

OUR REF S6152.28/CBW/CWI

YOUR REF

18 September 2026

John Wheadon
Head of Energy Infrastructure Planning Delivery & Innovation
Department of Energy Security & Net Zero
3-8 Whitehall Place
London
SW1A 2AW

Dear Mr Wheadon

Sea Link Project (the “Project”)

Application Ref: EN020026

**ScottishPower Renewables (UK) Limited, East Anglia ONE North Limited and East Anglia TWO Limited’s
Response to the Secretary of State’s (“SoS”) Request for Information dated 18 August 2026**

1. Introduction

- 1.1 We refer to the above Project and confirm we are instructed by ScottishPower Renewables (UK) Limited (“**SPR**”), East Anglia ONE North Limited (“**EA1NL**”) and East Anglia TWO Limited (“**EA2L**”) (together, the “**SPR Parties**”).
- 1.2 SPR is the parent company of EA1NL, who has the benefit of the East Anglia ONE North Offshore Wind Farm Order 2022 (“**EA1N**”), and EA2L, who has the benefit of the East Anglia TWO Offshore Wind Farm Order 2022 (“**EA2**”).
- 1.3 This submission provides a response to the SoS’ request for information dated 28 August 2026.

2. Paragraph 48 – Update on Protective Provisions

- 2.1 The Applicant, EA1NL and EA2L have agreed separate bespoke protective provisions for the EA1NL and EA2L, copies of these are appended hereto. However, given the side agreement has not yet been agreed and entered into, the SPR Parties understand that the Applicant will be submitting protective provisions in the form appended hereto with the addition of a provision allowing them to exercise compulsory acquisition and temporary possession powers after 1 April 2029 (being the date when the compulsory acquisition and temporary possession powers under the EA1N and EA2 development consent orders expire). It has been agreed between the SPR Parties and the Applicant that this wording is to be removed when the side agreement is entered into.
- 2.2 As stated in our Deadline 7 submission [REP7-194], we believed that bespoke protective provisions had been agreed for SPR, a copy of which were appended to that submission. We queried with the Applicant’s solicitor why these were not included in the final version of the draft Development Consent Order (“**dDCO**”) and they responded stating that they did not consider bespoke protective provisions were required for SPR. This was the first this point had been raised and contradicted previous discussions, the fact that their solicitor made amendments to the draft protective provisions for SPR during negotiations and that the Applicant repeatedly stated that bespoke protective provisions with SPR were being negotiated with agreement expected in their Status of Negotiations with Statutory Undertakers and Schedule of Protective Provisions [REP1-125, REP3-071, REP5-108, REP6-131 and REP7-039].

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- 2.3 SPR continues to request that bespoke protective provisions are included in the Development Consent Order (if granted) in the form appended at Schedule 2 of the SPR Parties' Deadline 7 submission [REP7-194].

3. Paragraph 49 – Update on Side Agreement

Commercial Side Agreement

- 3.1 The SPR Parties made good progress with the Applicant over the course of the Examination on a side agreement however this is not yet in agreed form. An updated draft of the side agreement was sent to the Applicant's solicitors on 13 July 2026 and a further revised draft was received from the Applicant's solicitors on 10 September 2026. The SPR Parties and the Applicant have been in active and productive discussions this week and are very close to reaching agreement on the side agreement. The SPR Parties are confident agreement on the side agreement can be reached in the next couple of weeks and will notify the Secretary of State once the side agreement has been entered into.

Transfer of Benefit Agreement, Transfer of Land and Related Agreements

- 3.2 The Transfer of Benefit Agreement transferring certain provisions under the EA2 Development Consent Order to allow the Applicant to construct Kiln Lane Substation, carry out overhead line realignment works and associated infrastructure, along with the transfer of land and other related agreements completed on 10 August 2026. As such, the Applicant now has acquired the land and rights over the SPR Parties owned land that the Applicant requires in order to construct the Kiln Lane Substation and associated infrastructure on land owned by the SPR Parties.

