Fosse Green Energy

Fosse Green Energy

EN010154

3.1 Draft Development Consent Order (Clean)

Planning Act 2008 (as amended)

Regulation 5(2)(b)

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

24 March 2026

VOLUME

3

Planning Act 2008

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

Fosse Green Energy

Development Consent Order 202[ ]

3.1 Draft Development Consent Order

Regulation Reference	Regulation 5(2)(b)
Planning Inspectorate Scheme Reference	EN010154
Application Document Reference	EN010154/APP/3.1
Author	Fosse Green Energy Limited

Version	Date	Issue Purpose
Rev 1	18 July 2025	DCO Submission
Rev 2	20 January 2026	Deadline 1
Rev 3	06 February 2026	Deadline 2
Rev 4	24 March 2026	Deadline 3A

STATUTORY INSTRUMENTS

202* No.***

INFRASTRUCTURE PLANNING

The Fosse Green Energy Order 202*

Made - - - -	***
Laid before Parliament	***
Coming into force	***

CONTENTS

PART 1
PRELIMINARY

1.	Citation and commencement	5
2.	Interpretation	5

PART 2
PRINCIPAL POWERS

3.	Development consent etc. granted by this Order	9
4.	Operation of generating station	9
5.	Power to maintain authorised development	9
6.	Application and modification of statutory provisions	10
7.	Defence to proceedings in respect of statutory nuisance	11

PART 3
STREETS

8.	Street Works	11
9.	Application of the permit scheme	12
10.	Power to alter layout, etc. of streets	12
11.	Construction and maintenance of altered streets	13
12.	Temporary prohibition or restriction of the use of streets and public rights of way	13
13.	Stopping up of public rights of way	14
14.	Access to works	15
15.	Agreements with street authorities	16
16.	Traffic regulation measures	16

PART 4
SUPPLEMENTAL POWERS

17. Discharge of water 17
18. Authority to survey and investigate the land 18

PART 5
POWERS OF ACQUISITION

19. Compulsory acquisition of land 19
20. Time limit for exercise of authority to acquire land compulsorily 19
21. Compulsory acquisition of land – incorporation of the mineral code 20
22. Compulsory acquisition of rights 20
23. Private rights 20
24. Application of the 1981 Act 21
25. Acquisition of subsoil only 22
26. Power to override easements and other rights 22
27. Modification of Part 1 of the Compulsory Purchase Act 1965 23
28. Rights under or over streets 24
29. Temporary use of land for constructing the authorised development 24
30. Temporary use of land for maintaining the authorised development 25
31. Statutory undertakers 26
32. Apparatus and rights of statutory undertakers in stopped up streets 27
33. Recovery of costs of new connections 27

PART 6
MISCELLANEOUS AND GENERAL

34. Benefit of the Order 27
35. Consent to transfer the benefit of the Order 27
36. Application of landlord and tenant law 29
37. Operational land for purposes of the 1990 Act 29
38. Planning permission, etc. 29
39. Felling or lopping of trees and removal of hedgerows 30
40. Trees subject to tree preservation orders 30
41. Certification of plans and documents, etc. 31
42. No double recovery 31
43. Arbitration 31
44. Protective Provisions 31
45. Service of notices 31
46. Procedure in relation to certain approvals etc. 33
47. Guarantees in respect of payment of compensation 33

SCHEDULES

SCHEDULE 1 — AUTHORISED DEVELOPMENT 34
SCHEDULE 2 — REQUIREMENTS 38

SCHEDULE 3 — LEGISLATION TO BE DISAPPLIED 44
SCHEDULE 4 — STREETS SUBJECT TO STREET WORKS 45
SCHEDULE 5 — ALTERATION OF STREETS 48
PART 1 — PERMANENT ALTERATION OF LAYOUT 48
PART 2 — TEMPORARY ALTERATION OF LAYOUT 50
SCHEDULE 6 — STREETS AND PUBLIC RIGHTS OF WAY 52
PART 1 — TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF STREETS 52
PART 2 — TEMPORARY CLOSURE OF PUBLIC RIGHTS OF WAY WITH DIVERSIONS 56
PART 3 — PERMANENT USE OF MOTOR VEHICLES ON PUBLIC RIGHTS OF WAY 58
PART 4 — TEMPORARY MANAGEMENT OF PUBLIC RIGHTS OF WAY 61
PART 5 — TEMPORARY USE OF MOTOR VEHICLES ON PUBLIC RIGHTS OF WAY 66
SCHEDULE 7 — ACCESS TO WORKS 67
PART 1 — PERMANENT MEANS OF ACCESS TO WORKS 67
PART 2 — TEMPORARY MEANS OF ACCESS TO WORKS 69
SCHEDULE 8 — TRAFFIC REGULATION MEASURES 70
PART 1 — TEMPORARY TRAFFIC SIGNALS 70
PART 2 — SPEED LIMIT CHANGES 72
SCHEDULE 9 — LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED 72
SCHEDULE 10 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIVE COVENANTS 76
SCHEDULE 11 — HEDGEROWS TO BE REMOVED 80
PART 1 — HEDGEROWS WHICH ARE CLASSIFIED AS BOTH ‘ECOLOGICAL IMPORTANT HEDGEROWS’ AND ‘IMPORTANT HISTORIC HEDGEROWS’ WHICH REQUIRE REMOVAL 80
PART 2 — ‘IMPORTANT HISTORIC HEDGEROWS’ WHICH REQUIRE REMOVAL 80
PART 3 — ‘ECOLOGICAL IMPORTANT HEDGEROW’ WHICH REQUIRE REMOVAL 84
PART 4 — HEDGEROWS WHICH REQUIRE REMOVAL 84
SCHEDULE 12 — DOCUMENTS AND PLANS TO BE CERTIFIED 87
SCHEDULE 13 — ARBITRATION RULES 89
SCHEDULE 14 — PROTECTIVE PROVISIONS 91
PART 1 — FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS 91
PART 2 — FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS 95
PART 3 — FOR THE PROTECTION OF LINCOLNSHIRE FIRE AND RESCUE 97
PART 4 — FOR THE PROTECTION OF CADENT GAS LIMITED 98
PART 5 — FOR THE PROTECTION OF NATIONAL HIGHWAYS LIMITED 106
PART 6 — FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED 117

