



# Fosse Green Energy

EN010154

3.1 Draft Development Consent Order  
(Tracked)

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VOLUME

**3**

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Planning Act 2008 (as amended)

Regulation 5(2)(b)

Infrastructure Planning (Applications: Prescribed  
Forms and Procedure) Regulations 2009 (as  
amended)

6 February 2026

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## Planning Act 2008

### The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended)

#### Fosse Green Energy Development Consent Order 202[ ]

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### 3.1 Draft Development Consent Order

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**202\* No.\*\*\***

**INFRASTRUCTURE PLANNING**

**The Fosse Green Energy Order 202\***

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* \*\*\*

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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 2 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act and 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having considered the application together with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 74(2) (d) of the 2008 Act made a report and recommendation to the Secretary of State.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 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 giving effect to the proposals comprised in the application on the 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) 123(k) and 140 of the 2008 Act, makes the following Order.

## PART 1

### PRELIMINARY

#### Citation and commencement

1. This Order may be cited as the Fosse Green Energy Order and comes into force on [\*\*] 202\*.

#### 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);

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- (a) 2008 c. 29. Section 37 was amended by section 137(5) of Chapter 6, Part 6, 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. 2017/524, S.I. 2017/572 and S.I. 2018/378, S.I. 2019/734, S.I. 2020/764, S.I. 2020/1534 and S.I. 2021/978; there are other amending instruments but none of which are relevant.
- (c) S.I. 2010/103 amended by S.I. 2012/635.
- (d) As amended by paragraph 29 of Schedule 13 to, the Localism Act 2011 (c. 20).
- (e) S.I. 2017/572.
- (f) Section 104(2) was amended by section 58(5) of Chapter 4 of Part 3 of the Marine and Coastal Access Act 2009 (c. 23) and paragraph 50 of Schedule 13 to the Localism Act 2011 (c. 20).
- (g) Section 114 was amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011 (c.20).
- (h) Section 115 was amended by section 160 of Part 6 to the Housing and Planning Act 2016 (c. 22) and section 43 of Part 2 to the Wales Act 2017 (c. 4).
- (i) Section 120 was amended by section 140 and paragraph 60 of Part 1 of Schedule 13 to the Localism Act 2011 (c.20).
- (j) Section 122 was amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011 (c.20).
- (k) Ibid.
- (l) 1961 (c. 33).
- (m) 1965 (c. 56).

“the 1980 Act” means the Highways Act 1980(a);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(b);

“the 1984 Act” means the Road Traffic Regulation Act 1984(c);

“the 1989 Act” means the Electricity Act 1989(d);

“the 1990 Act” means the Town and Country Planning Act 1990(e);

“the 1991 Act” means the New Roads and Street Works Act 1991(f);

“the 2008 Act” means the Planning Act 2008(g);

“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, electrical cables, telecommunications equipment and electricity cabinets;

“authorised development” means the development and associated development described in Schedule 1 (authorised development), which is development within the meaning of section 32 (meaning of “development”) of the 2008 Act;

“biodiversity net gain report” 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 biodiversity net gain report for the purposes of 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”, “commenced” and cognate expressions are to be construed accordingly;

“commissioning” means the process of testing all systems and components of Work No. 1 in order to ensure that they, and the authorised development as a whole, function in accordance with plant design specifications and the undertaker’s operational and safety requirements;

“date of final commissioning” means ~~in respect of each part of the authorised development~~ the date on which ~~each part of~~ the authorised development commences operation by generating electricity on a commercial basis but excluding the generation of electricity during commissioning and testing;

“design commitments” means the document of that name identified in the table of Schedule 12 (documents and plans to be certified) and which is certified by the Secretary of State as the design commitments 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, data cables and optical fibre cables; and
- (b) works associated with cable laying including jointing pits, hardstanding adjoining the jointing pits, combiner boxes, fibre bays, cable ducts, cable protection, joint protection, manholes, kiosks, marker posts, underground cable marker, tiles and tape, send and receive

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(a) 1980 (c. 66).  
 (b) 1981 (c. 66).  
 (c) 1984 (c. 27).  
 (d) 1989 (c. 29).  
 (e) 1990 (c. 8).  
 (f) 1991 (c. 22).  
 (g) 2008 (c. 29).

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

“environmental statement” means the document of that name identified in the table 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;

“framework battery safety 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 framework battery safety management plan for the purposes of this Order;

“framework 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 framework construction environmental management plan for the purposes of this Order;

“framework 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 framework construction traffic management plan for the purposes of this Order;

“framework decommissioning 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 framework decommissioning environmental management plan for the purposes of this Order;

“framework employment, skills and supply chain 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 framework employment, skills, and supply chain plan for the purposes of this Order;

“framework landscape and 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 Secretary of State as the framework landscape and ecological management plan for the purposes of this Order;

“framework 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 framework operational environmental management plan for the purposes of this Order;

“framework public rights of way 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 framework public rights of way management plan for the purposes of this Order;

“framework 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 framework soil management plan for the purposes of this Order;

“framework surface water drainage strategy” means the document of that name contained in Appendix 9D of the environmental statement identified in table at Schedule 12 (documents and plans to be certified) which is certified by the Secretary of State as the framework surface water drainage strategy for the purposes of this Order;

“framework written scheme of investigation” 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 framework written scheme of investigation for the purposes of this Order;

“hedgerow plans” 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 hedgerows plans for the purposes of this Order;

“highway” and “highway authority” have the same meaning as in the 1980 Act(a);

“holding company” has the same meaning as in section 1159 of the Companies Act 2006(b);

“land plans” means the plans of that name identified in the table in 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;

“limits of deviation” means the boundaries of the numbered works areas shown on the works plans in relation to each numbered work;

“maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of the authorised development (but not remove, reconstruct or replace the whole of Work No. 1 at the same time) and “maintenance” and “maintaining” are to be construed accordingly;

“Order land” means the land which is required for or is used to facilitate, or is incidental to, or is affected by the authorised development as shown on the land plans and which is described in the book of reference;

“Order limits” means the limits shown on the works plans within which the authorised development may be carried out and land acquired or used;

~~“waterbodies in a river basin 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 waterbodies in a river basin management plan for the purposes of this Order;~~

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

“permissive paths” means new paths providing restricted public access within the Order limits along the routes shown on the framework landscape and ecological management plan;

“permit scheme” means the Lincolnshire Permit Scheme for Road Works and Street Works Order 2016 made under Part 3 of the Traffic Management Act 2004;

“permitted preliminary works” means all or any of—

- (a) environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations for the purpose of assessing ground conditions;
- (b) removal of plant and machinery;
- (c) above ground site preparation for temporary facilities for the use of contractors;
- (d) remedial work in respect of any contamination or other adverse ground conditions;
- (e) diversion of existing apparatus and laying of temporary apparatus;
- (f) the provision of temporary means of enclosure and site security for construction;
- (g) the temporary display of site notices or advertisements;
- (h) site clearance (including vegetation removal, demolition of existing buildings and structures); or
- (i) advanced planting to allow for early establishment of protective screening;

“proposed development parameters” 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 parameters for the purposes of this Order;

“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;

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(a) “highway” is defined in section 328(1). For “highway authority” see section 1.

(b) 2006 (c. 46).

(c) 1981 (c. 67) Section 7 was amended by section 181(2) and 190(1)(a) of Part 9 of the Levelling-up and Regeneration Act 2023 (c. 55). There are other amendments made to this section which are not relevant to this Order.

“relevant planning authority” means the local planning authority for the area in which the land to which the provisions of this Order apply is situated;

“requirements” means those matters set out in Schedule 2 (requirements) and “requirement” means any one of the requirements;

“statutory undertaker” means any person falling within section 127(8) (statutory undertakers’ land) of the 2008 Act and includes a public communications 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(b), 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(c);

“streets, rights of way and access 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 streets, rights of way and access plans for the purposes of this Order;

“street works” means the works listed in article 8(1) (street works);

“subsidiary” has the same meaning as in section 1159 of the Companies Act 2006(d);

“traffic authority” has the same meaning as in section 121A (traffic authorities) of the 1984 Act(e);

“traffic regulation measures 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 traffic regulation measures plans for the purposes of this Order;

“undertaker” means Fosse Green Energy Limited (company number 13438725) or any person who has the benefit of this Order in accordance with articles 34 (Benefit of the Order) and 35 (consent to transfer benefit of the Order);

“Upper Tribunal” means the Lands Chamber of the Upper Tribunal;

[“waterbodies in a river basin 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 waterbodies in a river basin management plan for the purposes of this Order;](#)

“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;

“working day” means any day apart from Saturday, Sunday or any statutory bank or public holiday; 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.

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(a) 2003 (c. 21). Section 151(1) was amended by paragraph 90(a)(ii) of Schedule 1 of S.I. 2011/1210; paragraph 61(2) of S.I. 2020/1419; and section 15(3), 16(3), 18(4), 19(4) and 21(3) of Telecommunications (Security) Act 2021 (c. 31).

(b) 1991 (c. 22). Section 48 was amended by section 124(2) of Part 7 to the Local Transport Act 2008 (c. 26).

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

(d) 2006 (c. 46).

(e) 1984 (c. 27). Section 121A was inserted by paragraph 70 of Part 2 of Schedule 8 to the New Roads and Street Works Act 1991 (c. 22), and subsequently amended by section 271 of Chapter XIV of Part IV of the Greater London Authority Act 1999 (c. 29); S.I. 2001/1400; and section 1(6) of, and paragraphs 95 of Part 2 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

(3) In this Order, references to the purposes of the authorised development includes the construction, maintenance, operation, use 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, streets, rights of way and access plans, and traffic regulation measures plans are to be taken to be measured along that work.

(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 number.

(6) In this Order, the expression “includes” is to be construed without limitation unless the contrary intention appears.

(7) In this Order, references to any statutory body include that body’s successor bodies.

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

(9) For the purposes of this Order, references to “days” are to be construed as references to calendar days unless otherwise specified.

## PART 2

### PRINCIPAL POWERS

#### **Development consent etc. granted by this Order**

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

(2) Each numbered work must be situated within the corresponding numbered area shown on the works plans and within the limits of deviation.

#### **Operation of generating station**

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

(2) 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 authorised development**

5.—(1) The undertaker may at any time maintain the authorised development.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

(3) 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.

#### **Application and modification of statutory provisions**

6.—(1) The following provisions do not apply in relation to 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);

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(a) 1991 c. 59. Section 23 was amended by paragraph 192(1) and (2) of Schedule 22 to the Environment Act 1995 (c. 25), paragraph 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and paragraph 322(2) and (3) of S.I. 2013/755.0

- (b) section 32 (variation of awards)(a) of the Land Drainage Act 1991;
- (c) the provisions of any byelaws made under section 66(b) (powers to make byelaws) of the Land Drainage Act 1991;
- (d) 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 authority) to the Water Resources Act 1991(c);
- (e) 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
- (f) the provisions of the Neighbourhood Planning Act 2017(d) insofar as they relate to the temporary possession of land under articles 29 (temporary use of land for constructing the authorised development) and 30 (temporary use of land for maintaining the authorised development) of this Order.

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

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

“or

- (k) for carrying out development which has been authorised by an order granting development consent pursuant to the Planning Act 2008.”.

(4) Regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012(g) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph 14(1)(a)(ix) the following—

“or

- (x) so far as such work is necessary to implement development which has been authorised by an order granting development consent pursuant to the Planning Act 2008.”.

(5) Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 (meaning of “development”) of the Community Infrastructure Levy Regulations 2010(h) 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 go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

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(a) Section 32 was amended by Schedule 2 of S.I. 2013/755.

(b) Section 66 was amended by paragraph 38 of Schedule 1 to the Flood and Water Management Act 2010 (c. 29); paragraph 14 of Schedule 2 of Local Government Byelaws (Wales) Act 2012 (anaw 2) and section 86(3) of Part 5 of the Water Act 2014 (c. 21).

(c) 1991 (c. 57). Paragraph 5 was amended by section 84(2) of Chapter 2 of Part 4, and paragraph 3 of Schedule 11 to the Marine and Coastal Access Act 2009 (c. 23), paragraph 49 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and paragraph 315(b) of Schedule 2 of S.I. 2013/755; and paragraph 32 of Part 2 of Schedule 10 to the Fisheries Act 2020 (c. 22). Paragraph 6 was amended by section 105 of, and paragraph 26 of Schedule 15 to, the Environment Act 1995 (c. 25), sections 224 of Chapter 3 of Part 7, and paragraph 24 of Schedule 16 and Part 5(B) of Schedule 22 to the Marine and Coastal Access Act 2009 (c. 23). Paragraph 6A was inserted by section 103(3) of Part V of the Environment Act 1995 (c. 25).

(d) 2017 (c. 20).

(e) 1967 c. 10. Section 9 was amended by paragraph 2 of Schedule 4 to the Countryside and Rights of Way Act 2000 (c. 37). There are other amendments to section 9 that are not relevant to this Order.

(f) S.I. 1997/1160. Regulation 6 was amended by paragraph 35(2) and (3) Schedule 1 of S.I. 2015/377.

(g) S.I. 2012/605.

(h) S.I. 2010/948, amended by section 49 of the Planning and Compulsory Purchase Act 2004 (c. 5) and regulation 4(1) of S.I. 2011/987.

## **Defence to proceedings in respect of statutory nuisance**

7.—(1) Where proceedings are brought under section 82(1) (summary proceedings by a person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(a) in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order may be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) relates to premises used by the undertaker for the purposes of the authorised development or in connection with the authorised development and that the nuisance is attributable to the construction, maintenance or decommissioning of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(b), or any document approved under the provisions of Schedule 2 of the Order; or
- (b) is a consequence of the construction, maintenance or decommissioning of the authorised development and that it cannot reasonably be avoided; or
- (c) is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(2) 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 the premises by the undertaker for purposes of the authorised development, or in connection with the authorised development.

## **PART 3**

### **STREETS**

#### **Street Works**

8.—(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;
- (c) place and keep apparatus under the street;
- (d) maintain, change the position of or remove apparatus under the street;
- (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 or licence 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 (advance 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 permit scheme**

9.—(1) The permit scheme applies with the modifications set out in this article to street works carried out under the power conferred by article 8 (street works) of this Order.

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(a) 1990 (c. 43).

(b) 1974 (c. 40). Section 61 was amended by section 133(2) of Schedule 7 to the Building Act 1984 (c. 55) and section 162 of, and paragraph 15(1) and (3) of Schedule 15 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to section 61 of the Act but none are relevant to this Order.

(2) For the purposes of this Order—

- (a) a permit may not be refused or granted subject to conditions which relate to the imposition of a moratoria; and
- (b) a permit may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions pursuant to the powers conferred by this Order.

(3) References to moratoria in sub-paragraph (2) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.

(4) Without restricting the undertaker's recourse to any alternative appeal mechanism which may be available under the permit scheme or otherwise, the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit scheme in accordance with a mechanism set out in Schedule 15 (procedure for discharge of requirements) of this Order.

### **Power to alter layout, etc. of streets**

**10.**—(1) The undertaker may for the purposes of the authorised development, or in connection with the authorised development, alter the layout of or carry out any works in the street—

- (a) in the case of streets specified in column 2 of the table in Part 1 (permanent alteration of layout) of Schedule 5 (alteration of streets) permanently in the manner specified in relation to that street in column 3; and
- (b) in the case of streets specified in column 2 of the table in Part 2 (temporary alteration of layout) of Schedule 5 (alteration of streets) temporarily 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 the authorised development, or in connection with the authorised development, alter the layout of any street within the Order limits, and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, cycle track or verge; and
- (b) make and maintain passing places.

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

(4) The powers conferred by paragraph (2) may not be exercised without the prior consent of the street authority, such consent to be in a form reasonably required by the street authority.

(5) 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.

(6) Paragraph (4) does not apply if the street authority has already provided detailed design approval pursuant to requirement 6(1) of Schedule 2 (requirements) in relation to a street in which the undertaker seeks to use the powers given by paragraph (2).

### **Construction and maintenance of altered streets**

**11.**—(1) The permanent alterations to each of the streets specified in Part 1 (permanent alteration of layout) of Schedule 5 (alteration of streets) to this Order must be completed to the reasonable satisfaction of the street authority, in a form reasonably required by 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), the temporary alterations to each of the streets specified in Part 2 (temporary alteration of layout) of Schedule 5 (alteration of streets) must be completed to the reasonable satisfaction of the street authority, in a form reasonably required by the street authority, and the temporary alterations must be maintained by and at the expense of the undertaker for the

duration that the temporary alterations are used by the undertaker for the purposes of the authorised development.

