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Your Ref: EN020027
Our Ref: EW.NOR081.70
Doc No: 60485928v1
Date: 07 July 2026

Dear Sir or Madam

Re:	**Norwich to Tilbury Project - Application for Development Consent – Deadline 6 Submission**
Reference:	**EN020027**
Our Client:	**Northumbrian Water Limited (Interested Party No.[redacted])**

As you are aware, we are instructed by our client Northumbrian Water Limited ("**NWL**") (who also operate under the trading name "Essex and Suffolk Water" ("**ESW**")) in relation to the application for a Development Consent Order ("**DCO**") submitted by National Grid Electricity Transmission ("the **Applicant**") in respect of the Norwich to Tilbury Project ("the **Project**").

We enclose our client's written post-hearing submissions for OFH4 and CAH3. The written submission for CAH3 (**CAH3 Submission**) includes a summary of the Applicant's responses to our client's submissions, together with the further dialogue between the Examining Authority, the Applicant and NWL during the hearing.

Our client remains concerned by the Applicant's submission that NWL has failed to engaged on the Applicant's latest draft protective provisions. As set out in the CAH3 Submission, NWL has actively engaged throughout the negotiation process, has responded to the Applicant's drafting, and had repeatedly sought clarification regarding the legal basis for cost-sharing and the potential effect of the inconsistencies in the drafting. For ease of reference, the CAH3 submission also provides an update on the current status of these negotiations.

The Examining Authority also requested an update on the status of the land parcels comprising access to Little Waltham Pumping Station. NWL's position on the classification of those parcels is set out in the CAH3 Submission and remains unchanged pending a response from the Applicant.

NWL remains willing to engage constructively with the Applicant to resolve these outstanding matters. However, until the Applicant meaningfully addresses NWL's concerns regarding both the protective provisions and the classification of operational land, NWL is unable to withdraw its objection to the Project.

In our client's view, the absence of appropriate protective provisions and the continued classification of land of significant operational importance in a manner that does not properly reflect its function

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gives rise to a real risk of serious detriment to NWL's ability to carry out its statutory functions, contrary to the protections afforded by sections 127 and 138 of the Planning Act 2008.

Yours faithfully

[redacted]

Ward Hadaway LLP

[redacted]
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Enclosures: OFH4 Submission and CAH3 Submission

Norwich to Tilbury DCO

Reference: EN020027

Northumbrian Water Limited (Interested Party No. [redacted])

Summaries of and Responses to Oral Submission made at Open Floor Hearing 4

Submissions on behalf of Northumbrian Water Limited

<u>Introduction and Representational Status</u>

1. Northumbrian Water Limited (NWL) operates under the trading name Essex and Suffolk Water. NWL are:
   1.1. a statutory undertaker,
   1.2. a landowner affected by the Project, and
   1.3. a statutory party for the purposes of the 2015 Regulations.

2. NWL is the appointed water undertaker for parts of Essex and Suffolk.

3. **Impact of the Project**

4. The Project affects a number of our operational water assets and several parcels of land that we own within the proposed Order limits. We have previously made representations about those impacts.

5. More recently, the Applicant proposed changes known as CR1 and CR2. However, NWL was only provided with the relevant land shape files in respect of these changes on 16 June. Until then, NWL's project team could not properly assess how these changes affect our land or our assets.

6. NWL are now carrying out those checks. Early searches indicate that CR1 affects additional NWL assets. Investigations are ongoing, so we reserve our position on the full extent of the impacts until that work is complete.

7. What we can say at this stage is that the additional NWL interests identified so far are proposed to be subject to compulsory acquisition of rights and powers of temporary use. The affected plots appear to be parcel numbers –

   7.1. 1B/15, 1A/3, 1A/12, 1A/14, 1A/16, 1A/17, 2/15, 2/24-27

8. **Additional Assets Affected by CR1**

9. CR1 impacts four NWL water mains, two of which are distribution mains and two are strategic mains.

10. If the powers in the draft Order were exercised, and flows were turned off in those mains, a significant number of businesses and members of the public could be affected. The number of households potentially affected by the proposal is approximately 37,000.

11. **Lack of Protections and Risk of Serious Detriment**

12. At present, there are no agreed protective provisions or side agreements between NWL and the Applicant. That remains the case, in respect of proposed change CR1.

13. Because of this, NWL cannot confirm that the compulsory acquisition of land or rights proposed in CR1 would not cause serious detriment to NWL's ability to carry out its statutory duties.