PART 7 — FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY DISTRIBUTION (EAST MIDLANDS) PLC 122
PART 8 — FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER 128
PART 9 — FOR THE PROTECTION OF PRAX LINDSEY OIL REFINERY LIMITED (IN LIQUIDATION) AND PRAX DOWNSTREAM UK LIMITED (IN LIQUIDATION) 139
SCHEDULE 15 — PROCEDURE FOR DISCHARGE OF REQUIREMENTS 142

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.

(**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.

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(**a**);

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

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

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

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

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

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

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

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

"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;

(**a**) 1961 (c. 33).
(**b**) 1965 (c. 56).
(**c**) 1980 (c. 66).
(**d**) 1981 (c. 66).
(**e**) 1984 (c. 27).
(**f**) 1989 (c. 29).
(**g**) 1990 (c. 8).
(**h**) 1991 (c. 22).
(**i**) 2008 (c. 29).

"date of final commissioning" means the date on which 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 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**);

"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;

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

"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;

(b) removal of plant and machinery;

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

(d) the temporary display of site notices or advertisements;

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

(f) geotechnical surveys and other investigations for the purpose of assessing ground conditions;

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

(h) diversion of existing apparatus and laying of temporary apparatus;

(**a**) "highway" is defined in section 328(1). For "highway authority" see section 1.

(**b**) 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.

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

(j) advanced planting to allow for early establishment of protective screening;

"permitted preliminary works 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 permitted preliminary works environmental management plan for the purposes of this Order;

"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;

"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);

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

"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

---

(**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**) 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).

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

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

(3) In this Order, 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**);

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

(c) the provisions of any byelaws made under section 66(**c**) (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(**d**);

(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(**e**) 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(**f**), 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(**g**) 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(**h**) 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.".

(**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 was amended by Schedule 2 of S.I. 2013/755.

(**c**) 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).

(**d**) 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).

(**e**) 2017 (c. 20).

(**f**) 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.

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

(**h**) S.I. 2012/605.

(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(**a**) 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.

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(**b**) 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(**c**), 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).

(**a**) 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.

(**b**) 1990 (c. 43).

(**c**) 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) 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.

(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(**a**).

(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

(**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).

(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)(**a**) of the Wildlife and Countryside Act 1981.

(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(**b**);

"surveying authority" has the meaning given to it by section 66(1)(**c**) (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).

(**a**) 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).

(**b**) 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).

(**c**) 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.

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.

(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.

(**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.

(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(**a**) 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

(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(**b**) (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(**c**).

(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.

(**a**) S.I. 2011/935.
(**b**) 2004 (c. 18).
(**c**) 1991 (c. 56).

(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(**a**).

(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(**b**) have the same meaning as in that Act.

(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.

(**a**) S.I. 2016/1154.
(**b**) 1991 (c. 57).

(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 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

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

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—

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

(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 authorised development 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 authorised development 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**) 2003 (c. 21).

(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

(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.

(**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.

(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—

(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 10 April 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;

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

(b) the duty contained in section 206(1) (replacement of trees)(**a**) 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 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.

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

(a) by post;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Name
Address — Parliamentary Under Secretary of State
Date — 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 braker 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, 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.

SCHEDULE 2

Article 3

REQUIREMENTS

Interpretation

1. In this Schedule—

"part" means a part of the authorised development as set out in the written scheme submitted to the relevant planning authority and Lincolnshire County Council pursuant to Requirement 6(7);

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

(a) Requirement 7 (battery safety management);

(b) Requirement 10 (surface and foul water drainage);

(c) Requirement 11 (archaeology);

(d) Requirement 14 (construction traffic management plan);

(e) Requirement 17 (permissive paths); and

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

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 authorised development unless otherwise agreed with the relevant planning authority.

Detailed design approval

6.—(1) No part of the authorised development is to be commenced 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 written notification has been provided to the relevant planning authority that the authorised development is to be implemented with either Work No. 2 or Work No. 3.

(7) The authorised development must not be commenced until a written scheme setting out the parts in which the authorised development is to be constructed has been submitted to the relevant planning authority and Lincolnshire County Council.

(8) The permitted preliminary works must be carried out in accordance with the provisions of the permitted preliminary works environmental management plan.