- 3.3 As such, the compulsory acquisition powers contained within the dDCO for the Project over the following land plots are entirely unnecessary:

- 2/5a
- 2/6a
- 2/7
- 2/7a
- 2/8
- 2/8a
- 2/9
- 2/11a
- 2/12
- 2/13
- 2/15a
- 2/20
- 2/20a
- 2/20c
- 2/20e
- 2/35
- 2/36a
- 2/42a
- 2/46a
- 2/47
- 2/47a

- 2/48
- 2/55
- 2/57
- 2/58
- 2/59
- 2/60
- 2/61
- 2/62
- 2/63
- 2/64
- 2/65
- 2/68
- 2/69
- 2/72
- 2/72a
- 2/72c
- 2/79
- 2/79a

- 3.4 As stated in the SPR Parties' Deadline 7 submission [REP7-194], upon completion of the Transfer of Benefit Agreement, land transfer and related agreements and in the absence of a completed side agreement, it is the SPR Parties' stance that said compulsory acquisition powers should fall out of the dDCO. This is particularly important because once the EA1N and EA2 onshore cables have been constructed, EA1NL and EA2L have a legal obligation to transfer these to an Offshore Electricity Transmission ("**OFTO**") which is a process overseen by Ofgem. OFTOs connect offshore windfarms to the onshore transmission network. This transfer takes place by way of a Transfer of Benefit Agreement. It is wholly inappropriate to expect this transfer to proceed in circumstances where a third party has residual compulsory acquisition rights over the assets in question.

Crossing Agreement

- 3.5 The Applicant's onshore cable will cross EA2 and EA1N's grid connection cables to the south-east of the Kiln Lane substations at plots 3/20, 3/21 and 3/22. Therefore, a crossing agreement is required from the Applicant and a first draft was sent to the Applicant's solicitors on 29 April 2026. With the wording of paragraph 6(1)(a) of the EA1NL and EA2L protective provisions being agreed by the SPR Parties and the Applicant, and on the assumption this would therefore be included in any made development consent order, there is no requirement for the crossing agreement to be agreed and entered into before the Secretary of State makes her decision.

Yours faithfully



For and on behalf of Shepherd and Wedderburn LLP

Schedule 1 EA1NL'S PROPOSED PROTECTIVE PROVISIONS

FOR THE PROTECTION OF EAST ANGLIA ONE NORTH LIMITED

Application

1. For the Protection of the statutory undertaker the following provisions have effect unless otherwise agreed in writing between the undertaker and the statutory undertaker.

Interpretation

2. In this Part of this Schedule –

“authorised development” has the same meaning as is given to the term in article [2] (interpretation) of this Order and includes any associated development authorised by the Order;

“As-built Survey” means a survey to be carried out following the completion of any part of the authorised development within 15m of the cable crossing recording (i) the configuration of the cable crossing and facilities ancillary thereto within a distance of two hundred metres (200m) of the cable crossing and the state of the land and position and condition of any cables within a distance of two hundred metres (200m) of the cable crossing.

“As-found Survey” means a survey to be carried out prior to the commencement of any part of the authorised development within 15m of the cable crossing recording the position and condition of the cable crossing and the state of the land along the proposed route of the cable crossing within a distance of two hundred metres (200m) of the cable crossing;

“cable crossing” means any location at which any part of the authorised development will intersect with the location identified under the East Anglia ONE North Offshore Wind Farm Order 2022 as being required for Work No.26 as described in the East Anglia One North Offshore Wind Farm Order 2022.

“EA1N” means the East Anglia ONE North Offshore Windfarm as authorised by the East Anglia ONE North Offshore Wind Farm Order 2022.

“statutory undertaker” means, in relation to any particular provision of these protective provisions and any part of the authorised development to which the provision relates, East Anglia ONE North Limited or any other such party who from time to time has the benefit of, or part of, the East Anglia ONE North Offshore Wind Farm Order 2022 insofar as that provision relates to works, assets, rights or statutory powers the benefit of which has been validly transferred to that transferee at the relevant time.