(3) Those restoration works carried out pursuant to article 10(3) (power to alter layout, etc. of streets) must be completed to the reasonable satisfaction of the street authority, in a form reasonably required by 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.

### **Temporary prohibition or restriction of the use of streets and public rights of way**

**12.—**(1) The undertaker may, for the purposes of the authorised development, or in connection with the authorised development, temporarily close, prohibit the use of, restrict the use of, authorise the use of, alter or divert any street or public right of way and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the public right of way;
- (b) authorise 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 (2), prevent all persons from passing along the street or public right of way.

(2) 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.

(3) Without prejudice to the generality of paragraph (1), the undertaker may close, prohibit the use of, authorise the use of, restrict the use of, alter or divert—

- (a) the streets specified in column 2 of the table in Part 1 (temporary prohibition or restriction of the use of streets) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table;
- (b) the public rights of way specified in column 2 of the table in Part 2 (temporary closure of public rights of way with diversions) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table;

- (c) the public rights of way specified in column 2 of the table in Part 3 (permanent use of motor vehicles on public rights of way) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table;
  - (d) the public rights of way specified in column 2 of the table in Part 4 (temporary management of public rights of way) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table; and
  - (e) the public rights of way specified in column 2 of the table in Part 5 (temporary use of motor vehicles on public rights of way) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table.
- (4) The undertaker must not close, prohibit the use of, authorise the use of, restrict the use of, alter or divert—
- (a) any public right of way specified in paragraph (3) without first consulting the street authority; and
  - (b) any other public right of way without the consent of the street authority, and the street authority may attach reasonable conditions to any such consent.
- (5) Any person who suffers loss by the suspension of any street 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<sup>(a)</sup>.
- (6) Without prejudice to the scope of paragraph (1), the undertaker may use any street or public right of way which has been temporarily prohibited, restricted, altered or diverted under the powers conferred by this article and within the Order limits as a temporary working site.
- (7) In this article expressions used in this article and in the 1984 Act have the same meaning.
- (8) Nothing in this article prevents the undertaker from temporarily prohibiting the use of, authorising the use of, restricting the use of, altering or diverting a street or public right of way under this article more than once.

### **Stopping up of public rights of way**

- 13.**—(1) Subject to the provisions of this article, the undertaker may for the purposes of the authorised development stop up any street situated in whole or in part on the land shown by the brown dashed line on the streets, rights of way and access plans, whether or not that street was in existence or recognised on the definitive map on the date this Order is made.
- (2) Where a street is stopped up under paragraph (1)—
- (a) subject to paragraph (3), all public rights of way over or along a street so stopped up are extinguished;
  - (b) subject to paragraph (4), private rights over or along a street so stopped up are extinguished or cease to have effect; and
  - (c) the undertaker may appropriate and use for the purposes of the authorised development so much of the street as is bounded on both sides by land owned by the undertaker.
- (3) The extinguishment of public rights of way referred to in paragraph (2)(a) will come into effect seven working days after the undertaker serves a notice on the surveying authority giving details of the extent of the stopping up and including a plan showing the extent by which a street referred to in paragraph (1) has been stopped up.
- (4) The power conferred by paragraph (1) must not be exercised by the undertaker earlier than the date on which the undertaker has acquired an interest in the land comprised in the extent of the street to be stopped up and the provisions of article 23 (private rights) apply to the extinguishment or cessation of any such private rights.
- (5) A notice referred to in paragraph (3) is deemed to be a legal event for the purposes of section 53(3)(a)(i)(b) of the Wildlife and Countryside Act 1981.

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(a) 1961 (c. 33), Part 1 as amended by S.I. 2009/1307 and Section 192(1) of Part 7 of the Housing and Planning Act 2016 (c. 9).  
 (b) 1981 (c. 69). Section 53(3)(a) was amended by paragraph 1 of Part 1 of Schedule 5 to the Countryside and Rights of Way Act 2000 (c. 37).

(6) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped up streets).

(7) 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.

(8) In this article—

“definitive map” has the meaning given to it by section 53(1) of the Wildlife and Countryside Act 1981(a);

“surveying authority” has the meaning given to it by section 66(1)(b) (interpretation of Part III) of the Wildlife and Countryside Act 1981; and

section 159 of the 2008 Act applies to this article.

### **Access to works**

**14.—**(1) The undertaker may, for the purposes of the authorised development and in connection with the authorised development—

- (a) form and lay out the permanent means of access, or improve existing means of access, in the locations specified in Part 1 (permanent means of access) of Schedule 7 (access to works);
- (b) form and lay out the temporary means of access, or improve existing means of access, in the locations specified in Part 2 (temporary means of access) of Schedule 7 (access to works); and
- (c) with the approval of the relevant planning authority after consultation with the highway authority in such a form as reasonably required by the highway authority, 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 for the purposes of the authorised development.

(2) If the relevant planning authority fails to notify the undertaker of its decision within 28 days of receiving an application for approval under paragraph (1)(c) that relevant planning authority is deemed to have granted approval.

(3) Paragraph (1)(c) does not apply if the relevant planning authority has already provided detailed design approval pursuant to requirement 6(1) of Schedule 2 (requirements) for the access sought to be formed and laid out pursuant to paragraphs (1)(a) and (1)(b).

### **Agreements with street authorities**

**15.—**(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (b) any stopping up, prohibition, restriction, alteration or diversion of a street authorised by this Order;
- (c) the undertaking in the street of any of the works referred to in article 8 (street works), article 11(1) (construction and maintenance of altered streets) and article 14 (access to works); or
- (d) the adoption by a street authority which is the highway authority of works—
  - (i) undertaken on a street which is existing public maintainable highway; or
  - (ii) which the undertaker and highway authority agree to be adopted as public maintainable highway.

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(a) 1981 (c. 69). Section 53(1) was amended by paragraph 1 of Part 1 of Schedule 5 to the Countryside and Rights of Way Act 2000 (c. 37).

(b) 1981 (c. 69). Section 66(1) was amended by sections 1, 2 and 7 of, and paragraph 7(6) of Schedule 3 to, the Local Government Act 1985 (c. 51) and paragraph 9 of Part 1 of Schedule 5 to the Countryside and Rights of Way Act 2000 (c. 37). There are other amendments to this section that are not relevant to this Order.

(2) If such an agreement provides that the street authority must undertake works on behalf of the undertaker the agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) specify a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

### **Traffic regulation measures**

**16.**—(1) Subject to the provisions of this article the undertaker may at any time, in the interests of safety and for the purposes of the authorised development, or in connection with the authorised development—

- (a) temporarily place traffic signs and signals in the extents of the road specified in column 2 of Part 1 (temporary traffic signals) of Schedule 8 (traffic regulation measures) and, notwithstanding article 3 (development consent etc. granted by this Order), locations outside of the Order limits as shown on the traffic regulation measures plans, 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(a) of the 1984 Act and the Traffic Signs Regulations and General Directions 2016(b); and
- (b) make provision in respect of those lengths of road specified in column 2 of Part 2 (speed limit changes) of Schedule 8 (traffic regulation measures) imposing the temporary speed limit mentioned in column 2 of that Part of that Schedule.

(2) Subject to the provisions of this article and without limitation to the exercise of the powers conferred by paragraph (1), 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 the 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(c) when in accordance with regulation 3(5) of those regulations.

(4) Before exercising the power conferred by paragraph (2) the undertaker must—

- (a) consult with the chief officer of police in whose area the road is situated; and
- (b) obtain the written consent of the traffic authority.

(5) The undertaker must not exercise the powers in paragraph (1) or (2) unless it has—

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

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(a) 1984 (c. 27). 1984 (c. 27). Section 65 is amended by section 153(1)(2) of the Local Government and Housing Act 1989 (c. 42); paragraph 48(2) and (3) of Part II of Schedule 8 to the New Roads and Street Works Act 1991 (c. 22); paragraph 29 of Schedule 4 of the Road Traffic Act 1991 (c. 40); and paragraph 82(2) and (3) of Part 2 of Schedule 1 to the Infrastructure Act 2015 (c. 7). There are other amendments to this section that are not relevant to this Order.

(b) S.I. 2016/362.

(c) S.I. 2011/935.

(c) displayed a site notice containing the same information at each end of the length of road affected.

(6) Any provision made under the powers conferred by paragraph (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 paragraph (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 specific savings and exemptions to which the provision is subject; and
- (c) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004(a) (road traffic contraventions subject to civil enforcement).

## PART 4

### SUPPLEMENTAL POWERS

#### Discharge of water

17.—(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 for the purposes of the authorised development, or 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.

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

(5) 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.

(6) 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).

(7) 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(d) have the same meaning as in that Act.

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(a) 2004 (c. 18).  
(b) 1991 (c. 56).  
(c) S.I. 2016/1154.  
(d) 1991 (c. 57).

(8) 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 paragraph (4)(a) that person is deemed to have granted consent or given approval, as the case may be.

### **Authority to survey and investigate the land**

**18.**—(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 for the purposes of the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological and archaeological investigations on such land, including the digging of trenches; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes, bore holes or 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.

(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.

(5) After completion of the activities being undertaken pursuant to this article, any apparatus must be removed as soon as practicable, and the land must be restored to its original condition.

(6) 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.

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

- (a) under paragraph (4)(a) in the case of a highway authority; or
- (b) under paragraph (4)(b) in the case of a street authority,

that authority is deemed to have granted consent.

(8) 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**

**19.**—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or as is incidental, to it.

(2) This article is subject to article 20 (time limit for exercise of authority to acquire land compulsorily), article 22(2) (compulsory acquisition of rights), article 25 (acquisition of subsoil only), article 28 (rights under or over streets) and article 29 (temporary use of land for constructing the authorised development).

#### **Time limit for exercise of authority to acquire land compulsorily**

**20.**—(1) After the end of the period of five years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1981) 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 24 (application of the 1981 Act).

(2) The authority conferred by article 29 (temporary use of land for constructing the authorised development) ceases at the end of the period referred to in paragraph (1), save that if an application is made under section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act the applicable period is to be extended by—

- (a) a period equivalent to the period beginning on 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.

(4) Nothing in sub-paragraph (2) 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 land – incorporation of the mineral code**

**21.** Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(a) are incorporated into this Order subject to the modifications that—

- (a) for “the acquiring authority” substitute “the undertaker”;
- (b) for the “undertaking” substitute “authorised development”; and
- (c) paragraph 8(3) is not incorporated.

#### **Compulsory acquisition of rights**

**22.**—(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 as may be required for any purpose for which that land may be acquired under article 19 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this paragraph, article 23 (private rights) and article 31 (statutory undertakers), in the case of the Order land specified in column 1 of Schedule 9 (land in which only

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(a) 1981 c. 67.

new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of existing rights and benefits of restrictive covenants over that land and the creation and acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column 3 of 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 paragraph 5(8) of Schedule 10 (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 10 (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 restrictive covenants.

(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.

(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**

**23.—**(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 or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act,

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 22 (compulsory acquisition of rights) 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 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 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.

(4) 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.

(5) 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 31 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) 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.

(7) If an agreement referred to in paragraph (6)(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.

(8) 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**

**24.—**(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 (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.”.

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

(5) Section 5A (time limit for general vesting declaration) is omitted(a).

(6) 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 three year period mentioned in 5A” substitute—

“section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act, the five year period mentioned in article 20 (time limit for exercise of authority to acquire land compulsorily) of the Fosse Green Energy Order 202X.”.

(7) 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”.

(8) 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)”.

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

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(a) Section 5A to the 1981 Act was inserted by section 182(2) of Part 7 to the Housing and Planning Act 2016 (c.22).

“(2) But see article 25(3) (acquisition of subsoil only) of the Fosse Green Energy Order 202X, which excludes the acquisition of subsoil only from this Schedule.”.

(10) 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 27 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil only**

**25.**—(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 19 (compulsory acquisition of land) or article 22 (compulsory acquisition of rights) 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 10 (modification of compensation and compulsory purchase enactments for 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) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

### **Power to override easements and other rights**

**26.**—(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 carrying out of any part of the authorised development;
- (b) the exercise of any power authorised by this 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 virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), 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**

**27.**—(1) Part 1 of the 1965 Act (compulsory acquisition under Acquisition of Land Act 1981), 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 for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute—

“section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act, the five year period mentioned in article 20 (time limit for exercise of authority to acquire land compulsorily) of the Fosse Green Energy Order 202X.”.

(3) In section 11A (powers of entry: further notices 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 20 (time limit for exercise of authority to acquire land compulsorily) of the Fosse Green Energy Order [20\*\*]”.

(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 25(3) (acquisition of subsoil only) of the Fosse Green Energy Order 202X, which excludes the acquisition of subsoil only from this Schedule.”; and

(b) after paragraph 29 insert—

## **“PART 6**

### **INTERPRETATION**

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 29 (temporary use of land for constructing the authorised development) or article 30 (temporary use of land for maintaining the authorised development) of the Fosse Green Energy Order [20\*\*].”

### **Rights under or over streets**

**28.**—(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 or airspace 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**

29.—(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, 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 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 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.

(5) 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 under this article, 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 drainage works installed by the undertaker under this article;
- (c) 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);
- (d) remove any fencing or boundary treatments installed by the undertaker under this article to replace or enhance existing fencing or boundary treatments;

- (e) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development; or
- (f) restore the land on which any works have been carried out under paragraph (1)(f) insofar as the works relate to mitigation, compensation or enhancement works identified in the environmental statement or required pursuant to the requirements in Schedule 2 (requirements).

(6) 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 any power conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) 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 (6).

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

(10) Nothing in this article precludes the undertaker from—

- (a) creating and acquiring new rights or imposing restrictions over any part of the Order land identified in Schedule 9 (land in which only new rights etc. may be acquired); or
- (b) acquiring any part of the subsoil of (or rights in the subsoil of) that land under article 25 (acquisition of subsoil only) or any part of the subsoil of or airspace over that land under article 28 (rights under or over streets).

(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.

### **Temporary use of land for maintaining the authorised development**

**30.**—(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 limits if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order limits 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—

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

- (b) the public; and/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 or ecological works where "the maintenance period" means such period as set out in the landscape and ecological management plan which is approved under requirement 8 beginning with the date on which that part of the landscaping is completed.

### **Statutory undertakers**

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

### **Apparatus and rights of statutory undertakers in stopped up streets**

**32.** Where a street or public right of way is stopped-up or altered or diverted or its use is temporarily prohibited or restricted under article 8 (street works), article 10 (power to alter layout, etc. of streets), article 11 (construction and maintenance of altered streets), article 12 (temporary prohibition or restriction of the use of streets and public rights of way) or article 13 (stopping up of 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.

### **Recovery of costs of new connections**

**33.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (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 sewer is removed under article 31 (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 sewerage 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—

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

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

## **PART 6**

### **MISCELLANEOUS AND GENERAL**

#### **Benefit of the Order**

**34.** Subject to article 35 (consent to transfer the benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker save for Work No. 5b in relation to which the provisions of this Order have effect for the benefit of the undertaker and National Grid Electricity Transmission plc.

#### **Consent to transfer the benefit of the Order**

**35.**—(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 and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (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 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 (8), 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 of paragraph (1) except where—

- (a) the transferee is National Grid Electricity Transmission plc;
- (b) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply etc.) of the 1989 Act; or

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(a) 2003 c. 21.

- (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 and the relevant local planning authorities before transferring or granting a benefit referred to in paragraph (1).

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

- (a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;
- (b) subject to paragraph (6), the date on which the transfer will take effect;
- (c) the powers to be transferred or granted;
- (d) pursuant to paragraph (8), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and
- (e) where relevant, a plan showing the works or areas to which the transfer or grant relates.

(6) The date specified under paragraph (5)(b) must not be earlier than the expiry of fourteen (14) days from the date of the receipt of the notification.

(7) The notification given 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) 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 of landlord and tenant law**

**36.—**(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.

### **Operational land for purposes of the 1990 Act**

37. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3) (cases in which land is to be treated as not being operational land) of the 1990 Act.

