Tween Bridge Solar Farm

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Planning Act 2008
Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

APFP Regulation 5(2)(b)

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STATUTORY INSTRUMENTS

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INFRASTRUCTURE PLANNING

The Tween Bridge Solar Farm Order 202[ ]

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CONTENTS

PART 1
PRELIMINARY

1. Citation and commencement
2. Interpretation

PART 2
PRINCIPAL POWERS

3. Development consent etc. granted by this Order
4. Operation of generating station
5. Power to maintain the authorised development
6. Maintenance of drainage works
7. Benefit of this Order
8. Consent to transfer benefit of Order
9. Application and modification of statutory provisions
10. Defence to proceedings in respect of statutory nuisance

PART 3
STREETS

11. Street Works
12. Application of the 1991 Act
13. Power to alter layout, etc., of streets
14. Construction and maintenance of altered streets
15. Temporary closure or restriction of streets and public rights of way
16. Access to works
17. Use of private roads
18. Traffic regulation measures

PART 4
SUPPLEMENTAL POWERS

19. Discharge of water
20. Protective works to buildings
21. Authority to survey and investigate the land

PART 5
POWERS OF ACQUISITION

22. Compulsory acquisition of land
23. Compulsory acquisition of land - incorporation of the mineral code
24. Time limit for exercise of authority to acquire land compulsorily
25. Compulsory acquisition of rights and imposition of restrictive covenants
26. Private Rights
27. Application of the 1981 Act
28. Acquisition of subsoil only
29. Power to override easements and other rights
30. Modification of Part 1 of the Compulsory Purchase Act 1965
31. Rights under or over streets
32. Temporary use of land for constructing the authorised development
33. Temporary use of land for maintaining the authorised development
34. Statutory undertakers
35. No double recovery
36. Apparatus and rights of statutory undertakers in closed streets
37. Acquisition of wayleaves, easements and other rights
38. Recovery of costs of new connections

PART 6
MISCELLANEOUS AND GENERAL

39. Application of landlord and tenant law
40. Operational land for purposes of the 1990 Act
41. Felling or lopping of trees and removal of hedgerows
42. Trees subject to tree preservation orders
43. Certification of plans and documents, etc.
44. Arbitration
45. Protective Provisions
46. Service of notices
47. Guarantees in respect of payment of compensation
48. Planning permission
49. Requirements, appeals, etc.

SCHEDULES

SCHEDULE 1 — AUTHORISED DEVELOPMENT
SCHEDULE 2 — REQUIREMENTS

PART 1 — REQUIREMENTS
PART 2 — PROCEDURE FOR DISCHARGE OF REQUIREMENTS
SCHEDULE 3 — LEGISLATION TO BE DISAPPLIED
SCHEDULE 4 — STREETS SUBJECT TO STREET WORKS
SCHEDULE 5 — ALTERATION OF STREETS
SCHEDULE 6 — STREETS AND PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED OR RESTRICTED
PART 1 — STREETS TO BE TEMPORARILY CLOSED OR RESTRICTED
PART 2 — PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED OR RESTRICTED
SCHEDULE 7 — ACCESS TO WORKS
SCHEDULE 8 — LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED
SCHEDULE 9 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIVE COVENANTS
SCHEDULE 10 — ACQUISITION OF WAYLEAVES, EASEMENTS AND OTHER RIGHTS
PART 1 — ON BEHALF OF LICENCE HOLDERS
PART 2 — ON BEHALF OF CODE OPERATORS
PART 3 — ON BEHALF OF WATER AND SEWERAGE UNDERTAKERS
PART 4 — ON BEHALF OF GAS TRANSPORTERS
SCHEDULE 11 — REMOVAL OF HEDGEROWS
PART 1 — REMOVAL OF HEDGEROWS
PART 2 — REMOVAL OF IMPORTANT HEDGEROWS
SCHEDULE 12 — DOCUMENTS AND PLANS TO BE CERTIFIED
SCHEDULE 13 — ARBITRATION RULES
SCHEDULE 14 — PROTECTIVE PROVISIONS
PART 1 — PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS
PART 2 — FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS
PART 3 — FOR THE PROTECTION OF THE DRAINAGE AUTHORITIES
PART 4 — FOR THE PROTECTION OF THE CANAL & RIVER TRUST
PART 5 — FOR THE PROTECTION OF THE ENVIRONMENT AGENCY
PART 6 — FOR THE PROTECTION OF EXOLUM PIPELINE SYSTEM LTD
PART 7 — FOR THE PROTECTION OF NATIONAL HIGHWAYS LIMITED
PART 8 — FOR THE PROTECTION OF RAILWAY INTERESTS

An application has been made to the Secretary of State under section 37 of the Planning Act 2008 ("the 2008 Act")(**a**) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**b**) for an order granting development consent.

[The application has been examined by the Examining Authority appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the Infrastructure Planning (Examination Procedure) Rules 2010(**c**).

The Examining Authority, having considered the application together with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 74(2)(**d**) of the 2008 Act made a report and recommendation to the Secretary of State.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**e**) and has had regard to the documents and matters referred to in section 104(2)(**f**) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State, in exercise of the powers conferred by sections 114(**g**), 115(**h**), 120(**i**), 122(**j**) and 123(**k**) of the 2008 Act, makes the following Order.]

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Tween Bridge Solar Farm Order 202[X] and comes into force on [DATE].

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**l**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**m**);

"the 1980 Act" means the Highways Act 1980(**n**);

(**a**) 2008 c. 29. Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to, the Localism Act 2011 (c. 20).
(**b**) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/572 and S.I. 2018/378.
(**c**) S.I. 2010/103.
(**d**) As amended by paragraphs 29(1) and (3) of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**e**) S.I. 2017/572.
(**f**) Section 105(2) was amended by paragraph 50 of Schedule 12 to the Localism Act 2011 (c. 20).
(**g**) As amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011.
(**h**) A amended by section 160 of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4).
(**i**) As amended by section 140 and paragraph 60 of Part 1 of Schedule 13 to the Localism Act 2011.
(**j**) As amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.
(**k**) As amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.
(**l**) 1961 c. 33.
(**m**) 1965 c. 56.
(**n**) 1980 c. 66.

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**a**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**b**);

"the 1989 Act" means the Electricity Act 1989(**c**);

"the 1990 Act" means the Town and Country Planning Act 1990(**d**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**e**);

"the 2008 Act" means the Planning Act 2008(**f**);

"address" includes any number or address used for the purposes of electronic transmission;

"apparatus" has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act except that, unless otherwise provided, it further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity cables , telecommunications equipment and electricity cabinets;

"authorised development" means the development described in Schedule 1 (authorised development) and any other development within the meaning of section 32 (meaning of "development") of the 2008 Act authorised by this Order;

"book of reference" means the document of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the book of reference for the purposes of this Order;

"building" includes any structure or erection or any part of a building, structure or erection;

"carriageway" has the same meaning as in the 1980 Act;

"commence" means beginning to carry out a material operation, as defined in section 155 (when development begins) of the 2008 Act, comprised in or carried out for the purposes of the authorised development other than the permitted preliminary works (except where stated to the contrary) and "commencement" and "commenced" are to be construed accordingly;

"date of final commissioning" means in respect of each phase of the authorised development approved under requirement 3 of Part 1 of Schedule 2 (requirements) the date on which each phase of the authorised development commences operation by generating electricity on a commercial basis but excluding the generation of electricity during commissioning and testing;

"design approach document appendix A: parameters document" means the document of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the design approach document appendix A: parameters document for the purposes of this Order;

"electrical cables" means—

(a) cables of differing types and voltages installed for the purposes of conducting electricity, auxiliary cables, cables connecting to direct current (DC) boxes, earthing cables and optical fibre cables; and

(b) works connected with cable laying including excavations, storage of excavated material, jointing pits, hardstanding adjoining the jointing pits, combiner boxes, fibre bays, cable ducts, cable protections, joint protection, manholes, kiosks, marker posts, underground cable marker, tiles and tape, send and receive pits for horizontal directional drilling, trenching, lighting, and a pit or container to capture fluids associated with drilling;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(**a**) 1981 c. 66.
(**b**) 1984 c. 27.
(**c**) 1989 c. 29.
(**d**) 1990 c. 8.
(**e**) 1991 c. 22. Section 48 (3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Sections 78(4), 80(4) and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(**f**) 2008 c. 29.

(b) by other means but while in electronic form;

"environmental statement" means the document of that name identified in Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the environmental statement for the purposes of this Order;

"footpath" and "footway" have the same meaning as in the 1980 Act(**a**);

"highway" and "highway authority" have the same meaning as the 1980 Act(**b**);

"land plans" means the plans of that name identified in the table at Schedule 12 (documents and plans to be certified) and which are certified by the Secretary of State as the land plans for the purposes of this Order;

"maintain" includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised development and "maintenance" and "maintaining" are to be construed accordingly;

"NGET" means National Grid Electricity Transmission Plc (company number 2366977) whose registered office is at 1 to 3 Strand, London WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the 1989 Act;

"NGET substation" means a 400kV substation to be designed, constructed and operated by NGET connecting the electricity generated by the authorised development to the National Electricity Transmission System and which does not form part of the authorised development;

"Order land" means the land which is within the Order limits and is described in the book of reference;

"Order limits" means the limits shown on the land plans and works plans within which the authorised development may be carried out;

"owner" in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(**c**);

"permitted preliminary works" means all or any of—

(a) pre-construction ecological mitigation (including advanced planting to allow for the early establishment of protective screening);

(b) environmental surveys and monitoring (including infiltration testing), geotechnical surveys, intrusive archaeological surveys (including trenching) and other investigations for the purpose of assessing ground conditions (including the making of boreholes);

(c) removal of plant and machinery;

(d) above ground site preparation for temporary facilities for the use of contractors;

(e) remedial work in respect of any contamination or other adverse ground conditions;

(f) diversion and laying of apparatus;

(g) the provision of temporary means of enclosure and site security for construction;

(h) the temporary display of site notices or advertisements; and

(i) site clearance (including vegetation removal and demolition of existing buildings and structures);

"plot" means any plot as may be identified by reference to a number and which is listed in the book of reference and shown on the land plans;

"relevant planning authority" means as regards the operation or enforcement of any provision of this Order or any requirements the planning authority within whose administrative boundary that part of the authorised development relevant to the operation or enforcement of the provision or requirement in question is situated;

(**a**) "footpath" and "footway" are defined in section 329(1).
(**b**) "highway" is defined in section 328(1). For "highway authority" see section 1.
(**c**) 1981 c. 67.

"requirements" means those matters set out in Schedule 2 (requirements) and "requirement" means any one of these requirements;

"statutory undertaker" means any person falling within section 127(8) (statutory undertakers' land) of the 2008 Act and includes a public communication provider defined by section 151(1) (interpretation of chapter 1) of the Communications Act 2003(**a**);

"street" means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes any footpath and part of a street;

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act(**b**);

"street works" means the works listed in article 11(1) (street works);

"street works, access and public rights of way plans" means the plans of that name identified in the table at Schedule 12 (documents and plans to be certified) and which are certified by the Secretary of State as the street works, access and public rights of way plans for the purposes of this Order;

"subsidiary" has the same meaning as in section 1159 (meaning of "subsidiary" etc) of the Companies Act 2006(**c**);

"traffic authority" has the same meaning as in section 121A(**d**) (traffic authorities) of the 1984 Act;

"trees and hedgerows to be removed or managed plan" means the plan of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the trees and hedgerows to be removed or managed plan for the purposes of this Order;

"undertaker" means RWE Renewables UK Solar and Storage Limited (company number 14539260) whose registered address is Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire SN5 6PB;

"Upper Tribunal" means the Lands Chamber of the Upper Tribunal;

"watercourse" includes every river, stream, creek, ditch, drain, canal, cut, culvert, dyke, sluice, sewer and passage through which water flows except a public sewer or drain; and

"works plans" means the plans of that name identified in the table at Schedule 12 (documents and plans to be certified) and which are certified by the Secretary of State as the works plans for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain anything in, on or under land or in the airspace above its surface and to any trusts or incidents (including restrictive covenants) to which the land is subject and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or over which rights are created and acquired under this Order or is otherwise comprised in this Order.

(3) In this Order, reference to the purposes of the authorised development, or in connection with the authorised development, includes the construction, maintenance, operation and decommissioning of the authorised development.

(4) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between lines or points on a numbered work comprised in the authorised development and shown on the works plans and street works, access and public rights of way plans are to be taken to be measured along that work.

(**a**) 2003 c. 21.

(**b**) "street authority" is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

(**c**) 2006 c. 46.

(**d**) Section 121A was inserted by paragraph 70 of Schedule 8 to the 1991 Act, and subsequently amended by section 27 of the Greater London Authority Act 1999 (c. 29); section 1(6) of and paragraphs 70 and 95 o Schedule 1 to the Infrastructure Act 2015; S.I. 1999/1920 and S.I. 2001/1400.

(5) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 (authorised development) and shown on the works plans and a reference in this Order to a work designated by a number, or by a combination of letters and numbers, is a reference to the work so designated in that Schedule and a reference to "Work No. 1" or "numbered work 1" means numbered works 1A to 1E inclusive and the same principle applies to such numbered works that contain letters.

(6) In this Order, the expression "includes" is to be construed without limitation.

(7) In this Order, references to any statutory body or any registered company listed in article 8 (consent to transfer benefit of Order) includes that body's or that company's successor bodies.

(8) All areas described in square metres in the book of reference are approximate.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

3.—(1) Subject to the provisions of this Order and the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out.

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

Operation of generating station

4.—(1) The undertaker is authorised to use and operate the generating station comprised in the authorised development.

(2) Except as set out in this Order, this article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

Power to maintain the authorised development

5.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) This article does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement.

Maintenance of drainage works

6.—(1) Subject to the provisions of Schedule 14 (protective provisions), nothing in this Order, or the construction, maintenance, operation or decommissioning of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person having such responsibility.

(2) In this article "drainage" has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(**a**).

(**a**) 1991 c. 59. The definition of "drainage" was substituted by paragraphs 191 and 194 of Schedule 22 to the Environment Act 1995 (c. 25).

Benefit of this Order

7. Subject to article 8 (consent to transfer benefit of Order), the provisions of this Order have effect solely for the benefit of the undertaker.

Consent to transfer benefit of Order

8.—(1) Subject to paragraph (3), the undertaker may-

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order (including any part of the authorised development) and such related statutory rights as may be agreed between the undertaker and the transferee; or

(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (including any part of the authorised development) and such related statutory rights as may be so agreed.

(2) Where a transfer or grant has been made references in this Order to the undertaker, except in paragraph (9), are to include references to the transferee or lessee.

(3) The consent of the Secretary of State is required for the exercise of the powers under paragraph (1) except where—

(a) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply etc.) of the 1989 Act;

(b) the transferee or lessee is a holding company or subsidiary of the undertaker;

(c) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—

(i) no such claims have been made;

(ii) any such claim has been made and has been compromised or withdrawn;

(iii) compensation has been paid in full and final settlement of any such claim;

(iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or

(v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable

(4) Where the consent of the Secretary of State is not required, the undertaker must notify the Secretary of State in writing before transferring or granting all or any part of the benefit of the provisions of this Order and such statutory rights referred to in paragraph (1).

(5) The notification referred to in paragraph (4) must—

(a) state—

(i) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;

(ii) subject to paragraph (6), the date on which the transfer will take effect;

(iii) the powers to be transferred or granted; and

(iv) pursuant to paragraph (9), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and

(b) where relevant, be accompanied by a plan showing the works or areas to which the transfer or grant relates.

(6) The date specified under sub-paragraph (5)(a)(ii)) must not be earlier than the expiry of 14 days from the date of the receipt of the notification by the Secretary of State.

(7) The notification given under paragraph (4) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notification.

(8) A copy of any decision by the Secretary of State to approve a transfer or grant under paragraph (3) or the notification of a transfer or grant issued under paragraph (4) shall be provided

by the undertaker to the relevant planning authority as soon as reasonably practicable following issuance.

(9) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit—

(a) the benefit transferred or granted ("the transferred benefit") must include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;

(b) the transferred benefit will reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit will not be enforceable against the undertaker; and

(c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

Application and modification of statutory provisions

9.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purposes of, or in connection with, the authorised development—

(a) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991(**a**);

(b) section 30 (authorisation of drainage works in connection with a ditch) of the Land Drainage Act 1991(**b**);

(c) section 32 (variation of awards) of the Land Drainage Act 1991(**c**);

(d) the provisions of any byelaws made under section 66 (powers to make byelaws)(**d**) of the Land Drainage Act 1991;

(e) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw-making powers of the authority) to the Water Resources Act 1991(**e**);

(f) regulation 13 (prohibited activities) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012;

(g) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(**f**) in respect of a flood risk activity only;

(h) the legislation listed in Schedule 3 (legislation to be disapplied) in so far as the provisions still in force are incompatible with the powers contained within this Order and do not have a materially adverse impact on the operation or maintenance of the Stainforth and Keadby Canal; and

(i) the provisions of the Neighbourhood Planning Act 2017(**g**) insofar as they relate to temporary possession of land under articles 32 (temporary use of land for constructing the authorised development) and 33 (temporary use of land for maintaining the authorised development) of this Order.

(**a**) 1991 c. 59. Section 23 was amended by paragraph 192(2) of Schedule 22 to the Environment Act 1995 (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755.
(**b**) Section 30 was amended by S.I. 2013/1036.
(**c**) Section 32 was amended by S.I. 2013/755.
(**d**) Section 66 was amended by paragraphs 25 and 38 of Schedule 1 to the Flood and Water Management Act 2010 and section 86 of the Water Act 2014 (c. 21).
(**e**) 1991 c. 57. Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to the 2009 Act and S.I. 2013/755. Paragraph 6 was amended by section 105 of, and paragraph 26 of Schedule 15 to, the Environment Act 1995, sections 224, 233 and 321 of and paragraphs 20 and 24 of Schedule 16 and Part 5(B) of Schedule 22 to the 2009 Act and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.
(**f**) S.I. 2016/1154. Regulation 12 was amended by S.I. 2018/110.
(**g**) 2017 c. 20.

(2) For the purposes of section 9 (requirement of licence for felling) of the Forestry Act 1967(**a**), any felling comprised in the carrying out of any work or operation required for the purposes of, or in connection with, the construction of the authorised development is deemed to be immediately required for the purpose of carrying out development authorised by planning permission granted under the 1990 Act.

(3) Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 (meaning of "development") of the Community Infrastructure Levey Regulations 2010(**b**) any building comprised in the authorised development is deemed to be—

(a) a building into which people do not normally go; or

(b) a building into which people only go intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Defence to proceedings in respect of statutory nuisance

10.—(1) Where proceedings are brought under section 82(1) (summary proceedings by a person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(**c**) in relation to a nuisance falling within paragraph (d) or (g) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

(a) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the authorised development and that the nuisance is attributable to the purposes of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(**d**); or

(ii) is a consequence of the purposes of the authorised development and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably be avoided.

(2) For the purposes of paragraph (1), compliance with the controls and measures described in the construction environmental management plan and decommissioning environmental management plan approved under Schedule 2 (requirements) to this Order will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Section 61(9) (prior consent for work on construction sites) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for purposes of, or in connection with, the authorised development.

PART 3

STREETS

Street Works

11.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) and may—

(a) break up or open the street, or any sewer, drain or tunnel under it;

(b) drill, tunnel or bore under the street;

(**a**) 1967 c. 10.
(**b**) S.I. 2010/948, amended by S.I. 2011/987. There are other amending instruments but none are relevant to this Order.
(**c**) 1990 c. 43.
(**d**) 1974 c. 40.

(c) place and keep apparatus under the street;

(d) maintain apparatus under the street, change its position or remove it;

(e) repair, replace or otherwise alter the surface or structure of the street or any culvert under the street; and

(f) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Where the undertaker is not the street authority, the provisions of sections 54 (notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any street works carried out under paragraph (1).

Application of the 1991 Act

12.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

(a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (highway authorities, highways and related works) of that Act; or

(b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 (dual carriageways and roundabouts) of the 1980 Act or section 184 (vehicle crossings over footways and verges) of that Act.

(2) In Part (3) (street works in England and Wales) of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker,

(3) The provisions of the 1991 Act mentioned in paragraph (4) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

(a) the carrying out of works under article 11 (street works); and

(b) the temporary closure, temporary alteration or temporary diversion of a street by the undertaker under article 15 (temporary closure or restriction of streets and public rights of way),

whether or not the carrying out of the works or the closure, alteration or diversion constitutes street works within the meaning of that Act.

(4) The provisions of the 1991 Act(**a**) are—

(a) subject to paragraph (5), section 54 (advance notice of certain works);

(b) subject to paragraph (5), section 55 (notice of starting date of works);

(c) section 57 (notice of emergency works);

(d) section 59 (general duty of street authority to co-ordinate works);

(e) section 60 (general duty of undertakers to co-operate);

(f) section 68 (facilities to be afforded to street authority);

(g) section 69 (works likely to affect other apparatus in the street);

(h) section 76 (liability for cost of temporary traffic regulation);

(i) section 77 (liability for cost of use of alternative route; and

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(**a**) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c. 18).

(j) all provisions of that Act that apply for the purposes of the provisions referred to in sub-paragraphs (a) to (j).

(5) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works included a reference to a closure, alteration or diversion (as the case may be) required in a case of emergency.

(6) The following provisions of the 1991 Act (including any equivalent or modified provision in any permit scheme) do not apply in relation to any works executed under the powers conferred by this Order—

(a) section 56 (power to give directions as to timing of street works)(**a**);

(b) section 56A (power to give directions as to placing of apparatus)(**b**);

(c) section 58 (restriction on works following substantial road works)(**c**);

(d) section 58A restriction on works following substantial road works)(**d**);

(e) section 73A (power to require undertaker to re-surface street)(**e**);

(f) section 73B (power to specify timing etc. of re-surfacing)(**f**);

(g) section 73C (materials, workmanship and standard of re-surfacing)(**g**);

(h) section 78A (contributions to costs of re-surfacing by undertaker)(**h**); and

(i) schedule 3A (restriction on works following substantial street works)(**i**).

Power to alter layout, etc., of streets

13.—(1) The undertaker may for the purposes of, or in connection with, the authorised development, alter the layout of or carry out any works in, the streets specified in columns (1) and (2) of the table in Schedule 5 (alteration of streets) in the manner specified in relation to that street in column (3).

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing, operating, maintaining or decommissioning the authorised development, permanently or temporarily alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

(a) alter the level or increase the width of the carriageway by reducing the width of any kerb, footway, cycle track or verge within the street;

(b) alter the level or increase the width of any such kerb or verge;

(c) reduce the width of the carriageway;

(d) make and maintain passing places; and

(e) alter, remove, replace, install and relocate any street furniture, including bollards, lighting columns, road signs and chevron signs.

(3) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority, which may be given subject to reasonable conditions.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was received, it is deemed to have granted consent.

(**a**) Section 56 was amended by section 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(**b**) Section 56A was inserted by section 44 of the Traffic Management Act 2004
(**c**) Section 58 was amended by section 51 of, and Schedule 1 to, the Traffic Management Act 2004
(**d**) Section 58A was amended by section 52 of the Traffic Management Act 2004.
(**e**) Section 73A was inserted by section 55 of the Traffic Management Act 2004.
(**f**) Section 73B was inserted by section 55 of the Traffic Management Act 2004.
(**g**) Section 73C was inserted by section 55 of the Traffic Management Act 2004.
(**h**) Section 78A was inserted by section 57 of the Traffic Management Act 2004.
(**i**) Schedule 3A was inserted by section 52(2) of and Schedule 4 to, the Traffic Management Act 2004.