Notice

3. Where the undertaker is required to provide any plans or other information to the statutory undertaker under this Part of this Schedule, those plans or other information must be delivered by email to sealink@scottishpower.com or such other email address as confirmed by the statutory undertaker.

Acquisition of land

4.—(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 acquire any land interest or apparatus or rights or take temporary possession of land or override any easement or other interest including any powers of temporary possession held by the statutory undertaker otherwise than by agreement.

(2) As a condition of agreement between the parties in subparagraph (1), prior to the commencement of any part of the authorised development (or in such other timeframe as may be agreed between the statutory undertaker and the undertaker) that will cause any conflict with or breach the terms of any easement or other land interest of the statutory undertaker or affects the provisions of any enactment or agreement regulating the relations between the statutory undertaker and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as the statutory undertaker reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between the statutory undertaker and the undertaker

acting reasonably and which must be no less favourable on the whole to the statutory undertaker unless otherwise agreed by the statutory undertaker, and it will be the responsibility of the undertaker to procure 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.

Haul Road

5.—(1) No part of Work No.5 which may impact the statutory undertaker may commence until the undertaker has provided the statutory undertaker with a Haul Road Interface Plan and such Haul Road Interface Plan has been approved in writing by the statutory undertaker (such approval not to be unreasonably withheld or delayed).

(2) The Haul Road Interface Plan prepared under subparagraph (1) must demonstrate how the authorised development will interface with the haul road required for Work No.26 as described in the East Anglia ONE North Offshore Wind Farm Order 2022.

(3) The Haul Road Interface Plan prepared under subparagraph (1) must demonstrate that the construction of any part of the authorised development in the vicinity of the haul road shall not impact on the statutory undertaker's ability to deliver EAIN.

(4) The statutory undertaker must provide the undertaker with its written decision on whether to approve the Haul Road Interface Plan provided under subparagraph (1) or reasons why approval cannot be given within 25 working days of receipt of those details.

(5) Where the statutory undertaker does not provide a response within 25 working days in accordance with subparagraph (4) those details provided under subparagraph (1) will be deemed to have been approved.

Cable Crossing Design

6.—(1) No part of the authorised development within 15m of the cable crossing shall commence until:

- (a) a cable crossing agreement has been agreed and entered into between the undertaker and the statutory undertaker; and
- (b) a cable crossing design plan has been submitted to and approved in writing by the statutory undertaker.

(2) The cable crossing design plan must include a method statement and describe—

- (a) the exact position and nature of the works required at the cable crossing;
- (b) the level at which the works required at the cable crossing are proposed to be constructed;
- (c) the manner of the construction of the works required at the cable crossing including details of excavation, positioning of plant etc;
- (d) the position of all apparatus including the minimum separation distance shown in cross section drawings;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The cable crossing design plan prepared under subparagraph (1) must demonstrate that the construction of any part of the authorised development within 15m of the cable crossing shall not impact the statutory undertaker's assets or the statutory undertaker's ability to deliver EAIN.

(4) The statutory undertaker must provide the undertaker with its written decision on whether to approve the cable crossing design plan provided under subparagraph (1) or reasons why approval cannot be given within 40 working days of receipt of those details, and any approval of the statutory undertaker required under subparagraph (1):

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7);
- (b) must not be unreasonably withheld or delayed; and
- (c) where the statutory undertaker does not provide a response within 40 working days in accordance with subparagraph (4) those details provided under subparagraph (1) will be deemed to have been approved.