### **Planning permission, etc.**

38.—(1) If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or
- (b) required to complete or enable the use or operation of any part of the development authorised by this Order,

then the construction, maintenance, use or operation of that development under the terms of the planning permission does not constitute a breach of the terms of this Order.

(2) To the extent any development carried out or used pursuant to a planning permission granted under section 57(a) (requirement of planning permission) of the 1990 Act or compliance with any conditions of that permission is inconsistent with the exercise of any power, right or obligation under this Order or the authorised development—

- (a) that inconsistency is to be disregarded for the purposes of establishing whether any development which is the subject matter of that planning permission is capable of physical implementation; and
- (b) in respect of that inconsistency, no enforcement action under the 1990 Act may be taken in relation to development carried out or used pursuant to that planning permission, or compliance with any conditions of that permission, whether inside or outside the Order limits.

(3) Any development or any part of a development within the Order limits which is constructed or used under the authority of a permission granted under section 57 of the 1990 Act including permissions falling under paragraphs (1) or (2), is deemed not to be a breach of, or inconsistent with, this Order and does not prevent the authorised development being carried out or used or any other power or right under this Order being exercised.

(4) In paragraph (2), “enforcement action” means any enforcement action provided for under Part 7 of the 1990 Act.

### **Felling or lopping of trees and removal of hedgerows**

39.—(1) Subject to paragraph (2), and article 40 (trees subject to tree preservation orders) the undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits or near any part of the authorised development or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

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(a) Section 57 was amended by paragraphs 34 and 35 of Schedule 2 to the Planning Act 2008, paragraphs 1 and 3 of Schedule 2 to the Localism Act 2011 (c.20) and paragraphs 2 and 4 Part 2 of the Schedule 4 to the Infrastructure Act 2015.

- (a) obstructing or interfering with the construction, maintenance, operation or decommission 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 construction or decommissioning of the authorised development.

(2) In carrying out any activity authorised by paragraph (1) the undertaker must do no unnecessary damage to any tree or shrub and must 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 of the 1961 Act.

(4) The undertaker may, for the purposes of the authorised development, or in connection with the authorised development, 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 the authorised development or in connection with the authorised development and subject to paragraph (1)(a), remove the hedgerows specified in column 2 of the table in Schedule 11 (hedgerows to be removed) and shown on the hedgerows plans.

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

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

### Trees subject to tree preservation orders

40.—(1) The undertaker may fell or lop any tree within or overhanging land within the Order limits subject to a tree preservation order which was made after ~~1<sup>st</sup>~~30 June 2025 if the undertaker reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to passengers or other persons using the authorised development.

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

- (a) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity;
- (b) the duty contained in section 206(1) (replacement of trees)(b) of the 1990 Act is not to apply although where possible the undertaker is to seek to replace any trees which are removed; and
- (c) the undertaker must ~~give consult~~ the relevant planning authority 14 days' notice prior to that activity taking place except in relation to dead or dangerous trees, where only 5 days' notice is required.

(3) The authority given in 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 as if it were a dispute under Part 1 of the 1961 Act.

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(a) S.I. 1997/1160.

(b) Section 206(1) was amended by paragraph 11 of Schedule 8 to the 2008 Act.

### **Certification of plans and documents, etc.**

41.—(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) 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.

(3) Where a plan or document certified under paragraph (1)—

(a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and

(b) identifies that provision by number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by, which the corresponding provision of this Order is identified in the Order as made,

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

### **No double recovery**

42. Compensation is not payable in respect of the same matter both under this Order and under any enactment, any contract or any rule of law.

### **Arbitration**

43.—(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) 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**

44. Schedule 14 (protective provisions) has effect.

### **Service of notices**

45.—(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

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(a) 1978 c. 30.

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.

#### **Procedure in relation to certain approvals etc.**

**46.**—(1) Where an application is made to or request is made of, a consenting authority for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements), such consent, agreement or approval to be validly given, must be given in writing.

(2) Where paragraph (1) applies to any consent, agreement or approval, such consent, agreement or approval must not be unreasonably withheld or delayed.

(3) Schedule 15 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals required, granted, refused or withheld in relation to the requirements.

(4) Save for applications made pursuant to Schedule 15 (procedure for discharge of requirements) and where stated to the contrary if, within eight 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 disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

(5) 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 (4).

(6) Schedule 15 (procedure for discharge of requirements) does not apply in respect of any consents, agreements or approvals contemplated by the provisions of Schedule 14 (protective provisions).

(7) In this article “consenting authority” means the relevant planning authority, highway authority, traffic authority, street authority, the owner of a watercourse, sewer or drain or the beneficiary of any of the protective provisions contained in Schedule 14 (protective provisions).

### **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) 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 19 (compulsory acquisition of land);
- (b) article 22 (compulsory acquisition of rights);
- (c) article 23 (private rights);
- ~~(d)~~ article 26 (power to override easements and other rights);
- ~~(e)~~ article 28 (rights under or over streets);
- ~~(f)~~ article 29 (temporary use of land for constructing the authorised development);
- ~~(g)~~ article 30 (temporary use of land for maintaining the authorised development); and
- ~~(h)~~ article 31 (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.

Signatory text

Address  
Date

*Name*  
Parliamentary Under Secretary of State  
Department

# SCHEDULES

## SCHEDULE 1

Article 3

### AUTHORISED DEVELOPMENT

#### 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 to alternating current which will either be a string inverter or a central container inverter;

“mounting structure” means a frame or rack made of galvanised steel, anodised aluminium or other material designed to support the solar modules and will either provide for a fixed south facing orientation or single access tracking and mounted on piles driven into the ground or pillars fixed to a concrete foundation;

“National Grid Navenby substation” means the proposed substation at Heath Lane, Navenby, LN5 0AY which is subject to a separate application for consent to be submitted by National Grid Electricity Transmission plc;

“PV module” means a solar photovoltaic panel or module designed to convert solar irradiance to electrical energy;

“solar station” means inverters, transformers and switch gear and would be either—

- (a) centralised inverters, transformers and switch gear placed on adjustable legs or metal skids with each component either—
  - (i) located outside within a cabinet, on a concrete foundation or placed on metal skids for each of the inverters and transformers and switch gear; or
  - (ii) housed together within a container sitting on a concrete foundation or compacted hardcore material; or
- (b) string inverters and combiner boxes attached either to mounting structures or a ground mounted frame, wired to or connected to switch gear and transformers on a concrete foundation or compacted hardcore material;

“substation” means a substation containing electrical equipment required to switch, transform, convert electricity and provide reactive power compensation;

“switch gear” means a combination of electrical disconnect switches, fuses or circuit breakers used to control, protect and isolate electrical equipment; and

“transformer” means a structure serving to transform electricity to a higher voltage which will either be a string transformer or a central container transformer.

#### **Authorised development**

2. In the District of North Kesteven and in the County of 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 one generating station with a gross electrical output capacity of over 50 megawatts comprising all or any of the works 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 including—

- (a) PV modules fitted to mounting structures;
- (b) solar stations and ancillary equipment;

- (c) monitoring and control systems housed within the containers or enclosures comprised in Work No. 1 or located separately in its own container or enclosure;
- (d) acoustic fencing;
- (e) electrical cables;

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

**Work No. 2**— Centralised Battery and Energy Storage System Compound to store energy generated by the solar panels including—

- (a) battery energy storage system;
- (b) a structure protecting the battery energy storage system comprised in Work No. 2(a) and ancillary equipment, being either one container or multiple containers joined to each other, mounted on a reinforced concrete foundation slab or concrete piling;
- (c) heating, ventilation and air conditioning (HVAC) or liquid cooling systems either housed within the containers comprised in Work No. 2(b) attached to the side or top of each of the containers, or located separate from but near to each of the containers;
- (d) conversion units including inverters, transformers, switchgear and energy management system;
- (e) battery stations;
- (f) monitoring and control systems housed within a container with the HVAC or liquid cooling systems in Work No. 2(c) or located separately in its own container or control room;
- (g) electrical cables including electrical cables connecting to Work No. 1 and Work No. 4;
- (h) fire safety infrastructure comprising fire suppression system;
- (i) a water storage structure for the purposes of firefighting comprising fire water tanks and fire water containment; and
- (j) fencing.

**Work No. 3**— Distributed Battery and Energy Storage System including—

- (a) battery energy storage system;
- (b) a structure protecting the battery energy storage system comprised in Work No. 3(a) and ancillary equipment, being either one container or cabinet or multiple containers or cabinets laid on a concrete slab or raft foundation located alongside Work No. 1;
- (c) heating, ventilation and air conditioning (HVAC) or liquid cooling systems either housed within the containers or cabinets comprised in Work No. 3(b), attached to the side or top of each of the containers, or located separate from but near to each of the containers;
- (d) monitoring and control systems housed within the containers with the HVAC or liquid cooling systems in Work No. 3(c) or located separately in its own container or control room;
- (e) battery management system to monitor and control the stage of charge, temperature, and the overall health of the batteries;
- (f) DC/DC converter;
- (g) fire safety infrastructure, mitigation and control measures including:
  - (i) fire service access,
  - (ii) fire compartmentation measures,
  - (iii) water storage tanks and hydrants,
  - (iv) impermeable membrane surrounding Work No. 3(b) which directs fire water to a swale for containment and a sump and drain valve to allow the extraction of contaminated fire water,
  - (v) hard standing to accommodate emergency vehicles,
  - (vi) parking spaces;

- (h) electrical cables connecting to Work No. 1 and Work No. 4; and
- (i) fencing.

**Work No. 4**— works in connection with the onsite substation including—

- (a) substation, transformers, 400kV air insulated switchgear, switch room buildings and ancillary equipment including reactive power units;
- (b) control building housing offices, storage, welfare facilities, parking areas and access;
- (c) workshop, store and ancillary structures;
- (d) monitoring and control systems for this Work No. 4, Work No. 1 and, Work No. 2 or Work No. 3, housed within the control building in Work No. 4(b) or located separately in their own containers or control rooms;
- (e) harmonic filters; and
- (f) fencing.

**Work No. 5A**— works to lay underground high voltage electrical cables, access and temporary construction compound laydown areas for the electrical cables, to connect to the National Grid Navenby substation including—

- (a) works to lay electrical cables including 400 kV cable connecting Work No. 4 to the National Grid Navenby substation; and
- (b) laying down of internal access tracks, ramps, means of access, footways, including the laying and construction of drainage infrastructure, signage and information boards;
- (c) temporary construction compounds for construction and material storage of equipment for Work No. 5A(a) (b) (d) and (e);
- (d) joint bays, link boxes, cable ducts, cable protection, joint protection, manholes;
- (e) marker posts, underground cable marker, tiles and tape, communications chambers, fibre optic cables and lighting and other works associated with cable laying; and
- (f) tunnelling, boring and drilling works.

**Work No. 5B**— high voltage connection works to the National Grid Navenby substation to facilitate connection of the authorised development to the National Grid Navenby substation including—

- (a) busbars and connectors to connect to the busbar disconnectors at the National Grid Navenby substation;
- (b) a 400kV 3 phase circuit breaker for control and protection of the outgoing circuit serving the authorised development;
- (c) a 3 phase set of current transformers for protection of the outgoing 400kV feeder circuit and the overlap with the National Grid system;
- (d) a 3 phase high accuracy metering current and voltage transformer assembly for commercial metering of the connection;
- (e) a 3 phase 400kV line disconnector/earth switch for isolation and earthing of the outgoing 400kV feeder circuit;
- (f) a 3 phase set of 400kV high voltage cable sealing ends and cables connecting the National Grid Navenby substation with Work No. 5A; and
- (g) protection and control works in the relay room or erection of a new building to house protection and control works apparatus if required.

**Work No. 6**— works to lay underground electrical cables up to 33 kV connecting Work No. 1 to Work No. 2 or Work No. 3 and Work No. 4 including—

- (a) Works to lay electrical and data cables including up to 33 kV cables between Work No. 1 and, Work No. 2 or Work No. 3, to Work No. 4.
- (b) joint bays, link boxes, cable ducts, cable protection, joint protection, manholes;

- (c) marker posts, underground cable marker, tiles and tape, communications chambers, fibre optic cables and lighting and other works associated with cable laying; and
- (d) tunnelling, boring and drilling works including temporary compounds for the tunnelling, boring or drilling works.

**Work No. 7**— temporary construction and decommissioning compound and laydown areas including—

- (a) areas of hardstanding;
- (b) HGV, vehicle and cycle parking;
- (c) site and welfare offices, canteens and workshops;
- (d) area to store materials and equipment;
- (e) storage and waste skips;
- (f) area for download and turning;
- (g) security infrastructure, including cameras, perimeter fencing and lighting;
- (h) safety infrastructure to warn and manage traffic when crossing roads or other obstacles;
- (i) site drainage and waste management infrastructure (including sewerage); and
- (j) electricity, water, waste water and telecommunications connections.

**Work No. 8A**— works to facilitate access to Work Nos. 1 to 7 including—

- (a) creation of accesses from the public highway (including three emergency accesses);
- (b) works to alter the layout of any street or highway;
- (c) works to private roads;
- (d) creation of visibility splays;
- (e) removal of vegetation;
- (f) works to widen and surface the streets; and
- (g) making and maintaining passing places.

**Work No. 8B**— ancillary works to facilitate access including—

- (a) removal of vegetation;
- (b) relocation, removal or provision of new road traffic signs, signals, street lighting, road restraints and carriageway lane markings;
- (c) works to private roads;
- (d) works to facilitate traffic management and to deliver information relating to the authorised development;
- (e) 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; and

**Work No. 9**— works to create, enhance and maintain green infrastructure and environmental mitigation, including—

- (a) landscape and biodiversity mitigation and enhancement areas;
- (b) habitat creation and management, including earthworks, landscaping, means of enclosure, and the laying and construction of drainage infrastructure; and
- (c) laying down of permissive paths, signage and information boards;
- (d) improvements to existing and laying down of new or diverted public rights of way or permissive paths, signage and information boards; and
- (e) screening.

In connection with and in addition to Work Nos. 1 to 9 further associated development within the Order limits comprising such other works or operations as may be necessary or expedient for the

purposes of or in connection with the authorised development and insofar as they do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement, including—

- (a) fencing, gates, boundary treatments and other means of enclosure;
- (b) bunds, embankments, trenching and swales;
- (c) works, improvements or extensions to the existing drainage and irrigation system and works to alter the position and extent of such irrigation system;
- (d) irrigation infrastructure, surface water drainage systems, runoff outfalls, SuDs Ponds, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage networks;
- (e) 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;
- (f) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (g) works for the provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, lightning protection masts, weather stations, storage containers, communication infrastructure, and perimeter fencing;
- (h) improvement, maintenance, repair and use of existing streets, private tracks and access roads;
- (i) laying down, maintenance and repair of new internal access tracks, ramps, means of access, footpaths, permissive paths, cycle routes and roads, signage and information boards;
- (j) temporary footpath diversions and closures;
- (k) landscaping;
- (l) temporary storage of materials prior to installation;
- (m) 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
- (n) tunnelling, boring and drilling works.

~~and further associated development comprising such other works or operations as may be necessary or expedient for the purposes of or in connection with the construction, operation and maintenance of the authorised development which are within the Order limits and fall within the scope of work assessed in the environmental statement.~~

## SCHEDULE 2 REQUIREMENTS

Article 3

### Interpretation

1. In this Schedule, —

“relevant planning authority” means North Kesteven District Council except for the following requirements where it shall mean Lincolnshire County Council—

- ~~(i)~~(a) Requirement 7 (battery safety management);
- ~~(ii)~~(b) Requirement 10 (surface and foul water drainage);
- ~~(iii)~~(c) Requirement 11 (archaeology);
- ~~(iv)~~(d) Requirement 14 (construction traffic management plan);
- ~~(v)~~(e) Requirement 17 (permissive paths); and

~~(vi)~~(f) Requirement 18 (public rights of way).

~~“date of final commissioning” means in respect of each part of the authorised development the date on which each part of the authorised development commences operation by generating electricity on a commercial basis but excluding the generation of electricity during commissioning and testing.~~

### **Commencement of the authorised development**

2. The authorised development must not be commenced after the expiration of five years from the date this Order comes into force.

### **Requirement for written approval**

3. Where under any of the requirements the approval, agreement or confirmation of the relevant planning authority or another person is required, that approval, agreement or confirmation must be provided in writing.