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, including any preliminary vegetation clearance works for that part, is to be commenced 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, the Environment Agency and, in respect of landscaping and ecological mitigation within 15 metres of the A46, with National Highways.

(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, including any preliminary works for that part comprising the provision of temporary means of enclosure, is to be commenced 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 is to be commenced 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.

(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 is to be commenced 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) No part of the authorised development is to be commenced until—

(a) a scheme for additional trial trenching for that part has been submitted to and approved by the relevant planning authority, in consultation with Historic England;

(b) additional trial trenching has been carried out for that part 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 relevant part of 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 activities within paragraphs (f) to (j) of the permitted preliminary works unless otherwise agreed with the relevant planning authority.

Construction environmental management plan

12.—(1) No part of the authorised development is to be commenced 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 of the authorised development, an operational environmental management plan 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 the authorised development must be carried out and maintained in accordance with the approved operational environmental management plan.

Construction traffic management plan

14.—(1) No part of the authorised development is to be commenced 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 is to be commenced 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 which emits operational noise is to be brought into operational use until an operational noise assessment for that part has been submitted to and approved by the relevant planning authority. The operational noise assessment(s) to be submitted for the approval of the relevant planning authority must demonstrate how the design of the relevant part of the authorised development has incorporated mitigation to ensure that the relevant operational noise rating levels set out in Table 11-21 of Chapter 11 of the environmental statement have been compiled with.

(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) No part of the authorised development is to be commenced until details of—

(a) the final routing of the permissive path(s) 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(s); and

(c) the maintenance regime for the permissive path(s),

relating to that part have been submitted to and approved in writing by the relevant planning authority in consultation with North Kesteven District Council.

(2) On the day following the date of final commissioning of the authorised development, the permissive paths approved under sub-paragraph (1) must be made open to the public.

(3) Until the commencement of any decommissioning works for the authorised development pursuant to requirement 20 (decommissioning), the approved permissive paths must be—

(a) maintained in accordance with the details approved under sub-paragraph (1); and

(b) kept open to the public in accordance with the details approved under section 6 ‘Permissive Paths’ of the landscape and ecological management plan).

Public rights of way

18.—(1) No part of the authorised development is to be commenced 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) The authorised development must not be commenced until an employment, skills and supply chain plan 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) The 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 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.

(3) The decommissioning environmental management plan submitted and approved under sub-paragraph (2) must be substantially in accordance with 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 the authorised development.

(6) This requirement is without prejudice to any other consents or permissions which may be required to decommission 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

(**a**) 1977 c. xiii.
(**b**) 1846 c. cxi.
(**c**) 1865 c. ccxvi.
(**d**) 1878 c. vcviii.
(**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) Trent Valley Internal Drainage Board byelaws(**a**).

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.

(1) *Area*	*(2)* *Street*	*(3)* *Description of the street works*
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.

(**a**) 2018.

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 accesses 04/17 to 05/08 on Sheets 4 and 5 of the streets, rights of way and access plans.
Lincolnshire County Council	Main Street	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.
Lincolnshire County Council	Bassingham Road	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.
Lincolnshire County Council	Moor Lane	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.
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 accesses 08/01 to 08/02 on Sheet 8 of the streets, rights of way and access plans.
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 accesses 09/08 to 09/09 on Sheet 9 of the streets, rights of way and access plans.
Lincolnshire County Council	Fen Lane	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.
Lincolnshire County Council	Fen Lane	Street works to facilitate cable installation works and carriageway surface repairs for the length shown in green patterned hatching near accesses 11/02 to 11/04 on Sheet 11 of the streets, rights of way and access plans.
Lincolnshire County Council	Broughton Lane	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

Articles 10 and 11

ALTERATION OF STREETS

PART 1

PERMANENT ALTERATION OF LAYOUT

(1) *Area*	*(2)* *Street*	*(3)* *Description of alteration*
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 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 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

(1)	*(2)*	*(3)*

Area	*Street*	*Description of alteration*
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 access plans subsequent to improvements to adjoining field access.
Lincolnshire County Council	Broughton Lane	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.

SCHEDULE 6

Article 12

STREETS AND PUBLIC RIGHTS OF WAY

PART 1

TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF STREETS

(1) *Area*	*(2)* *Street*	*(3)* *Measure*
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

		the length coloured in solid green and / or green patterned hatching on Sheet 7 of the streets, rights of way and access plans.
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 8 of the streets, rights of way and access plans.
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 9 of the streets, rights of way and access plans.
Lincolnshire County Council	Fen 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 10 of the streets, rights of way and access plans.
Lincolnshire County Council	Fen 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 11 of the streets, rights of way and access plans.
Lincolnshire County Council	Broughton 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 patterned

		hatching on Sheet 12 of the streets, rights of way and access plans.
Lincolnshire County Council	Hill Rise	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.
Lincolnshire County Council	A607 Grantham Road	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.
Lincolnshire County Council	Rose Cottage 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 beige and / or green patterned hatching on Sheet 14 of the streets, rights of way and access plans.
Lincolnshire County Council	B1202 Heath 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 street works for the length coloured in green patterned hatching on Sheet 14 of the streets, rights of way and access plans.
Lincolnshire County Council	Green Man 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 beige and / or green patterned hatching on Sheets 15 and 16 of the streets, rights of way and access plans.