(5) In relation to any work to which sub-paragraph (1) applies, the statutory undertaker may require such modifications to be made to the cable crossing design plan as may be reasonably necessary for the purpose of:

- (a) where the works required under the East Anglia ONE North Offshore Wind Farm Order 2022 at the cable crossing have been completed, securing the statutory undertaker's assets against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any assets;
- (b) where the works required under the East Anglia ONE North Wind Farm Order 2022 at the cable crossing have commenced but have not been completed, ensuring the statutory undertaker's ability to complete such works is not impeded and securing the statutory undertaker's existing and future assets against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any assets; or
- (c) where the works required under the East Anglia ONE North Order 2022 at the cable crossing have not commenced, ensuring the statutory undertaker's ability to carry out such works is not impeded and securing the statutory undertaker's future apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the cable crossing design plan, submitted under sub-paragraph (2) as approved or as amended from time to time by agreement between the undertaker and the statutory undertaker, and the statutory undertaker will be entitled to watch and inspect the execution of those works.

(7) Where the statutory undertaker 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 the statutory undertaker's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and the statutory undertaker must give 25 working days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

Rectification of cable crossing

7.—(1) No part of the authorised development within 15m of the cable crossing shall commence until the undertaker has carried out and provided to the statutory undertaker an As-found Survey of the cable crossing and such As-found Survey has been approved in writing by the statutory undertaker (such approval not to be unreasonably withheld or delayed).

(2) The statutory undertaker shall, within 40 working days of receipt of the As-found Survey provided under sub-paragraph (1), provide the undertaker of its written approval or refusal to approve the As-found Survey.

(3) where the statutory undertaker does not provide a response within 40 working days in accordance with sub paragraph (2) the As-found Survey provided under sub paragraph (1) will be deemed to have been approved.

(4) Within 25 working days following the completion of any part of the authorised development within 15m of the cable crossing, the undertaker shall carry out an As-built Survey of the cable crossing and shall provide a copy to the statutory undertaker for approval (such approval not to be unreasonably withheld or delayed).

(5) The statutory undertaker shall, within 40 working days of receipt of the As-built Survey provided under sub-paragraph (4), inform the undertaker of its approval or refusal to approve the survey.

(6) The statutory undertaker shall only be entitled to refuse to approve the survey provided under sub-paragraph (4) if the survey demonstrates that the works carried out at the cable crossing have not complied with the cable crossing design plan approved in accordance with paragraph (4).

(7) Where sub-paragraph (6) applies, the undertaker must immediately undertake works to rectify the non-compliance with the cable crossing design plan.

(8) Where the statutory undertaker does not provide a response within 40 working days in accordance with sub paragraph (5) the As-built Survey provided under sub paragraph (4) will be deemed to have been approved.

(9) Subject to provision of appropriate notice and compliance at all times to any applicable health and safety statutes, regulations or site rules, the statutory undertaker shall allow access for the undertaker or any agent or contractor on behalf of the undertaker to carry out the As-found Survey or As-built Survey.

Expert determination

8.—(1) Subject to the provisions of this paragraph, article [62] (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference or dispute arising between the undertaker and the statutory undertaker under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and the statutory undertaker, be determined by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the undertaker and statutory undertaker or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use best endeavours to do so within 30 days from the date that an expert is appointed.

(5) The expert must –

- (a) invite the parties to make submission to the expert in writing and copies to the other party to be received by the expert within 10 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 10 days of receipt of the submission;
- (c) issue a decision within 10 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference or dispute that has been subject to expert determination may be referred to and settled by arbitration under article [62] (arbitration).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

Schedule 2
EA2L'S PROPOSED PROTECTIVE PROVISIONS
FOR THE PROTECTION OF EAST ANGLIA TWO LIMITED

Application

1. For the Protection of the statutory undertaker the following provisions have effect unless otherwise agreed in writing between the undertaker and the statutory undertaker.

Interpretation

2. In this Part of this Schedule –

“authorised development” has the same meaning as is given to the term in article [2] (interpretation) of this Order and includes any associated development authorised by the Order;

“As-built Survey” means a survey to be carried out following the completion of any part of the authorised development within 15m of the cable crossing recording (i) the configuration of the cable crossing and facilities ancillary thereto within a distance of two hundred metres (200m) of the cable crossing and the state of the land and position and condition of any cables within a distance of two hundred metres (200m) of the cable crossing.