(6) An application for consent under paragraph (4) must include a statement that the provisions of paragraph (5) apply to that application.

(7) An application for consent under paragraph (4) is deemed advance notice under section 54 of the 1991 Act where advance notice is required.

(8) Paragraphs (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Construction and maintenance of altered streets

14.—(1) The permanent alterations to any street pursuant to article 13(1) or (2) (power to alter layout, etc., of streets) must be completed to the reasonable satisfaction of the street authority and, unless otherwise agreed by the street authority, the alterations must be maintained by and at the expense of the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the street authority.

(2) Subject to paragraph (3), any temporary alterations to any street pursuant to article 13(2) must be completed to the reasonable satisfaction of the street authority and the temporary alterations must be maintained during the period required by and at the expense of the undertaker.

(3) Those restoration works carried out pursuant to article 13(3) must be completed to the reasonable satisfaction of the street authority and must be maintained by the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the street authority.

(4) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), a court must in particular have regard to the following matters—

(a) the character of the street including the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a street of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the street;

(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and

(e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

(6) Paragraphs (2) to (5) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Temporary closure or restriction of streets and public rights of way

15.—(1) The undertaker may temporarily close, prohibit the use of, restrict the use of, authorise the use of, alter or divert the use by vehicles, or classes of vehicles, or pedestrians of—

(a) the streets set out in columns (1) and (2) of the table in Part 1 (streets to be temporarily closed or restricted) of Schedule 6 (streets and public rights of way to be temporarily closed or restricted) to the extent specified in column (3) of that table; and

(b) the public rights of way set out in columns (1) and (2) of the table in Part 2 (public rights of way to be temporarily closed or restricted) of Schedule 6 to the extent specified in column (3) of that table.

(2) Without prejudice to the specific powers conferred by paragraph (1) and subject to paragraph (5), the undertaker, during and for the purposes of the authorised development, may temporarily close, alter, divert, prohibit the use of, authorise the use of or restrict the use of any street or public right of way and may for any reasonable time—

(a) divert the traffic or a class of traffic from the street or public right of way;

(b) authorise for the purpose of crossing only the use of motor vehicles on classes of public rights of way where, notwithstanding the provisions of this article, there is otherwise no public right to use motor vehicles; and

(c) subject to paragraph (4), prevent all persons from passing along the street or public right of way.

(3) The undertaker may use any street or public right of way temporarily closed, altered, diverted, prohibited or restricted under the powers conferred by this article and within the Order limits as a temporary working site.

(4) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary closure, prohibition, restriction, alteration or diversion of a street or public right of way under this article if there would otherwise be no such access.

(5) The undertaker must not temporarily close, prohibit the use of, restrict the use of, authorise the use of, alter or divert—

(a) any street or public right of way specified in paragraph (1) without first consulting the street authority during a period of not less than 28 days; and

(b) any other street or public right of way without the consent of the street authority, such consent not to be unreasonably withheld or delayed but which may be given subject to reasonable conditions.

(6) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) In this article expressions used in this article and in the 1984 Act have the same meaning.

(8) The undertaker, for the purposes of, or in connection with, the authorised development, may temporarily close, prohibit the use of, authorise the use of, alter or divert any public right of way which is added to the definitive map and statement (within the meaning of the Wildlife and Countryside Act 1981) on or after [insert date].

(9) If a street authority which receives a valid application for consent under sub-paragraph (5)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was received, it is deemed to have granted consent.

(10) Nothing in this article prevents the undertaker from temporarily closing, prohibiting the use of, restricting the use of, altering or diverting a street or public right of way under this article more than once.

Access to works

16.—(1) The undertaker may, for the purposes of the authorised development—

(a) form and lay out the permanent means of access, or improve existing means of access, in the approximate locations specified in Schedule 7 (access to works); and

(b) with the approval of the highway authority, which may be given subject to reasonable conditions, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires.

(2) If the highway authority which receives an application for consent under sub-paragraph (1)(b) fails to notify the undertaker of its decision before the end of the period of 28 days

beginning with the date on which the application was received, it is deemed to have granted consent.

Use of private roads

17.—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Traffic regulation measures

18.—(1) Subject to the provisions of this article the undertaker may for the purposes of the authorised development, temporarily place traffic signs and signals on any road within the Order limits or which gives access to such a road, or on any road in connection with an instrument made under this article or any other road as reasonably required for conveying information to traffic, and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016(**a**).

(2) Subject to the provisions of this article the undertaker may make temporary provision for the purposes of the authorised development—

(a) as to the speed at which vehicles may proceed along any road;

(b) permitting, prohibiting or restricting the stopping, waiting, loading or unloading of vehicles on any road;

(c) as to prescribed routes for vehicular traffic or the direction or priority of vehicular traffic on any road;

(d) permitting, prohibiting or restricting the use by vehicular traffic or non-vehicular traffic of any road; and

(e) suspending or amending in whole or in part any order made, or having effect as if made, under the 1984 Act.

(3) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(**b**) when used in accordance with regulation 3(5) of those regulations.

(4) Before exercising the power conferred by paragraphs (1) or (2) the undertaker must—

(a) consult the chief officer of police in whose area the road is situated; and

(b) obtain the written consent of the traffic authority which may be given subject to reasonable conditions.

(5) The undertaker must not exercise the powers conferred by paragraphs (1) or (2) unless the undertaker has—

(a) given not less than 4 weeks' notice in writing of its intention so to do so to the chief officer of police in whose area the road is situated and to the traffic authority; and

(b) not less than 7 days before the provision is to take effect, published the undertaker's intention to make the provision in one or more newspapers circulating in the area in which any road to which the provision relates is situated.

(**a**) S.I. 2016/362.
(**b**) S.I. 2011/935

(6) Any provision made under the powers conferred by paragraphs (1) or (2) of this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (1) or (2).

(7) Any provision made by the undertaker under paragraphs (1) or (2)—

(a) must be made by written instrument in such form as the undertaker considers appropriate;

(b) has effect as if duly made by the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify savings and exemptions to which the provision is subject; and

(c) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(**a**).

(8) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under sub-paragraph (4)(b) the traffic authority is deemed to have granted consent.

(9) A copy of the instrument referred to in paragraph (7)(a) must be served on the traffic authority as soon as reasonably practicable after being made.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

19.—(1) Subject to paragraphs (3), (4) and (7) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(**b**).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs, whose consent may be given subject to terms and conditions as that person may reasonably impose but must not be unreasonably withheld or delayed.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld or delayed; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) Where the undertaker discharges water into, or makes any opening into, a watercourse, public sewer or drain belonging to or under the control of the drainage authority (as defined in Part 3 of Schedule 14 (protective provisions)), the provisions of Part 3 of Schedule 14 apply in substitution for the provisions of paragraphs (3) and (4).

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters requires a licence pursuant to the Environmental Permitting (England and Wales) Regulations 2016(**c**).

(**a**) 2004 c. 18.
(**b**) 1991 c. 56.
(**c**) S.I. 2016/1154.

(8) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

(b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

(9) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within 28 days of receiving an application for consent under paragraph (3) or approval under sub-paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

(10) The Environment Agency is deemed to have granted consent under paragraph (3) where the watercourse, public sewer or drain belongs to the Environment Agency and an environmental permit under regulation 12(1)(b) (requirement for an environmental permit) of the 2016 Regulations has been granted in respect of the discharge.

(11) A sewerage undertaker is deemed to have granted consent to the discharge of trade effluent into a public sewer under paragraph (3) where the public sewer belongs to the sewerage undertaker and consent under section 118 (consent required for discharge of trade effluent into public sewer) of the Water Industry Act 1991 has been granted in respect of the discharge.

Protective works to buildings

20.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the construction or decommissioning of any part of the authorised development in the vicinity of the building; or

(b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of five years beginning with the date of final commissioning.

(3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage and place on, leave on and remove from the land and building any apparatus and equipment for use in connection with the survey.

(4) For the purpose of carrying out protective works under this article to a building, the undertaker may (subject to paragraphs (5) and (6))—

(a) enter the building and any land within its curtilage; and

(b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

(a) a power under paragraph (1) to carry out protective works to a building;

(b) a power under paragraph (3) to enter a building and land within its curtilage;

(c) a power under sub-paragraph (4)(a) to enter a building and land within its curtilage; or

(d) a power under sub-paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that power and, in a case falling within sub-paragraph (a), (c) or (d), specifying the protective works proposed to be carried out.

(6) Where a notice is served under sub-paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building, or land to be referred to arbitration under article 44 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building, or land in relation to which powers under this article have been exercised for any loss or damage arising to them by reason of the exercise of those powers.

(8) Where—

(a) protective works are carried out under this article to a building; and

(b) within the period of five years beginning with the date of final commissioning for that part of the authorised development in the vicinity of the building it appears that the protective works are inadequate to protect the building or structure against damage caused by the construction, use or decommissioning of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 10(2) (compensation for injurious affection) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article, to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article "protective works" in relation to a building means—

(a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building in connection to the authorised development; and

(b) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, operation, maintenance or decommissioning of the authorised development.

Authority to survey and investigate the land

21.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development or upon which entry is required in order to carry out monitoring or surveys in respect of the authorised development and—

(a) survey or investigate the land (including any watercourses, groundwater, static water bodies or vegetation on the land);

(b) without prejudice to the generality of sub-paragraph (a), make any excavations, trial holes, boreholes and other investigations in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and groundwater and remove soil and groundwater samples;

(c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land including the making of trial trenches, excavations, or trial holes in such positions on the land for such purposes; and

(d) place on, leave on and remove from the land apparatus and welfare facilities for use in connection with the survey and investigation of land and making of trial holes, excavations, boreholes and trial trenches.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

(a) must, if so required before entering the land, produce written evidence of their authority to do so; and

(b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes, excavations, boreholes or trial trenches.

(4) No trial holes are to be made under this article—

(a) in land located within the highway boundary without the consent of the highway authority; or

(b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld or delayed.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

(a) under sub-paragraph (4)(a) in the case of a highway authority; or

(b) under sub-paragraph (4)(b) in the case of a street authority,

that authority is deemed to have granted consent.

(7) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

22.—(1) The undertaker may—

(a) acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or as is incidental, to it; and

(b) use any land so acquired for the purpose authorised by this Order or for any other purposes in connection with or ancillary to the undertaking.

(2) This article is subject to article 24 (time limit for exercise of authority to acquire land compulsorily), article 25(2) (compulsory acquisition of rights and imposition of restrictive covenants), article 26 (private rights), article 28 (acquisition of subsoil only), article 32 (temporary use of land for constructing the authorised development) and article 34 (statutory undertakers).

(3) The power to compulsorily acquire land conferred under paragraph (1) does not apply to any part of the Order land shown on the land plans as plot numbers 1/A, 1/B, 1/C, 1/D, 1/E, 2/A, 2/B, 3/A, 3/B, 3/C, 3/D and 3/E.

Compulsory acquisition of land - incorporation of the mineral code

23.—(1) Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(**a**) are incorporated in this Order subject to the modification that—

(a) sub-paragraph 8(3) is not incorporated;

(b) for the "acquiring authority" substitute "the undertaker";

(c) for "undertaking" substitute "authorised development"; and

(d) for "compulsory purchase order" substitute "this Order".

Time limit for exercise of authority to acquire land compulsorily

24.—(1) After the end of the period of eight years beginning on the day on which this Order comes into force (and subject to article 30 (modification of Part 1 of the Compulsory Purchase Act 1965) and article 26 (Application of the 1981 Act)—

(a) no notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act; and

(b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 27 (application of the 1981 Act).

(2) The authority conferred by article 32 (temporary use of land for constructing the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights and imposition of restrictive covenants

25.—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights over the Order land or impose such restrictive covenants over the Order land including rights and restrictive covenants for the benefit of a statutory undertaker as may be required for any purpose for which that land may be acquired under article 22 (compulsory acquisition of land), by creating them as well as by acquiring rights and the benefit of restrictions already in existence.

(2) Subject to the provisions of this article, article 26 (private rights) and article 34 (statutory undertakers), in the case of the Order land specified in column (1) of the table in Schedule 8 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition under article 22(1) and the creation of rights under paragraph (1) are limited to the acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column (2) of the table in that Schedule.

(3) Subject to section 8 (other provisions as to divided land) and Schedule 2A (counter-notice requiring purchase of land) of the 1965 Act (as substituted by sub-paragraph 5(8) of Schedule 9 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants)), where the undertaker creates or acquires an existing right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 9 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) In any case where the acquisition of new rights or imposition of a restriction under paragraph (1) or (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(**a**) 1981 c. 67.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

Private Rights

26.—(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to compulsory acquisition under this Order are extinguished—

(a) from the date of acquisition of the land, or of the right, or of the benefit of the restrictive covenant by the undertaker, whether compulsorily, by agreement;

(b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act; or

(c) through the grant of a lease of the land,

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 25 (compulsory acquisition of rights and imposition of restrictive covenants) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

(a) as from the date of the acquisition of the right or imposition of the restrictive covenant by the undertaker (whether the right is acquired or the restrictive covenant is imposed compulsorily, by agreement or through the grant of a lease of the land by agreement); or

(b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act in pursuance of the right,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights and restrictive covenants over land owned by the undertaker that are within the Order land are extinguished at the start of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 34 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of the land;

(iii) the undertaker's entry onto the land; or

(iv) the undertaker's taking temporary possession of the land,

that any or all of those paragraphs do not apply to any right specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If an agreement referred to in sub-paragraph (7)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether that title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any right of way, trust, incident, restrictive covenant, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support; and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Application of the 1981 Act

27.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1(1) (application of the Act), omit the words "in themselves".

(4) In section 1 (application of the Act), for subsection (2) substitute—

"(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order."

(5) In section 4 (execution of declaration), for subsection (1) substitute—

"(1) The acquiring authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form vesting the land in themselves, or in the case of land or a right that they are authorised to acquire for the benefit of a third party, in the third party in question, from the end of such period as may be specified in the declaration (not being less than 3 months from the date on which the service of notices required by section 6 is completed).".

(6) In section 5(2) (earliest date for execution of declaration) omit the words from "and this subsection" to the end.

(7) In section 5B(1) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order) the applicable period for the purposes of section 5A,", substitute "section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act, the eight year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the Tween Bridge Solar Farm Order 202[ ]".

(8) In section 6 (notices after extension of declaration), in subsection (1)(b) for "section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981" substitute "section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008".

(9) In section 7 (constructive notice to treat), in subsection (1)(a) omit the words "(as modified by section 4 of the Acquisition of Land Act 1981)".

(10) In section 8 (vesting and right to enter and take possession), after subsection (3), insert—

"(4) In this section references to the acquiring authority include any third party referred to in section 4(1).".

(11) In section 10 (acquiring authority's liability arising on vesting of the land), in subsection (1), after "vested in an acquiring authority" insert "or a third party".

(12) In section 11 (recovery of compensation overpaid), for subsection (1) substitute—

"(1) This section applies where after the execution of a general vesting declaration a person ("the claimant") claims compensation in respect of the acquisition of an interest in land by virtue of the declaration, and the acquiring authority pay compensation in respect of that interest.".

(13) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

"(2) But see article 28(3) (acquisition of subsoil only) of the Tween Bridge Solar Farm Order 202[], which excludes the acquisition of subsoil only from this Schedule.".

(14) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 30 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil only

28.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 22 (compulsory acquisition of land) or article 25 (compulsory acquisition of rights and imposition of restrictive covenants) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land, the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only—

(a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act as modified by Schedule 9 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants);

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a building.

Power to override easements and other rights

29.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article "authorised activity" means—

(a) the erection, construction, maintenance or decommissioning of any part of the authorised development;

(b) the exercise of any power authorised by the Order; or

(c) the use of any land within the Order limits (including the temporary use of land).

(3) The interests and rights to which this article applies include any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by the virtue of a contract.

(4) Where an interest, right or restriction to which this article applies is interfered with or breached under paragraph (1), unless otherwise agreed, compensation—

(a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and

(b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—

(i) the compensation is to be estimated in connection with a purchase under that Act; or

(ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a person deriving title under the undertaker by whom the land in question was acquired—

(a) is liable to pay compensation by virtue of paragraph (4); and

(b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1).

Modification of Part 1 of the Compulsory Purchase Act 1965

30.—(1) Part 1 of the 1965 Act (compulsory acquisition under Acquisition of Land Act 1946), as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge)—

(a) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)", substitute "section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act"; and

(b) for "the applicable period for the purposes of section 4" substitute "the eight year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily) of the Tween Bridge Solar Farm Order 202[ ]".

(3) In section 11A (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after "land" insert "under that provision"; and

(b) in subsection (2), after "land" insert "under that provision".

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for "section 4 of this Act" substitute "article 24 (time limit for exercise of authority to acquire land compulsorily) of the Tween Bridge Solar Farm Order 202[ ]".

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

"(2) But see article 28(3) (acquisition of subsoil only) of the Tween Bridge Solar Farm Order 202[ ], which excludes the acquisition of subsoil only from this Schedule."; and

(b) after paragraph 29 insert—

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 20 (protective works to buildings), article 21 (authority to survey and investigate the land), article 32 (temporary use of land for constructing the authorised development) or article 33 (temporary use of land for maintaining the authorised development) of the Tween Bridge Solar Farm Order 202[ ]."

Rights under or over streets

31.—(1) The undertaker may enter on, appropriate and use so much of the subsoil of or airspace over any street within the Order limits as may be required for the purposes of the authorised

development and may use the subsoil under or airspace over for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

(a) any subway or underground building; or

(b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for constructing the authorised development

32.—(1) The undertaker may, in connection with the construction of the authorised development—

(a) enter on and take temporary possession of any Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;

(b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;

(c) construct temporary works (including means of access), haul roads, security fencing, bridges, structures and buildings on that land;

(d) use the land for the purposes of a temporary working site with access to the working site in connection with the authorised development;

(e) construct any works on that land as are mentioned in Schedule 1 (authorised development); and

(f) carry out mitigation works required under the requirements in Schedule 2 (requirements).

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of any of—

(a) the authorised development or any of its parts;

(b) the public; or

(c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practicable in the circumstances.

(5) The undertaker must not remain in possession of any land under this article for longer than reasonably necessary and in any event must not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for

which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(6) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, the undertaker must before giving up possession of land of which temporary possession has been taken, unless otherwise agreed by the owners of the land, remove all works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

(a) replace any building, structure, drain or electric line removed under this article;

(b) remove any fencing or boundary treatments installed by the undertaker to replace or enhance existing fencing or boundary treatments;

(c) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development;

(d) remove or reposition any apparatus installed for or belonging to statutory undertakers or necessary mitigation works;

(e) remove any drainage works installed by the undertaker under this article;

(f) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 4 (streets subject to street works), Schedule 5 (alteration of streets) or Schedule 7 (access to works); or

(g) restore the land on which any works have been carried out under sub-paragraph (1)(f) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 2 (requirements).

(7) The undertaker must pay compensation to the owners and occupiers of land which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) Nothing in this article prevents the taking of temporary possession more than once in relation to any land that the undertaker takes temporary possession of under this article.

(13) Paragraph (1) does not authorise the undertaker to take temporary possession of the Order land referred to in article 22(3).

Temporary use of land for maintaining the authorised development

33.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

(a) enter on and take temporary possession of any land within the Order land if such possession is reasonably required for the purpose of maintaining the authorised development;

(b) enter on any land within the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and

(c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of any of—

(a) the authorised development or any of its parts;

(b) the public; or

(c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practicable in the circumstances.

(5) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(6) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article "the maintenance period" means the period of five years beginning with the date of final commissioning of the part of the authorised development for which temporary possession is required under this article except in relation to landscaping where "the maintenance period" means such period as set out in the landscape and ecological management plan which is approved by the planning authority pursuant to requirement 8 beginning with the date on which that part of the landscaping is completed.

(13) Paragraph (1) does not authorise the undertaker to take temporary possession of the Order land referred to in article 22(3).

Statutory undertakers

34.—(1) Subject to the provisions of Schedule 14 (protective provisions) the undertaker may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land;

(b) extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land;

(c) construct the authorised development in such a way as to cross underneath or over apparatus belonging to statutory undertakers and other like bodies within the Order land; and

(d) construct over existing apparatus belonging to statutory undertakers any necessary track or roadway (whether temporary or permanent) together with the right to maintain or remove the same, and install such service media under or over the existing apparatus needed in connection with the authorised development.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

(a) Part 3 (street works in England and Wales) of the 1991 Act; and

(b) article 36 (apparatus and rights of statutory undertakers in stopped up streets).

(3) Subject to paragraph (4), where the power in paragraph (1)(b) is exercised in relation to any Order land in respect of which the undertaker takes temporary possession under article 32 (temporary use of land for carrying out the authorised development), the undertaker may only extinguish rights or restrictive covenants in respect of apparatus belonging to statutory undertakers removed or decommissioned where—

(a) the undertaker, in agreement with the statutory undertaker, gives a notice to the landowner of the rights or restrictive covenants proposed to be extinguished; and

(b) that notice has been provided prior to giving up temporary possession under article 32.

(4) The extinguishment of a right or restrictive covenant under paragraph (3) does not—

(a) relieve the need for the undertaker to comply with, or otherwise affect the application of, article 32(6) of this Order; or

(b) give rise to any cause of action relating to the presence on or in the land of any foundations and the undertaker is not required to remove foundations when giving up temporary possession.

No double recovery

35. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

Apparatus and rights of statutory undertakers in closed streets

36. Where a street is altered or diverted or its use is temporarily prohibited or restricted under article 11 (street works), article 13 (power to alter layout, etc., of streets), article 14 (construction and maintenance of altered streets) or article 15 (temporary closure or restriction of streets and public rights of way) any statutory undertaker whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to Schedule 14 (protective provisions), as if this Order had not been made.

Acquisition of wayleaves, easements and other rights

37. Schedule 10 (acquisition of wayleaves, easements and other rights) has effect.

Recovery of costs of new connections

38.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 34 (statutory undertakers) any person who is the owner or

occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 34 (statutory undertakers), any person who is—

(a) the owner or occupier of premises the drains of which communicated with that sewer; or

(b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

(a) "public communications provider" has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003(**a**); and

(b) "public utility undertaker" has the same meaning as in the 1980 Act.

PART 6

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

39.—(1) This article applies to—

(a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and

(b) any agreement entered into by the undertaker with any person for the purposes of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

(**a**) 2003 c. 21.

Operational land for purposes of the 1990 Act

40. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as operational land) of the 1990 Act.

Felling or lopping of trees and removal of hedgerows

41.—(1) Subject to paragraph (2) and article 42 (trees subject to tree perseveration orders), the undertaker may fell, lop or prune any tree or shrub within or overhanging land within the Order limits or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

(a) obstructing or interfering with the purposes of the authorised development or any apparatus used in connection with the authorised development;

(b) constituting a danger to persons using the authorised development; or

(c) obstructing or interfering with the passage of vehicles to the extent necessary for the purposes of the authorised development.

(2) In carrying out any activity authorised by paragraph (1) or (4) the undertaker must—

(a) do no unnecessary damage to any tree or shrub; and

(b) pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of, or in connection with, the authorised development and subject to paragraph (2), undertake works to or remove any hedgerows within the Order limits that may be required.