PART 2

TEMPORARY CLOSURE OF PUBLIC RIGHTS OF WAY WITH DIVERSIONS

(1) *Area*	*(2)* *PRoW Reference*	*(3)* *Measure*
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

		streets, rights of way, and access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL|Aubo|10/1	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

		construction of the authorised development.
Lincolnshire County Council	LL|BooG|2/2	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.

PART 3

PERMANENT USE OF MOTOR VEHICLES ON PUBLIC RIGHTS OF WAY

(1) *Area*	*(2)* *PRoW Reference*	*(3)* *Measure*
Lincolnshire County Council	LL|TOTH|7/2	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.
Lincolnshire County Council	LL|TOTH|7/3	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.
Lincolnshire County Council	LL|TOTH|21/1	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.
Lincolnshire County Council	LL|TOTH|6/3	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.

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

		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.
Lincolnshire County Council	LL|TOTH|11/1	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

		access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL|Aubo|8/1	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.

PART 4

TEMPORARY MANAGEMENT OF PUBLIC RIGHTS OF WAY

(1) *Area*	*(2)* *PRoW Reference*	*(3)* *Measure*
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 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|21/1	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 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 03/03 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 managed during construction of the authorised development.
Lincolnshire County Council	LL|Aubo/10/1	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 of the authorised development.
Lincolnshire County Council	LL|NoDi|1/2	Public Right of Way between points PRoW 09/01 and PRoW 09/02 as shown on Sheet 9 of the streets, rights of way and access plans to be managed during construction of the authorised development.

Lincolnshire County Council	LL|Bass|21/2	Public Right of Way between points PRoW 10/01 and PRoW 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 PRoW 11/01 and PRoW 11/02 as shown on Sheet 11 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 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

(1) *Area*	*(2)* *PRoW Reference*	*(3)* *Measure*
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 access plans to facilitate the construction of the authorised development.
Lincolnshire County Council	LL|TOTH|6A/1	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|6/2	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.
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.

SCHEDULE 7

Article 14

ACCESS TO WORKS

PART 1

PERMANENT MEANS OF ACCESS TO WORKS

(1) *Area*	*(2)* *Location*	*(3)* *Description of means of access*
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 the streets, rights of way and access plans.
Lincolnshire County Council	Proposed Access off Bassingham Road Northbound	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

(1) *Area*	*(2)* *Location*	*(3)* *Description of Means of Access*
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

(1) *Area*	*(2)* *Extent of temporary traffic signal and banksman control area or change to traffic regulation*
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

(1) *Area*	*(2)* *Extent of Temporary Speed Limit Traffic Regulation Orders*
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.

SCHEDULE 9

Article 22

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—

(a) 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;

(b) 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;

(c) 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;

(d) 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

(e) 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—

(f) 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

(g) 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.

(1) *Plot reference number shown on the Land Plans*	*(2)* *Works Number(s)*	*(3)* *Purposes for which rights over land may be required and restrictive covenants imposed*
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
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
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

(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(**c**) substitute—

"(5A) If—

(**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.

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

(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(**a**) 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(**b**) 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);

(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

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

(**b**) 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.

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.

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,

(**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.

(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

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*	*(3)* *Purpose of removal*
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

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*	*(3)* *Purpose of removal*
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

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*	*(3)* *Purpose of removal*
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

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*	*(3)* *Purpose of removal*

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

(1) *Document name*	*(2)* *Document reference*	*(3)* *Revision number*	*(4)* *Date*
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
Permitted preliminary works environmental management plan	EN010154/EXAM/9.[**]	1	[**]
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

Article 43

ARBITRATION RULES

Commencing an arbitration

1. The arbitration is deemed to have commenced when a party ("the claimant") serves a written notice of arbitration on the other party ("the respondent").

Time periods

2.—(1) All time periods in these arbitration rules are measured in days and include weekends, but not bank or public holidays.

(2) Time periods are calculated from the day after the arbitrator is appointed which is either—

(a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or

(b) the date the arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration is that which is set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 14 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

(a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant's contentions as to those issues, the amount of its claim or the remedy it is seeking;

(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.

SCHEDULE 14

Article 44

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;

"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(**g**);

(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

---

(**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), (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.

(**g**) 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).

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-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**);

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

"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(**a**));

"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.

(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.

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

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 figured 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, 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 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

(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).

(**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).

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, 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;

(**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).

"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 21 to 23 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,

(c) 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

(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

(**a**) 2008 (c. 29).

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 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.

PART 5

FOR THE PROTECTION OF NATIONAL HIGHWAYS LIMITED

Application etc.

36.—(1) The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways.

(2) Nothing in this Order affects or prejudices the operation of the powers and duties of National Highways or the Secretary of State under the 1980 Act, the 1984 Act, the 1991 Act, the Transport Act 2000(**a**), or Town and Country Planning (General Permitted Development) (England) Order 2015(**b**) which shall continue to apply in respect of the exercise of all National Highways' statutory functions.

(**a**) 2000 (c. 38).
(**b**) S.I. 2015/596.

Interpretation

37.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2) the latter prevail.