“As-found Survey” means a survey to be carried out prior to the commencement of any part of the authorised development within 15m of the cable crossing recording the position and condition of the cable crossing and the state of the land along the proposed route of the cable crossing within a distance of two hundred metres (200m) of the cable crossing;

“cable crossing” means any location at which any part of the authorised development will intersect with the location identified under the East Anglia TWO Offshore Wind Farm Order 2022 as being required for Work No.26 as described in the East Anglia TWO Offshore Wind Farm Order 2022.

“EA2” means the East Anglia TWO Offshore Windfarm as authorised by the East Anglia TWO Offshore Wind Farm Order 2022.

“statutory undertaker” means, in relation to any particular provision of these protective provisions and any part of the authorised development to which the provision relates, East Anglia TWO Limited or any other such party who from time to time has the benefit of, or part of, the East Anglia TWO Offshore Wind Farm Order 2022 insofar as that provision relates to works, assets, rights or statutory powers the benefit of which has been validly transferred to that transferee at the relevant time.

Notice

3. Where the undertaker is required to provide any plans or other information to the statutory undertaker under this Part of this Schedule, those plans or other information must be delivered by email to sealink@scottishpower.com or such other email address as confirmed by the statutory undertaker.

Acquisition of land

4.—(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 acquire any land interest or apparatus or rights or take temporary possession of land or override any easement or other interest including any powers of temporary possession held by the statutory undertaker otherwise than by agreement.

(2) As a condition of agreement between the parties in subparagraph (1), prior to the commencement of any part of the authorised development (or in such other timeframe as may be agreed between the statutory undertaker and the undertaker) that will cause any conflict with or breach the terms of any easement or other land interest of the statutory undertaker or affects the provisions of any enactment or agreement regulating the relations between the statutory undertaker and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as the statutory undertaker reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between the statutory undertaker and the undertaker acting reasonably and which must be no less favourable on the whole to the statutory undertaker unless otherwise

agreed by the statutory undertaker, and it will be the responsibility of the undertaker to procure 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.

Haul Road

5.—(1) No part of Work No.5 which may impact the statutory undertaker may commence until the undertaker has provided the statutory undertaker with a Haul Road Interface Plan and such Haul Road Interface Plan has been approved in writing by the statutory undertaker (such approval not to be unreasonably withheld or delayed).

(2) The Haul Road Interface Plan prepared under subparagraph (1) must demonstrate how the authorised development will interface with the haul road required for Work No.26 as described in the East Anglia TWO Offshore Wind Farm Order 2022.

(3) The Haul Road Interface Plan prepared under subparagraph (1) must demonstrate that the construction of any part of the authorised development in the vicinity of the haul road shall not impact on the statutory undertaker's ability to deliver EA2.

(4) The statutory undertaker must provide the undertaker with its written decision on whether to approve the Haul Road Interface Plan provided under subparagraph (1) or reasons why approval cannot be given within 25 working days of receipt of those details.

(5) Where the statutory undertaker does not provide a response within 25 working days in accordance with subparagraph (4) those details provided under subparagraph (1) will be deemed to have been approved.

Cable Crossing Design

6.—(1) No part of the authorised development within 15m of the cable crossing shall commence until:

- (a) a cable crossing agreement has been agreed and entered into between the undertaker and the statutory undertaker; and
- (b) a cable crossing design plan has been submitted to and approved in writing by the statutory undertaker.

(2) The cable crossing design plan must include a method statement and describe—

- (a) the exact position and nature of the works required at the cable crossing;
- (b) the level at which the works required at the cable crossing are proposed to be constructed;
- (c) the manner of the construction of the works required at the cable crossing including details of excavation, positioning of plant etc;
- (d) the position of all apparatus including the minimum separation distance shown in cross section drawings;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The cable crossing design plan prepared under subparagraph (1) must demonstrate that the construction of any part of the authorised development within 15m of the cable crossing shall not impact the statutory undertaker's assets or the statutory undertaker's ability to deliver EA2.