### **Approved details and amendments to them**

4.—(1) With respect to any documents, details or schemes which have been approved pursuant to any requirement (the “Approved Documents, Plans, Details or Schemes”), the undertaker may submit to the relevant planning authority for approval any amendments to any of the approved Documents, Plans, Details or Schemes and, following approval by the relevant planning authority, the relevant Approved Documents, Plans, Details or Schemes are to be taken to include the amendments as so approved pursuant to this paragraph.

(2) In determining whether to approve any amendments to any of the approved Documents, Plans, Details or Schemes, the relevant planning authority must re-consult all consultees that were required to be consulted on those Documents, Plans, Details or Schemes when those Documents, Plans, Details or Schemes were originally approved.

(3) Approval under sub-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 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.

### **Community Liaison Group**

5.—(1) Prior to the commencement of the authorised development the undertaker must submit to the relevant planning authority for approval the terms of reference for a community liaison group in relation to the construction of the authorised development.

(2) The community liaison group must be established prior to commencement of the authorised development and must be administered by the undertaker, and operated, in accordance with the approved terms of reference.

(3) The community liaison group is to continue to meet until the date of final commissioning of the ~~final part of the~~ authorised development unless otherwise agreed with the relevant planning authority.

### **Detailed design approval**

6.—(1) No part 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) drainage, water, electrical, power and communication cables and pipelines;
- (g) vehicular and pedestrian access, parking and circulation areas, junction improvements and passing places; and
- (h) refuse or other storage units, signs and lighting,

relating to that part have been submitted to and approved in writing by the relevant planning authority such approval to be in consultation with Lincolnshire County Council as local highway authority in relation to sub-paragraph (1)(g).

(2) The details submitted must accord with—

- (a) the design commitments;
- (b) the proposed development parameters; and
- (c) any details approved under requirements 8 (landscape and ecological management plan), 9 (fencing and other means of enclosure), 10 (surface and foul water drainage) and 11 (archaeology).

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

(4) Sub-paragraph (1) does not apply to the matters listed under sub-paragraph (1)(g) if consent has already been given to the details of those works pursuant to articles 10 (power to alter layout, etc. of streets), 11 (construction and maintenance of altered streets) or 14 (access to works).

(5) Subject to sub-paragraph (6), the undertaker may commence only:

- (a) Work No. 2; or
- (b) Work No. 3.

(6) The Battery and Energy Storage System works in either Work No. 2 or Work No. 3 must not commence until explanation of the choice of a Centralised Battery and Energy Storage System or a Distributed Battery and Energy Storage System has been provided in writing to the relevant planning authority, either before, or at the same time as, the details referred to in sub-paragraph (1).

### **Battery safety management**

7.—(1) Work No. 2 or Work No. 3 must not commence until a battery safety management plan has been submitted to and approved by the relevant planning authority.

(2) The battery safety management plan must prescribe measures to facilitate safety during the construction, operation and decommissioning of Work No. 2 or Work No. 3 including the transportation of new, used and replacement battery cells both to and from the authorised development.

(3) The battery safety management plan must be substantially in accordance with the framework battery safety management plan.

(4) The relevant planning authority must consult with Lincolnshire Fire and Rescue and the Environment Agency before determining an application for approval of the battery safety management plan.

(5) The battery safety management plan must be implemented as approved.

### **Landscape and ecological management plan**

8.—(1) No part of the authorised development may commence, and no part of the permitted preliminary works for that part comprising vegetation removal, may start until a landscape and ecological management plan has been submitted to and approved by the relevant planning authority, following consultation with Lincolnshire County Council, Natural England and the Environment Agency.

(2) The landscape and ecological management plan must be substantially in accordance with the framework landscape and ecological management plan and for that part of the authorised development to which it relates must include details of how the plan proposals will contribute to the

achievement of a minimum of 30% biodiversity net gain in habitat units, 50% biodiversity net gain in hedgerow units and 10% biodiversity net gain in watercourse units for all of the authorised development during the operation of the authorised development based on the metric used to calculate those percentages specified in the Biodiversity Net Gain Report.

(3) Each landscape and ecological management plan approved under sub-paragraph (1) must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which each plan relates.

### **Fencing and other means of enclosure**

9.—(1) No part of the authorised development may commence, and no part of the permitted preliminary works for that part comprising the provision of temporary means of enclosure, may begin until written details of all proposed temporary fences, walls or other means of enclosure, including those set out in the construction environmental management plan, for that part have been submitted to and approved by the relevant planning authority.

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

(3) The details submitted under sub-paragraph (2) must be in accordance with the Proposed Development parameters and the design commitments.

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

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

(6) Any permanent fencing, walls or other means of enclosure for that part approved under sub-paragraph (2) must be completed prior to the date of final commissioning ~~in respect of such part~~.

(7) Any permanent fencing, walls or other means of enclosure must be properly maintained for the operational lifetime of the part of the authorised development to which it relates.

### **Surface and foul water drainage**

10.—(1) No part of the authorised development may commence until written details of the surface water drainage scheme and (if any) foul water drainage system have been submitted to and approved by the lead local flood authority and the relevant planning authority, in consultation with Anglian Water and the Environment Agency.

(2) The written details under sub-paragraph (1) must be substantially in accordance with the framework surface water drainage strategy.

(3) Any scheme approved under sub-paragraph (1) must be implemented as approved.

### **Archaeology**

11.—(1) The authorised development may not commence until—

- (a) a scheme for additional trial trenching has been submitted to and approved by the relevant planning authority, in consultation with Historic England;
- (b) additional trial trenching has been carried out in accordance with the scheme approved under sub-paragraph (a); and
- (c) updates are made to the framework written scheme of investigation to account for the results of the additional trial trenching carried out and the updated framework written scheme of investigation is submitted to and approved in writing by the relevant planning authority in consultation with Historic England.

(2) The authorised development must be carried out in accordance with the written scheme of investigation approved under sub-paragraph 1(c).

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

### **Construction environmental management plan**

12.—(1) No part of the authorised development may commence until a construction environmental management plan for that part has been submitted to and approved by the relevant planning authority such approval to be in consultation with Lincolnshire County Council (as the local highway authority and waste planning authority), National Highways and the Environment Agency.

(2) The construction environmental management plan must be substantially in accordance with the framework construction environmental management plan.

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

(4) For the purposes of sub-paragraph (1), “commence” includes remedial work in respect of any contamination.

### **Operational environmental management plan**

13.—(1) Prior to the date of final commissioning for ~~any part of~~ the authorised development, an operational environmental management plan ~~for that part~~ must be submitted to and approved by the relevant planning authority such approval to be in consultation with Lincolnshire County Council (as the local highway authority and waste planning authority), National Highways and the Environment Agency.

(2) The operational environmental management plan must be substantially in accordance with the framework operational environmental management plan.

(3) The operation of ~~any part of~~ the authorised development must be carried out and maintained in accordance with the approved operational environmental management plan ~~for that part~~.

### **Construction traffic management plan**

14.—(1) No part of the authorised development may commence until a construction traffic management plan for that part has been submitted to and approved by the relevant planning authority in consultation with National Highways.

(2) The construction traffic management plan must be substantially in accordance with the framework construction traffic management plan.

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

### **Soil management plan**

15.—(1) No part of the authorised development may commence until a soil management plan for that part has been submitted to and approved by the relevant planning authority, in consultation with Lincolnshire County Council and Natural England.

(2) The soil management plan must be substantially in accordance with the framework soil management plan.

(3) The soil management plan must be implemented as approved.

### **Operational noise**

16.—(1) No part of the authorised development may be operational until an operational noise assessment containing details of how the design of the authorised development for that part has incorporated mitigation to ensure that the operational noise rating levels set out in Table 11-21 of

Chapter 11 of the environmental statement are to be compiled with for that part has been submitted to and approved by the relevant planning authority.

(2) The design as described in the operational noise assessment must be implemented and maintained as approved throughout the operation of that part of the authorised development.

### **Permissive Paths**

17.—(1) Prior to the construction of a permissive path, the undertaker must submit details of that permissive path to the relevant planning authority [for approval in consultation with North Kesteven District Council](#).

(2) The details to be submitted for approval under sub-paragraph (1) must include—

- (a) the final routing of the permissive path to be provided, such routing to be substantially in accordance with the routing as shown on the streets, rights of way and access plans;
- (b) the specification of the permissive path; and
- (c) the maintenance regime for the permissive path.

(3) The permissive paths must be provided and open to the public prior to the date of final commissioning ~~in respect of the part~~ of the authorised development ~~which includes the permissive path~~.

(4) The permissive paths must be provided and maintained in accordance with the details approved under sub-paragraph (1) and retained until ~~the part of~~ the authorised development ~~in which the permissive path is located~~ is decommissioned pursuant to requirement 20 (decommissioning).

### **Public rights of way**

18.—(1) No part of the authorised development may commence until a public rights of way management plan for any sections of public rights of way shown to be [permanently or](#) temporarily closed on the streets, rights of way and access plans for that part has been submitted to and approved by the relevant planning authority [in consultation with North Kesteven District Council](#).

(2) The public rights of way management plan must be substantially in accordance with the framework public rights of way management plan.

(3) The public rights of way management plan must be implemented as approved and maintained throughout the operation of the relevant parts of the authorised development to which the plan relates.

### **Employment, skills and, supply chain**

19.—(1) No part of the authorised development may commence until an employment, skills and supply chain plan in relation to that part has been submitted to and approved by the relevant planning authority in consultation with Lincolnshire County Council.

(2) The employment, skills and supply chain plan must be substantially in accordance with the framework employment, skills and supply chain plan.

(3) The employment, skills and supply chain plan must identify opportunities for individuals and businesses to access employment, skills and supply chain opportunities associated with the construction, operation and maintenance of the authorised development, and the means for publicising such opportunities.

(4) Any employment, skills and supply chain plan approved under sub-paragraph (1) must be implemented as approved.

### **Decommissioning**

20.—(1) Decommissioning works must commence no later than 60 years following the date of final commissioning.

(2) Prior to the commencement of any decommissioning works for ~~any part of~~ the authorised development, the undertaker must submit to the relevant planning authority for approval, in consultation with Lincolnshire County Council (in its capacity as the local highway authority and waste planning authority), National Highways and the Environment Agency, a decommissioning environmental management plan ~~for that part~~.

(3) The decommissioning environmental management plan submitted and approved under sub-paragraph (2) must be substantially in accordance with ~~the relevant part of~~ the framework decommissioning environmental management plan.

(4) No decommissioning works must be carried out until the relevant planning authority has approved the plan submitted in relation to such works.

(5) The plan submitted and approved pursuant to sub-paragraph (2) must be implemented as approved for the works required to decommission ~~that part of~~ the authorised development.

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

### SCHEDULE 3

Article 6

#### LEGISLATION TO BE DISAPPLIED

1. The following provisions do not apply in so far as they relate to activities or development carried out for the purposes of the authorised development, or in connection with the authorised development—

- (a) Anglian Water Authority Act 1977**(a)**;
- (b) Lincoln Waterworks Act 1846**(b)**;
- (c) Great Northern Railway (Junctions) Act 1865**(c)**;
- (d) Great Northern Railway (Spalding to Lincoln) Act 1878**(d)**;
- (e) Great Northern and Great Eastern Railway Companies Act 1879**(e)**;
- (f) The Land Drainage Supplemental Act 1871**(f)**;
- (g) Lincolnshire Courthouse Act 1809**(g)**;
- (h) Lincolnshire Drainage Act 1840**(h)**;
- (i) Trent and Lincolnshire Water Authority Act 1971**(i)**;
- (j) River Witham Drainage and Navigation Act 1808**(j)**;
- (k) Witham Drainage Act 1762**(k)**;
- (l) Upper Witham Internal Drainage Board byelaws**(l)**; and
- (m) Trent Valley Internal Drainage Board byelaws**(m)**.

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- (a) 1977 c. xiii.
  - (b) 1846 c. cxi.
  - (c) 1865 c. ccxvi.
  - (d) 1878 c. veviii.
  - (e) 1879 c. cx.
  - (f) 1871 c. lx.
  - (g) 1809 c. lxxv.
  - (h) 1840 c. xc.
  - (i) 1971 c. xiii.
  - (j) 1808 c. cviii.
  - (k) 1762 c. 32.
  - (l) 1998.
  - (m) 2018.

SCHEDULE 4

Article 8

STREETS SUBJECT TO STREET WORKS

**Interpretation**

1. In this Schedule—

“cable works” means works to place, retain and maintain underground apparatus.

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Description of the street works</i>
Lincolnshire County Council	Clay Lane	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near access 01/01 on Sheet 1 of the streets, rights of way and access plans.
Lincolnshire County Council	Fosse Lane	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 02/20 to 02/31 on Sheet 2 of the streets, rights of way and access plans.
Lincolnshire County Council	The Avenue	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near access 03/19 on Sheet 3 of the streets, rights of way and access plans.
Lincolnshire County Council	Old Haddington Lane	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 04/12 to 04/16 on Sheet 4 of the streets, rights of way and access plans.
Lincolnshire County Council	Stone Lane	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near access 04/16 on Sheet 4 of the streets, rights of way and access plans.
Lincolnshire County Council	Thurlby Road	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near

Lincolnshire County Council	Main Street	<p>accesses 04/17 to 05/08 on Sheets 4 and 5 of the streets, rights of way and access plans.</p> <p>Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 05/08 to 07/18 on Sheets 5 and 7 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Bassingham Road	<p>Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 06/01 to 06/15 on Sheet 6 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Moor Lane	<p>Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 07/01 to 07/14 on Sheet 7 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Clay Lane	<p>Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 08/01 to 08/02 on Sheet 8 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Clay Lane	<p>Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 09/08 to 09/09 on Sheet 9 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Fen Lane	<p>Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 10/10 to 10/15 on Sheet 10 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Fen Lane	<p>Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green</p>

Lincolnshire County Council	Broughton Lane	patterned hatching near accesses 11/02 to 11/04 on Sheet 11 of the streets, rights of way and access plans. Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 12/01 and 12/03 on Sheet 12 of the streets, rights of way and access plans.
Lincolnshire County Council	Hill Rise	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near access 12/04 on Sheet 12 of the streets, rights of way and access plans.
Lincolnshire County Council	A607 Grantham Road	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near access 14/01 on Sheet 14 of the streets, rights of way and access plans.
Lincolnshire County Council	Rose Cottage Lane	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 14/03 to 14/09 on Sheet 14 of the streets, rights of way and access plans.
Lincolnshire County Council	B1202 Heath Lane	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near access 14/10 on Sheet 14 of the streets, rights of way and access plans.
Lincolnshire County Council	Green Man Road	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 15/02 to 16/02 on Sheets 15 and 16 of the streets, rights of way and access plans.
Lincolnshire County Council	Those parts of the A46 that are within the limits of deviation of Work No. 6	Street works to facilitate underground cable installation works for the length of the A46 shown in green patterned

hatching on Sheet 4 of the streets, rights of way and access plans.

SCHEDULE 5  
ALTERATION OF STREETS

Articles 10 and 11

PART 1  
PERMANENT ALTERATION OF LAYOUT

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Description of alteration</i>
Lincolnshire County Council	Clay Lane	Alteration of layout of Clay Lane in the area depicted in solid green near the access marked 01/01 as shown on Sheet 1 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Fosse Lane	Alteration of layout of Fosse Lane in the area depicted in solid green near the accesses marked 02/29 to 02/31 as shown on Sheet 2 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	The Avenue	Alteration of layout of The Avenue in the area depicted in solid green near the access marked 03/19 as shown on Sheet 3 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Old Haddington Lane	Alteration of layout of Old Haddington Lane in the area depicted in solid green near the access marked 04/12 as shown on Sheet 4 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Old Haddington Lane	Alteration of layout of Old Haddington Lane in the area depicted in solid green near the access marked 04/13 as shown on Sheet 4 of the

Lincolnshire County Council	Thurlby Road	streets, rights of way and access plans subsequent to improvements to adjoining field access.
		Alteration of layout of Thurlby Road in the area depicted in solid green near the access marked 04/18 as shown on Sheet 4 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Thurlby Road	Alteration of layout of Thurlby Road in the area depicted in solid green near the access marked 05/05 as shown on Sheet 5 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Main Street	Alteration of layout of Main Street in the area depicted in solid green near the access marked 05/07 as shown on Sheet 5 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Bassingham Road	Alteration of layout of Bassingham Road in the area depicted in solid green near the accesses marked 06/07 and 06/08 as shown on Sheet 6 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Bassingham Road	Alteration of layout of Bassingham Road in the area depicted in solid green near the access marked 06/13 as shown on Sheet 6 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Aubourn Moor	Alteration of layout of Aubourn Moor in the area depicted in solid green near the access marked 06/16 as shown on Sheet 6 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.