(5) Without prejudice to the generality of paragraph (4), the undertaker may, for the purposes of, or in connection with, the authorised development and subject to sub-paragraph (2)(a)—

(a) remove the length of hedgerows specified in column (2) of the table in Schedule 11, Part 1 (removal of hedgerows) and shown on the trees and hedgerows to be removed or managed plan; and

(b) remove the length of important hedgerows specified in column (2) of the table in Schedule 11, Part 2 (removal of important hedgerows) and shown on the trees and hedgerows to be removed or managed plan.

(6) The undertaker may not pursuant to paragraphs (1) and (4) fell, lop or prune a tree or remove hedgerows within the extent of the publicly maintainable highway without the prior consent of the highway authority, which may be given subject to reasonable conditions.

(7) Regulation 6 of the Hedgerows Regulations 1997(**a**) is modified so as to read for the purposes of this Order only as if there were inserted after sub-paragraph (1)(j) the following—

"(k) or for the carrying out of development which has been authorised by the Tween Bridge Solar Farm Order 20[•]."

(8) In this article "hedgerow" has the same meaning as in the Hedgerows Regulations 1997.

Trees subject to tree preservation orders

42.—(1) Subject to paragraph (2), the undertaker may fell, lop or prune any tree that is subject to a tree preservation order within or overhanging land within the Order limits or cut back its roots, if it reasonably believes it to be necessary to do so in order to prevent the tree from obstructing or interfering with the purposes of the authorised development or any apparatus used in connection with the authorised development.

(**a**) S.I. 1997/1160.

(2) In carrying out any activity authorised by paragraph (1)—

(a) the undertaker must do no unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and

(b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Certification of plans and documents, etc.

43.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all documents and plans listed in the table at Schedule 12 (documents and plans to be certified) for certification that they are true copies of the documents referred to in this Order.

(2) Where any plan or document set out in Schedule 12 is required to be amended to reflect the terms of the Secretary of State's decision to make the Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(3) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Arbitration

44.—(1) Any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled in arbitration in accordance with the rules set out in Schedule 13 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) The parties must use reasonable endeavours to settle any difference to which paragraph (1) applies through negotiations undertaken in good faith by senior representatives of the parties.

(3) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Protective Provisions

45. Schedule 14 (protective provisions) has effect.

Service of notices

46.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post;

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at that time of service.

(4) Where for the purpose of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by the description of "owner", or as the case may be "occupier" of the land (describing it); and

(b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article "legible in all material respects" means that the information contained in the notice or document is available to that person to no lesser extent that it would be if served, given or supplied by means of a notice or document in printed form.

Guarantees in respect of payment of compensation

47.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land unless it has first put in place either—

(**a**) 1978 c. 30.

(a) a guarantee, the form and amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2); or

(b) an alternative form of security, the form and amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2).

(2) The provisions are—

(a) article 22 (compulsory acquisition of land);

(b) article 25 (compulsory acquisition of rights and imposition of restrictive covenants);

(c) article 26 (private rights);

(d) article 28 (acquisition of subsoil only);

(e) article 29 (power to override easements and other rights);

(f) article 31 (rights under or over streets);

(g) article 32 (temporary use of land for constructing the authorised development);

(h) article 33 (temporary use of land for maintaining the authorised development); and

(i) article 34 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

Planning permission

48.—(1) If planning permission is issued under the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—

(a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and

(b) required to complete or enable the construction, use, operation or decommissioning of any part of the development authorised by this Order,

then the carrying out, use, operation or decommissioning of such development in accordance with the terms of the planning permission is not to constitute a breach of the terms of this Order.

(2) To the extent that development granted planning permission under the 1990 Act is inconsistent with authorised development which is carried out under this Order, the development which is the subject matter of the planning permission may be carried out or used notwithstanding that inconsistency and is deemed not to be a breach of this Order and may not be enforced against under the 1990 Act by reason of such inconsistency.

(3) Development carried out, operated or used in accordance with the grant of planning permission under the 1990 Act that is inconsistent with the authorised development under this Order is deemed not to constitute a breach of this Order, and does not prevent the undertaker carrying out the authorised development granted development consent under this Order.

(4) Where the undertaker identifies an inconsistency between a planning permission and this Order which engages the provisions of paragraphs (2) or (3) as the case may be, it must notify the relevant planning authority as soon as reasonably practicable about the existence of the inconsistency, and how the undertaker is proceeding in view of that inconsistency in accordance with this article.

(5) In this article—

(a) "inconsistency" means a circumstance in which a physical conflict exists, or one in which development is no longer capable of being physically implemented or otherwise operated in accordance with the permission or consent granted; and

(b) "planning permission" means planning permission granted under the 1990 Act including planning permission deemed to be granted under article 3 (permitted development) of and Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015(**a**).

Requirements, appeals, etc.

49.—(1) Where an application is made to, or a request is made of, the relevant planning authority or any other relevant person for any consent, agreement or approval required or contemplated by any of the provisions of this Order:

(a) such consent, agreement or approval must, to be validly given, be given in writing and must not be unreasonably withheld or delayed; and

(b) any refusal must be accompanied by a statement of the reasons for refusal.

(2) Part 2 (procedure for discharge of requirements) of Schedule 2 (requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements included in Part 1 (requirements) of that Schedule, and any document referred to in any requirement in that Part 1.

(3) Save for applications made pursuant to Part 2 (procedure for discharge of requirements) of Schedule 2 (requirements) and where stated to the contrary if, within ten weeks (or such longer period as may be agreed between the undertaker and the relevant consenting authority in writing) after the application or request has been submitted to a consenting authority it has not notified the undertaker of its refusal and the grounds of refusal, it is deemed to have approved the application or request.

(4) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (3).

Signatory text

Name
Address — Parliamentary Under Secretary of State
Date — Department for Energy Security and Net Zero

(**a**) S.I. 2915/596

SCHEDULES

SCHEDULE 1 Article 3

AUTHORISED DEVELOPMENT

1.—(1) In this Schedule—

"energy storage" means equipment used for the storage of electrical energy;

"inverter" means electrical equipment required to convert direct current power generated to alternating current;

"mounting structure" means a frame or rack made of galvanised steel or other material designed to support the solar modules and mounted on piles driven into the ground, piles inserted into a pre-drilled hole, a pillar attaching to a steel ground screw, or pillars fixed to a concrete foundation;

"panel areas" means panel areas A to E shown labelled as Work Nos. 1A to 1E on the works plans;

"permissive paths" means new access tracks, within the Order limits, made available for use by pedestrians only with the consent of the owner of the land over which it runs, and which may be withdrawn or modified by the landowner at any time;

"solar module" means a solar photovoltaic panel designed to convert solar irradiance to electrical energy fitted to mounting structures;

"solar station" means a station comprising centralised inverters, transformers and switchgear with each component for each solar station either—

(a) located outside on a permeable or concrete foundation; or

(b) housed together within a container on a permeable or concrete foundation;

"substation" means a compound, containing electrical equipment required to switch, transform, convert electricity and provide reactive power compensation mounted on a reinforced foundation slab or piling;

"switchgear" means a combination of electrical disconnect switches, fuses or circuit breakers used to control, protect and isolate electrical equipment; and

"transformer" means a structure containing an electrical device to transform electricity by increasing or reducing the voltage.

(2) In the City of Doncaster and the unitary authority area of North Lincolnshire a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act and associated development under section 115(1)(b) of the 2008 Act.

The nationally significant infrastructure project comprises a generating station with a gross electrical output capacity of over 50 megawatts comprising all or any of the work numbers in this Schedule or any part of any work number in this Schedule—

Work No. 1— a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts comprising—

Work No. 1A, 1B, 1C, 1D, and 1E: being panel areas A to E, comprising—

(a) solar modules; and

(b) solar stations,

and associated development within the meaning of section 115(2) of the 2008 Act including—

Work No. 2— works including—

(a) works to lay electrical cables and temporary construction laydown areas for electrical cables, including—

(i) electrical cables connecting Work No. 1A, 1B, 1C, 1D, and 1E to one another and to Work No. 4A, 4B, 4C, 4D, 4E, 4F, and 4G and Work No. 5A, 5B, 5C and 5D;

(ii) electrical cables connecting Work No. 4A, 4B, 4C, 4D, 4E, 4F 4G and Work No. 5A, 5B, 5C, and 5D to Work No.4H; and

(iii) electrical cables, within the Order limits, for the purposes of connecting Work No.4H to the NGET substation.

(b) fencing, gates, boundary treatment and other means of enclosure;

(c) improvement, maintenance and use of existing private tracks;

(d) laying down of internal access tracks, ramps, means of access, footpaths, permissive paths, crossing of watercourses, and roads, including the laying and construction of drainage infrastructure, signage and information boards;

(e) works for the provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure and perimeter fencing; and

(f) works required for crossing, moving re-routing or over/undergrounding of existing utility assets (including water, gas, sewer pipes, electricity distribution/transmission cabling, telecommunications etc.).

Work No. 3— works to create, enhance and maintain green infrastructure and habitat management, including—

(a) soft landscaping including planting;

(b) landscape and biodiversity mitigation and enhancement measures including, tree and hedgerow planting;

(c) habitat creation and management including earthworks, landscaping, means of enclosure and the laying and construction of drainage infrastructure;

(d) earth works;

(e) laying down of permissive paths, signage and information boards;

(f) hard standing and hard landscaping;

(g) drainage and irrigation infrastructure and improvements or extensions to existing irrigation systems;

(h) fencing, gates, boundary treatment and other means of enclosure; and

(i) improvement, maintenance and use of existing private tracks.

Work No. 4— development of onsite substations, including—

(a) **Work No. 4A, 4B, 4C, 4D, 4E, 4F and 4G**: works comprising—

(i) onsite 132 kilovolt substations;

(ii) shunt reactors;

(iii) control buildings or containers;

(iv) lightning conductor towers;

(v) communications towers;

(vi) welfare facilities;

(vii) hardstanding areas;

(viii) electrical cables; and

(ix) works for the provision of security, including security fencing.

(b) **Work No. 4H**: works comprising—

(i) 400 kilovolt substation;

(ii) cable switchgear and electrical equipment, transformers, reactive compensation equipment, filters and cooling equipment;

(iii) shunt reactor;

(iv) control building or container;

(v) lightning conductor tower;

(vi) communications tower;

(vii) electrical cables;

(viii) control and welfare buildings;

(ix) hardstanding area;

(x) access gates and tracks;

(xi) works for the provision of security including security fencing; and

(xii) other associated equipment, structures and buildings including noise attenuation works.

Work No. 5— a battery energy storage system (BESS) facility comprising—

Work No. 5A, 5B, 5C and 5D: being the BESS compounds, including—

(a) battery energy storage cells;

(b) auxiliary transformers and associated bunding;

(c) power conversion system units including inverters, switchgear, transformers and ancillary equipment;

(d) heating, ventilation and air conditioning (HVAC) or liquid cooling systems;

(e) monitoring and control systems;

(f) fire safety infrastructure comprising fire suppression system;

(g) a water storage structure for the purposes of firefighting comprising fire water tanks and fire water containment;

(h) containers or similar structures to house spare parts and materials required for the day to day operation of the BESS facility; and

(i) structures, containers or enclosures housing all or any of (a) to (h) siting on a reinforced concrete foundation slabs, concrete piling or concrete pads or plinths on a permeable foundation.

Work No. 6*— Number not used.*

Work No. 7— temporary construction and decommissioning laydown areas, compounds and access tracks, including—

(a) areas of hardstanding;

(b) car parking;

(c) site and welfare offices and workshops;

(d) security infrastructure, including cameras, perimeter fencing and lighting;

(e) site drainage and waste management infrastructure (including sewerage);

(f) electricity, water, waste water and telecommunications connections;

(g) works to improve existing farm access from public highway, and install temporary traffic lights, banksmen or other measures to manage traffic;

(h) works to excavate and store soil, clear vegetation and obstacles, level, shape and prepare surface for construction track to be installed;

(i) storage of equipment and materials including waste skips;

(j) civils investigations and works to reinforce ground with weight-bearing support infrastructure, maintain integrity of structures beneath road surface; and

(k) creation of temporary construction access tracks, laydown and working areas.

Work No. 8— works to facilitate access to Work Nos. 1 to 5 and Work No. 7, including—

(a) creation of accesses from or across the public highway;

(b) enhancement of existing access from the public highway;

(c) creation and maintenance of passing places;

(d) creation of visibility splays;

(e) removal of vegetation; and

(f) works to widen and surface the public highway and private means of access.

In connection with and in addition to Work Nos. 1 to 5 and Works Nos 7 to 8 further associated development comprising such other works or operations as may be necessary or expedient for the purposes of or in connection with the authorised development, and which are within the Order limits and fall within the scope of the work assessed by the environmental statement, including—

(a) works to place, alter, remove or maintain street furniture or apparatus (including statutory undertakers' apparatus) in, under or above a street, including mains, sewers, drains, pipes, cables, cofferdams, lights, fencing and other boundary treatments;

(b) haul roads, ramps, watercourses and other temporary crossings, vehicular and pedestrian means of access including the creation of new tracks and paths, widening, upgrades, alterations and improvements or existing roads tracks and paths and install temporary traffic lights, banksmen or other measures to manage traffic;

(c) fencing, gates, boundary treatments and other means of enclosure;

(d) earthworks, bunds, embankments, trenching and swales;

(e) working sites in connection with the construction of the authorised development including construction laydown areas, compounds and spoil storage and associated control measures;

(f) works, improvements or extensions to the existing drainage and irrigation system and works to alter the position and extent of such irrigation system;

(g) irrigation infrastructure, surface water drainage systems, runoff outfalls, sustainable drainage system ponds, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage networks;

(h) electrical, gas, water, foul water drainage and telecommunications infrastructure connections, diversions and works to, and works to alter the position of, such services and utilities connections;

(i) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses including the temporary closure of non-navigable rivers, streams or watercourses for installation of culverts, drainage and other features to cross non-navigable rivers, streams or watercourses;

(j) works for the provision of security and monitoring measures such as control buildings, containers or structures, CCTV columns and CCTV, lighting columns and lighting, cameras, lightning protection masts, weather stations, communication infrastructure, and perimeter fencing;

(k) containers or structures to house spare parts and materials required for the day to day operation of the authorised works;

(l) improvement, maintenance, repair and use of existing streets, private tracks and access roads;

(m) laying down, maintenance and repair of new internal access tracks, ramps, means of access, cycle routes and roads, signage and information boards;

(n) temporary footpath diversions and footpath enhancement;

(o) landscaping;

(p) temporary storage of materials prior to installation;

(q) site establishments and preparation works including site clearance (including vegetation removal, demolition of existing buildings and structures); earthworks (including soil stripping and storage and site levelling) and excavations; the alteration of the position of services and utilities; and works for the protection of buildings and land; and

(r) tunnelling, boring and drilling works,

and further associated development comprising such other works or operations as may be necessary of expedient for the purposes of, or in connection with, the authorised development insofar as they are unlikely to give rise to any materially new or materially different environmental effects to those assessed in the environmental statement.

SCHEDULE 2

Article 3

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

"both relevant planning authorities" means City of Doncaster Council and North Lincolnshire Council each being the relevant planning authority for part of the authorised development;

"business day" means a day other than Saturday or Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(**a**);

"internal drainage board" has the same meaning as in section 1 of the Land Drainage Act 1991;

"the landscape and visual mitigation strategy" means the document comprising Figure 6.4 of the environmental statement with document reference number 6.4.6.4;

"lead local flood authority" has the same meaning as in section 6(7) of the Flood and Water Management Act 2010;

"outline battery safety management plan" means the plan of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the outline battery safety management plan for the purposes of this Order;

"outline construction environmental management plan" means the document of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the outline construction environmental management plan for the purposes of this Order;

"outline construction traffic management plan" means the document of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the outline construction traffic management plan for the purposes of this Order;

"outline decommissioning environmental mitigation plan" means the document of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the outline decommissioning environmental mitigation plan for the purposes of this Order;

"outline ecological construction management plan" means the document of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the outline ecological construction management plan for the purposes of this Order;

"outline operational environmental management plan" means the document of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the outline operational environmental management plan for the purposes of this Order;

"outline landscape ecological management plan" means the document of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the

(**a**) 1971 c.80.

Secretary of State as the outline landscape ecological management plan for the purposes of this Order;

"outline soil management plan" means the document of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the outline soil management plan for the purposes of this Order; and

"outline supply chain, employment and skills plan" means the document of that name identified in the table at Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the outline supply chain, employment and skills plan for the purposes of this Order.

Time limits

2.—(1) The authorised development must begin no later than the expiration of five years beginning with the date this Order comes into force.

(2) If any proceedings are begun to challenge the validity of this Order, the period specified in paragraph (1) is extended by—

(a) a period equivalent to the period beginning with the day the application is made and ending on the day it is withdrawn or finally determined; or

(b) if shorter, one year.

(3) An application is not finally determined for the purposes of sub-paragraph (2)(a) if an appeal in respect of the application—

(a) could be brought (ignoring any possibility of an appeal out of time with permission); or

(b) has been made and not withdrawn or finally determined.

Phasing of the authorised development and date of final commissioning

3.—(1) No part of the authorised development may commence until a written scheme setting out the phase or phases of construction of the authorised development has been submitted to and approved by the relevant planning authority.

(2) The scheme submitted and approved pursuant to paragraph (1) must be implemented as approved.

(3) Notice of the date of final commissioning with respect to each phase of Work No. 1 must be given to the relevant planning authority or both relevant planning authorities (as applicable) within 15 working days of the date of final commissioning for that phase.

(4) Nothing shall prevent the undertaker and the relevant planning authority or both relevant planning authorities (where applicable) agreeing from time to time to amend the written scheme setting out the proposed phases of construction.

(5) The agreed written scheme may contain flexibility and optioneering for different proposed phases of construction provided that the undertaker notifies the relevant planning authority or both relevant planning authorities (where applicable) of the final intended phasing prior to commencement.

Requirement for written approval

4. Where any approval, agreement or confirmation is required under any requirement, that approval, agreement or confirmation must be provided in writing by the relevant planning authority or both relevant planning authorities (as applicable).

Approved details and amendments to them

5.—(1) With respect to the plans and documents certified under article 43 (certification of plans and documents, etc.) and any plans, details or schemes which have been approved pursuant to any requirement (together the "approved documents, plans, details or schemes"), the undertaker may

submit to the relevant planning authority or both relevant planning authorities (as applicable) for approval any amendments to any of the approved documents, plans, details or schemes and, following approval by the relevant planning authority or both relevant planning authorities (as applicable) , and the relevant approved documents, plans, details or schemes are to be taken to include the amendments as so approved pursuant to this paragraph.

(2) Approval under paragraph (1) for the amendments to any of the approved documents, plans, details or schemes must not be given except where it has been demonstrated to the satisfaction of the relevant planning authority or both relevant planning authorities (as applicable) that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Detailed design approval

6.—(1) No phase of the authorised development may commence until details of—

(a) the layout;

(b) scale;

(c) proposed finished ground levels;

(d) external appearance;

(e) hard surfacing materials;

(f) vehicular and pedestrian access, parking and circulation areas;

(g) refuse or other storage units, signs and lighting;

(h) drainage, water, power and communications cables and pipelines; and

(i) programme for landscaping works,

relating to that phase have been submitted and approved in writing by the relevant planning authority or both relevant planning authorities (as applicable).

(2) The details submitted must accord with—

(a) the design approach document appendix A: parameters document;

(b) the landscape and visual mitigation strategy; and

(c) the landscape and ecology management plan for that phase as approved under requirement 8.

(3) The authorised development must be carried out in accordance with the approved details.

Battery safety management plan

7.—(1) No part of Work Nos. 5A, 5B, 5C or 5D may commence until a battery safety management plan ("BSMP") for that work has been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable) following consultation by the undertaker on that BSMP with the South Yorkshire Fire and Rescue or the Humberside Fire and Rescue Service (as applicable) and the Environment Agency (in respect of its functions).

(2) The BSMP for the relevant work submitted under paragraph (1) must be substantially in accordance with the outline battery safety management plan.

(3) The BSMP for the relevant work must prescribe measures to facilitate safety during the construction, operation and decommissioning of that work including the transportation of new, used and replacement battery cells both to and from the authorised development.

(4) The BSMP for the relevant work must be implemented as approved and maintained throughout the construction, operation and decommissioning of Work Nos. 5A, 5B, 5C and 5D.

Landscape and ecology management plan

8.—(1) No phase of the authorised development may commence until a written landscape and ecology management plan for that phase has been submitted to and approved by the relevant

planning authority or both relevant planning authorities (as applicable) following consultation by the undertaker on that landscape and ecology management plan with the Environment Agency (in respect of its functions), Natural England (in respect of its functions) and National Highways (in respect of its functions).

(2) The written landscape and ecology management plan submitted under paragraph (1) must be substantially in accordance with—

(a) the outline landscape ecological management plan;

(b) the outline ecological construction management plan; and

(c) the landscape and visual mitigation strategy.

(3) The landscape and ecological management plan for the relevant phase must include details of—

(a) the extent to which the relevant phase contributes to ensuring that the authorised development overall achieves a minimum of 10% biodiversity net gain during its operational lifetime using the statutory biodiversity metric published by the Department of Environment, Food and Rural Affairs on 12 February 2024 to calculate those percentages;

(b) how the landscaping and ecological measures for the relevant phase will be managed and maintained during the operational life of the authorised development to the date on which the decommissioning environmental management plan relevant to that phase is implemented pursuant to requirement 19 (decommissioning and restoration); and

(c) the final routing and specification for any permissive path to be provided within a relevant phase.

(4) The landscape and ecology management plan for the relevant phase must be implemented as approved and maintained throughout the construction and operation of that phase of the authorised development.

Fencing and other means of enclosure

9.—(1) No phase of the authorised development may commence until written details of all proposed temporary fences, walls or other means of enclosure, including those set out in the outline construction environmental management plan, for that phase have been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable) following consultation by the undertaker with National Highways (in respect of its highway functions).

(2) No phase of the authorised development may commence until written details of all permanent fences, walls or other means of enclosure for that phase have been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable).

(3) For the purposes of sub-paragraph (1), "commence" includes any permitted preliminary works.

(4) Any construction site must remain securely fenced in accordance with the approved details under paragraph (1) at all times during construction of the authorised development.

(5) Any temporary fencing must be removed on completion of the phase of construction of the authorised development for which it was used.

(6) Prior to the date of final commissioning of any phase, any permanent fencing, walls or other means of enclosure for that phase approved pursuant to paragraph (2) must be completed and properly maintained for the operational lifetime of the part of the authorised development enclosed by the permanent fencing, walls or other means of enclosure.

Soil Management

10.—(1) No phase of the authorised development may commence until a soil management plan for that phase has been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable).

(2) Any soil management plan submitted for approval under paragraph (1) must be substantially in accordance with the outline soil management plan.

(3) The construction of any phase of the authorised development must be carried out in accordance with the approved soil management plan for that phase.

Surface and foul water drainage

11.—(1) No phase of the authorised development may commence until details of the surface water drainage strategy and (if any) foul water drainage system (including means of pollution control) for that phase have been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable), following consultation by the undertaker with the relevant internal drainage board, the relevant lead local flood authority, the Environment Agency, Yorkshire Water (in respect of its water undertaker functions), Severn Trent Water (in respect of its sewerage undertaker functions) and National Highways (in respect of its highway functions).

(2) Any strategy approved pursuant to paragraph (1) must be implemented as approved and maintained throughout the construction and operation of the authorised development.

Archaeology

12.—(1) No phase of the authorised development may commence until a written scheme of investigation for that phase has been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable).

(2) The written scheme of investigation for each phase submitted under paragraph (1) must be substantially in accordance with the outline archaeological mitigation strategy.