14. At the Compulsory Acquisition Hearing in April, NWL raised concerns via its solicitor about the Applicant seeking to introduce cost-sharing arrangements similar to those under the New Roads and Street Works Act, even though the draft Order stops short of formally invoking the cost sharing regulations under NRSWA. This was an approach that was and continues to be firmly opposed by NWL in relation to the draft Order for Sea Link , and our solicitor queried whether the Applicant intended to take the same approach in relation to this project, flagging that if this were the case NWL would be similarly opposed to such arrangements here.

15. Notwithstanding those concerns, on 8 June, the Applicant's solicitors provided revised protective provisions which for the first time introduced cost sharing.

16. This is a serious concern. It has always been agreed that any interference with NWL's apparatus must follow section 185 of the Water Industry Act 1991. That statutory regime provides for a statutory form of compensation that does not allow for cost sharing.

17. As drafted, the Applicant's proposed provisions are internally inconsistent and are likely to lead to substantial dispute between the parties. **The Examining Authority must be mindful that if the Order and the PPs are made in a way that allows for cost sharing, those provisions will risk delaying the Project significantly or even make it unimplementable.**

18. Our solicitors raised these concerns formally with the Applicant's solicitors on 12 June and requested a response by 19 June, but it was confirmed only as late as the day prior to OFH 4 on 14 June that the Applicant's solicitors are still awaiting instructions from the Applicant on this point. Unless and until the Applicant softens its stance on the need for cost sharing or provides a proper reasoned justification for those arrangements notwithstanding the significant legal problems highlighted by NWL's solicitor, it will not be possible for the Applicant to progress the negotiations of the Protective Provisions with NWL. NWL respectfully asked the ExA to urge the Applicant to meaningfully engage with NWL on this point.

19. **Conclusion**

20. In the absence of agreed protective provisions, NWL is not satisfied that the Applicant has demonstrated that the removal or extinguishment of NWL's assets is necessary, or that it would not cause serious detriment to NWL's statutory undertaking.

21. For those reasons, NWL maintains its objection to the Order and specifically the change known as CR1.

Norwich to Tilbury DCO

Reference: EN020027

Northumbrian Water Limited (Interested Party [redacted])

Summaries of and Responses to Oral Submission made at Compulsory Acquisition Hearing 3

Submissions on behalf of Northumbrian Water Limited

Introduction and Representational Status

1. Northumbrian Water Limited (NWL) operates under the trading name Essex and Suffolk Water. NWL are:
   1.1. a statutory undertaker,
   1.2. a landowner affected by the Project, and
   1.3. a statutory party for the purposes of the 2015 Regulations.

2. NWL is the appointed water undertaker for parts of Essex and Suffolk.

Scope of Objection

3. NWL's continued objection in this matter is based on three principle concerns, being:

   3.1. NWL have had insufficient time to assess the impacts of CR1 and CR2, having only received the relevant land data on 16 June;

   3.2. The Applicant has not demonstrated why it is necessary to acquire land relating to access to Little Waltham Pumping Station, and

   3.3. Despite NWL's best efforts, PPs are yet to be agreed with the Applicant.

Impact of the Project/CR1 and CR2

4. Turning to project impacts, the scheme affects a number of NWL's operational assets. Early assessment indicates that CR1 alone impacts at least four water mains, including strategic mains.

5. If these were interfered with, up to 37,000 households and businesses could be affected, which illustrates the potential scale of disruption.

6. NWL's assessment is ongoing, and NWL reserves its position on the full extent of impacts.

Little Waltham Pumping Station

7. In relation to Little Waltham Pumping Station, as made clear by our Solicitor at the April compulsory purchase hearing, this station is a critical operational asset.

8. While the Applicant has indicated that one plot - F3/96 - will be re-classified as class 8, it is crucial that parcels F3/91 and F3/93 are also re-classified as class 8. These adjoining

parcels are of vital operational importance as the asset cannot function without a secure and reliable access over these parcels, nor has the Applicant sufficiently explained why compulsory purchase powers are necessary.

9. The Applicant has suggested that the plots adjacent to the pumping station are only needed for minor works in association with the project. In light of the minor nature of the Project works, NWL are not satisfied that reasonable alternatives have been explored by the applicant.

10. To be clear, NWL is seeking relief through a re-classification of all 3 parcels which are F3/91, F3/93 and F3/96 as class 8 land.

<u>Lack of Protections and Risk of Serious Detriment</u>

11. As discussed by NWL at OFH4, at present, there are no agreed PPs between NWL and the Applicant.

12. Because of this, NWL cannot confirm that the compulsory acquisition of land or rights would not cause serious detriment to NWL's ability to carry out its statutory duties.

