Register	BESS and substation drainage infrastructure	Agree As per Deadline 2 response..

EA RR ID Ref in PDA-009	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
EA-093	Commitments Register	Hydrological risk assessment	Agree As per Deadline 2 response..

EA Written Rep (WR) REP1-151 ID Ref in REP2-039	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
WR EA-001	Ecology and Biodiversity	Biodiversity Net Gain	Agree
WR EA-002	Draft DCO	“Substantially in accordance with” requirements	Under Discussion We maintain our previous position set out in our written representation REP1-151
WR EA-003	Draft DCO Soil Management	Requirement 17	Agree
WR EA-004	Draft DCO	Procedure for Discharge of Requirements	Under Discussion We note the increase in timeframe but request the full 15 working days consultation period as set out in our written representation REP1-151
WR EA-005	Water Quality	Foul Drainage	Agree -as per Deadline 3 response.
WR EA-006	Water Quality	Water Quality Monitoring	Agree - as per Deadline 4 response.
WR EA-007	Water Quality	Vehicle washdown and refuelling areas	Agree -as per Deadline 3 response.

EA Written Rep (WR) REP1-151 ID Ref in REP2-039	Issue	Topic (s)	Environment Agency Updated Position following Deadline 4 submissions
WR EA-008	Water Quality	Concrete management	Agree- as per Deadline 3 response.
WR EA-009	Water Quality	Sediment control and SuDS	Agree- as per Deadline 3 response.
WR EA-010	Water Quality	Fuels, oils and chemical storage	Agree- as per Deadline 4 response.
WR EA-011	Water Quality	Wheel wash water disposal	Agree- as per Deadline 3 response.
WR EA-012	Water Quality	Outline Decommissioning Strategy	Agree- as per Deadline 3 response.
WR EA-013	Water Quality	Watercourse buffers	Agree - as per Deadline 3 response.
WR EA-014	Water Quality	Horizontal Directional Drilling (HDD) and Per- and polyfluoroalkyl substances (PFAS)	Agree- as per Deadline 3 response.
WR EA-015	Statement of Common Ground	Statement of Common Ground	Under Discussion The next version of the Statement of Common Ground will be submitted at Deadline 6.

Issues raised as part of Deadline 4 Response

EA Deadline 4 response REP4-097	Issue	Topic	Environment Agency Updated Position following Deadline 4 submissions
Action 25	Cable Route Corridor	Species surveys	Under Discussion The applicant has provided further clarity around their planned pre-commencement surveys, and has agreed to update the Outline Ecological Protection and Mitigation Strategy [REP4-055). Subject to a review of the updated document, this would satisfy our concerns regarding survey work.
Action 25	Fisheries	Outline Construction Environmental Management Plan	Under Discussion The document has not been updated in accordance with the additional commitment we have requested.

Appendix 4: Environment Agency Standard Protective Provisions

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

1.—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this part of this Schedule—

“Agency” means the Environment Agency;

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

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“emergency” means an occurrence which presents a risk of—

(a) serious flooding

(b) serious detrimental impact on drainage

(c) serious harm to the environment

“fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

“main river” has the same meaning given in section 113 of the Water Resources Act 1991;

“non-tidal main river” has the meaning given in paragraph 2(1) of Part 1 of Schedule 25 to the Environmental Permitting (England and Wales) Regulations 2016;

“plans” includes plans, sections, elevations, drawings, specifications, programmes, proposals, calculations, method statements and descriptions;

“remote defence” means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river;

“sea defence” means any bank, wall, embankment (any berm, counterwall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artificial, against the inundation of land by sea water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the Agency’s area against flooding, but excludes any sea defence works which are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949 or by any local authority or any navigation, harbour or conservancy authority;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within;

(a) 16 metres of the base of a sea defence which is likely to –

- (i) endanger the stability of, cause damage or reduce the effectiveness of that sea defence, or
 - (ii) interfere with the Agency's access to or along that sea defence or the Agency's ability to undertake works to ensure the efficacy of that sea defence;
 - (b) 8 metres of the base of a remote defence which is likely to –
 - (i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence, or
 - (ii) interfere with the Agency's access to or along that remote defence;
 - (c) 16 metres of a drainage work involving a tidal main river;
 - (d) 8 metres of a drainage work involving a non-tidal main river;
 - (e) any distance of a drainage work and is otherwise likely to—
 - (i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
 - (ii) affect the flow, purity or quality of water in any main river or other surface waters
 - (iii) cause obstruction to the free passage of fish or damage to any fishery;
 - (iv) affect the conservation, distribution or use of water resources; or
 - (v) affect the conservation value of the main river and habitats in its immediate vicinity;
 or which involves:
 - (f) an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and
 - (g) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work;
- “tidal main river” has the meaning given in paragraph 2(1) of Part 1 of Schedule 25 to the Environmental Permitting (England and Wales) Regulations 2016.