(3) The scope of works detailed in the written scheme of investigation for each phase must be implemented as approved.

(4) For the purposes of this paragraph "outline archaeological mitigation strategy" means the document comprising Appendix 8.6 of the environmental statement with document reference number 6.3.8.6.

(5) Unless otherwise agreed in writing by the relevant planning authority, for the purposes of paragraph (1) "commence" includes any permitted preliminary works which involve intrusive archaeological surveys (including trenching) and other investigations for the purpose of assessing ground conditions (including the making of boreholes).

Controlled site

13.—(1) No part of Work Nos. 1A and 1B may commence until following consultation by the undertaker with the relevant licensing authority the undertaker has confirmed to the relevant planning authority or both relevant planning authorities (as applicable) that—

(a) no controlled site is located within any phase comprising Work Nos. 1A and 1B and that no licence under the 1986 Act is required in respect of the carrying out of Work Nos. 1A and 1B;

(b) a controlled site is located within a phase comprising either Work No. 1A, Work No 1B or Works Nos. 1A and 1B and that a licence under the 1986 Act has been obtained in respect of the carrying out of the relevant work within the controlled site ("the licenced works"); or

(c) a controlled site is located within a phase comprising either Work No. 1A, Work No 1B or Works Nos. 1A and 1B and that a licence under the 1986 Act has not been obtained in respect of the carrying out of the relevant work within the controlled site ("the non-licenced works").

(2) If the undertaker makes a confirmation under sub-paragraph (1)(b) then the date of the final commissioning of the licenced works must not take place until a controlled site interpretation scheme has been submitted to and approved by the relevant planning authority or both relevant

planning authorities (as applicable) and the undertaker has carried out the controlled site interpretation scheme.

(3) If the undertaker makes a confirmation under sub-paragraph (1)(c) then no part of the non-licenced works may commence until details of a controlled site exclusion area have been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable) following consultation by the undertaker with the relevant licensing authority.

(4) No part of the non-licenced works is to be constructed within the approved controlled site exclusion area.

(5) For the purposes of this paragraph—

"the 1986 Act" means the Protection of Military Remains Act 1986;

"controlled site" has the same meaning as in section 9(1) of the 1986 Act;

"controlled site interpretation scheme" means a scheme which—

(a) sets out the location, design and content of an interpretation board and commemorative plaque relating to the history of the relevant aircraft crash that took place within the limits of the licenced works as shown on the works plans; and

(b) includes an explanation of how the scheme will work with and be consistent with the detailed landscape and ecology management plan that has been approved pursuant to requirement 8 in respect of a phase of the authorised development that includes the licenced works; and

"the relevant licensing authority" means the Secretary of State for Defence.

Construction environmental management plan

14.—(1) No phase of the authorised development may commence until a construction environmental management plan for that phase has been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable) following consultation by the undertaker with the Environment Agency (in respect of its functions).

(2) The construction environmental management plan submitted under paragraph (1) must be substantially in accordance with the outline construction environmental management plan.

(3) All construction works associated with the authorised development must be carried out in accordance with the approved construction environmental management plan.

Operational environmental management plan

15.—(1) Prior to the date of final commissioning for any phase, an operational environmental management plan for that phase must be submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable).

(2) The operational environmental management plan submitted under paragraph (1) must be substantially in accordance with the outline operational environmental management plan.

(3) The operation of the authorised development must be carried out in accordance with the approved operational environmental management plan.

Construction traffic management plan

16.—(1) No phase of the authorised development may commence until a construction traffic management plan for that phase has been submitted to and approved by the highway authority including National Highways in respect of matters which relate to the strategic road network.

(2) The construction traffic management plan submitted under paragraph (1) must be substantially in accordance with the outline construction traffic management plan.

(3) All construction works associated with the authorised development must be carried out in accordance with the approved construction traffic management plan.

Operational noise

17.—(1) No part of Work Nos 1, 4 and 5 may commence until an operational noise assessment containing details of how the design of the relevant work has incorporated mitigation, where necessary, to ensure the operational noise rating levels do not exceed the typical background sound levels, as set out in Table 13.11 of Chapter 13 of the environmental statement but subject to paragraph 13.4.18 of Chapter 13 of the environmental statement, has been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable).

(2) The design as described in the operational noise assessment must be implemented as approved and shall be maintained for the period specified in the assessment.

Skills, supply chain and employment

18.—(1) No phase of the authorised development may commence until a supply chain, employment and skills plan in relation to that phase has been submitted to and approved by the relevant planning authority or both relevant planning authorities (as applicable).

(2) The supply chain, employment and skills plan submitted under paragraph (1) must be substantially in accordance with the outline supply chain, employment and skills plan.

(3) The supply chain, employment and skills plan must be implemented as approved and maintained throughout the construction, operation and decommissioning of the relevant phase of the authorised development to which the plan relates.

Decommissioning and restoration

19.—(1) Subject to paragraph (2), not less than 6 months before the 40 year period referred to in paragraph (3), a decommissioning environmental management plan in respect of each relevant part of the authorised development approved under requirement 3(1) (Phasing of the authorised development and date of final commissioning) must be submitted to the relevant planning authority or both relevant planning authorities (as applicable) for approval following consultation by the undertaker with National Highways (in respect of its highway functions) and the Environment Agency (in respect of its functions).

(2) In respect of Work No. 4H any decommissioning environmental management plan for that work shall be submitted under paragraph (1) at the same time as the submission of the decommissioning environmental management plan for the final part of Work No.1 to be decommissioned.

(3) The date of decommissioning for any part of the authorised development must begin no later than 40 years following the date of final commissioning of the part of the authorised development that is subject to the last notice given by the undertaker pursuant to requirement 3(3).

(4) Any decommissioning environmental management plan submitted under paragraph (1) must be substantially in accordance with the outline decommissioning environmental management plan.

(5) Any decommissioning environmental management plan submitted under paragraph (1) must include a resource management plan that includes details of proposals to minimise the use of natural resources and unnecessary materials.

(6) No decommissioning works for any relevant part must be carried out until the relevant planning authority or both relevant planning authorities (as applicable) has approved the decommissioning environmental management plan submitted under paragraph (1) in relation to that part.

(7) Any decommissioning environmental management plan submitted and approved pursuant to paragraph (1) must be implemented as approved.

(8) Within 28 days of ceasing operations at any part of the authorised development the undertaker must notify the relevant planning authority or both relevant planning authorities (as applicable) in writing of the date it ceased operations for that part.

(9) This requirement is without prejudice to any other consents or permissions which may be required to decommission any part of the authorised development.

Public rights of way

20.—(1) The undertaker must not exercise the power conferred by article 15(1) and 15(2) (temporary closure or restriction of streets and public rights of way) of this Order in relation to any public right of way within any phase of the authorised development until the scope of the pre-commencement condition survey for the extents of any such public right of ways within that part have been submitted to and approved by the highway authority.

(2) The condition survey must be carried out substantially in accordance with the scope approved pursuant to paragraph (1) and the outcomes of the survey must be submitted to the highway authority.

(3) The undertaker must not exercise the powers conferred by article 15(1) and 15(2) (temporary closure or restriction of streets and public rights of way) of this Order in relation to any public right of way within any phase of the authorised development until a reinstatement plan for the extents of any such public rights of ways within that part has been submitted to and approved by the highway authority.

(4) The reinstatement plan to be submitted pursuant to paragraph (3) must include details of—

(a) the works to reinstate any such public rights of way in accordance with the condition survey approved pursuant to paragraph (1); and

(b) timeline for any such reinstatement works

(5) Any reinstatement works must be carried out substantially in accordance with the reinstatement plan approved pursuant to paragraph (3).

Connection to the national electricity transmission system

21. No phase of the authorised development may commence until details of the following have been submitted to and approved by the relevant planning authority—

(a) written evidence that consent is in place for the construction of electrical cable for the purposes of connecting Work No.4H to the national electricity transmission system; or

(b) written evidence that such consent is not required.

Consultation

22. In relation to any provision of this Schedule requiring details to be submitted to the relevant planning authority for approval following consultation by the undertaker with another party, the undertaker must provide such other party with not less than 21 business days for any response to the consultation and thereafter the details submitted to the relevant planning authority for approval must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted including copies of any representations made by a consultee about the details proposed to be submitted to the relevant planning authority by the undertaker and the undertaker's response to those representations.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under Part 1

1.—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement included in this Order), the relevant planning authority must give notice to the undertaker of its decision on the application within a period of eight weeks beginning with the later of—

(a) the day immediately following that on which the application is received by the relevant planning authority;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 2 (further information regarding requirements); or

(c) such other period that is agreed in writing between the undertaker and the relevant planning authority.

(2) In determining any application made to the relevant planning authority for any consent, agreement or approval required by a requirement included in this Order, the relevant planning authority may—

(a) give or refuse its consent, agreement or approval; or

(b) give its consent, agreement or approval subject to reasonable conditions,

(c) and where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with the notice of the decision.

(3) In the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is deemed to have granted all parts of the application (without any condition or qualification) at the end of that period.

Further information regarding requirements

2.—(1) In relation to any application made under this Schedule 2, the relevant planning authority may request such further information from the undertaker as it considers necessary to enable it to consider the application.

(2) In the event the relevant planning authority considers such further information to be necessary the relevant planning authority must, within ten business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates.

(3) In the event that the relevant planning authority does not give such notification within the period specified in sub-paragraph (2) the relevant planning authority is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(4) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 1 (applications made under Part 1) and in sub-paragraph (2).

Appeals

3.—(1) The undertaker may appeal to the Secretary of State in the event that the relevant planning authority—

(a) refuses an application for any consent, agreement or approval required under this Order or grants it subject to conditions;

(b) issues a notice further to sections 60 (control of noise on construction sites) or 61 (prior consent for work on construction sites) of the 1974 Act;

(c) on receipt of a request for further information under paragraph 2, the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not necessary for consideration of the application; or

(d) on receipt of any further information requested under paragraph 2, the relevant planning authority notifies the undertaker that the information provided is inadequate and requests additional information which the applicant considers is not necessary for consideration of the application.

(2) The appeal process applicable under sub-paragraph (1) is as follows—

(a) any appeal by the undertaker must be made within 42 days of the event under sub-paragraph (1);

(b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority;

(c) the Secretary of State must appoint a suitably qualified person to consider the appeal ("the appointed person") as soon as is practicable after the submission under sub-paragraph (b) but in any event no longer than 21 days from submission under that sub-paragraph and must notify the appeal parties of the identity of the appointed person, a start date and the address to which all correspondence for their attention should be sent;

(d) the relevant planning authority must submit their written representations to the appointed person in respect of the appeal within 10 business days of the start date and must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

(e) the undertaker must make any counter-submissions to the appointed person within ten business days of receipt of written representations under sub-paragraph (d); and

(f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable but in any event no longer than 10 business days from receipt of counter-submissions under sub-paragraph (e).

(3) The appointment of the appointed person under sub-paragraph (2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(5) Any further information required under sub-paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(6) The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day.

(7) The revised timetable for the appeal must require submission of written representations to the appointed person within 10 business days of the agreed date but must otherwise be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (f).

(8) On an appeal under this paragraph, the appointed person may—

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision or request of the relevant planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(9) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside of the relevant time limits.

(10) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(11) The decision of the appointed person on an appeal is final and binding on the parties unless proceedings are brought by a claim for a judicial review.

(12) Except where a direction is given under sub-paragraph (13) requiring some or all the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(13) The appointed person may give directions as to the costs of the appeal and as to the parties by whom the costs are to be paid.

(14) In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to relevant guidance on the Planning Practice Guidance Appeals (March 2014) or any circular or such guidance which may from time to time replace it.

Fees

4.—(1) Where an application is made to the relevant planning authority for written consent, agreement or approval in respect of a requirement, the fee prescribed under regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (as may be amended or replaced from time to time) is to apply and must be paid to the relevant planning authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of-

(a) the application being rejected as invalidly made; or

(b) the relevant planning authority failing to determine the application within the relevant period in paragraph 1(1) unless—

(i) within that period the undertaker agrees, in writing, that the fee is to be retained by the relevant planning authority and credited in respect of a future application; or

(ii) a longer period of time for determining the application has been agreed pursuant to paragraph 1(1)(c) of this Schedule.

SCHEDULE 3

Article 9

LEGISLATION TO BE DISAPPLIED

1. The following provisions do not apply in so far as they relate to the construction of any numbered work or the carrying out of any operation required for the purposes of, or in connection with, the authorised development and so far as the provisions still in force are incompatible with the powers contained within this Order—

(a) Stainforth and Keadby Canal Act 1793(**a**) including any byelaws made thereunder;

(b) Sheffield and South Yorkshire Navigation Act 1889(**b**) including any byelaws made thereunder; and

(c) Sheffield and South Yorkshire Navigation Act 1903(**c**) including any byelaws made thereunder.

SCHEDULE 4

Article 11

STREETS SUBJECT TO STREET WORKS

(1) *Area*	*(2)* *Street subject to street works*	*(3)* *Description of the street works*
Parish of Thorne	Moor Edges Road	Works for the provision of resurfacing for the length of 95 metres and the full width of the street between the points SWR1-A to SWR1-B and delineated in orange on Sheet 1 of the access and rights of way plans.
Parish of Thorne	Moor Edges Road	Works for the provision of resurfacing for the length of 81 metres and the full width of the street between the points SWR2-A to SWR2-B and delineated in orange on Sheet 2 of the access and rights of way plans.
Parish of Thorne	Green Bank	Cable Works beneath the full width of street within a length of 26 metres as shown between points CA1-A to CA1-B and delineated in pink on Sheets 2 and 5 of the access and rights of way plans.
Parish of Thorne	Green Bank	Works for the provision of resurfacing for the length of 26 metres and the full width of the street between the points SWR3-A to SWR3-B and

(**a**) 1793 c. cxvii.
(**b**) 1889 c. cxc.
(**c**) 1903 c. cv.

		delineated in orange on Sheets 2 and 5 of the access and rights of way plans.
Parish of Crowle and Ealand	Crook O'Moor Track	Works for the provision of resurfacing for the length of 447 metres and the full width of the street between the points SWR4-A to SWR4-B and delineated in orange on Sheet 3 of the access and rights of way plans.
Parish of Crowle and Ealand	Crook O'Moor Track	Cable Works beneath the full width of street within a length of 447 metres as shown between points CA2-A to CA2-B and delineated in pink on Sheet 3 of the access and rights of way plans.
Parish of Crowle and Ealand	Crook O'Moor Track	Works for the provision of resurfacing for the length of 1240 metres and the full width of the street between the points SWR4-B to SWR4-C to SWR4-D and delineated in orange on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Crook O'Moor Track	Cable Works beneath the full width of street within a length of 1068 metres as shown between points CA2-B to CA2-C and delineated in pink on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Marsh Road	Cable Works beneath the full width of street within a length of 528 metres as shown between points CA3-A to CA3-B and delineated in pink on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Marsh Road	Works for the provision of resurfacing for the length of 528 metres and the full width of the street between the points SWR5-A to SWR5-B and delineated in orange on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Marsh Road	Works for the provision of resurfacing for the length of 898 metres and full width of the street between the points SWR5-B to SWR5-C and delineated in orange on Sheet 4 of the access and rights of way plans.

Parish of Crowle and Ealand	Cross Street	Works for the provision of resurfacing for the length of 50 metres and the full width of the street between the points SWR6-A to SWR6-D to SWR6-B and delineated in orange on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Commonside and Cross Street	Works for the provision of resurfacing for the length of 28 metres and the full width of the street between the points SWR6-C to SWR6-D and delineated in orange on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Cross Street and Windsor Road	Works for the provision of resurfacing for the length of 48 metres and the full width of the street between the points SWR6-D to SWR6-E and delineated in orange on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	High Street	Works for the provision of resurfacing for the length of 72 metres and the full width of the street between the points SWR7-A to SWR7-E to SWR7-B and delineated in orange on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Wharf Road	Works for the provision of resurfacing for the length of 29 metres and the full width of the street between the points SWR7-B to SWR7-C and delineated in orange on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Fieldside	Works for the provision of resurfacing for the length of 29 metres and the full width of the street between the points SWR7-B to SWR7-D and delineated in orange on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Godnow Road	Works for the provision of resurfacing for the length of 55 metres and the full width of the street between the points SWR7-E to SWR7-F and delineated in orange on Sheet 4 of the access and rights of way plans.

Parish of Crowle and Ealand	Godnow Road	Works for the provision of resurfacing for the length of 90 metres and the full width of the area between the points SWR8-A to SWR8-C to SWR8-B and delineated in orange on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Windsor Road	Works for the provision of resurfacing for the length of 39 metres and the full width of the street between the points SWR8-C to SWR8-D and delineated in orange on Sheet 4 of the access and rights of way plans.
Parish of Thorne	Green Bank	Works for the provision of resurfacing for the length of 776 metres and the full width of the street between the points SWR3-B to SWR3-C and delineated in orange on Sheet 5 of the access and rights of way plans.
Parish of Thorne	Green Bank	Cable Works beneath the full width of street within a length of 776 metres as shown between points CA1-B to CA1-C and delineated in pink on Sheets 5 and 8 of the access and rights of way plans.
Parish of Thorne	Green Bank	Works for the provision of resurfacing for the length of 50 metres and the full width of the street between the points SWR9-A to SWR9-B and delineated in orange on Sheets 5 and 8 of the access and rights of way plans.
Parish of Thorne	High Levels Bank	Works for the provision of resurfacing for the length of 50 metres and the full width of the street between the points SWR10-A to SWR10-B and delineated in orange on Sheets 5 and 8 of the access and rights of way plans.
Parish of Thorne	High Levels Bank	Cable Works beneath the full width of street within a length of 82 metres as shown between points CA4-A to CA4-B and delineated in pink on Sheets 6 and 10 of the access and rights of way plans.
Parish of Thorne	High Levels Bank	Works for the provision of resurfacing for the length of 82

		metres and the full width of the street between the points SWR11-A to SWR11-B and delineated in orange on Sheets 6 and 10 of the access and rights of way plans.
Parish of Hatfield	Tudworth Road	Works for the provision of resurfacing for the length of 98 metres and the full width of the street between the points SWR12-A to SWR12-C to SWR12-B and delineated in orange on Sheet 7 of the access and rights of way plans.
Parish of Hatfield	Sandtoft Road	Works for the provision of resurfacing for the length of 63 metres and the full width of the street between the points SWR12-C to SWR12-D and delineated in orange on Sheet 7 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Sandtoft Road	Works for the provision of resurfacing for the length of 50 metres and the full width of the street between the points SWR13-A to SWR13-B and delineated in orange on Sheet 7 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Sandtoft Road	Cable Works beneath the full width of street within a length of 50 metres as shown between points CA5-A to CA5-B and delineated in pink on Sheet 7 of the access and rights of way plans.
Parish of Belton	Jaque's Bank	Works for the provision of resurfacing for the length of 60 metres and the full width of the street between the points SWR14-A to SWR14-B and delineated in orange on Sheets 6 and 10 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Low Levels Bank	Cable Works beneath the full width of street within a length of 27 metres as shown between points CA7-A to CA7-B and delineated in pink on Sheets 7, 8 and 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Low Levels Bank	Works for the provision of resurfacing for the length of 27 metres and the full width of the street between the points

		SWR15-A to SWR15-B and delineated in orange on Sheets 7, 8 and 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Low Levels Bank	Cable Works beneath the full width of street within a length of 360 metres as shown between points CA8-A to CA8-B and delineated in pink on Sheets 7 and 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Low Levels Bank	Works for the provision of resurfacing for the length of 360 metres and the full width of the street between the points SWR16-A to SWR16-B and delineated in orange on Sheets 7 and 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	High Levels Bank	Cable Works beneath the full width of street within a length of 260 metres as shown between points CA9-A to CA9-B and delineated in pink on Sheet 8 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	High Levels Bank	Works for the provision of resurfacing for the length of 260 metres and the full width of the street between the points SWR17-A to SWR17-B and delineated in orange on Sheet 8 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Crow Tree Bank	Works for the provision of resurfacing for the length of 10 metres and the full width of the street between the points SWR18-A to SWR18-B and delineated in orange on Sheet 8 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Crow Tree Bank	Cable Works beneath the full width of street within a length of 15 metres as shown between points CA10-A to CA10-B and delineated in pink on Sheets 8 and 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Crow Tree Bank	Works for the provision of resurfacing for the length of 15 metres and the full width of the street between the points SWR19-A to SWR19-B and delineated in orange on Sheets 8 and 9 of the access and rights

		of way plans.
Parish of Thorne and Parish of Hatfield	Low Levels Bank	Cable Works beneath the full width of street within a length of 1359 metres as shown between points CA8-B to CA8-C and delineated in pink on Sheet 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Low Levels Bank	Works for the provision of resurfacing for the length of 1359 metres and the full width of the street between the points SWR16-B to SWR16-C and delineated in orange on Sheet 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Moor Lane	Cable Works beneath the full width of street within a length of 258 metres as shown between points CA11-A to CA11-B and delineated in pink on Sheet 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Moor Lane	Works for the provision of resurfacing for the length of 258 metres and the full width of the street between the points SWR20-A to SWR20-B and delineated in orange on Sheet 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	North of Low Levels Bank	Cable Works beneath the full width of street within a length of 214 metres as shown between points CA12-A to CA12-B and delineated in pink on Sheets 9 and 10 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	North of Low Levels Bank	Cable Works beneath the full width of street within a length of 28 metres as shown between points CA12-B to CA12-C and delineated in pink on Sheet 10 of the access and rights of way plans.
Parish of Hatfield and Parish of Belton	High Levels Bank	Cable Works beneath the full width of street within a length of 49 metres as shown between points CA13-A to CA13-B and delineated in pink on Sheet 10 of the access and rights of way plans.
Parish of Hatfield and Parish of Belton	High Levels Bank	Works for the provision of resurfacing for the length of 49 metres and the full width of the street between the points

		SWR21-A to SWR21-B and delineated in orange on Sheet 10 of the access and rights of way plans.
Parish of Belton	High Levels Bank	Cable Works beneath the full width of street within a length of 276 metres as shown between points CA14-A to CA14-B and delineated in pink on Sheet 10 of the access and rights of way plans.
Parish of Belton	High Levels Bank	Works for the provision of resurfacing for the length of 276 metres and the full width of the street between the points SWR22-A to SWR22-B and delineated in orange on Sheet 10 of the access and rights of way plans.
Parish of Belton	High Levels Bank junction with Jaque's Bank	Cable Works beneath the full width of street within a length of 51 metres as shown between points CA15-A to CA15-B and delineated in pink on Sheet 10 of the access and rights of way plans.
Parish of Belton	High Levels Bank junction with Jaque's Bank	Works for the provision of resurfacing for the length of 51 metres and the full width of the street between the points SWR23-A to SWR23-B and delineated in orange on Sheet 10 of the access and rights of way plans.
Parish of Belton	Plains Lane	Cable Works beneath the full width of street within a length of 61 metres as shown between points CA16-A to CA16-B and delineated in pink on Sheet 10 of the access and rights of way plans.
Parish of Belton	Plains Lane	Works for the provision of resurfacing for the length of 61 metres and the full width of the street between the points SWR24-A to SWR24-B and delineated in orange on Sheet 10 of the access and rights of way plans.
Parish of Belton	Idle Bank	Cable Works beneath the full width of street within a length of 133 metres as shown between points CA17-A to CA17-B and delineated in pink on Sheets 10 and 11 of the access and rights of way plans.