(4) The statutory undertaker must provide the undertaker with its written decision on whether to approve the cable crossing design plan provided under subparagraph (1) or reasons why approval cannot be given within 40 working days of receipt of those details, and any approval of the statutory undertaker required under subparagraph (1):

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7);
- (b) must not be unreasonably withheld or delayed; and
- (c) where the statutory undertaker does not provide a response within 40 working days in accordance with subparagraph (4) those details provided under subparagraph (1) will be deemed to have been approved.

(5) In relation to any work to which sub-paragraph (1) applies, the statutory undertaker may require such modifications to be made to the cable crossing design plan as may be reasonably necessary for the purpose of:

- (a) where the works required under the East Anglia TWO Offshore Wind Farm Order 2022 at the cable crossing have been completed, securing the statutory undertaker's assets against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any assets;
- (b) where the works required under the East Anglia TWO Wind Farm Order 2022 at the cable crossing have commenced but have not been completed, ensuring the statutory undertaker's ability to complete such works is not impeded and securing the statutory undertaker's existing and future assets against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any assets; or
- (c) where the works required under the East Anglia TWO Order 2022 at the cable crossing have not commenced, ensuring the statutory undertaker's ability to carry out such works is not impeded and securing the statutory undertaker's future apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the cable crossing design plan, submitted under sub-paragraph (2) as approved or as amended from time to time by agreement between the undertaker and the statutory undertaker, and the statutory undertaker will be entitled to watch and inspect the execution of those works.

(7) Where the statutory undertaker 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 the statutory undertaker's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and the statutory undertaker must give 25 working days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

Rectification of cable crossing

7.—(1) No part of the authorised development within 15m of the cable crossing shall commence until the undertaker has carried out and provided to the statutory undertaker an As-found Survey of the cable crossing and such As-found Survey has been approved in writing by the statutory undertaker (such approval not to be unreasonably withheld or delayed).

(2) The statutory undertaker shall, within 40 working days of receipt of the As-found Survey provided under sub-paragraph (1), provide the undertaker of its written approval or refusal to approve the As-found Survey.

(3) where the statutory undertaker does not provide a response within 40 working days in accordance with sub paragraph (2) the As-found Survey provided under sub paragraph (1) will be deemed to have been approved.

(4) Within 25 working days following the completion of any part of the authorised development within 15m of the cable crossing, the undertaker shall carry out an As-built Survey of the cable crossing and shall provide a copy to the statutory undertaker for approval (such approval not to be unreasonably withheld or delayed).

(5) The statutory undertaker shall, within 40 working days of receipt of the As-built Survey provided under sub-paragraph (4), inform the undertaker of its approval or refusal to approve the survey.

(6) The statutory undertaker shall only be entitled to refuse to approve the survey provided under sub-paragraph (4) if the survey demonstrates that the works carried out at the cable crossing have not complied with the cable crossing design plan approved in accordance with paragraph (4).

(7) Where sub-paragraph (6) applies, the undertaker must immediately undertake works to rectify the non-compliance with the cable crossing design plan.

(8) Where the statutory undertaker does not provide a response within 40 working days in accordance with sub paragraph (5) the As-built Survey provided under sub paragraph (4) will be deemed to have been approved.

(9) Subject to provision of appropriate notice and compliance at all times to any applicable health and safety statutes, regulations or site rules, the statutory undertaker shall allow access for the undertaker or any agent or contractor on behalf of the undertaker to carry out the As-found Survey or As-built Survey.

Expert determination

8.—(1) Subject to the provisions of this paragraph, article [62] (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference or dispute arising between the undertaker and the statutory undertaker under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and the statutory undertaker, be determined by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the undertaker and statutory undertaker or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use best endeavours to do so within 30 days from the date that an expert is appointed.

(5) The expert must –

- (a) invite the parties to make submission to the expert in writing and copies to the other party to be received by the expert within 10 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 10 days of receipt of the submission;
- (c) issue a decision within 10 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference or dispute that has been subject to expert determination may be referred to and settled by arbitration under article [62] (arbitration).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.