13. The Applicant introduced cost sharing in to the PP's being negotiated between the parties on 8 June. This approach resembles that under the New Roads and Street Works Act 1991, despite the draft Order stopping short of formally invoking those provisions.

14. This is a serious concern. It has always been agreed that any interference with NWL assets must follow section 185 Water Industry Act 1991 that provides for a statutory form of compensation and does not allow for cost sharing.

15. As drafted, the Applicant’s proposed PPs are inconsistent and will:

    15.1. give rise to disputes;

    15.2. cause delays to or hinder the delivery of the Project; and

    15.3. cause serious detriment to NWL carrying out its statutory undertaking contrary to ss127 and 138 of the Planning Act 2008

16. On 12 June NWL's solicitor wrote to the Applicant a full 12 days ahead of the CAH3 urging them to respond to the above concerns. They failed to respond to the issues

17. On 1 July NWL's solicitor again wrote to the Applicant's solicitors urging them to respond to NWL's concerns. They responded on 3 July but wholly failed to engage with the issues.

18. NWL's solicitors wrote to the Applicant's solicitors again on 6 July urging them for a response. At the time of writing no response has been forthcoming.

19. The Applicant may contend that its provisions are distinct from the cost-sharing arrangements found under the New Roads and Street Works Act 1991 and are intended merely to prevent NWL receiving a financial benefit at the Applicant's expense.

20. However, that does not address NWL's fundamental concern. The parties agree that any diversion, removal or relocation of NWL apparatus would be carried out pursuant to section

185 of the Water Industry Act 1991. NWL's position is therefore that the compensation regime prescribed by section 185(5) should apply.

21. As demonstrated, NWL has repeatedly asked the Applicant to explain the legal basis upon which its proposed betterment, salvage and cost-sharing provisions can operate alongside, or in place of, the statutory compensation framework arising under section 185(5). Despite repeated requests, no substantive response has been provided.

22. **This should be a matter of concern to the Examining Authority. The issue is not whether such deductions may appear reasonable in principle. Rather, the issue is whether the Order can properly impose a bespoke compensation regime that differs from the statutory framework which both parties otherwise accept applies to diversion works.**

23. In NWL's view, the Applicant's proposed drafting creates uncertainty as to the parties' respective rights and obligations and gives rise to a material risk of future disputes regarding the funding of diversion works. Such disputes will delay the implementation of diversion works critical to the Project and cause serious detriment to NWL's ability to carry out its statutory functions.

24. Unless the Applicant revises its position or provides a reasoned explanation addressing the legal issues raised by NWL, agreement of the PPs is unlikely to be achieved. NWL therefore invites the Examining Authority to urge the Applicant to engage directly with NWL on this issue failing which, NWL is content to share with the Examining Authority at the appropriate time or deadline its preferred PPs which are drafted in a way to avoid the inevitable uncertainty, delay and costs to the Project to which the Applicant's preferred PPs will give rise...

25. Subject to agreement being reached on all issues, NWL must maintain its objection to the Order.

<u>Questions</u>

1. During CAH3, the Applicant was asked by the Examining Authority to provide an update on the status of the protective provisions (**PPs**) negotiations. The Applicant's representative stated her understanding that, NWL was "waiting to see" the outcome of the protective provisions for the Sealink project and had not responded to, or provided comments on, the Applicant's draft PP's circulated on 8 June, which introduced cost-sharing for the first time.

   This is incorrect. As confirmed by [redacted] speaking on behalf of NWL at CAH3, NWL had in fact responded to the Applicant's solicitors by way of an email dated 12 June highlighting the difficulties and potential delays and disputes that would likely give rise to by their position on the PPs and the issue of cost sharing. To date, the Applicant has failed to respond to that email or meaningfully engage on those points.

   NWL has made numerous requests for the Applicant to identify the legal basis on which it seeks to introduce cost sharing and anticipated costs provisions that depart from the position under section 185 of the Water Industry Act 1991. To date, NWL has not received a response to those requests and CAH3 was the first time that NWL had been made aware that the Applicant has no intention of seeking to reach an agreed position on this point which NWL feels is incredibly unhelpful.

2. The Examining Authority also requested an update on the parties' respective positions regarding the classification of parcels 3/91 and 3/93 affecting Little Waltham Pumping Station.

   NWL has written to the Applicant to confirm that, given the Applicant's position that these parcels are only required for minor works and that a temporary supply could be obtained from NWL in the usual way, NWL sees no justification for their continued classification as Class 7 land especially given the importance of those parcels to NWL's ability to carry out its statutory functions. NWL are yet to receive a response from the Applicant on this point.