Parish of Belton	Idle Bank	Works for the provision of resurfacing for the length of 133 metres and the full width of the street between the points SWR25-A to SWR25-B and delineated in orange on Sheets 10 and 11 of the access and rights of way plans.
Parish of Belton	Idle Bank	Cable Works beneath the full width of street within a length of 455 metres as shown between points CA18-A to CA18-B and delineated in pink on Sheets 10 and 11 of the access and rights of way plans.
Parish of Belton	Idle Bank	Works for the provision of resurfacing for the length of 455 metres and the full width of the street between the points SWR26-A to SWR26-B and delineated in orange on Sheets 10 and 11 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Cable Works beneath the full width of street within a length of 298 metres as shown between points CA19-A to CA19-B and delineated in pink on Sheets 10 and 11 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Works for the provision of resurfacing for the length of 298 metres and the full width of the street between the points SWR27-A to SWR27-B and delineated in orange on Sheets 10, 11 and 12 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Cable Works beneath the full width of street within a length of 2105 metres as shown between points CA19-B to CA19-C and delineated in pink on Sheets 10, 11 and 12 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Works for the provision of resurfacing for the length of 2105 metres and the full width of the street between the points SWR27-B to SWR27-C and delineated in orange on Sheets 10, 11 and 12 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Cable Works beneath the full width of street within a length of 167 metres as shown

		between points CA19-C to CA19-D and delineated in pink on Sheet 12 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Works for the provision of resurfacing for the length of 167 metres and the full width of the street between the points SWR27-C to SWR27-D and delineated in orange on Sheet 12 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Cable Works beneath the full width of street within a length of 228 metres as shown between points CA20-A to CA20-B and delineated in pink on Sheet 12 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Works for the provision of resurfacing for the length of 228 metres and the full width of the street between the points SWR28-A to SWR28-B and delineated in orange on Sheet 12 of the access and rights of way plans.
Parish of Belton	Verge to the west side of the A161	Works for the provision of resurfacing for the length of 61 metres and the full width of the street between the points SWR29-A to SWR29-B and delineated in orange on Sheet 12 of the access and rights of way plans.

SCHEDULE 5

Article 13

ALTERATION OF STREETS

(1) *Area*	*(2)* *Street subject to alteration of layout*	*(3)* *Description of alteration*
Parish of Thorne	Moor Edges Road	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 1 of the access and rights of way plans, reference STW1.
Parish of Thorne	Moor Edges Road	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 2 of the access and rights of way plans, reference STW2.
Parish of Thorne	Green Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheets 2 and 5 of the access and rights of way plans, reference STW3-A to STW3-B.
Parish of Crowle and Ealand	Crook O'Moor Track	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 3 of the access and rights of way plans, reference STW4-A to STW4-B.
Parish of Crowle and Ealand	Crook O'Moor Track	Works for the provision of permanent means of accesses to the authorised development within the area shaded blue on Sheet 4 of the access and rights of way plans, references STW4-B, STW4-C, STW4-D and STW4.1.
Parish of Crowle and Ealand	Marsh Road	Works for the provision of permanent means of accesses to the authorised development within the area shaded blue on Sheet 4 of the access and rights of way plans, references STW5-A, STW5-B, STW5-C and STW5.1.
Parish of Thorne	Green Bank	Works for the provision of permanent means of accesses to the authorised development within the area shaded blue on

		Sheets 5 and 8 of the access and rights of way plans, references STW3-B, STW3-C, STW3.1 and STW3.2.
Parish of Thorne	Green Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheets 5 and 8 of the access and rights of way plans, reference STW6.
Parish of Thorne and Parish of Hatfield	High Levels Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheets 5 and 8 of the access and rights of way plans, reference STW7.
Parish of Hatfield	High Levels Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheets 6 and 10 of the access and rights of way plans, reference STW8.
Parish of Thorne and Parish of Hatfield	Sandtoft Road	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 7 of the access and rights of way plans, reference STW9.
Parish of Belton	Jacque's Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheets 6 and 10 of the access and rights of way plans, reference STW10.
Parish of Thorne and Parish of Hatfield	Low Levels Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheets 7, 8 and 9 of the access and rights of way plans, reference STW11.
Parish of Hatfield	Low Levels Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 7 of the access and rights of way plans, reference STW12-A to STW12-B.
Parish of Thorne and Parish of Hatfield	High Levels Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on

		Sheet 8 of the access and rights of way plans, reference STW13.
Parish of Thorne and Parish of Hatfield	Crow Tree Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 8 of the access and rights of way plans, reference STW14.
Parish of Hatfield	Low Levels Bank	Works for the provision of permanent means of accesses to the authorised development within the area shaded blue on Sheet 9 of the access and rights of way plans, references STW12-B, STW12-C and STW12.1.
Parish of Thorne and Parish of Hatfield	High Levels Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 10 of the access and rights of way plans, reference STW15.
Parish of Thorne and Parish of Hatfield	High Levels Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 10 of the access and rights of way plans, references STW16 and STW16.1.
Parish of Belton	High Levels Bank junction with Jaque's Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 10 of the access and rights of way plans, reference STW17.
Parish of Belton	Plains Lane	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 10 of the access and rights of way plans, reference STW18.
Parish of Belton	Idle Bank	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheets 10 and 11 of the access and rights of way plans, reference STW19.
Parish of Belton	Idle Bank	Works for the provision of a permanent means of access to the authorised development

		within the area shaded blue on Sheets 10 and 11 of the access and rights of way plans, reference STW20.
Parish of Belton and Parish of Crowle and Ealand	Un-named road south of A18	Works for the provision of permanent means of accesses to the authorised development within the area shaded blue on Sheets 11 and 12 of the access and rights of way plans, references STW21-B, STW21-C and STW21.1.
Parish of Belton	Un-named road south of A18	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 12 of the access and rights of way plans, reference STW21-C to STW21-D.
Parish of Belton	Un-named road south of A18	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 12 of the access and rights of way plans, reference STW22-A to STW22-B.
Parish of Belton	A161	Works for the provision of a permanent means of access to the authorised development within the area shaded blue on Sheet 12 of the access and rights of way plans, reference STW23-A to STW23-B.

SCHEDULE 6

Article 15

STREETS AND PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED OR RESTRICTED

PART 1

STREETS TO BE TEMPORARILY CLOSED OR RESTRICTED

(1) *Area*	*(2)* *Street to be temporarily closed or restricted*	*(3)* *Extent of temporary closure or restriction*
Parish of Thorne	Moor Edges Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC1-A and TSC1-B on Sheet 1 of the access and rights of way plans.
Parish of Thorne	Moor Edges Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC2-A and TSC2-B on Sheet 2 of the access and rights of way plans.
Parish of Thorne	Green Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC3-A and TSC3-B on Sheet 2 of the access and rights of way plans.
Parish of Crowle and Ealand	Crook O'Moor Track	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC4-A and TSC4-B on Sheets 3 and 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Crook O'Moor Track	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC4-B and TSC4-C on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Crook O'Moor Track	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC4-C and TSC4-D on Sheet 4 of the access and rights of

		way plans.
Parish of Crowle and Ealand	Marsh Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC5-A and TSC5-B on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Marsh Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC5-B and TSC5-C on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Cross Street	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC6-A and TSC6-D on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Cross Street	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC6-B and TSC6-D on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Commonside and Cross Street	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC6-C and TSC6-D on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Cross Street and Windsor Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC6-D and TSC6-E on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	High Street	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC7-A and TSC7-B on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Wharf Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC7-B and TSC7-C on Sheet 4 of the access and rights of

		way plans.
Parish of Crowle and Ealand	Fieldside	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC7-B and TSC7-D on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Godnow Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC7-E and TSC7-F on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Godnow Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC8-A and TSC7-B on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Windsor Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC8-C and TSC8-D on Sheet 4 of the access and rights of way plans.
Parish of Thorne	Green Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC3-B and TSC3-C on Sheets 5 and 8 of the access and rights of way plans.
Parish of Thorne	Green Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC9-A and TSC9-B on Sheets 5 and 8 of the access and rights of way plans.
Parish of Thorne	High Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC10-A and TSC10-B on Sheets 5 and 8 of the access and rights of way plans.
Parish of Thorne	High Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC11-A and TSC11-B on Sheets 6 and 10 of the access

		and rights of way plans..
Parish of Hatfield	Tudworth Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC12-A and TSC12-B on Sheet 7 of the access and rights of way plans.
Parish of Hatfield	Sandtoft Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC12-C and TSC12-D on Sheet 7 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Sandtoft Road	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC13-A and TSC13-B on Sheet 7 of the access and rights of way plans.
Parish of Belton	Jacque's Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC14-A and TSC14-B on Sheets 6 and 10 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Low Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC15-A and TSC15-B on Sheets 7, 8 and 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Low Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC16-A and TSC16-B on Sheets 7 and 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	High Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC17-A and TSC17-B on Sheet 8 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Crow Tree Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC18-A and TSC18-B on Sheet 8 of the access and rights

		of way plans.
Parish of Thorne and Parish of Hatfield	Crow Tree Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC19-A and TSC19-B on Sheets 8 and 10 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Low Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC16-B and TSC16-C on Sheet 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Moor Lane	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC20-A and TSC20-B on Sheet 9 of the access and rights of way plans.
Parish of Hatfield and Parish of Belton	High Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC21-A and TSC21-B on Sheet 10 of the access and rights of way plans.
Parish of Belton	High Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC22-A and TSC22-B on Sheet 10 of the access and rights of way plans.
Parish of Belton	High Levels Bank junction with Jaque's Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC23-A and TSC23-B on Sheet 10 of the access and rights of way plans.
Parish of Belton	Plains Lane	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC24-A and TSC24-B on Sheet 10 of the access and rights of way plans.
Parish of Belton	Idle Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC25-A and TSC25-B on Sheets 10 and 11 of the access

		and rights of way plans.
Parish of Belton	Idle Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC26-A and TSC26-B on Sheets 10 and 11 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC27-A and TSC27-B on Sheets 10 and 11 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC27-B and TSC27-C on Sheets 11 and 12 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC27-C and TSC27-D on Sheet 12 of the access and rights of way plans.
Parish of Belton	Un-named road east of High Levels Bank	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC28-A and TSC28-B on Sheet 12 of the access and rights of way plans.
Parish of Belton	Verge to the west side of the A161	Temporarily close, prohibit the use of, restrict the use of, alter or divert the width of street between the points marked TSC29-A and TSC29-B on Sheet 12 of the access and rights of way plans.

PART 2

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED OR RESTRICTED

(1) *District*	*(2)* *Public right of way to be temporarily closed or restricted*	*(3)* *Extent of temporary closure or restriction*
Parish of Thorne	Footpath Thorne – 19	Temporarily prohibit the use of, restrict the use of, alter or divert the footpath in the area

		shaded green between the points marked PROW1-A and PROW1-B on Sheets 2 and 3 of the access and rights of way plans.
Parish of Thorne	Footpath Thorne – 19	Temporarily prohibit the use of, restrict the use of, alter or divert the footpath in the area shaded green between the points marked PROW1-B and PROW1-C on Sheet 3 of the access and rights of way plans.
Parish of Crowle and Ealand	Footpath CROW - 21	Temporarily close, prohibit the use of, restrict the use of, alter or divert the footpath in the area shaded green between the points marked PROW2-A and PROW2-B on Sheets 3 and 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Footpath CROW - 21	Temporarily close, prohibit the use of, restrict the use of, alter or divert the footpath in the area shaded green between the points marked PROW2-B and PROW2-C on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Footpath CROW – 18	Temporarily close, prohibit the use of, restrict the use of, alter or divert the footpath in the area shaded green between the points marked PROW3-A and PROW3-B on Sheet 4 of the access and rights of way plans.

SCHEDULE 7

Article 16

ACCESS TO WORKS

(1) *District*	*(2)* *Street*	*(3)* *Description of means of access*
Parish of Thorne	Moor Edges Road	The provision of a permanent means of access to the authorised development, reference STW1, within the area shaded blue on Sheet 1 of the access and rights of way plans.
Parish of Thorne	Moor Edges Road	The provision of a permanent means of access to the authorised development, reference STW2, within the area shaded blue on Sheet 2 of the access and rights of way plans.
Parish of Thorne	Green Bank	The provision of a permanent means of access to the authorised development, between references STW3-A and STW3-B, within the area shaded blue on Sheet 2 of the access and rights of way plans.
Parish of Crowle and Ealand	Crook O'Moor Track	The provision of a permanent means of access to the authorised development, between references STW4-A and STW4-B, within the area shaded blue on Sheets 3 and 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Crook O'Moor Track	The provision of permanent means of accesses to the authorised development, references STW4-B, STW4-C, STW4-D and STW4.1, within the area shaded blue on Sheet 4 of the access and rights of way plans.
Parish of Crowle and Ealand	Marsh Road	The provision of permanent means of accesses to the authorised development, references STW5-A, STW5-B, STW5-C and STW5.1, within the area shaded blue on Sheet 3 of the access and rights of way plans.
Parish of Thorne	Green Bank	The provision of permanent means of accesses to the

		authorised development, references STW3-B, STW3-C, STW3.1 and STW3.2, within the area shaded blue on Sheets 5 and 8 of the access and rights of way plans.
Parish of Thorne	Green Bank	The provision of a permanent means of access to the authorised development, reference STW6, within the area shaded blue on Sheet 5 and 8 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	High Levels Bank	The provision of a permanent means of access to the authorised development, reference STW7, within the area shaded blue on Sheet 5 and 8 of the access and rights of way plans.
Parish of Hatfield	High Levels Bank	The provision of a permanent means of access to the authorised development, reference STW8, within the area shaded blue on Sheets 6 and 10 of the access and rights of way plans.
Parish of Hatfield	Sandtoft Road	The provision of a permanent means of access to the authorised development, reference STW9, within the area shaded blue on Sheet 7 of the access and rights of way plans.
Parish of Belton	Jacque's Bank	The provision of a permanent means of access to the authorised development, reference STW10, within the area shaded blue on Sheets 6 and 10 of the access and rights of way plans.
Parish of Hatfield	Low Levels Bank	The provision of a permanent means of access to the authorised development, reference STW11, within the area shaded blue on Sheets 7 and 9 of the access and rights of way plans.
Parish of Hatfield	Low Levels Bank	The provision of a permanent means of access to the authorised development, between references STW12-A and STW12-B within the area shaded blue on Sheets 7 and 9 of the access and rights of way plans.

Parish of Hatfield	Low Levels Bank	The provision of a permanent means of access to the authorised development, between references STW12-A and STW12-B, within the area shaded blue on Sheet 7 of the access and rights of way plans.
Parish of Thorne	High Levels Bank	The provision of a permanent means of access to the authorised development, reference STW13, within the area shaded blue on Sheet 8 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	Crow Tree Bank	The provision of a permanent means of access to the authorised development, reference STW14, within the area shaded blue on Sheet 8 of the access and rights of way plans.
Parish of Hatfield	Low Levels Bank	The provision of permanent means of accesses to the authorised development, references STW12-B, STW12-C and STW12.1 within the area shaded blue on Sheets 7 and 9 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	High Levels Bank	The provision of a permanent means of access to the authorised development, reference STW15, within the area shaded blue on Sheet 10 of the access and rights of way plans.
Parish of Thorne and Parish of Hatfield	High Levels Bank	The provision of a permanent means of access to the authorised development, between references STW16 and STW16.1, within the area shaded blue on Sheet 10 of the access and rights of way plans.
Parish of Belton	High Levels Bank junction with Jaque's Bank	The provision of a permanent means of access to the authorised development, reference STW17, within the area shaded blue on Sheet 10 of the access and rights of way plans.
Parish of Belton	Plains Lane	The provision of a permanent means of access to the authorised development, reference STW18, within the area shaded blue on Sheet 10 of the access and rights of way

		plans.
Parish of Belton	Idle Bank	The provision of a permanent means of access to the authorised development, reference STW19, within the area shaded blue on Sheets 10 and 11 of the access and rights of way plans.
Parish of Belton	Idle Bank	The provision of a permanent means of access to the authorised development, reference STW20, within the area shaded blue on Sheets 10 and 11 of the access and rights of way plans.
Parish of Belton and Parish of Crowle and Ealand	Un-named road south of A18	The provision of a permanent means of access to the authorised development, between references STW21-A and STW21-B, within the area shaded blue on Sheets 11 and 12 of the access and rights of way plans.
Parish of Belton and Parish of Crowle and Ealand	Un-named road south of A18	The provision of permanent means of accesses to the authorised development, references STW21-B, STW21-C and STW21.1, within the area shaded blue on Sheets 11 and 12 of the access and rights of way plans.
Parish of Belton	Un-named road south of A18	The provision of a permanent means of access to the authorised development, between references STW21-C and STW21-D, within the area shaded blue on Sheet 12 of the access and rights of way plans.
Parish of Belton	Un-named road south of A18	The provision of a permanent means of access to the authorised development, between references STW22-A and STW22-B, within the area shaded blue on Sheet 12 of the access and rights of way plans.
Parish of Belton	A161	The provision of a permanent means of access to the authorised development, reference STW23-A, within the area shaded blue on Sheet 12 of the access and rights of way plans.

SCHEDULE 8

Article 25

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

In this Schedule—

"Access Rights" means all rights necessary for the purposes of the authorised development, including to—

(a) pass and re-pass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface);

(b) make such investigations in, on or under the land and undertake such site preparation and clearance works as are necessary for the purpose of enabling the right to pass and re-pass;

(c) enter, be on, and break up the surface of, the land;

(d) create and effect access to and from the highway;

(e) upgrade, surface, resurface, use and repair the land for the purpose of enabling the right to pass and re-pass to adjoining land, including creating and maintaining visibility splays, and removing impediments to the exercise of such right to pass and repass;

(f) lay out, use, remove and divert paths for public use;

(g) fell, lop, cut, coppice, uproot and/or remove trees, hedges, shrubs or other vegetation which now or hereafter may be present on the land for the purpose of enabling the right to pass and re-pass to adjoining land;

(h) carry out, install, execute, implement, retain, repair, improve, renew, relocate, maintain and protect landscaping, environmental or ecological mitigation or enhancement works or measures;

(i) erect, repair and remove fencing, security and monitoring measures such as CCTV columns, lighting columns and lighting for the purpose of enabling the right to pass and re-pass;

(j) remove any works carried out to facilitate the right to pass and re-pass and reinstate the land thereafter, including planting and replanting any trees, hedges, shrubs or other vegetation; and

(k) exercise such other rights as may be necessary to facilitate the further associated development works or operations defined in Schedule 1 to the Order.

"Cable Rights" means all rights necessary for the purposes of the authorised development, including to—

(a) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain and repair electrical cables, earthing cables, optical fibre cables, data cables, telecommunications cables and other services, together with works associated with such cables including bays, ducts, protection and safety measures and equipment, and other apparatus and structures (collectively referred to as "the cables");

(b) carry out open cut trenching or horizontal directional drilling or any other trenchless method of installing the cables the effects of which are within those assessed in the environmental statement, and create, use and remove launch and exit pits and associated cable ducts;

(c) remain, pass and re-pass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface);

(d) erect, use and remove fencing, gates, walls, barriers or other means of enclosure, and create, use and remove secure working areas and compounds;

(e) alter, improve, form, maintain, retain, use (with or without vehicles, plant and machinery), remove and reinstate means of access to the land (including visibility splays) and to remove impediments to such access;

(f) create and effect access to and from the highway;

(g) lay out, use, remove and divert paths for public use;

(h) make such investigations in, on or under the land as required, including archaeological investigations;

(i) excavate materials below ground level, including soils, and to store and re-use or dispose of the same, and in so excavating to undertake any works, including works of protection or removal of archaeological remains as may be required by any written scheme of investigation approved under this Order;

(j) install, retain and maintain cable marker posts to identify the location of the cables in the land (subject to an obligation to minimise interference with future use and operations within the land);

(k) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain watercourses, public sewers and drains and drainage apparatus and equipment;

(l) fell, lop, cut, coppice, uproot and/or remove trees, hedges, shrubs or other vegetation which now or hereafter may be standing on the land which would if not felled, lopped, cut or removed obstruct or interfere with the working of the cables;

(m) carry out, install, execute, implement, retain, repair, improve, renew, relocate, maintain and protect landscaping, environmental or ecological mitigation or enhancement works or measures;

(n) carry out such works (together with associated fencing) required by this Order, a planning permission and/or consent now or to be granted over the land in accordance with any necessary licences relating to protected species and/or wildlife (which for the avoidance of doubt includes newts);

(o) remove any works carried out and reinstate the land thereafter, including planting and replanting any trees, hedges, shrubs or other vegetation; and

(p) exercise such other rights as may be necessary to facilitate the further associated development works or operations defined in Schedule 1 to the Order.

"Cable Restrictive Covenant" a restrictive covenant over the land for the benefit of the remainder of the Order land to—

(a) prevent anything being done in or on the land or any part thereof for the purposes of—

(i) the erection of any buildings; or

(ii) the construction, erection or works of any kind requiring foundations, footings or other supporting structures, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed building, erection, construction or works would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development);

(b) prevent anything to be done by way of hard surfacing of the land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed hard surfacing would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development);

(c) prevent anything to be done by way of excavation of any kind or agricultural practices exceeding 0.5 metres in depth from—

(i) the surface of the land;

(ii) the true cleaned bottom of the open drain, ditch, watercourse or river; or

(iii) any activities which increase or decrease ground cover or soil levels or change the composition of the land in any manner whatsoever,

without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed activity would not cause damage to the relevant part of the authorised development nor make it materially more difficult to access or maintain the authorised development, with such consent being subject to such reasonable conditions as the undertaker may require);

(d) prevent the planting or growing within the land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult to maintain or to access the relevant part of the authorised development) provided that the growing within the land of any pre-existing trees, shrubs or underwood do not require the consent of the undertaker;

(e) prevent anything being done which may interfere with the free flow and passage of electricity or telecommunications through the cables or support for the authorised development; and

(f) prevent anything being done in or on the land or any part thereof which will, or which the undertaker can reasonably foresee may, interfere with the exercise of the other rights set out in this Schedule, or the use of the authorised development or in any way render the authorised development or any part thereof in breach of any statute or regulation for the time being in force and applicable thereto.

"Drainage Rights" means all rights necessary for the purposes of the authorised development, including to—

(a) improvements or extensions to existing drainage and irrigation systems;

(b) works to alter the position and extent of existing irrigation systems;

(c) diversions and works to, and works to alter the position of, drainage connections;

(d) [the installation, use, support, protection, inspection, alteration, removal, replacement, retention, renewal, improvement and maintenance of public sewers and drains and drainage apparatus and equipment;]

(e) channelling and culverting and works to existing drainage networks.

"Environmental Mitigation Rights" means all rights necessary for the purposes of works to create, enhance and maintain green infrastructure and habitat management, including for the purposes of:

(a) soft landscaping including planting;

(b) landscape and biodiversity mitigation including earthworks, landscaping, means of enclosure and the laying and construction of drainage infrastructure;

(c) habitat creation and management including earthworks, landscaping, means of enclosure and the laying and construction of drainage infrastructure;

(d) earth works;

(e) laying down of permissive paths, signage and information boards;

(f) hard standing and hard landscaping;

(g) drainage and irrigation infrastructure and improvements or extensions to existing irrigation systems;

(h) fencing, gates, boundary treatment and other means of enclosure; and

(i) improvement, maintenance and use of existing private tracks.