(2) In this Part of this Schedule—

"as built information" means one electronic copy of the following information—

(a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document;

(b) list of suppliers and materials used, as well as any relevant test results and CCTV surveys (if required to comply with DMRB standards);

(c) product data sheets and technical specifications for all materials used;

(d) as constructed information for any utilities discovered or moved during the works;

(e) method statements for the works carried out;

(f) in relation to road lighting, signs, and traffic signals any information required by Series 1300 and 1400 of the Specification for Highway Works or any replacement or modification of it;

(g) organisation and methods manuals for all products used;

(h) as constructed programme;

(i) test results and records as required by the detailed design information and during construction phase of the project;

(j) a stage 3 road safety audit subject to any exceptions to the road safety audit standard as agreed by the undertaker and National Highways;

(k) the health and safety file; and

(l) such other information as is required by National Highways to be used to update all relevant databases and to ensure compliance with National Highway's Asset Data Management Manual as is in operation at the relevant time.

"the bond sum" means the sum equal to 200% of the cost of the carrying out the specified works (to include all costs plus any commuted sum) or such other sum agreed between the undertaker and National Highways;

"the cash surety" means the sum agreed between the undertaker and National Highways;

"commuted sum" means such sum calculated as provided for in paragraph 44 of this Part of this Schedule to be used to fund the future cost of maintaining the specified works;

"condition survey" means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the specified works;

"contractor" means any contractor or subcontractor appointed by the undertaker to carry out the specified works;

"defects period" means the period from the date of the provisional certificate to the date of the final certificate which shall be no less than 12 months from the date of the provisional certificate;

"detailed design information" means such of the following drawings specifications and calculations as are relevant to the development—

(a) site clearance details;

(b) boundary, environmental and mitigation fencing;

(c) road restraints systems and supporting road restraint risk appraisal process assessment;

(d) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways

(e) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;

(f) pavement, pavement foundations, kerbs, footways and paved areas;

(g) traffic signs and road markings;

(h) traffic signal equipment and associated signal phasing and timing detail;

(i) road lighting (including columns and brackets);

(j) regime of California Bearing Ratio testing;

(k) electrical work for road lighting, traffic signs and signals;

(l) motorway communications as required by DMRB;

(m) highway structures and any required structural approval in principle;

(n) landscaping;

(o) proposed departures from DMRB standards;

(p) walking, cycling and horse riding assessment and review report;

(q) stage 1 and stage 2 road safety audits and exceptions agreed;

(r) utilities diversions;

(s) topographical survey;

(t) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it;

(u) health and safety information including any asbestos survey required by GG105 or any successor document; and

(v) other such information that may be required by National Highways to be used to inform the detailed design of the specified works;

"DBFO contract" means the contract between National Highways and the highway operations and maintenance contractor for the maintenance and operation of parts of the strategic road network which are within the Order Limits or any successor or replacement contract that may be current at the relevant time;

"DMRB" means the Design Manual for Roads and Bridges or any replacement or modification of it;

"final certificate" means the certificate relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways pursuant to paragraph 44;

"the health and safety file" means the file or other permanent record containing the relevant health and safety information for the authorised development required by the Construction Design and Management Regulations 2015(**a**) (or such updated or revised regulations as may come into force from time to time);

"highway operations and maintenance contractor" means the contractor appointed by National Highways under the DBFO contract;

"nominated persons" means the undertaker's representatives or the contractor's representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

"programme of works" means a document setting out the sequence and timetabling of the specified works;

"provisional certificate" means the certificate of provisional completion relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways in accordance with paragraph 42 when it considers the specified works are substantially complete and may be opened for traffic;

"road safety audit" means an audit carried out in accordance with the road safety audit standard;

"road safety audit standard" means DMRB Standard HD GG119 or any replacement or modification of it;

(**a**) S.I. 2015/51.

"road space booking" means road space bookings in accordance with National Highways' Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy;

"Specification for Highways Works" means the specification for highways works forming part of the manual of contract documents for highway works published by National Highways and setting out the requirements and approvals procedures for work, goods or materials used in the construction, improvement or maintenance of the strategic road network;

"specified works" means the installation of underground 33 kilovolt (kV) interconnection cables under the A46 or so much of any work, including highway works and signalisation, authorised by this Order including any maintenance of that work, as is on, in, under or over the strategic road network for which National Highways is the highway authority or land in which National Highways has an interest;

"strategic road network" means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway;

"utilities" means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991(**a**); and

"winter maintenance" means maintenance of the road surface to deal with snow and ice.

(3) References to any standards, manuals, contracts, Regulations and Directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

General

38. The undertaker acknowledges that parts of the works authorised by this Order affect or may affect parts of the strategic road network in respect of which National Highways have appointed the highway operations and maintenance contractor.

39. Notwithstanding the limits of deviation permitted pursuant to article 3 (Development consent etc. granted by this Order) of this Order, no works in carrying out, maintaining or diverting the authorised development may be carried out under the strategic road network unless with the express consent of National Highways.

40. References to any standards, manuals, contracts, regulations and directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

Works outside the Order limits

41. If the undertaker proposes to carry out works to the strategic road network that are outside of the Order Limits in connection with the authorised development, the undertaker must enter into an agreement with National Highways in respect of the carrying out of those works prior to the commencement of those works.

Prior approvals and security

42.—(1) The specified works must not commence until—

(a) a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways;

(**a**) 1991 (c. 22).