Lincolnshire County Council	Moor Lane	Alteration of layout of Moor Lane in the area depicted in solid green near the accesses marked 07/08 and 07/09 as shown on Sheet 7 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Clay Lane	Alteration of layout of Clay Lane in the area depicted in solid green near the access marked 08/01 as shown on Sheet 8 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Clay Lane	Alteration of layout of Clay Lane in the area depicted in solid green near the accesses marked 09/08 to 09/09 as shown on Sheet 9 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Fen Lane	Alteration of layout of Fen Lane in the area depicted in solid green near the access marked 10/11 as shown on Sheet 10 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Fen Lane	Alteration of layout of Fen Lane in the area depicted in solid green near the access marked 11/04 as shown on Sheet 11 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.

**PART 2**  
**TEMPORARY ALTERATION OF LAYOUT**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Description of alteration</i>
Lincolnshire County Council	Fosse Lane	Temporary alteration of layout of Fosse Lane in the area depicted in solid beige near the access marked 02/27 as shown on Sheet 2 of the streets, rights of way and

Lincolnshire County Council	Broughton Lane	access plans subsequent to improvements to adjoining field access. Temporary alteration of layout of Broughton Lane in the area depicted in solid beige near the access marked 12/01 as shown on Sheet 12 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Hill Rise	Temporary alteration of layout of Hill Rise in the area depicted in solid beige near the access marked 12/04 as shown on Sheet 12 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Rose Cottage Lane	Temporary alteration of layout of Rose Cottage Lane in the area depicted in solid beige near the accesses marked 14/05 and 14/06 as shown on Sheet 14 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Green Man Road	Temporary alteration of layout of Green Man Road in the area depicted in solid beige near the access marked 15/02 as shown on Sheet 15 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Green Man Road	Temporary alteration of layout of Green Man Road in the area depicted in solid beige near the access marked 16/03 as shown on Sheet 16 of the streets, rights of way and access plans subsequent to improvements to adjoining field access.

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SCHEDULE 6

Articles 12 and 13

STREETS AND PUBLIC RIGHTS OF WAY

PART 1

TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF STREETS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Measure</i>
Lincolnshire County Council	Clay Lane	Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid green and / or green patterned hatching on Sheet 1 of the streets, rights of way and access plans.
Lincolnshire County Council	Fosse Lane	Temporary single lane closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid beige and / or green hatching and green patterned hatching on Sheet 2 of the streets, rights of way and access plans.
Lincolnshire County Council	The Avenue	Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid green and / or green patterned hatching on Sheet 3 of the streets, rights of way and access plans.
Lincolnshire County Council	Old Haddington Lane	Temporary single lane closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid green and / or green patterned hatching on Sheet 4 of the streets, rights of way and access plans.

Lincolnshire County Council	Stone Lane	Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the length coloured in green patterned hatching on Sheet 4 of the streets, rights of way and access plans.
Lincolnshire County Council	Thurlby Road	Temporary single lane closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid green and / or green patterned hatching on Sheets 4 and 5 of the streets, rights of way and access plans.
Lincolnshire County Council	Main Street	Temporary single lane closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid green and / or green patterned hatching on Sheets 5 and 7 of the streets, rights of way and access plans.
Lincolnshire County Council	Bassingham Road	Temporary single lane closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid green and / or green patterned hatching on Sheet 6 of the streets, rights of way and access plans.
Lincolnshire County Council	Aubourn Moor	Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout for the length coloured in solid green on Sheet 6 of the streets, rights of way and access plans.
Lincolnshire County Council	Moor Lane	Temporary single lane closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for

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Lincolnshire County Council	Clay Lane	<p>the length coloured in solid green and / or green patterned hatching on Sheet 7 of the streets, rights of way and access plans.</p> <p>Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid green and / or green patterned hatching on Sheet 8 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Clay Lane	<p>Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid green and / or green patterned hatching on Sheet 9 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Fen Lane	<p>Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid green and / or green patterned hatching on Sheet 10 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Fen Lane	<p>Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid green and / or green patterned hatching on Sheet 11 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Broughton Lane	<p>Temporary single lane closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid beige and / or green patterned</p>

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Lincolnshire County Council	Hill Rise	<p>hatching on Sheet 12 of the streets, rights of way and access plans.</p> <p>Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid beige and / or green patterned hatching on Sheet 12 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	A607 Grantham Road	<p>Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the length coloured in green patterned hatching on Sheet 14 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Rose Cottage Lane	<p>Temporary partial closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid beige and / or green patterned hatching on Sheet 14 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	B1202 Heath Lane	<p>Temporary single lane closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the length coloured in green patterned hatching on Sheet 14 of the streets, rights of way and access plans.</p>
Lincolnshire County Council	Green Man Road	<p>Temporary single lane closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the alteration of layout and street works for the length coloured in solid beige and / or green patterned hatching on Sheets 15 and 16 of the streets, rights of way and access plans.</p>

## PART 2

### TEMPORARY CLOSURE OF PUBLIC RIGHTS OF WAY WITH DIVERSIONS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>PRoW Reference</i>	<i>(3)</i> <i>Measure</i>
Lincolnshire County Council	LL TOTH 15/1	Public right of way to be temporarily closed and diverted between points PRoW 02/05 and PRoW 02/06 as shown on Sheet 2 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 6/1	Public right of way to be temporarily closed and diverted between points PRoW 02/07 and PRoW 02/08 as shown on Sheet 2 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 11/1	Public right of way to be temporarily closed and diverted between points PRoW 03/04 and PRoW 03/05 as shown on Sheet 3 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Aubo 12/2	Public right of way to be temporarily closed and diverted between points PRoW 05/02 and PRoW 05/03 as shown on Sheet 5 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Aubo 12/2	Public right of way to be temporarily closed and diverted between points PRoW 05/04 and PRoW 05/05 as shown on Sheet 5 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Aubo 11/2	Public right of way to be temporarily closed and diverted between points PRoW 05/10 and PRoW 05/11 as shown on Sheet 5 of the

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Lincolnshire County Council	LL Aubo 10/1	streets, rights of way, and access plans to facilitate the construction of the authorised development. Public right of way to be temporarily closed and diverted between points PRoW 05/13 and PRoW 05/14 as shown on Sheet 5 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Aubo 8/1	Public right of way to be temporarily closed and diverted between points PRoW 06/05 and PRoW 06/06 as shown on Sheet 6 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL ThuN 2/1	Public right of way to be temporarily closed and diverted between points PRoW 07/01 and PRoW 07/02 as shown on Sheet 7 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Bass 23/1	Public right of way to be temporarily closed and diverted between points PRoW 11/04 and PRoW 12/01 as shown on Sheets 11 and 12 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Cole 4/1	Public right of way to be temporarily closed and diverted between points PRoW 13/01 and PRoW 13/02 as shown on Sheet 13 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Cole 3/1 and LL BooG 5/1	Public right of way to be temporarily closed and diverted between points PRoW 14/01 and PRoW 14/03 as shown on Sheet 14 of the streets, rights of way, and access plans to facilitate the

Lincolnshire County Council	LL BooG 2/2	<p>construction of the authorised development.</p> <p>Public right of way to be temporarily closed and diverted between points PRow 14/04 and PRow 14/05 as shown on Sheet 14 of the streets, rights of way, and access plans to facilitate the construction of the authorised development.</p>
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### PART 3

#### PERMANENT USE OF MOTOR VEHICLES ON PUBLIC RIGHTS OF WAY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>PRow Reference</i>	<i>(3)</i> <i>Measure</i>
Lincolnshire County Council	LL TOTH 7/2	<p>Permanent use of motor vehicles under the direction of the undertaker between PRow 01/07 and PRow 01/08 as shown on Sheet 1 of the streets, rights of way and access plans to facilitate the construction of the authorised development.</p>
Lincolnshire County Council	LL TOTH 7/3	<p>Permanent use of motor vehicles under the direction of the undertaker between PRow 01/08 and PRow 01/09 as shown on Sheet 1 of the streets, rights of way and access plans to facilitate the construction of the authorised development.</p>
Lincolnshire County Council	LL TOTH 21/1	<p>Permanent use of motor vehicles under the direction of the undertaker between PRow 01/08 and PRow 01/10 as shown on Sheet 1 of the streets, rights of way and access plans to facilitate the construction of the authorised development.</p>
Lincolnshire County Council	LL TOTH 6/3	<p>Permanent use of motor vehicles under the direction of the undertaker between PRow 01/10 and PRow 01/13 as shown on Sheet 1 of the streets, rights of way and access plans to facilitate the construction of the authorised development.</p>

Lincolnshire County Council	LL TOTH 7/2	Permanent use of motor vehicles under the direction of the undertaker between PRow 01/07 and PRow 02/03 as shown on Sheets 1 and 2 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 15/1	Permanent use of motor vehicles under the direction of the undertaker between PRow 01/08 and PRow 02/04 as shown on Sheets 1 and 2 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 6/2	Permanent use of motor vehicles under the direction of the undertaker between PRow 01/10 and PRow 02/11 as shown on Sheets 1 and 2 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 12/3	Permanent use of motor vehicles under the direction of the undertaker between PRow 01/01 and PRow 03/08 as shown on Sheets 1 and 3 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 7/1	Permanent use of motor vehicles under the direction of the undertaker between PRow 02/01 and PRow 02/03 as shown on Sheet 2 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 5/1	Permanent use of motor vehicles under the direction of the undertaker between PRow 02/02 and PRow 02/03 as shown on Sheet 2 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 11/1	Permanent use of motor vehicles under the direction of the undertaker between PRow

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Lincolnshire County Council	LL TOTH 11/1	03/01 and PRow 03/02 as shown on Sheet 3 of the streets, rights of way and access plans to facilitate the construction of the authorised development. Permanent use of motor vehicles under the direction of the undertaker between PRow 03/03 and PRow 03/06 as shown on Sheet 3 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 12/2	Permanent use of motor vehicles under the direction of the undertaker between PRow 03/07 and PRow 03/08 as shown on Sheet 3 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 12/1	Permanent use of motor vehicles under the direction of the undertaker between PRow 03/07 and PRow 03/10 as shown on Sheet 3 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Aubo 12/2	Permanent use of motor vehicles under the direction of the undertaker between PRow 05/01 and PRow 05/05 as shown on Sheet 5 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Aubo 11/2	Permanent use of motor vehicles under the direction of the undertaker between PRow 05/09 and PRow 05/12 as shown on Sheet 5 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Aubo 10/1	Permanent use of motor vehicles under the direction of the undertaker between PRow 05/13 and PRow 05/14 as shown on Sheet 5 of the streets, rights of way and

Lincolnshire County Council	LL Aubo 8/1	access plans to facilitate the construction of the authorised development. Permanent use of motor vehicles under the direction of the undertaker between PRow 06/04 and PRow 06/07 as shown on Sheet 6 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
<del>Lincolnshire County Council</del>	<del>LL NoDi 4/1</del>	<del>Permanent use of motor vehicles under the direction of the undertaker between PRow 09/02 and PRow 09/04 as shown on Sheet 9 of the streets, rights of way and access plans to facilitate the construction of the authorised development.</del>

## PART 4

### TEMPORARY MANAGEMENT OF PUBLIC RIGHTS OF WAY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>PRow Reference</i>	<i>(3)</i> <i>Measure</i>
Lincolnshire County Council	LL TOTH 13/2	Public Right of Way between points PRow 01/02 and PRow 01/03 as shown on Sheet 1 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL TOTH 13/1	Public Right of Way between points PRow 01/04 and PRow 01/05 as shown on Sheet 1 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL TOTH 7/2	Public Right of Way between points PRow 01/07 and PRow 01/08 as shown on Sheet 1 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL TOTH 7/3	Public Right of Way between points PRow 01/08 and PRow 01/09 as shown on

Lincolnshire County Council	LL TOTH 21/1	Sheet 1 of the streets, rights of way and access plans to be managed during construction of the authorised development. Public Right of Way between points PRow 01/08 and PRow 01/10 as shown on Sheet 1 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL TOTH 6/3	Public Right of Way between points PRow 01/10 and PRow 01/13 as shown on Sheet 1 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL TOTH 15/1	Public Right of Way between points PRow 01/08 and PRow 02/04 as shown on Sheets 1 and 2 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL TOTH 6/2	Public Right of Way between points PRow 01/10 and PRow 02/09 as shown on Sheets 1 and 2 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL TOTH 6/1	Public Right of Way between points PRow 02/07 and PRow 02/09 as shown on Sheet 2 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL TOTH 6A/1	Public Right of Way between points PRow 02/09 and PRow 02/10 as shown on Sheet 2 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL TOTH 11/1	Public Right of Way between points PRow 03/01 and PRow 03/02 as shown on Sheet 3 of the streets, rights of

Lincolnshire County Council	LL TOTH 11/1	way and access plans to be managed during construction of the authorised development. Public Right of Way between points PRow 03/03 and PRow 03/06 as shown on Sheet 3 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL TOTH 12/1	Public Right of Way between points PRow 03/09 and PRow 03/10 as shown on Sheet 3 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Aubo 12/2	Public Right of Way between points PRow 05/01 and PRow 05/05 as shown on Sheet 5 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Aubo 13/2	Public Right of Way between points PRow 05/06 and PRow 05/09 as shown on Sheet 5 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Aubo 12/1	Public Right of Way between points PRow 05/07 and PRow 05/09 as shown on Sheet 5 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Aubo 11/1	Public Right of Way between points PRow 05/08 and PRow 05/09 as shown on Sheet 5 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Aubo 11/2	Public Right of Way between points PRow 05/09 and PRow 05/12 as shown on Sheet 5 of the streets, rights of way and access plans to be

Lincolnshire County Council	LL Aubo/10/1	managed during construction of the authorised development. Public Right of Way between points PRoW 05/13 and PRoW 05/14 as shown on Sheet 5 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Aubo/10/1	Public Right of Way between points PRoW 05/15 and PRoW 05/16 as shown on Sheet 5 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Aubo/10/1	Public Right of Way between points PRoW 05/17 and PRoW 05/18 as shown on Sheet 5 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Aubo/13/1	Public Right of Way between points PRoW 05/09 and PRoW 06/01 as shown on Sheets 5 and 6 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Aubo/9/1	Public Right of Way at point PRoW 06/02 and PRoW 06/03 as shown on Sheet 6 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Aubo 8/1	Public Right of Way between points PRoW 06/04 and PRoW 06/07 as shown on Sheet 6 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL ThuN 2/1	Public Right of Way between points PRoW 07/01 and PRoW 07/06 as shown on Sheet 7 of the streets, rights of way and access plans to be managed during construction

<del>Lincolnshire County Council</del>	<del>LL ThuN 1/1</del>	of the authorised development. <del>Public Right of Way between points P<del>R</del>oW 07/07 and P<del>R</del>oW 07/08 as shown on Sheet 7 of the streets, rights of way and access plans to be managed during construction of the authorised development.</del>
Lincolnshire County Council	LL ThuN 5/1	Public Right of Way between points P <del>R</del> oW 07/09 and P <del>R</del> oW 09/01 as shown on Sheets 7 and 9 of the streets, rights of way and access plans to be managed during construction of the authorised development.
<del>Lincolnshire County Council</del>	<del>LL NoDi 4/1</del>	<del>Public Right of Way between points P<del>R</del>oW 09/02 and P<del>R</del>oW 09/04 as shown on Sheet 9 of the streets, rights of way and access plans to be managed during construction of the authorised development.</del>
Lincolnshire County Council	LL NoDi 1/2	Public Right of Way between points P <del>R</del> oW 09/0 <del>1</del> <u>3</u> and P <del>R</del> oW 09/0 <del>2</del> <u>4</u> as shown on Sheet 9 of the streets, rights of way and access plans to be managed during construction of the authorised development.
<del>Lincolnshire County Council</del>	<del>LL NoDi 1/1</del>	<del>Public Right of Way between points P<del>R</del>oW 09/04 and P<del>R</del>oW 09/05 as shown on Sheet 9 of the streets, rights of way and access plans to be managed during construction of the authorised development.</del>
Lincolnshire County Council	LL Bass 21/2	Public Right of Way between points P <del>R</del> oW 10/01 and P <del>R</del> oW 10/02 as shown on Sheet 10 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Bass 23/1	Public Right of Way between points P <del>R</del> oW 11/01 and P <del>R</del> oW 11/02 as shown on Sheet 11 of the streets, rights of way and access plans to be managed during construction

Lincolnshire County Council	LL Bass 23/1	of the authorised development. Public Right of Way between points PRow 11/03 and PRow 12/02 as shown on Sheets 11 and 12 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Cole 4/1	Public Right of Way between points PRow 13/01 and PRow 13/02 as shown on Sheet 13 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL Cole 3/1	Public Right of Way between points PRow 14/01 and PRow 14/02 as shown on Sheet 14 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL BooG 5/1	Public Right of Way between points PRow 14/02 and PRow 14/03 as shown on Sheet 14 of the streets, rights of way and access plans to be managed during construction of the authorised development.
Lincolnshire County Council	LL BooG 2/2	Public Right of Way between points PRow 14/04 and PRow 14/05 as shown on Sheet 14 of the streets, rights of way and access plans to be managed during construction of the authorised development.