"Environmental Mitigation Restrictive Covenant" means a restrictive covenant over the land for the benefit of the remainder of the Order land to—

(a) prevent anything being done in or on the land or any part thereof for the purposes of—

  (i) the erection of any buildings; or

  (ii) the construction, erection or works of any kind requiring foundations, footings or other supporting structures, without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed building, erection, construction or works would not interfere with the environmental mitigation carried out as part of the authorised works nor make it materially more difficult to access or maintain that environmental mitigation);

(b) prevent anything to be done by way of hard surfacing of the land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed hard surfacing would not interfere with the environmental mitigation carried out as part of the authorised works nor make it materially more difficult to access or maintain that environmental mitigation);

(c) prevent anything to be done by way of excavation of any kind or agricultural practices exceeding 0.5 metres in depth from—

(i) the surface of the land;

(ii) the true cleaned bottom of the open drain, ditch, watercourse or river; or

(iii) any activities which increase or decrease ground cover or soil levels or change the composition of the land in any manner whatsoever,

without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed activity would not interfere with the environmental mitigation carried out as part of the authorised works nor make it materially more difficult to access or maintain that environmental mitigation, with such consent being subject to such reasonable conditions as the undertaker may require);

(d) prevent the planting or growing within the land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not interfere with the environmental mitigation carried out as part of the authorised works nor make it materially more difficult to access or maintain that environmental mitigation) provided that the growing within the land of any pre-existing trees, shrubs or underwood do not require the consent of the undertaker;

"Oversailing Rights" means all rights necessary to extend over the boundary of land and into the airspace above adjoining land for the purposes of the authorised development.

(1) *Plot reference number shown on the land plans*	*(2)* *Purposes for which rights over land may be acquired and restrictive covenants imposed*
1/12, 1/14, 1/22, 1/23, 1/30, 1/33, 1/35, 1/38, 1/41,1/42, 1/45, 1/49, 1/51, 1/54, 1/57, 2/9, 2/11, 2/12, 2/14, 2/19, 2/22, 2/25, 2/28, 2/29, 2/30, 2/32, 2/36, 2/40, 2/51, 2/52, 2/55, 2/58, 2/61, 2/63, 2/73, 3/1, 3/6, 3/16, 3/17, 3/18, 3/19, 3/20, 3/23, 3/27, 3/28, 3/31, 4/1, 4/4, 4/7, 4/23, 5/7, 5/8, 5/9, 5/15, 5/16, 6/2, 6/6, 6/7, 6/13, 6/20, 6/21, 6/22, 6/25, 6/26, 6/27, 6/28, 7/1, 7/14, 7/19, 7/23, 8/10, 8/13, 9/3, 9/8, 9/10, 9/11, 9/13, 9/14, 9/16, 9/17, 10/2, 10/4, 10/6, 10/9, 10/10, 10/12, 10/20, 10/22, 10/23, 10/24, 10/27, 10/33, 10/34, 10/35, 10/37, 10/47, 10/49, 10/50, 11/2, 11/3, 11/4, 11/5, 11/6, 11/7, 11/8, 11/11, 11/12, 11/14, 11/15, 11/16, 11/17, 11/18, 11/21, 11/23, 11/25, 12/3, 12/4, 12/5 and 12/7	Access Rights Cable Rights Cable Restrictive Covenant Drainage Rights
3/32, 7/2, 7/3, 7/4, 7/5 and 7/6	Access Rights Cable Rights Cable Restrictive Covenant Drainage Rights Environmental Mitigation Rights Environmental Mitigation Restrictive Covenant
3/21, 4/10, 4/36, 4/37, 4/38, 4/39, 4/40, 4/42, 4/43, 5/5, 6/3, 6/4, 6/5, 7/10, 7/18, 7/22, 9/6, 9/9, 9/18, 10/7, 10/8, 10/11, 10/13, 10/14, 10/15,	Access Rights Cable Rights Drainage Rights

10/16, 10/17, 10/18, 10/21, 10/36, 10/38, 10/39, 10/43, 10/45, 10/46, 10/48, 11/1, 11/10, 11/20, 12/1 and 12/2	
1/2, 1/4, 1/5, 1/7, 1/9, 1/11, 1/15, 1/16, 1/17, 1/18, 1/19, 1/20, 1/21, 1/28, 2/1, 2/2, 2/3, 2/4, 2/5, 2/6, 2/67, 4/8, 4/11, 4/12, 4/13, 5/10, 5/11, 5/12, 5/13, 5/14, 7/9, 8/8, 8/9, 12/6 and 12/18	Access Rights Drainage Rights
2/69, 5/1, 5/2 and 12/15	Access Rights Drainage Rights Environmental Mitigation Rights Environmental Mitigation Restrictive Covenant
3/24, 3/25 and 3/26	Cable Rights Cable Restrictive Covenant
9/24	Cable Rights
3/11, 3/12, 3/13, 3/14, 3/15, 8/6, 8/17, 8/18, 9/25, 10/30, 10/31, 10/32 and 10/40	Cable Rights Cable Restrictive Covenant Drainage Rights
8/5, 8/14, 8/15 and 9/12	Cable Rights Drainage Rights
12/8, 12/9, 12/10, 12/11, 12/12 and 12/13	Oversailing Rights

SCHEDULE 9

Article 25

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIVE COVENANTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5—

(a) for the words "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from or imposed on"; and

(b) for the words "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable".

3.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) In section 5A(5A) (relevant valuation date), omit the words after "If—" and substitute—

"(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 9 to the Tween Bridge Solar Farm Order 202[X]);

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 9 to the Tween Bridge Solar Farm Order 202[X]) to acquire an interest in the land; and

(c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right."

Application of Part 1 of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the acquisition of land under article 22 (compulsory acquisition of land) and as modified by article 31 (modification of Part 1 of the Compulsory Purchase Act 1965)), applies to the compulsory acquisition of a right by the creation of a new right, or the imposition of a restrictive covenant, under article 25 (compulsory acquisition of rights and imposition of restrictive covenants)—

(a) with the modifications specified in paragraph 5; and

(b) with such other modifications as may be necessary.

(**a**) 1973 c. 26

5.—(1) The modifications referred to in sub-paragraph 4(a) are as follows—

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restriction is to be enforceable.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

"**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.".

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (refusal to convey, failure to make title, etc.);

(b) paragraph 10(3) of Schedule 1 (conveyance of the land or interest);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11 (powers of entry)(**a**) of the 1965 Act is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 22 (compulsory acquisition of land)), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A (powers of entry: further notices of entry)(**b**), 11B (counter-notice requiring possession to be taken on specified date)(**c**), 12 (unauthorised entry)(**d**) and 13 (refusal to give possession to acquiring authority)(**e**) of the 1965 Act are modified correspondingly.

(6) Section 20 (tenants at will, etc.)(**f**) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(**a**) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning 2016 (c. 22) and S.I. 2009/1307

(**b**) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(**c**) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016.

(**d**) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraphs (2) and (4) of Schedule 16 to the Housing and Planning Act 2016.

(**e**) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(**f**) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 24(4) (modification of Part 1 of the Compulsory Purchase Act 1965) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A (counter notice requiring purchase of land not in notice to treat) to the 1965 Act substitute—

"SCHEDULE 2A

Ref

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

1.—(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 27 (application of the 1981 Act) of the Tween Bridge Solar Farm Order 202[ ] in respect of the land to which the notice to treat relates.

(2) But see article 28(3) (acquisition of subsoil only) of the Tween Bridge Solar Farm Order 202[X] which excludes the acquisition of subsoil only from this Schedule.

2. In this Schedule, "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to-

(a) withdraw the notice to treat;

(b) accept the counter-notice; or

(c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of three months beginning with the day on which the counter-notice is served ("the decision period").

7. If the authority decides to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

(a) in the case of a house, building or factory, cause material detriment to the house, building or factory; or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right or the imposition of the covenant;

(b) the use to be made of the right or covenant proposed to be acquired or imposed; and

(c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.".

SCHEDULE 10

Article 37

ACQUISITION OF WAYLEAVES, EASEMENTS AND OTHER RIGHTS

PART 1

ON BEHALF OF LICENCE HOLDERS

Acquisition of necessary wayleaves

1.—(1) This paragraph applies where—

(a) a licence holder has agreed in writing with the undertaker that it is necessary or expedient to remove an electric line within the Order limits and to install and keep installed an electric line in substitution for it on, under or over specified land;

(b) the licence holder has agreed in writing that the undertaker may seek a necessary wayleave on behalf of the licence holder in respect of the specified land; and

(c) the owner or occupier of the specified land, having been given a notice by the undertaker or the licence holder requiring him to give the necessary wayleave to the licence holder within a period (not being less than 21 days) specified in the notice—

(i) has failed to give the wayleave before the end of that period; or

(ii) has given the wayleave subject to terms and conditions to which the undertaker, following consultation with the licence holder, objects.

(2) Subject to sub-paragraphs (3) and (4), the Secretary of State may, on the application of the undertaker, himself grant the necessary wayleave to the licence holder subject to such terms and conditions as he thinks fit; and a necessary wayleave so granted shall, unless previously terminated in accordance with a term contained in the wayleave, continue in force for such period as may be specified in the wayleave.

(3) The Secretary of State must not entertain an application under sub-paragraph (2) in any case where—

(a) the specified land is covered by a dwelling, or will be so covered on the assumption that any planning permission which is in force is acted on; and

(b) the line is to be installed on or over the specified land.

(4) Before granting the necessary wayleave to the licence holder, the Secretary of State must afford—

(a) the occupier of the specified land; and

(b) where the occupier is not also the owner of the specified land, the owner, an opportunity of being heard by a person appointed by the Secretary of State.

(5) A necessary wayleave granted to the licence holder under this paragraph—

(a) is not subject to the provisions of any enactment requiring the registration of interests in, charges over or other obligations affecting land; but

(b) binds any person who is at any time the owner or occupier of the specified land.

(6) Where in pursuance of a necessary wayleave granted under this paragraph a licence holder has erected on any land supports for an electric line, the licence holder is deemed to have an

interest in that land for the purposes of section 7 of the Mines (Working Facilities and Support) Act 1966(**a**).

(7) Where a wayleave is granted to a licence holder under this paragraph—

(a) the occupier of the specified land; and

(b) the owner (where the occupier is not also the owner of the specified land),

may recover from the undertaker compensation in respect of the grant.

(8) Where in the exercise of any right conferred by such a wayleave any damage is caused to the specified land or to movables, any person interested in the specified land or movables may recover from the undertaker compensation in respect of that damage, and where, in consequence of the exercise of such a right, a person is disturbed in their enjoyment of any land or movables he may recover from the undertaker compensation in respect of that disturbance.

(9) Compensation under this paragraph may be recovered as a lump sum or by periodical payments or partly in one way and partly in the other.

(10) Any question of disputed compensation under this paragraph will be determined by the Tribunal, and section 4 of the Land Compensation Act 1961(**b**) applies to any such determination.

Compulsory acquisition of easements or other rights

2.—(1) This paragraph applies where—

(a) a licence holder has agreed in writing with the undertaker that it is necessary or expedient to remove an electric line within the Order limits and to install and keep installed an electric line in substitution for it, or to otherwise install an electric line in connection with the authorised development, or to otherwise install an electric line in connection with the authorised development on, under or over specified land; and

(b) the licence holder has agreed in writing that the undertaker may seek an easement or other right in land on behalf of the licence holder in respect of the specified land.

(2) Subject to sub-paragraph (3) and (4), where a compulsory purchase order is sought by the undertaker in accordance with sub-paragraph (1), the Secretary of State may authorise the relevant licence holder to purchase compulsorily an easement or right over the specified land where the Secretary of State is satisfied that it is required for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on.

(3) Part I (paragraphs 2 onwards) and Part II of Schedule 3 of the Electricity Act 1989(**c**) applies in respect of powers of compulsory purchase sought in accordance with this paragraph except that where consent is provided under sub-paragraph (1), the consent required under paragraph 2(1) of Schedule 3 of the Electricity Act 1989 is deemed to have been provided.

(4) Unless otherwise agreed between the undertaker and the licence holder in writing, where the undertaker seeks a compulsory purchase order on behalf of a licence holder in accordance with this paragraph, the negotiation of consideration and compensation will be undertaken by the undertaker and any consideration or compensation agreed or determined is payable by the undertaker and Schedule 3 of the Electricity Act 1989 as applied by this paragraph is interpreted accordingly.

Interpretation

3. In this Part of this Schedule—

"dwelling" means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling and includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part;

(**a**) 1966 c. 4.
(**b**) 1961 c. 33.
(**c**) 1989 c. 29.

"licence holder" means a person holding a licence under section 6 of the Electricity Act 1989;

"necessary wayleave" means consent for the licence holder to install and keep installed the electric line on, under or over the specified land and to have access to the specified land for the purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing the electric line;

"specified land" means the land within or outside the Order limits on, under or over which a licence holder agrees, in accordance with paragraph 1 or 2, that an electric line should either be relocated in substitution for an existing electric line or, installed; and

"Tribunal" means the Upper Tribunal in relation to England and Wales.

PART 2

ON BEHALF OF CODE OPERATORS

Court imposition of code rights

4.—(1) This paragraph applies where—

(a) a code operator has agreed in writing with the undertaker that for the purposes of the authorised development it is necessary or expedient to remove electronic communications apparatus owned by the code operator within the Order limits and to install and keep installed electronic communications apparatus in substitution for it on, under or over specified land;

(b) the code operator has agreed in writing that the undertaker may seek code rights on behalf of the code operator in respect of the specified land, including all of the other terms of the agreement sought; and

(c) the code operator or the undertaker has given the relevant person a notice in writing—

(i) setting out the code rights, and all of the other terms of the agreement sought; and

(ii) (stating that the person's agreement to those terms is sought.

(2) The undertaker may apply to the court for an order under this paragraph if the relevant person does not, before the end of 28 days beginning with the day on which the notice in sub-paragraph (1)(c) is given, agree to confer or be otherwise bound by the code rights.

(3) An order under this paragraph is one which imposes on the code operator and the relevant person an agreement between them which—

(a) confers the code rights on the operator; or

(b) provides for the code rights to bind the relevant person.

(4) Where the undertaker makes an application to the court under sub-paragraph (2), paragraph 21, 22, 23, 24 and 26 of Part 4 of Schedule 3A (The Electronic Communications Code) and Part 14 (Compensation under The Code) of the Communications Act 2003(**a**) applies as if—

(a) reference to the making of an "order under paragraph 20" were substituted for the making of an "order under Schedule 10 of the Tween Bridge Solar Farm Order 20[ ]"; and

(b) (unless otherwise agreed on a case-by-case basis in writing between the undertaker and the code operator, all references to "consideration" or "compensation" provided for in any agreement or order or otherwise to be determined is to be read as being payable by the undertaker.

(**a**) 2003 c. 21.

Compulsory acquisition of easements or other rights

5.—(1) The undertaker may seek a compulsory purchase order on behalf of a code operator where—

(a) the code operator has agreed in writing with the undertaker that for the purposes of the authorised development it is necessary or expedient to remove electronic communications apparatus owned by the operator within the Order limits and to install and keep installed electronic communications apparatus in substitution for it on, under or over specified land; and

(b) the code operator has agreed in writing that the undertaker may seek an easement or other rights over land on behalf of the code operator in respect of the specified land.

(2) Subject to sub-paragraph (3) and (4), where a compulsory purchase order is sought by the undertaker in accordance with sub-paragraph (1), the Secretary of State may authorise the relevant code operator to purchase compulsorily the specified land or an easement or right over the specified land if the Secretary of State is satisfied that it is required by the code operator—

(a) for, or in connection with, the establishment or running of the code operator's network; or

(b) as to which it can reasonably be foreseen that it will be so required.

(3) Subject to sub-paragraph (4), paragraphs 3(2) to 3(7) of Schedule 4 of the Communications Act 2003 apply in respect of powers of compulsory purchase sought pursuant to this paragraph.

(4) Unless otherwise agreed between the undertaker and the licence holder in writing, where the undertaker seeks a compulsory purchase order on behalf of a code operator pursuant to this paragraph, all negotiations of compensation will be undertaken by the undertaker and any consideration or compensation agreed or determined in respect of any easements or rights acquired will be payable by the undertaker and Schedule 4 of the Communications Act 2003 will be interpreted accordingly as it applies to this paragraph.

Interpretation

6. In this paragraph, the following terms have the following meaning—

"code operator" has the meaning given for an "operator" in paragraph 2 of Schedule 3A of the Communications Act 2003;

"code operator's network" has the meaning given for "operator's network" in paragraph 6 of Schedule 3A of the Communications Act 2003;

"code rights" has the meaning given in paragraph 3 of Schedule 3A of the Communications Act 2003;

"court" has the meaning given in paragraph 94 of Schedule 3A of the Communications Act 2003;

"electronic communications apparatus" has the meaning given in paragraph 5 of Schedule 3A of the Communications Act 2003;

"relevant person" means the person in respect of whose interest in land a code right is required; and

"specified land" means the land within or outside the Order limits on, under or over which an operator agrees, in accordance with paragraph 5(1), that electronic communications apparatus should be relocated in substitution for existing electronic communications apparatus.

PART 3

ON BEHALF OF WATER AND SEWERAGE UNDERTAKERS

Compulsory acquisition of easement or other rights

7.—(1) The undertaker may seek a compulsory purchase order on behalf of a water or sewerage undertaker where—

(a) the water or sewerage undertaker has agreed in writing with the undertaker that for the purposes of the authorised development it is necessary or expedient to remove water or sewerage apparatus owned by the water or sewerage undertaker within the Order limits and to install and keep installed alternative apparatus in substitution for it on, under or over specified land; and

(b) the water or sewerage undertaker has agreed in writing that the undertaker may seek an easement or other rights over land on behalf of the water or sewerage undertaker in respect of the specified land.

(2) Subject to sub-paragraph (3), where a compulsory purchase order is sought by the undertaker in accordance with sub-paragraph (1), the Secretary of State may authorise the relevant water or sewerage undertaker to purchase compulsorily the specified land or an easement or right over the specified land where the Secretary of State is satisfied that it is required by the water or sewerage undertaker for the purposes of, or in connection with, the carrying out of its functions.

(3) Section 155(3) to (6) of the Water Industry Act 1991(**a**) applies in respect of powers of compulsory purchase sought in accordance with this paragraph.

(4) Unless otherwise agreed between the undertaker and the water or sewerage undertaker in writing, where the undertaker seeks a compulsory purchase order on behalf of a water or sewerage undertaker in accordance with this paragraph, all negotiations of compensation will be undertaken by the undertaker and any consideration or compensation agreed or determined in respect of any easements or rights acquired is payable by the undertaker.

(5) In this paragraph—

"alternative apparatus" means alternative water or sewerage apparatus adequate to enable the water or sewerage undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

"specified land" means the land within or outside the Order limits on, under or over which a water or sewerage undertaker agrees, in accordance with sub-paragraph (1), that alternative apparatus should be relocated in substitution for existing relevant water or sewerage apparatus;

"water or sewerage undertaker" means "water undertaker" or "sewerage undertaker" as defined in the Water Industry Act 1991; and

"water or sewerage apparatus" means—

(a) mains, pipes or other water apparatus belonging to or maintained by a water undertaker for the purposes of water supply; and

(b) any drain or works vested in a sewerage undertaker, and any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of the Water Industry Act 1991 or an agreement to adopt made under section 104 of that Act, and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps, or other accessories forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus.

PART 4

ON BEHALF OF GAS TRANSPORTERS

(**a**) 1991 c. 56.

Compulsory acquisition of easements or other rights

8.—(1) The undertaker may seek a compulsory purchase order on behalf of a gas transporter where—

(a) the gas transporter has agreed in writing with the undertaker that for the purposes of the authorised development it is necessary or expedient to remove gas apparatus owned by the gas transporter within the Order limits and to install and keep installed gas apparatus in substitution for it on, under or over specified land; and

(b) the gas transporter has agreed in writing that the undertaker may seek an easement or other rights over land on behalf of the gas transporter in respect of the specified land.

(2) Subject to sub-paragraph (3) and (4), where a compulsory purchase order is sought by the undertaker in accordance with sub-paragraph (1), the Secretary of State may authorise the relevant gas transporter to purchase compulsorily an easement or right over the specified land.

(3) Schedule 3 of the Gas Act 1986(**a**) applies in respect of powers of compulsory purchase sought in accordance with this paragraph.

(4) Where the undertaker seeks a compulsory purchase order on behalf of a gas transporter in accordance with this paragraph, all negotiations of compensation will be undertaken by the undertaker, unless otherwise agreed with the gas transporter, and any consideration or compensation agreed or determined in respect of any easements or rights acquired will be payable by the undertaker only (unless otherwise agreed with the operator).

(5) In this paragraph—

"alternative apparatus" means alternative gas apparatus adequate to enable the gas transporter in question to fulfil its statutory functions in a manner not less efficient than previously;

"gas apparatus" means any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purpose of gas supply;

"gas transporter" has the meaning given in Part 1 of the Gas Act 1986; and

"specified land" means land within or outside the Order limits on, under or over which a gas transporter agrees, in accordance with sub-paragraph (1), that alternative apparatus should be relocated in substitution for existing gas apparatus.

(**a**) 1986 c. 44

SCHEDULE 11

Article 41

REMOVAL OF HEDGEROWS

PART 1

REMOVAL OF HEDGEROWS

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
City of Doncaster	Removal of up to 4m in length of the hedgerow shown approximately within the area shown shaded red and with reference H174 on Sheet 18 of the trees and hedgerow to be removed or managed plan.
City of Doncaster	Removal of up to 12m in length of the hedgerow shown approximately within the area shown shaded red and with reference H135 on Sheet 28 of the trees and hedgerow to be removed or managed plan.
City of Doncaster	Removal of up to 6.5m in length of the hedgerow shown approximately within the area shown shaded red and with reference H138 on Sheet 28 of the trees and hedgerow to be removed or managed plan.
City of Doncaster	Removal of up to 8m in length of the tree group / outgrown hedgerow shown approximately within the area shown shaded red and with reference G107 on Sheet 30 of the trees and hedgerow to be removed or managed plan.
City of Doncaster	Removal of up to 6m in length of the hedgerow shown approximately within the area shown shaded red and with reference H37 on Sheet 35 of the trees and hedgerow to be removed or managed plan.
City of Doncaster	Removal of up to 6m in length of the hedgerow shown approximately within the area shown shaded red and with reference H40 on Sheet 35 of the trees and hedgerow to be removed or managed plan.

PART 2

REMOVAL OF IMPORTANT HEDGEROWS

(1) *Area*	*(2)* *Number of important hedgerow and extent of removal*
City of Doncaster	Removal of up to 14m in length of the hedgerow shown approximately within the area shown shaded red and with reference H61 on Sheet 34

	of the trees and hedgerow to be removed or managed plan.

SCHEDULE 12

Article 43

DOCUMENTS AND PLANS TO BE CERTIFIED

(1) *Document name*	*(2)* *Document reference*	*(3)* *Revision number*	*(4)* *Date*
book of reference	4.3	43	~~May~~ June 2026
design approach document appendix A: parameters document	5.6.1	4	May 2026
environmental statement	6.1.0 – 6.4.17.1	1	August 2025
change request environmental statement addendum	8.13	1	June 2026
land plans	2.2	32	~~May~~ June 2026
outline battery safety management plan	7.4	1	August 2025
outline construction environmental management plan	7.1	3	May 2026
outline construction traffic management plan	7.7	2	May 2026
outline decommissioning environmental management plan	7.3	3	May 2026
outline ecological construction management plan	7.5	3	May 2026
outline landscape ecological management plan	7.6	43	~~May~~ June 2026
outline operational environmental management plan	7.2	2	May 2026
outline soil management plan	7.8	3	May 2026
outline supply chain, employment and skills plan	7.9	2	May 2026
street works, access and public rights of way plans	2.4	2	May 2026
trees and hedgerows to be removed or managed plans	2.6	1	August 2025
works plans	2.3	21	~~August~~ June 2026~~5~~

SCHEDULE 13

Article 44

ARBITRATION RULES

Commencing an arbitration

1. The arbitration is deemed to have commenced when a party ("the claimant") serves a written notice of arbitration on the other party ("the respondent").