Submission and approval of plans

- 2.—**(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.
- (2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 12.
- (3) Any approval of the Agency required under this paragraph—
- (a) must not be unreasonably withheld or delayed;
 - (b) subject to sub-paragraph (5), is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans or such later date as is agreed between the Agency and the undertaker and if further particulars have been requested

pursuant to sub paragraph (1) the period between the making of this request and the provision of further particulars in response to it shall not be taken into account in the calculation of the 2 months for the purposes of this sub-paragraph ; and

- (c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or for nature conservation or the prevention of environmental harm in the discharge of its environmental duties.
- (4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b)
- (5) In the case of a refusal, the Agency must provide reasons for the grounds of that refusal.

Construction of protective works

3. Without limiting paragraph 2 the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (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—

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

Timing of works and service of notices

4.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 3, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved under this Part of this Schedule; and
 - (b) to the reasonable satisfaction of the Agency,
- and the Agency is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

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

Works not in accordance with this Schedule

5.—

(1) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions and where the Agency acting reasonably considers it necessary to avoid any of the risks specified in sub-paragraph (2), the Agency may serve written notice requiring the undertaker to cease all or part of the specified works as may be specified within the notice within the period specified in the notice, and the undertaker must cease constructing the specified works or part thereof until such time as it has obtained the consent or complied with the condition specified within the notice served.

(2) The risks specified in sub-paragraph (1) are—

- (a) risk of flooding;
- (b) risk of harm to the environment;
- (c) risk of detrimental impact on drainage
- (d) damage to the fishery.

(3) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Agency 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 such extent and within such limits as the Agency reasonably requires.

(4) Subject to sub-paragraph (5) if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (3) is served upon 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 Agency may execute the works specified in the notice and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(5) In the event of any dispute as to whether sub-paragraph (3) 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 Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined in accordance with paragraph 12.

Maintenance of works

6.—(1) Subject to sub-paragraph (5) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency 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 Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency 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 drainage work is served under sub-paragraph (2) 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 Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency 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 Agency 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 12.

(5) This paragraph does not apply to-

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and
- (b) any obstruction of a drainage work expressly authorised in the approval of specified works plans and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable.

Remediating impaired drainage work

7. If by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.

Agency access

8. If by reason of the construction of any specified work or the failure of any such work, the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must notify the Agency immediately and provide suitable alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction occurred and such alternative access must be made available as soon as reasonably practicable after the undertaker becomes aware of such obstruction, except in the case of an emergency in which case the undertaker must provide such alternative means of access on demand.

Free passage of fish

9.—(1) The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage within the period specified in the notice.

(3) If, the undertaker fails to take such steps as are described in the notice served under sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) In any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

Indemnity

10. (1) The undertaker indemnifies the Agency in respect of all costs, charges and expenses which the Agency may incur —

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

11(1) The undertaker is responsible for and indemnifies the Agency against all costs and losses, liabilities, claims and demands not otherwise provided for in this Schedule which may be reasonably incurred or suffered by the Agency by reason of, or arising out of—

- (a) the construction, operation or maintenance of any specified works comprised within the authorised development or the failure of any such works comprised within them; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.

(2) For the avoidance of doubt, in sub-paragraph (2)—

- (i)“costs” includes—
 - (a) expenses and charges;
 - (b) staff costs and overheads;
 - (c) legal costs;
 - (ii)“losses” includes physical damage.
 - (iii)“claims” and “demands” include as applicable—
 - (d) costs (within the meaning of sub-paragraph (2(i)) incurred in connection with any claim or demand;
 - (e) any interest element of sums claimed or demanded;
 - (iv)“liabilities” includes—
 - (a) contractual liabilities;
 - (b) tortious liabilities (including liabilities for negligence or nuisance);
 - (c) liabilities to pay statutory compensation or for breach of statutory duty;
 - (d) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).
- (3) The Agency must give to the undertaker reasonable notice of any such claim or demand and must not settle or compromise a claim without the agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.
- (4) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.
- (5) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, must not relieve the undertaker from any liability under the provisions of this Part of this Schedule.
- (6) Nothing in this paragraph imposes any liability on the undertaker with respect to any costs, charges, expenses, damages, claims, demands or losses to the extent that they are attributable to the neglect or default of the Agency, its officers, servants, contractors or agents.

Disputes

- 12.** Any dispute arising between the undertaker and the Agency under this Part of this Schedule must, if the parties agree, be determined by arbitration under article [] (arbitration), but failing agreement be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for [] or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.