## PART 5

### TEMPORARY USE OF MOTOR VEHICLES ON PUBLIC RIGHTS OF WAY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>PRow Reference</i>	<i>(3)</i> <i>Measure</i>
Lincolnshire County Council	LL TOTH 6/1	Temporary use of motor vehicles under the direction of the undertaker between PRow 02/07 and PRow 02/09 as shown on Sheet 2 of the streets, rights of way and

Lincolnshire County Council	LL TOTH 6A/1	access plans to facilitate the construction of the authorised development. Temporary use of motor vehicles under the direction of the undertaker between PRow 02/09 and PRow 02/10 as shown on Sheet 2 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL TOTH 6A/2	Temporary use of motor vehicles under the direction of the undertaker between PRow 02/09 and PRow 02/11 as shown on Sheet 2 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL ThuN 2/1	Temporary use of motor vehicles under the direction of the undertaker between PRow 07/01 and PRow 07/06 as shown on Sheet 7 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
<del>Lincolnshire County Council</del>	<del>LL ThuN 1/1</del>	<del>Temporary use of motor vehicles under the direction of the undertaker between PRow 07/07 and PRow 07/08 as shown on Sheet 7 of the streets, rights of way and access plans to facilitate the construction of the authorised development.</del>
<del>Lincolnshire County Council</del>	<del>LL ThuN 5/1</del>	<del>Temporary use of motor vehicles under the direction of the undertaker between PRow 07/09 and PRow 09/01 as shown on Sheets 7 and 9 of the streets, rights of way and access plans to facilitate the construction of the authorised development.</del>
Lincolnshire County Council	LL Bass 23/1	Temporary use of motor vehicles under the direction of the undertaker between PRow 11/01 and PRow 11/02 as shown on Sheet 11 of the streets, rights of way and access plans to facilitate the construction of the authorised development.

Lincolnshire County Council	LL Bass 23/1	Temporary use of motor vehicles under the direction of the undertaker between PRow 11/03 and PRow 12/02 as shown on Sheets 11 and 12 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Cole 4/1	Temporary use of motor vehicles under the direction of the undertaker between PRow 13/01 and PRow 13/02 as shown on Sheet 13 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL Cole 3/1	Temporary use of motor vehicles under the direction of the undertaker between PRow 14/01 and PRow 14/02 as shown on Sheet 14 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL BooG 5/1	Temporary use of motor vehicles under the direction of the undertaker between PRow 14/02 and PRow 14/03 as shown on Sheet 14 of the streets, rights of way and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL BooG 2/2	Temporary use of motor vehicles under the direction of the undertaker between PRow 14/04 and PRow 14/05 as shown on Sheet 14 of the streets, rights of way and access plans to facilitate the construction of the authorised development.

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**SCHEDULE 7**  
**ACCESS TO WORKS**

Article 14

**PART 1**  
**PERMANENT MEANS OF ACCESS TO WORKS**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Description of means of access</i>
Lincolnshire County Council	Existing Field Access off Clay Lane	Existing field access to be retained and improved at the point marked 01/01 on Sheet 1 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Fosse Lane Northbound	Existing field access to be retained and improved at the point marked 02/30 on Sheet 2 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Fosse Lane Southbound	Existing private means of access at the point marked 02/31 on Sheet 2 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off The Avenue Southbound	Proposed new access to be constructed at the point marked 03/19 on Sheet 3 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Old Haddington Lane Northbound	Existing field access to be retained and improved at the point marked 04/12 on Sheet 4 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Old Haddington Lane Northbound	Proposed new access to be constructed at the point marked 04/13 on Sheet 4 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Thurlby Road Northbound	Proposed new access to be constructed at the point marked 04/18 on Sheet 4 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Thurlby Road Southbound	Proposed new access to be constructed at the point marked 05/05 on Sheet 5 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Thurlby Road Northbound	Existing field access to be retained and improved at the point marked 05/07 on Sheet 5 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Bassingham Road Northbound	Existing field access at the point marked 06/07 on Sheet 6 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Bassingham Road Southbound	Proposed new access to be constructed at the point marked 06/08 on Sheet 6 of

Lincolnshire County Council	Proposed Access off Bassingham Road Northbound	the streets, rights of way and access plans. Proposed new access to be constructed at the point marked 06/13 on Sheet 6 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Aubourn Moor Westbound	Existing field access to be retained and improved at the point marked 06/16 on Sheet 6 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Moor Lane Eastbound	Existing field access to be retained and improved at the point marked 07/08 on Sheet 7 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Moor Lane Westbound	Existing field access to be retained and improved at the point marked 07/09 on Sheet 7 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Clay Lane Eastbound	Proposed new access to be constructed at the point marked 08/01 on Sheet 8 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Clay Lane Southbound	Proposed new access to be constructed at the point marked 09/08 on Sheet 9 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Clay Lane Northbound	Proposed new access to be constructed at the point marked 09/09 on Sheet 9 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Fen Lane Eastbound	Proposed new access to be constructed at the point marked 10/11 on Sheet 10 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Fen Lane Eastbound	Existing field access to be retained and improved at the point marked 11/04 on Sheet 11 of the streets, rights of way and access plans.

## PART 2

### TEMPORARY MEANS OF ACCESS TO WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Location</i>	<i>(3)</i> <i>Description of Means of Access</i>
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Lincolnshire County Council	Existing Field Access off Fosse Lane Southbound	Existing field access to be utilised at the point marked 02/27 on Sheet 2 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Broughton Lane Northbound	Proposed new access to be constructed at the point marked 12/01 on Sheet 12 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Hill Rise Westbound	Existing field access to be improved at the point marked 12/04 on Sheet 12 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Rose Cottage Lane Northbound	Proposed new access to be constructed at the point marked 14/05 on Sheet 14 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Rose Cottage Lane Southbound	Proposed new access to be constructed at the point marked 14/06 on Sheet 14 of the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Green Man Road Westbound	Proposed new access to be constructed at the point marked 15/02 on Sheet 15 of the streets, rights of way and access plans.
Lincolnshire County Council	Existing Field Access off Green Man Road Eastbound	Existing field access to be improved at the point marked 16/03 on Sheet 16 of the streets, rights of way and access plans.

## SCHEDULE 8

Article 16

### TRAFFIC REGULATION MEASURES

#### PART 1

#### TEMPORARY TRAFFIC SIGNALS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Extent of temporary traffic signal and banksman control area or change to traffic regulation</i>
Clay Lane to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 1 of the Traffic Regulation Measures Plans.
Fosse Lane in both Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 2 of the Traffic Regulation Measures Plans.

7.5 Ton Weight Restriction in place on Fosse Lane Northbound, at junction between Haddington Lane and Fosse Lane, heading towards Thorpe on Hill.	Existing 7.5 Ton Weight Restriction as shown on Sheet 2 of the Traffic Regulation Measures Plans to be temporarily suspended to facilitate the access of construction vehicles to and from the authorised development to the south of the village of Thorpe on the Hill.
The Avenue to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 3 of the Traffic Regulation Measures Plans.
Old Haddington Lane in both Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 4 of the Traffic Regulation Measures Plans.
Stone Lane in both Eastbound and Westbound directions adjacent to the junction with Thurlby Road, Old Haddington Lane and Butts Lane to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 4 of the Traffic Regulation Measures Plans.
Stone Lane in both Eastbound and Westbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 4 of the Traffic Regulation Measures Plans.
Butts Lane in both Eastbound and Westbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 4 of the Traffic Regulation Measures Plans.
Thurlby Road in both Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 4 of the Traffic Regulation Measures Plans.
Thurlby Road in both Eastbound and Westbound, Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 5 of the Traffic Regulation Measures Plans.
Thurlby Road in both Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 5 of the Traffic Regulation Measures Plans.
Main Street in both Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 5 of the Traffic Regulation Measures Plans.
Bassingham Road in both Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 6 of the Traffic Regulation Measures Plans.
Aubourn Moor in both Eastbound and Westbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 6 of the Traffic Regulation Measures Plans.
Moor Lane in both Eastbound and Westbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 7 of the Traffic Regulation Measures Plans.

Clay Lane in both Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheets 7 and 9 of the Traffic Regulation Measures Plans.
Clay Lane in both Eastbound and Westbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 8 of the Traffic Regulation Measures Plans.
Fen Lane in both Eastbound and Westbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 10 of the Traffic Regulation Measures Plans.
Fen Lane in both Eastbound and Westbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 11 of the Traffic Regulation Measures Plans.
Broughton Lane in both Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 12 of the Traffic Regulation Measures Plans.
Hill Rise in both Eastbound and Westbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 12 of the Traffic Regulation Measures Plans.
A607 Grantham Road in both Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 14 of the Traffic Regulation Measures Plans.
Rose Cottage Lane in both Northbound and Southbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheet 14 of the Traffic Regulation Measures Plans.
Green Man Road in both Eastbound and Westbound directions to facilitate the construction of the authorised development.	Extents of traffic signals and banksman control presented on Sheets 15 and 16 of the Traffic Regulation Measures Plans.

## PART 2

### SPEED LIMIT CHANGES

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Extent of Temporary Speed Limit Traffic Regulation Orders</i>
40mph Temporary Speed Limit to be introduced on section of Bassingham Road.	40mph Temporary Speed Limit as shown on Sheet 6 to be introduced on section of Bassingham Road to facilitate the access of construction vehicles to and from the authorised development.

## LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

**Interpretation****1. In this Schedule—**

“access rights” means rights over land to, for the purposes of the authorised development and in connection with the authorised development—

- (a) alter, improve, form, maintain, retain, use (with or without vehicles, plant and machinery), remove, reinstate means of access to the authorised development including visibility splays, bridges, culverts and road widening or improvements and to remove and traverse impediments (including vegetation) to such access;
- (b) form, remove, reinstate passing places in the highway;
- (c) pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface);
- (d) install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary in connection with the access rights; and
- (e) restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove vegetation and restrict the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development;

“ancillary rights” means rights over land to, for the purposes of the authorised development and in connection with the authorised development, carry out such works as are required in connection with and in addition to Work Nos. 1 to 9 as specified in Schedule 1.

“cable rights” means rights over land to, for the purposes of the authorised development and in connection with the authorised development—

- (a) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain underground electrical cables, earthing cables, optical fibre cables, data cables, telecommunications cables and other apparatus, works associated with such cables including bays, ducts, protection and safety measures and equipment, and other ancillary apparatus and structures;
- (b) remain, pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface or form a temporary compound) for all purposes in connection with the authorised development;
- (c) install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain sewers, drains, pipes, ducts, mains, conduits, services, flues and to drain into and manage waterflows in any drains, watercourses and culverts;
- (d) install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary in connection with the cable rights; and
- (e) restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove vegetation and restrict the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development;

“substation connection rights” means rights over land to, for the purposes of the authorised development and in connection with the authorised development—

- (f) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain electrical cables, earthing cables, optical fibre cables, data cables,

- telecommunications cables and other services, works associated with such cables including bays, ducts, protection and safety measures and equipment, and other apparatus and structures and to connect such cables and services to the National Grid Navenby substation;
- (g) install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain watercourses, sewers, drains, pipes, ducts, mains, conduits, services, flues and drainage apparatus and equipment and to drain into and manage waterflows in any drain, watercourse and culvert;
- (h) remain, pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface or form a temporary compound) for all purposes in connection with Work No. 5;
- (i) restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development; and
- (j) install, use, support, protect, inspect, alter, remove, replace, retain, renew, improve and maintain soft landscaping and biodiversity measures;
- “vegetation maintenance rights” means rights over land to, for the purposes of the authorised development and in connection with the authorised development—
- (k) install, use, support, protect, inspect, alter, remove, replace, repair, retain, renew, relocate, improve and maintain vegetation including trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures and restrict or prevent the removal of vegetation and other ecological measures for the purposes of the authorised development and in connection with the authorised development; and
- (l) remain, pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works.

<i>(1)</i> <i>Plot reference number shown on the Land Plans</i>	<i>(2)</i> <i>Works Number(s)</i>	<i>(3)</i> <i>Purposes for which rights over land may be required and restrictive covenants imposed</i>
1/8	8A and 8B	Access rights
1/12	8A and 8B	Access rights
2/5	8B	Access rights
2/7	6	Cable rights
2/8	8A and 8B	Access rights
2/9	8A and 8B	Access rights
2/10	8A	Access rights
2/11	8A	Access rights
2/12	8A and 8B	Access rights
3/2	8B	Access rights
3/3	8B	Access rights
3/4	8B	Access rights
3/5	8B	Access rights
3/8	8A and 8B	Access rights
4/3	6	Cable rights
4/5	6	Cable rights
4/6	6 and 8B	Cable rights and access rights
4/9	8B and 9	Access rights and vegetation maintenance rights
4/10	6	Cable rights
4/11	6	Cable rights
4/13	6	Cable rights

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4/15	8A and 8B	Access rights
4/18	8A and 8B	Access rights
5/8	6, 8A and 8B	Cable rights and access rights
5/12	6	Cable rights
5/15	6	Cable rights
5/16	6	Cable rights
6/2	6, 8A and 8B	Cable rights and access rights
6/5	8B	Access rights
6/6	8B	Access rights
7/5	8A	Access rights
7/6	8A	Access rights
7/9	6, 8A and 8B	Cable rights and access rights
7/17	8B	Access rights
8/3	8A and 8B	Access rights
9/2	No works	Ancillary rights
9/6	6, 8A and 8B	Cable rights and Access rights
10/2	8B	Access rights
10/5	8A and 8B	Access rights
11/3	8A and 8B	Access rights
12/3	5A	Cable rights
12/4	5A and 8A	Cable rights and access rights
12/5	5A and 8A	Cable rights and access rights
12/6	5A	Cable rights
12/7	5A, 8A and 8B	Cable rights and access rights
12/8	5A and 8A	Cable rights and access rights
12/9	5A	Cable rights
12/10	5A	Cable rights
13/1	5A	Cable rights
13/2	5A	Cable rights
13/3	5A	Cable rights
13/4	5A	Cable rights
13/5	5A	Cable rights
13/6	5A	Cable rights
13/7	5A	Cable rights
13/8	5A	Cable rights
14/1	5A	Cable rights
14/2	5A	Cable rights
14/3	5A	Cable rights
14/4	5A	Cable rights
14/5	5A	Cable rights
14/6	5A and 8A	Cable rights and access rights
14/7	5A and 8A	Cable rights and access rights
14/8	5A and 8A	Cable rights and access rights
14/9	5A	Cable rights
15/1	5A	Cable rights
15/2	5A	Cable rights
15/3	5A	Cable rights
15/4	5A	Cable rights
15/5	5A	Cable rights
15/6	5A	Cable rights
15/7	5A	Cable rights
15/8	5A	Cable rights
15/9	5A	Cable rights

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15/10	5A	Cable rights
15/11	5A	Cable rights
15/12	5A	Cable rights
15/13	5A	Cable rights
15/14	5A	Cable rights
15/15	5A, 8A and 8B	Cable rights and access rights
15/16	5A and 8A	Cable rights and access rights
16/1	5A	Cable rights
16/2	5A and 8A	Cable rights and access rights
16/3	5A	Cable rights
16/4	5A, 8A and 8B	Cable rights and access rights
16/5	5A	Cable rights
16/6	5A and 8A	Cable rights and access rights
16/7	5A	Cable rights
16/8	5A	Cable rights
16/9	5A	Cable rights
16/10	5A	Cable rights
16/11	5A	Cable rights
16/12	5A	Cable rights
16/13	5A	Cable rights
16/14	5A	Cable rights
16/15	5A	Cable rights
16/16	5A	Cable rights
16/17	5A and 5B	Cable rights and substation connection rights
16/18	5A	Cable rights
16/19	5A	Cable rights

## SCHEDULE 10

Article 22

### 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(b) 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

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(a) 1973 c. 26.