(b) the programme of works has been approved by National Highways;

(c) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—

(i) the detailed design information, incorporating all recommendations and any exceptions approved by National Highways under sub-paragraph (a)

(ii) details of the proposed road space bookings;

(iii) the identity and suitability of the contractor and nominated persons;

(iv) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;

(v) information demonstrating that the walking, cycling and horse riding assessment and review process undertaken by the undertaker in relation to the specified works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding; and

(d) a scheme of traffic management has been submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;

(e) stakeholder liaison has taken place in accordance with the process for such liaison agreed between the undertaker and National Highways under sub-paragraph (c)(v) above;

(f) National Highways has approved the audit brief and CVs for all road safety audits and exceptions to items raised in accordance with the road safety audit standard;

(g) the undertaker has agreed the estimate of the commuted sum with National Highways;

(h) the scope of all maintenance operations (routine inspections, incident management, reactive and third party damage) to be carried out by the undertaker during the construction of the specified works (which must include winter maintenance) has been agreed in writing by National Highways;

(i) the undertaker has procured to National Highways collateral warranties in a form approved by National Highways from the contractor and designer of the specified works in favour of National Highways to include covenants requiring the contractor and designer to exercise all reasonable skill care and diligence in designing and constructing the specified works, including in the selection of materials, goods, equipment and plant; and

(j) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways considers will be affected by the specified works, has been agreed in writing by National Highways.

(2) The undertaker must not exercise—

(a) article 5 (power to maintain authorised development);

(b) article 8 (street works);

(c) article 10 (power to alter layout etc. of streets);

(d) article 13 (stopping up of public rights of way);

(e) article 12 (temporary prohibition or restriction of the use of streets and public rights of way);

(f) article 14 (access to works);

(g) article 16 (traffic regulation measures);

(h) article 17 (discharge of water);

(i) article 18 (authority to survey and investigate the land);

(j) article 19 (compulsory acquisition of land);

(k) article 22 (compulsory acquisition of rights);

(l) article 23 (private rights);

(m) article 25 (acquisition of subsoil only);

(n) article 28 (rights under or over streets);

(o) article 29 (temporary use of land for constructing the authorised development);

(p) article 30 (temporary use of land for maintaining the authorised development); or

(q) article 39 (felling or lopping of trees and removal of hedgerows) of this Order,

(r) over any part of the strategic road network or land in which National Highways has an interest without the consent of National Highways, and National Highways may in connection with any such exercise require the undertaker to provide details of any proposed road space bookings and/or submit a scheme of traffic management for National Highways' approval.

(3) National Highways must prior to the commencement of the specified works or the exercise of any power referenced in sub-paragraph (2) inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraph (1) or (2).

(4) Any approval or consent of National Highways required under this paragraph-

(a) must not be unreasonably withheld or delayed;

(b) must be given in writing;

(c) shall be deemed to have been refused if neither given nor refused within 2 months of the receipt of the information for approval or, where further particulars are requested by National Highways within 2 months of receipt of the information to which the request for further particulars relates; and

(d) may be subject to any conditions as National Highways considers reasonably necessary.

(5) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways as soon as reasonably possible and details of their suitability to deliver the specified works will be provided on request along with collateral warranties in a form agreed by National Highways.

(6) Any change to the detailed design of the specified works must be approved by National Highways in accordance with paragraph 42(1) of this Part.

Construction of the specified works

43.—(1) The undertaker must give National Highways 3 months' notice in writing of the date on which the specified works will start unless otherwise agreed by National Highways.

(2) The undertaker must comply with National Highways' road space booking procedures prior to and during the carrying out the specified works and no specified works for which a road space booking is required shall commence without a road space booking having first been secured from National Highways.

(3) The specified works must be carried out by the undertaker to the reasonable satisfaction of National Highways in accordance with—

(a) the relevant detailed design information and programme of works approved pursuant to paragraph 42(1) above or as subsequently varied by agreement between the undertaker and National Highways;

(b) the DMRB, the Manual of Contract Documents for Highway Works, including the Specification for Highway Works, together with all other relevant standards as required by National Highways to include, inter alia; all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016 save to the extent that exceptions from those standards apply which have been approved by National Highways; and

(c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same and in particular the undertaker, as client, must ensure that all client duties (as defined in the said regulations) are undertaken. For the avoidance

of any doubt, National Highways is not the client and does not therefore presume any client responsibilities under the Construction (Design and Management Regulations 2015.

(4) The undertaker must ensure that (where possible) without entering the highway the highway is kept free from mud, soil and litter as a result of carrying out the Specified Works.

(5) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(6) If any part of the specified works is constructed—

(a) other than in accordance with the requirements of this Part of this Schedule; or

(b) in a way that causes damage to the highway, highway structure or asset or any other land of National Highways,

(c) National Highways may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the reasonable satisfaction of National Highways.

(7) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(8) If within 28 days on which a notice under sub-paragraph (5) or sub-paragraph (6) is served on the undertaker (or in the event of there being, in the opinion of National Highways, a danger to road users, within such lesser period as National Highways may stipulate), the undertaker has failed to take the steps required by that notice, National Highways may carry out the steps required of the undertaker and may recover any expenditure reasonably incurred by National Highways in so doing, such sum to be payable within 30 days of demand.