Time periods

2.—(1) All time periods in these arbitration rules are measured in days and include weekends, but not bank or public holidays.

(2) Time periods are calculated from the day after the arbitrator is appointed which is either—

(a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or

(b) the date the arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration is that which is set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 14 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

(a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant's contentions as to those issues, the amount of its claim or the remedy it is seeking; and

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 14 days of receipt of the claimant's statements under sub-paragraph (2) by the arbitrator and respondent, the respondent must provide the claimant and the arbitrator with—

(a) a written statement of defence consisting of a response to the claimant's statement of claim, its statement in respect of the nature of the difference, the legal and factual issues in the claimant's claim, its acceptance of any elements of the claimant's claim and its contentions as to those elements of the claimant's claim it does not accept;

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and

(c) any objections it wishes to make to the claimant's statements, comments on the claimant's expert reports (if submitted by the claimant) and explanations of the objections.

(4) Within seven days of the respondent serving its statements under sub-paragraph (3), the claimant may make a statement of reply by providing both the respondent and the arbitrator with—

(a) a written statement responding to the respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;

(b) all statements of evidence and copies of documents in response to the respondent's submissions;

(c) any expert report in response to the respondent's submissions;

(d) any objections to the statements of evidence, expert reports or other documents submitted by the respondent; and

(e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The parties' pleadings, witness statements and expert reports (if any) must be concise. A single pleading must not exceed 30 single-sided A4 pages using 10pt Arial font.

(2) The arbitrator will make an award on the substantive differences based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(3) Either party may, within two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within seven days of receiving the last submission, the arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(5) Within 10 days of the arbitrator advising the parties that a hearing is to be held, the date and venue for the hearing are to be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which the arbitrator considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(6) A decision must be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any experts attending the hearing may be asked questions by the arbitrator.

(7) There is to be no examination or cross-examination of experts, but the arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the experts in response to the arbitrator's questions. Prior to the hearing in relation to the experts—

(a) at least 28 days before a hearing, the arbitrator must provide a list of issues to be addressed by the experts;

(b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 14 days of the issues being provided; and

(c) the form and content of a joint report must be as directed by the arbitrator and must be provided at least seven days before the hearing.

(8) Within 14 days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator must take these submissions into account in the award.

(9) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which the arbitrator is appointed, unless both parties otherwise agree to an extension to the date for the award.

(10) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before the arbitrator attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure or direction.

(11) The arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given must be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the Arbitration Act 1996, save where modified in this Schedule.

(2) There must be no discovery or disclosure, except that the arbitrator is to have the power to order the parties to produce such documents as are reasonably requested by another party no later than the statement of reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales or procedure—

(a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then; and

(b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Costs

6.—(1) The costs of the arbitration must include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the arbitration.

(2) Where the difference involves connected or interrelated issues, the arbitrator must consider the relevant costs collectively.

(3) The final award must fix the costs of the arbitration and decide which of the parties are to bear them or in what proportion they are to be borne by the parties.

(4) The arbitrator must award recoverable costs on the general principle that each party should bear its own costs, having regard to all material circumstances, including such matters as exaggerated claims or defences, the degree of success for different elements of the claims, claims that have incurred substantial costs, the conduct of the parties and the degree of success of a party.

Confidentiality

7.—(1) Hearings in this arbitration are to take place in private.

(2) Materials, documents, awards, expert reports and any matters relating to the arbitration are confidential and must not be disclosed to any third party without prior written consent of the other party, save for any application to the courts or where disclosure is required under any legislative or regulatory requirement.

SCHEDULE 14

Article 45

PROTECTIVE PROVISIONS

PART 1

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

Interpretation

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(**a**)), belonging to or maintained by that undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(b) for the purposes of gas supply;

(c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the undertaker under the Water Industry Act 1991(**c**); and

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal of works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at a future date) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any inspection chambers, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

"functions" includes powers and duties;

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

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

"utility undertaker" means—

(**a**) 1989 c. 29.
(**b**) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).
(**c**) 1991 c. 56.

(a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;

(c) a water undertaker within the meaning of the Water Industry Act 1991; and

(d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Apparatus in stopped up public rights of way

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

Acquisition of land

5. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed —

(a) the utility undertaker must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed; and

(b) in the event that the utility undertaker cannot acquire all necessary land interests or rights which the utility undertaker may reasonably require for the relocation and construction of alternative apparatus pursuant to paragraph 6(3)(a), the undertaker shall seek to utilise the process for acquiring an easement under paragraph 2 of Schedule 10 of this Order so that

it can obtain its powers of compulsory purchase powers for the acquisition of any such land or land rights unless otherwise agreed by arbitration under article 44 (arbitration) (and, for those purposes, paragraph 2 of Schedule 10 shall be construed so that it may authorise the acquisition of any land or rights in respect of the installation of an electric line in connection with the authorised development (whether or not it comprises alternative apparatus provided always that it constitutes apparatus) in specified land (as defined in Schedule 10).

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 44 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 44 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

(8) If the utility undertaker fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved, provided that the undertaker has first taken all reasonable steps to contact the relevant representatives of the utility undertaker in order to elicit such a response.

(9) Any deemed approval under sub-paragraph (8) does not extend to the actual undertaking of the removal works, which remains the sole responsibility of the utility undertaker or its contractors.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker or in default of agreement settled by arbitration in accordance with article 44 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the arbitrator will—

(a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptions of the alternative apparatus which may be required to prevent interference with the proposed works of the undertaker; and

(b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or on the land for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works unless otherwise agreed with the utility undertaker, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

Expenses and costs

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of

agreement, is not determined by arbitration in accordance with article 44 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of an inspection chamber is to be treated as if it also had been agreed or had been so determined.

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

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph7(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

(a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

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

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

11. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

Interpretation

12.—(1) For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

13. In this Part of this Schedule—

"the 2003 Act" means the Communications Act 2003(**a**);

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in Chapter 1 of Part 2 of the 2003 Act(**b**);

"electronic communications code network" means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and

(b) an electronic communications network which the undertaker is providing or proposing to provide;

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and

"operator" means the operator of an electronic communications code network.

Interaction with the Electronic Communications Code

14. The exercise of the powers conferred by article 34 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

Damages and indemnity

15.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 44 (arbitration).

Exclusions

16. This Part of this Schedule does not apply to—

(**a**) 2003 c. 21.
(**b**) See section 106.

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

In respect of the acquisition of rights under or over or use of the utility undertaker's property, the utility undertaker must co-operate with the undertaker with a view to avoiding undue delay.

Savings

17. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF THE DRAINAGE AUTHORITIES

Interpretation

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

19. In this Part—

"commence" has the same meaning as in article 2 (interpretation) of this Order and commencement shall be construed to have the same meaning;

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

"drainage authority" means the drainage board concerned within the meaning of section 23 of the Land Drainage Act 1991(**a**);

"drainage work" means any ordinary watercourse including any land that provides or is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence, sea defence or tidal monitoring excluding the existing flood defence;

"ordinary watercourse" has the meaning given in the Land Drainage Act 1991(**b**);

"plans" includes sections, drawings, specifications and method statements;

"specified work" means so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;

affect the flow, purity, or quality of water in any watercourse; or

affect the conservation, distribution or use of water resources.

Specified works

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

(**a**) 1991 c. 59
(**b**) 1991 c. 59, section 72(1).

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under sub-paragraph (1).

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

(a) must not be unreasonably withheld or delayed;

(b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval (or submission of further particulars if required by the drainage authority under sub-paragraph (1)) or, in the case of a refusal, if it is not accompanied by a statement of the grounds of refusal; and

(c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work.

(4) The drainage authority 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).

Protective works

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

(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.

Compliance of specified and protective works

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

(a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and

(b) to the reasonable satisfaction of the drainage authority,

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

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

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 brought into use.

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

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

(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to

make reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice, and any expenditure incurred by it in so doing is recoverable from the undertaker.

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

Maintenance of specified works

23.—(1) Subject to sub-paragraph (5) the undertaker must from the commencement of the construction of any specified work, until the date falling 12 months from the date of completion of the specified work, maintain in good repair and condition and free from obstruction any drainage work that is situated within the limits of deviation on land held by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

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

(3) 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 reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

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

(5) This paragraph does not apply to—

(a) drainage works that are vested in the drainage authority or that the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and

(b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part.

Failure of works

24. 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 the drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

Indemnity

25. The undertaker must indemnify the drainage authority in respect of all costs, charges and expenses that the drainage authority may reasonably incur, have to pay or may sustain—

(a) in the examination or approval of plans under this Part;

(b) in inspecting the construction of any specified work or any protective works required by the drainage authority under this Part; and

(c) in carrying out of any surveys or tests by the drainage authority that are reasonably required in connection with the construction of the specified work.

26.—(1) Without limiting the other provisions of this Part, the undertaker must indemnify the drainage authority to a level not exceeding £10,000,000 (ten million pounds) in respect of all claims, demands, proceedings, costs, damages, expenses or loss that may be made or taken against, recovered from or incurred by, the drainage authority by reason of—

(a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;

(b) any raising or lowering of the water table in land adjoining the authorised development or any sewers, drains and watercourses; or

(c) any flooding or increased flooding of any such land,

that is caused by the construction of any specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged on the work.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker (such agreement not to be unreasonably withheld or delayed).

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

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

Arbitration

27. Any dispute between the undertaker and the drainage authority under this Part, if the parties agree, must be determined by arbitration under article 44 (arbitration).

PART 4

FOR THE PROTECTION OF THE CANAL & RIVER TRUST

28.—(1) For the protection of the Canal & River Trust, the following provisions, have effect unless otherwise agreed in writing between the Undertaker and the Trust.

(2) In this Schedule—

"the canal" means any canal or waterway owned or managed by the Trust, and includes any works connected with any such canal or waterway for the maintenance of which the Trust is responsible and any lands held or used by the Trust for the purposes of the canal;

"canal work" means so much of any specified work or any other work of which the Undertaker is in possession under the powers conferred by this Order as is in or over the canal;

"construction" includes execution, placing, altering, replacing and relaying and includes removal;

"detriment" means any damage to the canal or any other property of the Trust and, without limitation on the scope of the meaning, includes—

(a) the erosion of the bed or banks of the canal, or the impairment of the stability of any works, lands or premises forming part of the canal;

(b) the silting of the canal or the deposit of materials in it so as to materially damage the canal;

(c) the pollution of the canal;

(d) any material alteration of the water level of the canal, or material interference with the supply of water to the canal, or drainage of water from the canal; and

(e) any material harm to the ecology of the canal (including any material adverse impact on any site of special scientific interest comprised in the canal);

"non-canal work" means so much of any specified work or any other work of which the Undertaker is in possession under the powers conferred by this Order as is not in or over the canal;

"plans" includes sections, drawings, specifications and method statements;

"specified work" means so much of any permanent or temporary work authorised by this Order as is in, across, under, or within 15 metres of, or may in any way affect, the canal but does not include painting; and

"the Trust" means the Canal & River Trust.

29.—(1) The undertaker must not under the powers conferred by article 22 (compulsory acquisition of land) acquire compulsorily any easement or other right over any land of the Trust other than such easements or other rights over any such land, as are reasonably necessary for, or in connection with, the construction, maintenance or operation of the authorised works.

30. Before beginning to construct any specified work, the undertaker must submit to the Trust plans of the work and such further particulars available to it as the Trust may within 14 days of the submission of the plans reasonably require.

31. Any specified work must not be constructed except in accordance with such plans as may be approved in writing by the Trust or determined under article 44 (arbitration).

32. Any approval of the Trust required under paragraph 29 must not be unreasonably withheld and—

(a) is deemed to have been given if it is neither given nor refused (with an indication of the grounds for refusal) within 28 days of the submission of the plans for approval or where further particulars are submitted under paragraph 28, within 28 days of the submission of those particulars; and

(b) may be given subject to such reasonable requirements as the Trust may make for the purpose of ensuring the safety or stability of the canal, including requirements as to the construction of protective works.

33. Any specified work, and any protective works required by the Trust under paragraph 30(b), must be constructed without unnecessary delay to the reasonable satisfaction of the Trust, and in such manner as to cause as little damage to the canal as may be reasonably practicable and as little interference as may be reasonably practicable with the passage of vessels using the canal, and an officer of the Trust is entitled at all reasonable times, on giving such notice as may be reasonable in the circumstances, to inspect the construction of such work or works.

34. The undertaker must give to the Trust not less than 56 days' notice in writing of its intention to commence construction of any specified work or any protective works and also, except in emergency (when the undertaker must give such notice as may be reasonably practicable), of its intention to carry out any works for the repair or maintenance of any specified work in so far as such works of repair or maintenance affect or interfere with the canal.

35. The undertaker must bear the reasonable costs of the carrying out, by a qualified surveyor or engineer ("the surveyor") to be appointed by the Trust and undertaker, of surveys of so much of the canal as will or may be affected by the specified works—

(a) before commencement of the initial construction of any part of the specified works; and

(b) following completion of the specified works,

and if the Trust and the undertaker do not agree on the appointment of the surveyor under this paragraph an arbitrator is to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

36. For the purposes of the surveys the undertaker—

(a) on being given reasonable notice (save in the case of emergency, when immediate access must be afforded) must afford reasonable access to the site of the specified works and to any land and existing works of the undertaker which may provide support for the canal as will or may be affected by the specified works; and

(b) as soon as reasonably practicable must supply the surveyor with all such information as the surveyor may reasonably require with regard to such land and existing works of the undertaker and to the specified works or the method of construction of the specified works.

37. The surveyor must provide copies of a report of the surveys to both the Trust and the undertaker without unnecessary delay.

38. Where, in the reasonable opinion of the Trust, the surveys show that the specified works are likely to cause detriment to the canal then, at the request of the Trust and at its own expense, the undertaker must take steps to remedy such detriment to the reasonable satisfaction of the Trust.

39. The undertaker must not deposit any polluting material on, in or over the canal and must not without the consent of the Trust—

(a) deposit any other materials on, in or over the canal (other than materials comprised in a specified work); or

(b) regardless of anything in article 19 (discharge of water), discharge any water directly or indirectly into the canal.

40. Any consent of the Trust required under paragraph 37 must not be unreasonably withheld and—

(a) is deemed to have been given if it is neither given nor refused within 28 days of the submission of the request for it; and

(b) may be given subject to such reasonable requirements as the Trust may make—

(i) in the case of a deposit, so as to ensure that the use of the canal is not obstructed or rendered less safe, and

(ii) in the case of a discharge, concerning the reimbursement by the undertaker of expenses incurred by the Trust in disposing of the water so discharged, being expenses which the Trust would not have incurred but for the discharge.

41. In its application to the discharge of water into the canal, article 19 (discharge of water) has effect subject to the terms of any requirements attached to the consent under paragraph 38 and, where such discharge includes a deposit to which consent has been given under paragraph 37, to any requirements attached to that consent.

42. If any canal work is abandoned, the Trust may by notice in writing require the Undertaker to take such reasonable steps as may be specified in the notice to remove the work and (to such extent as the Trust reasonably requires) to restore the site to its former condition.

43. If any canal work is in such condition that it is, or is likely to become, a danger to or to interfere with navigation, the Trust may by notice in writing require the undertaker to take such reasonable steps as may be specified in the notice—

(a) to repair and restore the work or part of it; or

(b) if the undertaker so elects, to remove the work and (to such extent as the Trust reasonably requires) to restore the site to its former condition.

44.—(1) If—

(a) a work which consists of a canal work and a non-canal work is abandoned or falls into decay; and

(b) the non-canal work is in such a condition as to interfere with the right of navigation in the relevant canal or as to interfere with the rights of access or use of land adjacent to the relevant canal,

the Trust may include the non-canal work, or any part of it, in any notice under paragraph 41.

45. If after such reasonable period as may be specified in a notice under paragraph 41 the undertaker has failed to begin taking steps to comply with the requirements of the notice or after beginning has failed to make reasonably expeditious progress towards their implementation, the Trust may carry out the works specified in the notice and any expenditure reasonably incurred by it in so doing is recoverable from the Undertaker.

46. Any dispute between the undertaker and the Trust under this Part must be determined by arbitration under article 44 (arbitration).

PART 5

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

Interpretation

47.—(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; or

(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;

"plans" includes plans, sections, elevations, drawings, specifications, programmes, proposals, calculations and 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;

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

(d) 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;

(e) 8 metres of a drainage work or 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.

Submission and approval of plans

48.—(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 55.

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

(a) must not be unreasonably withheld or delayed;

(b) subject to 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 receipt of further particulars if such particulars have been requested by the Agency for approval; 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, if requested to do so the Agency must provide reasons for the grounds of that refusal.

Construction of protective works

49.—(1) Without limiting paragraph 46 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—

(2) to safeguard any drainage work against damage; or

(3) 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

50.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 47, 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

51.—(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; and

(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 57.

Maintenance of works

52.—(1) Subject to sub-paragraph (6) 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 Order limits 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 (5) 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) 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 the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(5) 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 55.

(6) 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 of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

Remediating impaired drainage work

53.—(1) 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

54. If by reason of construction of the 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 such 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

55.—(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.

(3) If within the period specified in the receipt of written notice the undertaker fails to take such steps as are described in 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

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

(2) 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.

(3) For the avoidance of doubt, in sub-paragraphs (1) and (2)—

(a) "costs" includes—

(i) expenses and charges;

(ii) staff costs and overheads; and

(iii) legal costs;

(b) "losses" includes physical damage;

(c) "claims" and "demands" include as applicable—

(i) costs (within the meaning of this sub-paragraph incurred in connection with any claim or demand; and

(ii) any interest element of sums claimed or demanded;

(d) "liabilities" includes—

(i) contractual liabilities;

(ii) tortious liabilities (including liabilities for negligence or nuisance);

(iii) liabilities to pay statutory compensation or for breach of statutory duty; and

(iv) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(4) 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.

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

(6) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(7) 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.

(8) 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

57. 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 44 (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 the department of Energy Security and Net Zero 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.

PART 6

FOR THE PROTECTION OF EXOLUM PIPELINE SYSTEM LTD

Application

58. For the protection of Exolum the following provisions, unless otherwise agreed in writing at any time between the undertaker and Exolum, have effect.

Interpretation

59. In this Part of this Schedule, the following terms have the following meanings—

"Additional Rights" means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of retained Apparatus including any restrictions on the landowner and occupiers for the protection of the retained Apparatus and to allow Exolum to perform its functions;

"Alternative Apparatus" means alternative apparatus adequate to enable Exolum to fulfil its functions as a pipeline operator in a manner not less efficient than previously;

"Alternative Rights" means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of Alternative Apparatus including any restrictions on the landowner and occupiers for the protection of the Alternative Apparatus and to allow Exolum to perform its functions;

"Apparatus" means the pipeline and storage system and any ancillary apparatus owned and/or operated by Exolum and includes—

(a) any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

(b) any ancillary works, all protective wrappings, valves, sleeves and slabs, cathodic protection units, together with ancillary cables and markers; and

(c) such legal interest, and benefit of property rights and covenants as are vested in in respect of these items,

and, where the context allows, includes Alternative Apparatus;

"Application" means the application to the Secretary of State for the Order made by the undertaker under the Planning Act 2008 on [xxxxxx];

"Authorised Development" has the same meaning as that given in article 2(1) (interpretation) and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

"Commence" has the same meaning as that given in article 2(1) (interpretation) (and commencing must be construed accordingly);

"Exolum" means Exolum Pipeline System Ltd (company number 09497223) and for the purpose of enforcing the benefit of any provisions in this Schedule, any group company of Exolum Pipeline System Ltd and in all cases any successor in title;

"Expert" is a person appointed in accordance with paragraphs 98 to 106 to resolve a dispute under this Schedule;

"Functions" includes powers, duties and commercial undertaking;

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

"Order" means the order granting development consent, made by the Secretary of State and brought into force following the Application under the Planning Act 2008

"parties" means the undertaker and Exolum and "party" is to be construed accordingly;

"Plan" includes all designs, drawings, sections, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to allow Exolum to assess the relevant works to be executed properly and sufficiently and in particular must describe—

(a) the exact position of the works;

(b) the level at which the works are proposed to be constructed or renewed;

(c) the manner of the works' construction or renewal including details of excavation, positioning of plant etc.;

(d) the position of the affected Apparatus and/or Premises and any other apparatus belonging to another undertaker;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;

(f) any intended maintenance regime;

(g) details of the proposed method of working and timing of execution of works; and

(h) details of vehicle access routes for construction and operational traffic;

"Protective Works" means works for the inspection and protection of Apparatus;

"Restricted Works" means any works that are near to, or will or may affect any Apparatus or Premises including—

(i) all works within 15 metres measured in any direction of any Apparatus including embankment works and those that involve a physical connection or attachment to any Apparatus; and

(j) all works that impose a load directly upon the Apparatus, wherever situated,

whether carried out by the undertaker or any third party in connection with the Authorised Development; and

"Working Day" means any day other than a Saturday, Sunday or English bank or public holiday.

Acquisition of Apparatus

60.—(1) Regardless of any other provision in the Order—

(a) the undertaker must not, otherwise than by agreement with Exolum, acquire any Apparatus;

(b) where the undertaker acquires the freehold of any land in which Exolum holds an interest, the undertaker must afford to or secure for Exolum such rights in land in substitution for any right which would be extinguished by that acquisition (the replacement rights);

(c) the undertaker must not, otherwise than in accordance with this Schedule—

(i) obstruct or render less convenient the access to any Apparatus;

(ii) interfere with or affect Exolum's ability to carry out its functions as an oil pipeline operator;

(iii) require that Apparatus is relocated or diverted; or

(iv) remove or required to be removed any Apparatus;

(d) any right of Exolum to maintain, repair, renew, adjust, alter or inspect Apparatus may not be extinguished until any necessary Alternative Apparatus has been constructed, it is in operation and the Alternative Rights have been granted, all to the reasonable satisfaction of Exolum; and

(e) any right of Exolum to access the Exolum Apparatus and/or Premises must not be extinguished until necessary alternative access has been provided to Exolum's reasonable satisfaction.

61.—(1) Where the undertaker acquires land which is subject to any existing rights held by Exolum and the provisions of paragraph 69 do not apply, the undertaker must—

(a) retain any notice of the existing rights held by Exolum on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) provide up to date official entry copies to Exolum within 20 working days of receipt of such up to date official entry copies.

62.—(1) Where the undertaker takes temporary possession of any land or carries out survey works on land in respect of which Exolum has an easement, right, asset, interest, Apparatus—

(a) where reasonably necessary, and provided that all health and safety requirements are complied with (including any requirements applicable to the undertaker under the Construction, Design and Management Regulations 2015), Exolum may exercise its rights to access such land—

(i) in an emergency, without notice but in all such instances Exolum will notify the undertaker as soon as reasonably practicable and until service of such notice, entry will be at Exolum's own risk; and

(ii) in non-emergency circumstances, having first given prior written notice to the undertaker in order to allow the parties to agree the timing of their respective works during the period of temporary possession; and

(b) the undertaker may not remove or in any way alter Exolum's rights in such land, unless in accordance with the provisions of this Order.