(b) Section 7 was amended by the Forestry Act 1967 (c. 10) and section 9(3) and paragraph 5 of Part 2 of Schedule 3 of the Gas Act 1986 (c. 44). There are other amendments to this section that are not relevant to this Order.

- (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 modifications set out in sub-paragraph 2(2).

(2) In section 5A(5A) (relevant valuation date) of the 1961 Act(a) substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuant of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 10 to the Fosse Green Energy Order [\*\*]);
- (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 10 to the Fosse Green Energy Order [\*\*]) 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 1981) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act(b) to the acquisition of land under article 18 (compulsory acquisition of land) and as modified by article 28 (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 under article 22 (compulsory acquisition of rights)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(c) are as follows.

(2) References in the 1965 Act to land are 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) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests);

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(a) Section 5A(5A) was substituted by paragraph 2(2) of S.I. 2020/1099.

(b) Section 125 was amended by paragraph 17 of Schedule 16 to the Housing and Planning Act 2016 (c. 22)

(c) Section 11 was amended by paragraph 14(3) of Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), 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 paragraph 64 of Schedule 1 of S.I. 2009/1307.

- (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(a) (powers of entry) 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 19 (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(a) (powers of entry: further notices of entry), 11B(b) (counter-notice requiring possession to be taken on specified date), 12(c) (penalty for unauthorised entry) and 13(d) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(e) (tenants at will, etc.) 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 enforcement of the restrictive covenant in question.

(7) Section 22(f) (interests omitted from purchase) of the 1965 Act as modified by article 28(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 to the 1965 Act (counter notice requiring purchase of land not in notice to treat) substitute—

## “SCHEDULE 2A

### COUNTER-NOTICE REQUIRING PURCHASE OF LAND

1.—(1) This Schedule applies where an acquiring authority serves 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 24 (application of the 1981 Act) of the Fosse Green Energy Order [\*\*] in respect of the land to which the notice to treat relates.

(2) But see article 25(3) (acquisition of subsoil only) of the Fosse Green Energy Order [\*\*] which excludes the acquisition of subsoil only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

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(a) Section 11A was inserted by section 186(3) of Part 7 to the Housing and Planning Act 2016 (c.22).  
 (b) Section 11B was inserted by section 187(3) of Part 7 to the Housing and Planning Act 2016 (c.22).  
 (c) Section 12 was amended by section paragraphs (2) and (4) of Schedule 16 to the Housing and Planning Act 2016 (c.22).  
 (d) 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).  
 (e) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and paragraph 70 of Schedule 1 of S.I. 2009/1307.  
 (f) Section 22, there are amendments to this section which are not relevant to the Order.

### **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 are included in the owners 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 cause by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

## SCHEDULE 11

Article 39

### HEDGEROWS TO BE REMOVED

#### PART 1

#### HEDGEROWS WHICH ARE CLASSIFIED AS BOTH ‘ECOLOGICAL IMPORTANT HEDGEROWS’ AND ‘IMPORTANT HISTORIC HEDGEROWS’ WHICH REQUIRE REMOVAL

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of hedgerow and extent of removal</i>	<i>(3)</i> <i>Purpose of removal</i>
North Kesteven District Council	Removal of up to 27m of Hedgerow No.5 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 17m of Hedgerow No.36 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 64m of Hedgerow No.69 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 6m of Hedgerow No.94 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 17m of Hedgerow No.119 within the Order Limits as shown approximately edged in pink within Sheet 7 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 12m of Hedgerow No.174 within the Order Limits as shown approximately edged in pink within Sheet 10 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development

#### PART 2

#### ‘IMPORTANT HISTORIC HEDGEROWS’ WHICH REQUIRE REMOVAL

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of hedgerow and extent of removal</i>	<i>(3)</i> <i>Purpose of removal</i>
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North Kesteven District Council	Removal of up to 25m of Hedgerow No.4 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 8m of Hedgerow No.7 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 5m of Hedgerow No.263 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.33 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 6m of Hedgerow No.33 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 9m of Hedgerow No.25 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 11m of Hedgerow No.26 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.63 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 13m of Hedgerow No.70 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 12m of Hedgerow No.80 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 50m of Hedgerow No.81 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 12m of Hedgerow No.83 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 58m of Hedgerow No.90 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 30m of Hedgerow No.93 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development

North Kesteven District Council	Removal of up to 3m of Hedgerow No.95 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 2m of Hedgerow No.96 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 4m of Hedgerow No.100 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 2m of Hedgerow No.101 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.103 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 89m of Hedgerow No.105 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 3m of Hedgerow No.110 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.113a within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.114 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 5m of Hedgerow No.161 within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 11m of Hedgerow No.161 within the Order Limits as shown approximately edged in pink within Sheet 6 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 16m of Hedgerow No.162a within the Order Limits as shown approximately edged in pink within Sheet 6 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 22m of Hedgerow No.162b within the Order Limits as shown approximately edged in pink within Sheet 6 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 16m of Hedgerow No.164 within the Order Limits as shown approximately edged in pink within Sheet 6 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development

North Kesteven District Council	Removal of up to 66m of Hedgerow No.164c within the Order Limits as shown approximately edged in pink within Sheet 6 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 8m of Hedgerow No.168 within the Order Limits as shown approximately edged in pink within Sheet 6 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.169 within the Order Limits as shown approximately edged in pink within Sheet 6 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 18m of Hedgerow No.249 within the Order Limits as shown approximately edged in pink within Sheet 6 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 12m of Hedgerow No.250 within the Order Limits as shown approximately edged in pink within Sheet 6 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 13m of Hedgerow No.116 within the Order Limits as shown approximately edged in pink within Sheet 7 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 14m of Hedgerow No.127a within the Order Limits as shown approximately edged in pink within Sheet 7 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 3m of Hedgerow No.137 within the Order Limits as shown approximately edged in pink within Sheet 7 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 14m of Hedgerow No.140 within the Order Limits as shown approximately edged in pink within Sheet 7 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 1m of Hedgerow No.142 within the Order Limits as shown approximately edged in pink within Sheet 7 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 30m of Hedgerow No.143 within the Order Limits as shown approximately edged in pink within Sheet 7 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 27m of Hedgerow No.145 within the Order Limits as shown approximately edged in pink within Sheet 7 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 86m of Hedgerow No.158 within the Order Limits as shown approximately edged in pink within Sheet 9 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 34m of Hedgerow No.171 within the Order Limits as shown approximately edged in pink within Sheet 10 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development

North Kesteven District Council	Removal of up to 15m of Hedgerow No.175a within the Order Limits as shown approximately edged in pink within Sheet 10 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.175b within the Order Limits as shown approximately edged in pink within Sheet 10 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 13m of Hedgerow No.179 within the Order Limits as shown approximately edged in pink within Sheet 11 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 11m of Hedgerow No.179a within the Order Limits as shown approximately edged in pink within Sheet 11 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development

### PART 3

#### 'ECOLOGICAL IMPORTANT HEDGEROW' WHICH REQUIRE REMOVAL

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of hedgerow and extent of removal</i>	<i>(3)</i> <i>Purpose of removal</i>
North Kesteven District Council	Removal of up to 15m of Hedgerow No.11 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 8m of Hedgerow No.49 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.50 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 3m of Hedgerow No.57 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 19m of Hedgerow No.58 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 78m of Hedgerow No.69b within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 17m of Hedgerow No.76 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 143m of Hedgerow No.98a within the Order Limits as shown approximately edged in pink within Sheet 5 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development

**PART 4**  
**HEDGEROWS WHICH REQUIRE REMOVAL**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of hedgerow and extent of removal</i>	<i>(3)</i> <i>Purpose of removal</i>
North Kesteven District Council	Removal of up to 14m of Hedgerow No.37 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.45 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 4m of Hedgerow No.46 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 25m of Hedgerow No.47 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.48 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 12m of Hedgerow No.238 within the Order Limits as shown approximately edged in pink within Sheet 1 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.1a within the Order Limits as shown approximately edged in pink within Sheet 2 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 16m of Hedgerow No.9 within the Order Limits as shown approximately edged in pink within Sheet 2 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 25m of Hedgerow No.15 within the Order Limits as shown approximately edged in pink within Sheet 2 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 1m of Hedgerow No.16 within the Order Limits as shown approximately edged in pink within Sheet 2 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.30 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 10m of Hedgerow No.40 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development

North Kesteven District Council	Removal of up to 18m of Hedgerow No.42 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.43 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 4m of Hedgerow No.44 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.54 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 18m of Hedgerow No.60 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 3m of Hedgerow No.62 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 9m of Hedgerow No.236 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 18m of Hedgerow No.237 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 15m of Hedgerow No.243 within the Order Limits as shown approximately edged in pink within Sheet 3 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 4m of Hedgerow No.23 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 8m of Hedgerow No.73 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 139m of Hedgerow No.74 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 24m of Hedgerow No.75b within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 19m of Hedgerow No.78 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development

North Kesteven District Council	Removal of up to 32m of Hedgerow No.86 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 7m of Hedgerow No.265 within the Order Limits as shown approximately edged in pink within Sheet 4 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 10m of Hedgerow No.193 within the Order Limits as shown approximately edged in pink within Sheet 13 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 10m of Hedgerow No.193a within the Order Limits as shown approximately edged in pink within Sheet 13 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 10m of Hedgerow No.203 within the Order Limits as shown approximately edged in pink within Sheet 14 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 10m of Hedgerow No.204 within the Order Limits as shown approximately edged in pink within Sheet 14 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 18m of Hedgerow No.205 within the Order Limits as shown approximately edged in pink within Sheet 14 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 17m of Hedgerow No.206 within the Order Limits as shown approximately edged in pink within Sheet 14 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 10m of Hedgerow No.207 within the Order Limits as shown approximately edged in pink within Sheet 15 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 10m of Hedgerow No.208 within the Order Limits as shown approximately edged in pink within Sheet 15 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 10m of Hedgerow No.209 within the Order Limits as shown approximately edged in pink within Sheet 15 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 5m of Hedgerow No.210 within the Order Limits as shown approximately edged in pink within Sheet 15 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development
North Kesteven District Council	Removal of up to 38m of Hedgerow No.264 within the Order Limits as shown approximately edged in pink within Sheet 15 of 16 of Vol 2.9 Hedgerow Plans [EN010154/APP/2.9].	To facilitate construction of the authorised development

SCHEDULE 12

Article 41

DOCUMENTS AND PLANS TO BE CERTIFIED

<i>(1)</i> <i>Document name</i>	<i>(2)</i> <i>Document reference</i>	<i>(3)</i> <i>Revision number</i>	<i>(4)</i> <i>Date</i>
biodiversity net gain report	EN010154/APP/7.12	1	July 2025
book of reference	EN010154/APP/4.3	1	July 2025
design commitments	EN010154/APP/7.3	1	July 2025
environmental statement	EN010154/APP/6.1	1	July 2025
framework battery safety management plan	EN010154/APP/7.17	1	July 2025
framework construction environmental management plan	EN010154/APP/7.7	1	July 2025
framework construction traffic management plan	EN010154/APP/7.18	1	July 2025
framework decommissioning environmental management plan	EN010154/APP/7.9	1	July 2025
framework employment, skills and supply chain plan	EN010154/APP/7.16	1	July 2025
framework landscape and ecological management plan	EN010154/APP/7.15	1	July 2025
framework operational environmental management plan	EN010154/APP/7.8	1	July 2025
framework public rights of way management plan	EN010154/APP/7.14	1	July 2025
framework soil management plan	EN010154/APP/7.10	1	July 2025
framework surface water drainage strategy	EN010154/APP/6.3	1	July 2025
framework written scheme of investigation	EN010154/APP/7.[**]	1	[**]
hedgerow plans	EN010154/APP/2.9	1	July 2025
land plans	EN010154/APP/2.1	1	July 2025
proposed development parameters	EN010154/APP/7.4	1	July 2025
streets, rights of way and access plans	EN010154/APP/2.3	1	July 2025

traffic regulation measures plans	EN010154/APP/2.4	1	July 2025
waterbodies in a river basin management plan	EN010154/APP/2.7	1	July 2025
works plans	EN010154/APP/2.2	1	July 2025

## SCHEDULE 13 ARBITRATION RULES

Article 43

### 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;
- (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;
- (c) any objection 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 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within 7 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) 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;
- (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.

## PROTECTIVE PROVISIONS

## PART 1

## FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule, the following provisions have effect, unless specific provision to the contrary is made in this Schedule 14 or otherwise agreed in writing between the undertaker and the utility undertakers 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 not 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 utility undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker—
  - (i) mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and
  - (ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991(b); and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the utility 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) of that Act(d) or an agreement to adopt made under section 104 of that Act(e),

and includes a sludge main, disposal main (within the meaning of section 219 of that Act(f)) or sewer outfall and any manholes, 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;

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- (a) 1989 c. 29.
  - (b) 1991 c. 56. Section 51A was amended by section 10(2)(a), (b) and (c) of Chapter 2 of Part 1 of the Water Act 2014 (c. 21). There are other amendments to this section that are not relevant to this Order.
  - (c) 1991 c. 56.
  - (d) 1991 c. 56. Section 102(4) was amended by section 96(1)(c) of Part 3 of the Water Act 2003 (c. 37) and paragraph 90 of Schedule 7 of the Water Act 2014 (c. 21).
  - (e) 1991 c. 56. Section 104 was amended by section 11(2)(a), (b) and (c) of Chapter 2 of Part 1 of the Water Act 2014 (c. 21). There are other amendments to this section that are not relevant to this Order.
  - (f) 1991 (c. 56). Section 219 was amended by paragraph 89(b) of Schedule 13 to the Merchant Shipping Act 1995 (c. 21); paragraph 125(b) of Schedule 22 and Schedule 24 to the Environment Act 1995 (c. 25); article 30(c) of Part II of S.I. 1999/506; paragraph 15 of Part 1 of Schedule 1 of S.I. 2003/1615; paragraph 110 of Schedule 17 to the Communications Act 2003 (c. 21); sections 57(9), 92(6), 97(9)(a), 99(6) of Part 3, paragraph 27(7)(a),(b) and (d) of Part 2 of Schedule 7, paragraph 50(2)(a) and (b) and (3) of Schedule 8, paragraph 9(3) of Schedule 9 of the Water Act 2003 (c. 37); paragraph 59 of Schedule 8 to the Housing and Regeneration Act 2008 (c. 17); paragraph 126(3) of Schedule 1 of S.I. 2009/1941; paragraph 29 of Schedule 19 to the Localism Act 2011 (c. 20); paragraph 68(a) and (b) of Part 1 of Schedule 6 to the Enterprise and Regulatory Reform Act 2013 (c. 24); paragraph 120(2)(a), (b), (c), (e), (f) and (g) and (3) of Schedule 7 of the Water Act 2014 (c. 21); and paragraph 11 of Schedule 2 of S.I. 2016/744. There are other amendments to this section that are not relevant to this Order.

“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; and

“utility undertaker” means—

- (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(a);
- (c) 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 utility undertaker to whom it belongs or by whom it is maintained.

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 of the 1991 Act.

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 12 (temporary prohibition or restriction of the use 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.

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.

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 over which access to any apparatus is enjoyed 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 and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

(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 written notice of that requirement, together with a plan and section 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, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(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 43 (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 43 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-

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(a) 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).

paragraph (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 it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by 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.

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 must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(2) 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.

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, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description 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, section and description under sub-paragraph (1) are 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 7 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, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

**9.—**(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses 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 6(2).