(9) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing.

(10) In constructing the specified works, the undertaker must at its own expense divert or protect all utilities and all agreed alterations and reinstatement of highway over existing utilities must be constructed to the reasonable satisfaction of National Highways.

(11) During the construction of the specified works the undertaker must carry out all maintenance (including winter maintenance) in accordance with the scope of maintenance operations agreed by National Highways pursuant to paragraph 42(1)(h) and the undertaker must carry out such maintenance at its own cost.

(12) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme pursuant to paragraph 42(1)(b) of this Part or suspends the carrying out of any specified work beyond a reasonable period of time and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.

Payments

44.—(1) The undertaker must pay to National Highways a sum equal to the whole of any costs and expenses which National Highways incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works and in relation to any approvals sought under this Order, or otherwise incurred under this Part, including—

(a) the checking and approval of the information required under paragraph 42(1);

(b) the supervision of the specified works;

(c) the checking and approval of the information required to determine approvals under this Order;

(d) all costs in relation to the transfer of any land required for the specified works;

(e) all legal and administrative costs and disbursements reasonably and properly incurred by National Highways in connection with the Order and sub-paragraphs (a)-(d); and

(f) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising "the NH costs".

(2) The undertaker must pay to National Highways upon demand and prior to such costs being incurred the total costs that National Highways believe will be properly and necessarily incurred by National Highways in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the authorised development.

(3) National Highways must provide the undertaker with a schedule showing its estimate of the NH costs prior to the commencement of the specified works and the undertaker must pay to National Highways the estimate of the NH costs prior to commencing the specified works and in any event prior to National Highways incurring any cost.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, National Highways reasonably believes that the NH costs will exceed the estimated NH costs it may give notice to the undertaker of the amount that it believes the NH costs will exceed the estimate of the NH costs (the excess) and the undertaker must pay to National Highways within 28 days of the date of the notice a sum equal to the excess.

(5) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above within 91 days of the issue of the provisional certificate issued pursuant to paragraph 45(4).

(6) Within 28 days of the issue of the final account:

(a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it;

(b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(7) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 3% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

Provisional Certificate

45.—(1) Following the completion of any specified works or prior to the re-opening of any part of the strategic road network following any closure or partial closure, whichever shall be sooner, National Highways will carry out a site inspection to satisfy itself that the strategic road network is, in its opinion, safe for traffic and the undertaker must comply with any requirements of National Highways prior to reopening the strategic road network.

(2) As soon as the undertaker considers that the provisional certificate may be properly issued it must apply to National Highways for the provisional certificate.

(3) Following an application for a provisional certificate, National Highways must as soon as reasonably practicable:

(a) inspect the specified works; and

(b) provide the undertaker with a written list of works that are required for the provisional certificate to be issued or confirmation that no further works are required for this purpose.

(4) When—

(a) a stage 3 road safety audit for the specified works has been carried out and all recommendations raised including remedial works have (subject to any exceptions agreed) been approved by National Highways;

(b) the specified works incorporating the approved remedial works under sub-paragraph (4)(a) and any further works notified to the undertaker pursuant to paragraph 45(3)(b) have been completed to the reasonable satisfaction of National Highways;

(c) the as built information has been provided to National Highways; and

(d) the undertaker has paid the commuted sum to National Highways,

(e) National Highways must issue the provisional certificate.

(5) Following the issue of the provisional certificate the bond sum and cash surety shall be reduced to 20% provided that in the event any claim or claims have been made against the undertaker or liability on its part has arisen under the bond sum and/ or cash surety (which here shall also include any claim or claims to which National Highways are joined howsoever they arise) before that date National Highways will be at liberty to retain a sufficient sum in addition to the 20% to ensure it does not have to meet any costs for and/ or arising from and/or in connection with the specified works.

(6) The undertaker must submit a stage 4 road safety audit as required by and in line with the timescales stipulated in the road safety audit standard. The undertaker must comply with the findings of the stage 4 road safety audit and must pay all costs of and incidental to such and provide updated as-built information to National Highways.

Opening

46. The undertaker must notify National Highways not less than 56 days in advance of the intended date of opening to the public of the strategic road network and the undertaker must notify National Highways of the actual date the strategic road network will be opened to the public within 14 days of that date.

Final condition survey

47.—(1) The undertaker must, as soon as reasonably practicable after making its application for a provisional certificate pursuant to paragraph 45(2), arrange for the highways structures and assets that were the subject of the condition survey to be re-surveyed and must submit the re-survey to National Highways for its approval. The re-survey will include a renewed geotechnical assessment required by DMRB CD622 if the specified works include any works beneath the strategic road network.

(2) If the re-surveys carried out pursuant to paragraph 47(1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways for its approval in writing and the undertaker must carry out the remedial works at its own cost and in accordance with the scheme submitted.

(3) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, National Highways may carry out the steps required of the undertaker and may recover any expenditure it reasonably incurs in so doing.

(4) National Highways may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to paragraph 47(1) give notice in writing that National Highways will remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing.

(5) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

Defects Period

48.—(1) The undertaker must at its own expense remedy any defects in the strategic road network as are reasonably required by National Highways to be remedied during the defects period. All identified defects must be remedied in accordance with the following timescales—

(a) in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of National Highways);

(b) in respect of matters which National Highways considers to be serious defects or faults, within 14 days of receiving notification of the same; and

(c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same.