Removal of Apparatus and Rights for Alternative Apparatus

63.—(1) If, having used all reasonable endeavours to implement the Authorised Development without the removal of any Apparatus—

(a) the undertaker reasonably requires the removal of any Apparatus; or

(b) Exolum reasonably requires the removal of any Apparatus,

then the relevant party must give written notice of that requirement to the other.

64. The parties must use all reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of the Alternative Apparatus to be provided or constructed.

65. The undertaker must afford to Exolum the necessary facilities and rights for the construction of Alternative Apparatus and subsequently the grant of Alternative Rights in accordance with paragraphs 60 to 64.

66. Any Alternative Apparatus is to be constructed in land owned by the undertaker or in land in respect of which Alternative Rights have been or are guaranteed to be granted to Exolum. The Alternative Apparatus must be constructed in such manner and in such position or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by expert determination in accordance with paragraphs 89 to 97.

67. After the details for the works for Alternative Apparatus to be provided or constructed have been agreed or settled by expert determination in accordance with paragraphs 98 to 106, and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 62, Exolum must proceed as soon as reasonably practicable using all reasonable endeavours to construct and bring into operation the Alternative Apparatus and subsequently to remove (or if agreed between the parties to allow the undertaker to remove) any redundant Apparatus required by the undertaker to be removed under the provisions of this Schedule.

68.—(1) The following paragraphs 67 and 68 only apply if—

(a) Exolum fails to comply with its obligations under paragraph 66 to remove any redundant Apparatus; and

(b) the undertaker has served notice on Exolum specifying the default; and

(c) Exolum has failed to remedy the default within 28 days.

69. In the circumstances set out in paragraph 66, if the undertaker then gives notice in writing to Exolum that it will remove the redundant Apparatus, that work, instead of being executed by Exolum, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Exolum.

70. Nothing in paragraph 67 authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any Apparatus, or execute any filling around the Apparatus (where the Apparatus is laid in a trench) within 3000 millimetres of the Apparatus unless that Apparatus is redundant and disconnected from Exolum's remaining system.

Facilities and Rights for Alternative Apparatus

71. Where, in accordance with the provisions of this Schedule, the undertaker affords to Exolum facilities and rights for the construction of Alternative Apparatus and the grant of Alternative Rights, in substitution for Apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Exolum in accordance with this Schedule or in default of agreement settled by expert determination in accordance with paragraphs 98 to 106.

72. Alternative Rights must be granted before any Alternative Apparatus is operating as part of the pipeline and storage system which forms the Apparatus.

73. The parties agree that the Alternative Rights be granted by way of a 999 year lease, substantially in the form of Exolum's precedent from time to time as amended by written agreement between the parties acting reasonably.

74. Nothing in this Schedule or contained in the Alternative Rights shall require Exolum to divert or remove any Alternative Apparatus.

75. If the facilities and rights to be afforded by the undertaker in respect of any Alternative Apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the Expert less favourable on the whole to Exolum than the facilities and rights enjoyed by it in respect of the Apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the Expert will make such provision for the payment of compensation by the undertaker to Exolum as appears to the Expert to be reasonable having regard to all the circumstances of the particular case.

Retained Apparatus and Alternative Apparatus: protection

76. Before commencing the execution of any Restricted Works, the undertaker must submit to Exolum a Plan of the works to be executed and any other information that Exolum may reasonably require to allow Exolum to assess the works.

77. No Restricted Works are to be commenced until the Plan to be submitted to Exolum under paragraph 74 has been approved by Exolum in writing and are to be carried out only in accordance with the details submitted under paragraph 74 and in accordance with such reasonable requirements as may be notified to the undertaker in writing in accordance with paragraph 76 by Exolum.

78.—(1) Any approval by Exolum of the Plan of works submitted under paragraph 74 must not be unreasonably withheld or delayed, and Exolum must communicate its approval or refusal of the plans within 56 days of the date of submission of the plan under paragraph 74 and any approval of the Plan of works may be given subject to such reasonable requirements as Exolum may require to be made for—

(a) the continuing safety and operational viability of any Apparatus and/or Premises; and

(b) the requirement for Exolum to have reasonable access with or without vehicles to inspect, repair, replace, maintain and ensure the continuing safety and operation or viability of any Apparatus and/or Premises,

providing such reasonable requirements are notified to the undertaker in writing.

79. Exolum will be entitled to watch and inspect the execution of Restricted Works at any time.

80. Where reasonably required by either party, in view of the complexity of any proposed works, timescales, phasing or costs, the parties must with due diligence and good faith negotiate a works agreement for the carrying out of Protective Works or the installation of Alternative Apparatus.

81. If in consequence of the works notified to Exolum by the undertaker under paragraph 75, the circumstances in paragraph 61 apply, then the parties will follow the procedure in paragraph 61 onwards.

82. Nothing in paragraphs 74 to 79 precludes the undertaker from submitting prior to the commencement of works to protect retained Apparatus or to construct Alternative Apparatus (unless otherwise agreed in writing between the undertaker and Exolum) a new Plan, instead of the Plan previously submitted, in which case the parties will re-run the procedure from paragraph 79 onwards.

83. Where Exolum reasonably requires Protective Works, the parties must use all reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of any physical features to be provided or constructed.

84. The undertaker must afford to Exolum the necessary facilities and rights for the construction of Protective Works and subsequently the grant of Additional Rights in accordance with paragraphs 69-73.

85. Any Protective Works are to be constructed in land owned by the undertaker or in land in respect of which Additional Rights have been or are guaranteed to be granted to Exolum. The Protective Works must be constructed in such manner and in such position or situation as may be

agreed between Exolum and the undertaker or in default of agreement settled by expert determination in accordance with paragraphs 98-106.

86. After the details for the Protective Works to be provided or constructed have been agreed or settled in accordance with paragraphs 98 to 106 and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 82, Exolum must proceed as soon as reasonably practicable using reasonable endeavours to construct and bring into operation the Protective Works.

87.—(1) Where the undertaker needs to carry out emergency works—

(a) it must give to Exolum notice before such works commence, or as soon as is reasonably practicable after the works have commenced where it is not reasonably practicable to provide notice prior to commencement;

(b) the parties will work together to co-ordinate their respective works and agree a plan of those works before such works commence, or as soon as is reasonably practicable after the works have commenced where it is not reasonably practicable to provide notice prior to commencement; and

(c) it must comply with the conditions imposed under paragraph 76 insofar as is reasonably practicable in the circumstances.

88. In this Part of this Schedule, "emergency works" means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

Expenses

89.—(1) Subject to the following provisions of these paragraphs 87 to 90, the undertaker must pay to Exolum the reasonable and properly incurred costs and expenses (including reasonable staffing costs if work is carried out in-house) incurred by Exolum in, or in connection with—

(a) undertaking its obligations under this Schedule including—

(i) the installation, inspection, removal, alteration, testing or protection of any Apparatus, Alternative Apparatus and/or Protective Works;

(ii) the execution of any other works under this Schedule; and

(iii) the review and assessment of Plans;

(b) the watching of and inspecting the execution of the Authorised Development, any Restricted Works and any works undertaken by third parties as a result of Authorised Development (including the assessment of Plans); and

(c) imposing reasonable requirements for the protection or alteration of Apparatus affected by the Authorised Development or works as a consequence of the Authorised Development in accordance with paragraph 76,

together with any administrative costs properly and reasonably incurred by Exolum.

90.—(1) Provided that Exolum takes all reasonable steps to minimise the costs incurred in the following circumstances, there will be no deduction from any sum payable under paragraph 87 as a result of—

(a) the placing of apparatus of a better type, greater capacity or of greater dimensions, or at a greater depth than the existing Apparatus; or

(b) the placing of apparatus in substitution of the existing Apparatus that may defer the time for renewal of the existing Apparatus in the ordinary course;

91. The scrap value (if any) of any Apparatus removed under the provisions of this Schedule is to be deducted from any sum payable under paragraph 87.

92. Upon the submission of proper and reasonable estimates of costs and expenses to be incurred by Exolum, the undertaker must pay Exolum sufficiently in advance but to enable Exolum to undertake its obligations under this Schedule provided that in the event that the costs reasonably incurred by Exolum are less than the amount paid by the undertaker pursuant to this paragraph 90 then Exolum must promptly repay any overpayment to the undertaker within 30 days of the payment of those costs.

Co-operation and reasonableness

93.—(1) Where Apparatus is required to be protected, altered, diverted or removed under this Schedule, the undertaker must use all reasonable endeavours to co-ordinate the execution of any works under this Schedule—

(a) in the interests of safety;

(b) in the interest of the efficient and economic execution of both Exolum's works and the Authorised Development; and

(c) taking into account the need to ensure the safe and efficient operation of Apparatus and carrying out of Exolum's functions.

94. Exolum must use all reasonable endeavours to co-operate with the undertaker for the purposes outlined in paragraph 91.

95. The undertaker and Exolum must act reasonably in respect of any given term of this Schedule and, in particular, (without prejudice to generality) where any approval, consent or expression of satisfaction is required by this Schedule it must not be unreasonably withheld or delayed.

Emergency circumstances

96. The parties agree to act in good faith and in all reasonableness to agree any revisions to any schedule, programme or costs estimate (which will include costs of demobilising and remobilising any workforce, and any costs to protect the Apparatus "mid-works") to account for the suspension.

Escalation of differences

97. The undertaker and Exolum must use their reasonable endeavours to secure the amicable resolution of any dispute or difference arising between them out of or in connection with this Schedule in accordance with the following provisions.

98. The undertaker and Exolum will each nominate a representative who will meet to try to resolve the matter. If the matter is not resolved at that level within ten working days of either the undertaker or Exolum requesting such a meeting (or such longer period as may be agreed between the undertaker and Exolum) the matter may at the request of either the undertaker or Exolum be referred for discussion at a meeting to be attended by a senior executive from each party.

99. If the meeting between senior executives fails to result in a settlement within 20 working days of the date of the request for such a meeting (or if it is not possible to convene a meeting within this period) then either the undertaker or Exolum may refer the matter to expert determination or arbitration in accordance with the provisions of paragraphs 95 to 106.

Dispute resolution

100.—(1) If any dispute or difference arising out of or in connection with this Schedule is not resolved in accordance with paragraphs 94 to 97, either the undertaker or Exolum may refer the matter to—

(a) in the case of any dispute or difference pursuant to paragraphs 69, 73 or 83, expert determination under paragraphs 95 to 106; or

(b) in the case of any dispute or difference not falling within paragraphs 98(a), arbitration under article 44 (arbitration) of the Order.

101. The parties will agree on the appointment of an independent Expert and must agree with the Expert the terms of their appointment.

102. If the parties are unable to agree on an Expert or the terms of their appointment within five working days of either party serving details of a suggested expert on the other, either party will then be entitled to request the Institution of Civil Engineers or its successor to appoint an Expert and to agree with the Expert the terms of their appointment.

103. The Expert is required to prepare a written decision including reasons and give notice (including a copy) of the decision to the parties within a maximum of three months of the matter being referred to them.

104. If the Expert dies or becomes unwilling or incapable of acting, or does not deliver the decision within the time required by paragraph 101 then either party may re-apply to the relevant professional body referred to above to discharge the Expert and to appoint a replacement Expert with the required expertise and paragraph 98 onwards will apply to the new Expert as if they were the first Expert appointed.

105. The parties are entitled to make submissions to the Expert and will provide the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.

106. The Expert will act as an expert and not as an arbitrator. The Expert may award interest as part of their decision. The Expert's written decision on the matters referred to them will be final and binding on the parties in the absence of manifest error or fraud.

107. The Expert may direct that any legal costs and expenses incurred by a party in respect of the determination will be paid by another party to the determination on the general principle that costs should follow the event, except where it appears to the Expert that, in the circumstances, this is not appropriate in relation to the whole or part of such costs. The Expert's fees and any costs properly incurred by them in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) will be borne by the parties equally or in such other proportions as the Expert directs.

108. The dispute resolution procedure set out in this Schedule will apply to matters dealt with in this Schedule notwithstanding any dispute resolution procedure provided for either in the Order or as part of any other consent in respect of the Authorised Development.

Miscellaneous

109. Nothing in this Schedule affects the provisions of any enactment or prior agreement regulating the relations between the undertaker and Exolum in respect of any Apparatus laid or erected in land belonging to the undertaker on the date the Order is granted.

110. No failure or delay by a party to exercise any right or remedy provided under this Schedule or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

PART 7

FOR THE PROTECTION OF NATIONAL HIGHWAYS LIMITED

Application etc.,

111. The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways.

Interpretation

112.—(1) Where the terms defined in article 2 (interpretation) are inconsistent with sub-paragraph (2) the latter prevail.

(2) In this Part of this Schedule—

"as built information" means one electronic copy of the following information—

(a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker as installed and any ancillary or protective measures installed within the strategic road network;

(b) as constructed information for any utilities discovered or moved during the specified works;

(c) method statements for the specified works carried out;

(d) in so far as it is relevant to the specified works, the health and safety file; and

(e) such other information as is reasonably required by National Highways to be used to update all relevant databases and to ensure compliance with National Highway's Asset Data Management Manual as is in operation at the relevant time;

"condition survey" means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the specified works;

"contractor" means any contractor or subcontractor appointed by the undertaker to carry out the specified works;

"detailed design information" means such of the following drawings specifications and calculations as are relevant to the specified works—

(a) site clearance details;

(b) boundary, environmental and mitigation fencing;

(c) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;

(d) utilities diversions; and

(e) other such information that may be reasonably required by National Highways to be used to inform the detailed design of the specified works;

"DMRB" means the Design Manual for Roads and Bridges or any replacement or modification of it;

"the health and safety file" means the file or other permanent record containing the relevant health and safety information for the specified works required by the Construction Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

"nominated persons" means the undertaker's representatives or the contractor's representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

"programme of works" means a document setting out the sequence and timetabling of the specified works;

"specified works" means so much of the authorised development, including any maintenance of that work, as is on, in, under or over the strategic road network for which National Highways is the highway authority;

"strategic road network" means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway; and

"utilities" means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991.

(3) References to any standards, manuals, contracts, Regulations and Directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

General

113.—(1) The undertaker acknowledges that parts of the works authorised by this Order affect or may affect parts of the strategic road network in respect of which National Highways may have appointed or may appoint a highway operations and maintenance contractor.

(2) No works in carrying out, maintaining or diverting the authorised development may be carried out under the strategic road carriageway at a distance less than 4 metres below the lowest point of the carriageway surface.

(3) References to any standards, manuals, contracts, regulations and directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

Prior approvals and security

114.—(1) Any specified works which involve tunnelling, boring under the strategic road network without trenching from the surface, must be designed by the undertaker in accordance with DMRB CD622 unless otherwise agreed in writing by National Highways.

(2) The specified works must not commence until—

(a) the programme of works has been approved by National Highways;

(b) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—

(i) the detailed design information;

(ii) the identity and suitability of the contractor and nominated persons; and

(iii) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;

(c) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways reasonably considers will be affected by the specified works, has been agreed in writing by National Highways; and

(3) National Highways must, prior to the commencement of the specified works, inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraph (2).

(4) Any approval of National Highways required under this paragraph—

(a) must not be unreasonably withheld;

(b) must be given in writing;

(c) shall be deemed to have been given if neither given nor refused within 2 months of the receipt of the information for approval or, where further particulars are requested by

National Highways (acting reasonably) within 2 months of receipt of the information to which the request for further particulars relates; and

(d) may be subject to any reasonable conditions as National Highways considers necessary.

(5) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways immediately and details of their suitability to deliver the specified works will be provided on request.

(6) Any change to the detailed design of the specified works must be approved by National Highways in accordance with sub-paragraph (2) of this Part.

Construction of the specified works

115.—(1) The undertaker must give National Highways 28 days' notice in writing of the date on which the specified works will start.

(2) The specified works must be carried out by the undertaker to the reasonable satisfaction of National Highways in accordance with—

(a) the relevant detailed design information and programme of works approved pursuant to paragraph 113(2) above or as subsequently varied by agreement between the undertaker and National Highways;

(b) in so far as it may be applicable, the DMRB, save to the extent that exceptions from those standards apply which have been approved by National Highways; and

(c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same.

(3) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(4) If any part of the specified works is constructed—

(a) other than in accordance with the requirements of this Part of this Schedule; or

(b) in a way that causes damage to the highway, highway structure or asset or any other land of National Highways,

National Highways may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the satisfaction of National Highways, acting reasonably.

(5) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(6) If within 28 days on which a notice under sub-paragraph (4) or sub-paragraph (5) is served on the undertaker (or in the event of there being, in the opinion of National Highways, a danger to road users, within such lesser period as National Highways may stipulate), the undertaker has failed to take the steps required by that notice, National Highways may carry out the steps required of the undertaker and may recover any expenditure reasonably incurred by National Highways in so doing.

(7) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing.

(8) In constructing the specified works, the undertaker must at its own expense divert or protect all utilities.

(9) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme of works pursuant to paragraph 113(2)(b) of this Part, or

suspends the carrying out of any specified work beyond 14 days, and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.

Payments

116.—(1) The undertaker must pay to National Highways a sum equal to the whole of any reasonable costs and expenses which National Highways incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works and in relation to any approvals sought under this Order, or otherwise incurred under this Part, including—

(a) the checking and approval of the information required under paragraph 113(2);

(b) the supervision of the specified works;

(c) any costs reasonably incurred under paragraph 113(7) of this Part; and

(d) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising "the NH costs".

(2) National Highways must provide the undertaker with a schedule showing its reasonable estimate of the NH costs prior to the commencement of the specified works and the undertaker must pay to National Highways the reasonable estimate of the NH costs prior to commencing the specified works and in any event prior to National Highways incurring any cost.

(3) If at any time after the payment referred to in sub-paragraph (2) has become payable, National Highways reasonably believes that the NH costs will exceed the reasonably estimated NH costs it may give notice to the undertaker of the amount that it reasonably believes the NH costs will exceed the estimate of the NH costs (the excess) and the undertaker must pay to National Highways within 28 days of the date of the notice a sum equal to the excess.

(4) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above within 91 days of the date of completion of the specified works as set out in the programme of works.

(5) Within 28 days of the issue of the final account—

(a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it; or

(b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(6) If any payment due under sub-paragraph (2) above, is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 3% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

Condition survey and as built details

117.—(1) The undertaker must, as soon as reasonably practicable after completing the specified work, arrange for any highways structures and assets that were the subject of the condition survey under paragraph 113(2)(c) to be re-surveyed and must submit the re-survey to National Highways for its approval. The re-survey will include a renewed geotechnical assessment required by DMRB CD622 if the specified works include any works beneath the strategic road network.

(2) If the re-surveys carried out pursuant to sub-paragraph (1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways. National Highways must remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing from the undertaker.

(3) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

(4) Within 30 days of completion of the specified works, the as built details must be provided by the undertaker to National Highways.

Maintenance of the specified works

118.—(1) The undertaker must, prior to the commencement of any works of external maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required shall commence without a road space booking having first been secured.

(3) The undertaker must comply with any reasonable requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 14 days' in advance of the planned commencement date of the maintenance works.

Land

119. The undertaker must not, in reliance on or in exercise of any power under this Order, interfere with, remove, damage or prevent or impair the functioning of, and must on reasonable request (or in case of emergency, on demand) allow access by National Highways to, highway drainage assets.

Expert Determination

120.—(1) Article 44 (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule may be referred to and settled 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 differing parties 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 all reasonable but commercially prudent endeavours to do so within 21 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 copied to the other party to be received by the expert within 7 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;

(c) issue a decision within 7 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 that has been subject to expert determination may be referred to and settled by arbitration under article 44 (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.

PART 8

FOR THE PROTECTION OF RAILWAY INTERESTS

121. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 133 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

122.—(1) In this Part of this Schedule—

"asset protection agreement" means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

"railway property" means any railway belonging to Network Rail and—

(a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and

(b) any easement or other property interest held or used by Network Rail or a tenant or licencee of Network Rail for the purposes of such railway or works, apparatus or equipment;

"regulatory consents" means any consent or approval required under—

(a) the Railways Act 1993;

(b) the network licence; and/or

(c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

"specified work" means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

123.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network

Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

(a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

(b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

124.—(1) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(2) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld or delayed but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety.

(3) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work, subject to agreement not being unreasonably withheld or delayed by either party.

125.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration in accordance with article 44 (arbitration) of the Order.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the reasonable opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works within the Order limits (whether temporary or permanent) which in the engineer's reasonable opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

126.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 114(4) must, when commenced, be constructed—

(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 123;

(b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;

(c) in such manner as to cause as little damage as is possible to railway property; and

(d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

127.—(1) The undertaker must—

(a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and

(b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

128. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

129.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the reasonable opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 123(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 128(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

130.—(1) The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

(a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 123(3) or in constructing any protective works under the provisions of paragraph 123(4);

(b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;

(c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;

(d) in respect of any special traffic working resulting from any speed restrictions which may in the reasonable opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

(e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

131.—(1) In this paragraph—

"EMI" means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail's apparatus; and

"Network Rail's apparatus" means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 123(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)—

(a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 123(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

(b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and

(c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold or delay its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 123(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

(a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;

(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;

(c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and

(d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

(a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;

(b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 124.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 133(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 128(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 44 (Arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

132. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property in the reasonable opinion of the engineer, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

133. The undertaker must not provide any illumination or illuminated sign or signal outside construction hours on or in connection with a specified work within 15 metres of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

134. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order as a direct result of and consequence of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

135.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—

(a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or

(b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

(c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;

(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;

(e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;

and the undertaker must indemnify and keep indemnified Network Rail from and against all reasonable claims and demands arising out of or in connection with a specified work or any such failure, act or omission subject to a cap of £25,000,000 (twenty five million pounds): and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision will not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) In no circumstances will the undertaker be liable to Network Rail under this paragraph 133 for any indirect or consequential loss (including, without limitation, loss of profit) howsoever arising, nor for any direct or indirect loss that may have been caused by a specified work or the carrying out of the authorised development more than six years after any specified work or the relevant part of the authorised development has been completed.

(3) Network Rail must—

(a) give the undertaker reasonable written notice of any such claims or demands

(b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and

(c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(4) The sums payable by the undertaker under sub-paragraph (1) will if relevant include a sum equivalent to the relevant costs.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(7) In this paragraph—

"the relevant costs" means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1), subject to a cap of £25,000,000 (twenty five million); and

"train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

136. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 133 and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

137. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

138.—(1) The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

(a) any railway property shown on the works and land plans and described in the book of reference;

(b) any lands, works or other property held in connection with any such railway property; and

(c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

139. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

140.—(1) The undertaker must give written notice to Network Rail if any application which relates to railway property is proposed to be made by the undertaker for the Secretary of State's consent, under article 8 (consent to transfer of benefit of Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

(a) the nature of the application to be made;

(b) the extent of the geographical area to which the application relates; and

(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

141. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 43 (certification of plans and documents etc.) are certified by the Secretary of State, provide a set of those plans relevant to railway property to Network Rail in a format specified by Network Rail.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises RWE Renewables UK Solar and Storage Limited (referred to in this Order as the undertaker) to construct, operate, maintain and decommission a ground mounted solar photovoltaic generating station with a gross electrical output capacity over 50 megawatts and associated development. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the Order plans and the book of reference mentioned in this Order and certified in accordance with article 43 of this Order (certification of plans and documents, etc.) may be inspected free of charge during working hours at [ADDRESSES].