(2) There is to 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,

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 43 (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) is to 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 where such extension is required in consequence of the execution of any such works as are referred to in paragraph 6(2); and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole 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 of the works referred to in paragraph 6(2), any damage is caused to any 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 utility 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 which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

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 undertaking 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

12.—(1) For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

(2) 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 section 106 (application of the electronic communications code) of the 2003 Act(b);

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit 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 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State 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 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

13. The exercise of the powers of article 31 (statutory undertakers) is subject to Part 10 (undertakers’ works affecting electronic communications apparatus) of the electronic communications code.

14.—(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 which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

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(a) 2003 c. 21.

(b) 2003 (c. 21). Section 106 was amended by section 4(4) – (9) of Part 2 of the Digital Economy Act 2017 (c. 30).

(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 43 (arbitration).

15. This Part of this Schedule does not apply to—

- (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 damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

16. 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 LINCOLNSHIRE FIRE AND RESCUE

#### Interpretation

17.—(1) For the protection of Lincolnshire Fire and Rescue as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Lincolnshire Fire and Rescue.

(2) In this Part of this Schedule—

“Index Linked” means an increase in the sums payable on an annual basis or pro rata per diem in accordance with the most recent published figure for the Consumer Price Index, or during any period when no such index exists the index which replaces it or is the nearest equivalent to it; and

“Lincolnshire Fire and Rescue” means Lincolnshire County Council in its capacity as a fire and rescue authority pursuant to section 1(2)(a) of the Fire and Rescue Services Act 2004(a).

#### Site Visits

18.—(1) The undertaker must, prior to the date of final commissioning of [the authorised development](#) ~~Work No. 2 or Work No. 3~~, use reasonable endeavours to facilitate a site familiarisation exercise in connection with Work No. 2 or Work No. 3 of the authorised development for Lincolnshire Fire and Rescue for the purposes of providing the necessary assurance to Lincolnshire Fire and Rescue that all the required systems and measures are in place in accordance with the battery safety management plan.

(2) Following the first anniversary of the date of final commissioning of ~~Work No. 2 or Work No. 3~~ of the authorised development, the undertaker must use reasonable endeavours to facilitate an annual review of Work No. 2 or Work No. 3 by Lincolnshire Fire and Rescue at the reasonable request of Lincolnshire Fire and Rescue, up until the year in which the undertaker commences decommissioning of Work No. 2 or Work No. 3.

#### Costs

19.—(1) Pursuant to the provision set out at sub-paragraph 2, the undertaker must pay to Lincolnshire Fire and Rescue—

- (a) £16,665 in the first year of operation of the authorised development for, or in connection with Lincolnshire Fire and Rescue’s attendance at the site familiarisation exercise facilitated by the undertaker pursuant to paragraph 18(1), such sum to be paid within 30 days following the date of the site familiarisation exercise; and

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(a) 2004 (c. 21) Section 1(2) was substituted by paragraph 111 of Schedule 2(2) of the Policing and Crime Act 2017 (c.3).

(b) £1,530 in each subsequent year of operation of the authorised development until the date of decommissioning of Work No. 2 or Work No. 3, such sums to be paid within 30 days of the date of the annual review for that year, if in that year an annual review has taken place pursuant to paragraph 18(2).

(2) The costs payable under sub-paragraph (1)(b) are to be Index Linked.

### **Arbitration**

20. Any difference or dispute arising between the undertaker and Lincolnshire Fire and Rescue under this Part of this Schedule must be determined by arbitration in accordance with article 43 (arbitration).

## PART 4

### FOR THE PROTECTION OF CADENT GAS LIMITED

#### Application

21. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

#### Interpretation

22. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991(a);

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipelines, pipes, pressure governors, ventilators, cathodic protection (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to, or maintained by, Cadent for the purposes of Cadent’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“Cadent” means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986(b);

“Cadent’s undertaking” means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995)(c);

“commence” and “commencement” has the same meaning as in article 2 of the Order and for the purposes of this Part of this Schedule includes any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition.

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(a) 1991 (c. 22).

(b) 1986 (c. 44).

(c) 1986 (c. 44). Section 7 was substituted by section 5 of the Gas Act 1995 (c. 45).

the receipt and erection of construction plant and equipment, and non-intrusive investigations for the purpose of assessing ground conditions;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“facilities and rights” for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for Cadent’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes notwithstanding article 2 of the Order, the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“rights” includes rights and restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“specified works” means any of the authorised works or activities (including maintenance) undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 26(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 26(2) or otherwise; or
- (c) include any of the activities that are referred to in CD/SP/SSW/22 Cadent’s policies for safe working in proximity to gas apparatus Specification for safe working in the vicinity of Cadent Assets; and

“undertaker” means the undertaker as defined in article 2 of this Order.

### **On Street apparatus**

23.—(1) This Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

- (a) paragraphs 24, 29, 30 and 31; and

(b) where sub-paragraph (2) applies, paragraphs 26 and 27.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) Notwithstanding article 28(5) or any other powers in the Order generally, section 85 of the 1991 Act in relation to cost sharing and the regulations made thereunder will not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

(4) The Protective Provisions in this Part of this Schedule apply and take precedence over article 32 (Apparatus and rights of statutory undertakers in stopped up streets) of the Order which do not apply to Cadent.

### **Apparatus of Cadent in stopped up streets**

24.—(1) Where any street is stopped up under article 12 (temporary prohibition or restriction of the use of streets and public rights of way), if Cadent has any apparatus in the street or accessed via that street Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway, but nothing in this paragraph affects any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 26.

(2) Notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 12 (temporary prohibition or restriction of the use of streets and public rights of way), Cadent will be at liberty at all times to take all necessary access (subject to health & safety) across any such street and to execute and execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street.

### **Acquisition of land**

25.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of Cadent and/or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(4) Any agreement or consent granted by Cadent under paragraph 28 or any other paragraph of this Part of this Schedule, will be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 26 do not apply, the undertaker must, unless Cadent agrees otherwise —

(a) retain any notice of Cadent’s easement, right or other interest on the title to the relevant land when registering the undertaker’s title to such acquired land; and

(b) (where no such notice of Cadent’s easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker’s interest in such acquired land at the Land Registry) a notice of Cadent’s easement, right or other interest in relation to such acquired land.

### **Removal of apparatus**

26.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 25, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent a minimum of 28 days advance written notice of that requirement, together with a plan and section 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 Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account paragraph 27(1)) the necessary facilities and rights—

(a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);

(b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and

(c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If 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, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed as soon as reasonably practicable save that this obligation will not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by 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 Cadent and the undertaker or settled by arbitration.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed or settled, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-

paragraph (2) or (3) have been afforded to Cadent to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

(6) Cadent must act reasonably and without undue delay in approving the plan and details submitted in accordance with paragraph 26(2) and must engage with the undertaker to agree these details as soon as reasonably possible.

### **Facilities and rights for alternative apparatus**

27.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 34 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection of Cadent**

28.—(1) Not less than 56 days (or such time period as may be agreed in writing between Cadent and the undertaker) before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

- (a) must explain the steps which Cadent is taking to identify whether and what conditions will be required and may include a preliminary indication of any conditions likely to be imposed pursuant to paragraph 28(4)(b) and must include a likely timescale for a response on such approval for the undertakers review;
- (b) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and

(c) must not be unreasonably withheld or delayed.

(5) For the purposes of sub-paragraph (4)(b) it will be deemed to be reasonable for any approval to be refused if Cadent considers that the specified works would:

(a) cause interference with or risk of damage to its apparatus; or

(b) prevent access to its apparatus at any time.

(6) In relation to any specified works to which sub-paragraph (1) applies Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) The specified works must only be executed in accordance with—

(a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and

(b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(8) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(9) If Cadent, 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 221 to 223 and 25 to 27 apply as if the removal of the apparatus had been required by the undertaker under paragraph 26(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days (unless otherwise agreed in writing by Cadent and the undertaker) before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) As soon as reasonably practicable after any ground subsidence event attributable to the authorised works (including such an event attributable to its maintenance)—

(a) the undertaker must implement an appropriate ground mitigation scheme; and

(b) Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 29.

(12) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with

(a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and

(b) Sub-paragraph (14) at all times.

(13) In this paragraph, “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.

(14) At all times when carrying out any works authorised under the Order the undertaker must comply with the Cadent's policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of Cadent Assets CAD//SP/SSW/22” and HSE’s “HS(~G)47 Avoiding Danger from underground services.

## Expenses

29.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent within 14 days from the demand all charges, costs and expenses anticipated or reasonably incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the negotiation and/or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent; and/or
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 26(3) if it elects to do so; and/or
  - (ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 228(6).

(2) There will 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 and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule –

- (a) apparatus of a 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 paragraph 34 (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 Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances (or it would be unlawful due to a statutory or regulatory change) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not 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 a manhole will 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 Cadent in respect of works by virtue of sub-paragraph (1) will, 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 Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where anticipated charges, costs or expenses have been paid by the undertaker pursuant to sub-paragraph (1), if the actual charges, costs or expenses incurred by Cadent are less than the amount already paid by the undertaker, Cadent will repay the difference to the undertaker as soon as reasonable practicable.

### **Indemnity**

30.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these 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 the authorised development) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay within 14 days from the demand, accompanied by a valid invoice addressed to the undertaker and a copy of the claim from Cadent, the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and

(b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs reasonably and properly incurred by, paid by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and

(b) any part of the authorised works carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008(a) or article 35 (consent to transfer the benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 30; and

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(a) 2008 (c. 29).

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage of interruption, which is not reasonably foreseeable at the commencement of the relevant works referred to in sub-paragraph (1) that is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents.

(4) Cadent must:

(a) give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations; and

(b) use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within Cadent's reasonable gift and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of Cadent's control and if reasonably requested to do so by the undertaker Cadent must provide an explanation of how the claim has been minimised.

### **Enactments and agreements**

31. Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

32.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or Cadent requires the removal of apparatus under paragraph 26(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 28, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, Cadent's consent must not be unreasonably withheld or delayed.

### **Access**

33. If in consequence of any agreement reached in accordance with paragraph 25(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

34. Save for differences or disputes arising under paragraphs 26(2) and 26(4) any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 43 (arbitration).

## Notices

35. Notwithstanding article 45 (service of notices) any plans submitted to Cadent by the undertaker pursuant to paragraph 28(1) must be sent via email to Cadent Gas Limited Plant Protection at [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) copied by e-mail to [REDACTED]@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

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## SCHEDULE 15

Article 46

### PROCEDURE FOR DISCHARGE OF REQUIREMENTS

#### **Interpretation**

1. In this Schedule—

“appeal documentation” means a written statement of appeal which describes the nature of the differences between the parties, the factual issues, the undertaker’s case and evidence relied on;

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

“discharge” means any consent, agreement or approval required by—

- (a) a requirement;
- (b) a document referred to by a requirement; or
- (c) a document that has been approved pursuant to a requirement;

“requirement consultee” means any body or authority named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement; and

“start date” means the date of the notification given by the Secretary of State under paragraph 4(2)(c).

#### **Applications made under requirement**

2.—(1) Where an application has been made to the relevant planning authority for any discharge, the relevant planning authority must give notice to the undertaker of its decision on the application within a period of ten weeks beginning with the later of—

- (a) the day immediately following that on which the application is received by the authority;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph (3); or
- (c) such longer period that is agreed in writing by the undertaker and the relevant planning authority.

(2) Subject to paragraph (4), 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 to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Any application made to the relevant planning authority pursuant to sub-paragraph (1) must—

- (a) include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared

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(a) 1971 c. 80.

to those in the environmental statement and if it will then it must be accompanied by information setting out what those effects are; and

- (b) include confirmation that the application has been notified and provided to the requirement consultees in accordance with sub-paragraph (5), if the provision governing or requiring the application specifies that consultation with a requirement consultee is required. Such confirmation to include contact details for the requirement consultees.

(4) Where an application has been made to the relevant planning authority for any discharge and the relevant planning authority does not determine the application within the period set out in sub-paragraph (1)—

- (a) and the application is accompanied by a report pursuant to sub-paragraph (3)(a) which stated that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or
- (b) the relevant planning authority considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,

then the application is to be taken to have been refused by the relevant planning authority at the end of that period.

(5) Where an application has been made to the relevant planning authority for any discharge, the undertaker will also submit a copy of that application to any requirement consultee and the requirement consultee will be given no less than 15 working days in which to respond to the relevant planning authority.

#### **Further information and consultation**

3.—(1) In relation to any application to which this Schedule applies, the relevant planning authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the relevant planning authority considers such further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required, the relevant planning authority must, within 20 working days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant planning authority must issue the consultation to the requirement consultee within 10 working days of receipt of the application, and must notify the undertaker in writing specifying any further information the relevant planning authority considers necessary of that is requested by the requirement consultee within 10 working days of receipt of such a request and in any event within 20 working days of receipt of the application (or such other period as is agreed in writing between the undertaker and the relevant planning authority).

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

(5) Where further information is requested under this paragraph in relation to part only of an application, that part is to be treated as separate from the remainder of the application for the purposes of calculating time periods in paragraph (2)(1) and (3).

#### **Appeals**

4.—(1) The undertaker may appeal in the event that—

- (a) the relevant planning authority refuses an application for any discharge or grants it subject to conditions;

- (b) the relevant planning authority is deemed to have refused an application pursuant to paragraph 2(4);
- (c) on receipt of a request for further information pursuant to paragraph 3 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, the relevant planning authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The steps to be followed in the appeal process are as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or the determination, or (where no determination has been made) the expiry of the time period set out in paragraph 2(a), giving rise to the appeal referred to in 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 and any requirement consultee;
- (c) the Secretary of State must appoint a person to determine the appeal as soon as reasonably practicable and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person's attention should be sent;
- (d) the relevant planning authority and any requirement consultee must submit written representations to the appointed person in respect of the appeal within 10 working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (e) the undertaker may make any counter-submissions to the appointed person within 10 working days of receipt of written representations pursuant to sub-paragraph (d);
- (f) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable; and
- (g) the appointment of the person pursuant to sub-paragraph (c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(3) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal they must within 10 working days of the appointed person's appointment, notify the appeal parties in writing specifying the further information required.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the relevant party to the appointed person and the other appeal parties on the date specified by the appointed person (the "specified date"), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations on the appointed person within 10 working days of the specified date, but otherwise the process and time limits set out in sub-paragraphs (2)(d) to (2)(f) of sub-paragraph (2) apply.

(5) The appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision 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 them in the first instance.

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

(7) 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 them that there is sufficient material to enable a decision to be made on the merits of the case.

(8) The decision of the appointed person on an appeal is to be final and binding on the parties, unless proceedings are brought by a claim for judicial review.

(9) If an approval is given by the appointed person pursuant to this Schedule, it is to be deemed to be an approval for the purpose of Schedule 2 (requirements) as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(10) Save where a direction is given pursuant to sub-paragraph (11) requiring 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.

(11) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. 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 advice on planning appeals and award costs published in Planning Practice Guidance: Appeals ([April 2024](#)~~March 2014~~) or any circular or guidance which may from time to time replace it.

## Fees

5.—(1) Where an application is made to the relevant planning authority for a discharge, a fee is to apply and must be paid to the relevant planning authority for each application.

(2) The fee payable for each application under sub-paragraph (1) is as follows—

- (a) a fee of £2,535 for the first application for the discharge of each of the requirements 6, 8, 9, 11, 12, 13 and 20;
- (b) a fee of £578 for each subsequent application for the discharge of each of the requirements listed in paragraph (a) and any application under requirement 4 in respect of the requirements listed in paragraph (a); and
- (c) a fee of £145 for any application for the discharge of—
  - (i) any other requirements not listed in paragraph (a);
  - (ii) any application under requirement 4 in respect of requirements not listed in paragraph (a); and
  - (iii) any approval required by a document referred to by any requirement or a document approved pursuant to any requirement.

(3) 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 decision period as determined under paragraph 2(1) and (as relevant) 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 for determining the application has been agreed pursuant to paragraph 2(1) or of this Schedule (as relevant).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

This Order authorises Fosse Green Energy 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, battery energy storage system 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 the Order and certified in accordance with article 41 (certification of plans and documents, etc) of this Order may be inspected free of charge during working hours at 22 Grosvenor Gardens, London, United Kingdom, SW1W 0DH.