(2) Following the expiry of the defects period National Highways has responsibility for routine maintenance of the strategic road network save for any soft landscaping works which must be established and which must thereafter be maintained for a period of 3 years by and at the expense of the undertaker.

Final Certificate

49.—(1) The undertaker must apply to National Highways for the final certificate no sooner than 12 months from the date of the provisional certificate.

(2) Following receipt of the application for the final certificate, National Highways must as soon as reasonably practicable:

(a) inspect the strategic road network; and

(b) provide the undertaker with a written list of any further works required to remedy or make good any defect or damage in the strategic road network or confirmation that no such works are required for this purpose.

(3) The undertaker must carry out such works notified to it pursuant to sub-paragraph 49(2).

(4) When National Highways is satisfied that:

(a) any defects or damage arising from defects during the defects period and any defects notified to the undertaker pursuant to sub-paragraph 49(2) and any remedial works required as a result of the stage 4 road safety audit have been made good to the reasonable satisfaction of National Highways; and

(b) the NH costs have been paid to National Highways in full;

(c) National Highways must issue the final certificate after which the bond sum and cash surety shall be released in full provided that in the event any claim or claims have been made against the undertaker or liability on its part has arisen under the bond sum and/or cash surety (which here shall also include any claim or claims to which National Highways are joined howsoever they arise) National Highways will be at liberty to retain a sufficient sum to ensure it does not have to meet any costs for and/or arising from and/or in connection with the specified works.

(5) The undertaker must pay to National Highways within 28 days of demand the costs reasonably incurred by National Highways in identifying the defects and supervising and inspecting the undertaker's work to remedy the defects that it is required to remedy pursuant to these provisions.

Security

50. The specified works must not commence until—

(a) the undertaker procures that the specified works are secured by a bond from a bondsman first approved by National Highways in the agreed form between the undertaker and National Highways to indemnify National Highways against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of the exercise of the powers under this Order and the specified works under the

provisions of this Part of this Schedule provided that the maximum liability of the bond must not exceed the bond sum; and

(b) the undertaker has provided the cash surety which may be utilised by National Highways in the event of the undertaker failing to meet its obligations to make payments under paragraph 41 or to carry out works the need for which arises from a breach of one or more of the obligations of the undertaker under the provisions of this Part of this Schedule.

Commuted sums

51.—(1) National Highways must provide to the undertaker an estimate of the commuted sum, calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 or any successor guidance, prior to the commencement of the specified works.

(2) The undertaker must pay to National Highways the commuted sum prior to the issue of the provisional certificate.

Insurance

52. Prior to the commencement of the specified works the undertaker must effect public liability insurance with an insurer in the minimum sum of £50,000,000.00 (fifty million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of specified works or use of the strategic road network by the undertaker.

Indemnity

53. The undertaker fully indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 30 working days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways.

Maintenance of the specified works

54.—(1) The undertaker must, prior to the commencement of any works of maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required shall commence without a road space booking having first been secured.

(3) The undertaker must comply with any requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 7 days' in advance of the planned commencement date of the maintenance works.

(4) The provisions of paragraph 46 shall apply to the opening of any part of the strategic road network following occupation of any road space under this paragraph.

Land

55.—(1) Following the issue of the final certificate pursuant to paragraph 49(4) National Highways may serve notice on the undertaker that it wishes to take a freehold transfer of land within the extent of strategic road network boundary which is not in the ownership of National Highways but the freehold of which has been acquired by the undertaker for the purposes of carrying out the specified works.

(2) If the undertaker receives notice under sub-paragraph (1) then the undertaker must effect a freehold transfer of the land which is the subject of the notice and complete such transfer as soon as reasonably practicable at no cost to National Highways.

(3) The undertaker must not under the powers of this Order:

(a) acquire or use land forming part of;

(b) acquire new or existing rights over; or

(c) seek to impose or extinguish any restrictive covenants over;

(d) any of the strategic road network, or extinguish any existing rights of National Highways in respect of any third party property, except with the consent of National Highways by written request to legalservicesteam@nationalhighways.co,uk.

(4) Where any land or interest is proposed to be acquired for the benefit of National Highways, the undertaker must, unless otherwise agreed by National Highways, exercise article 19 (compulsory acquisition of land) and article 22 (compulsory acquisition of rights) as applied by article 24 (application of the 1981 Act) of this Order to directly vest in National Highways any such land or interest.

Expert Determination

56. Article 43 (arbitration) of the Order applies to this Part of this Schedule.

PART 6

FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

57. For the protection of Anglian Water the following provisions will have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

58. In this Part of this Schedule—

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

"alternative apparatus" means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

"Anglian Water" means Anglian Water Services Limited;

"apparatus" means:

(a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;

(b) any drain or works vested in Anglian Water under the Water Industry Act 1991(**b**);

(c) 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 or an agreement to adopt made under section 104 of that Act,

(d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and

(e) includes a sludge main, disposal main 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;

(**a**) 1991 (c.22).
(**b**) 1991 (c. 56).

and for the purpose of this definition, where words are defined by section 219 of that Act, they shall be taken to have the same meaning;

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed.

On street apparatus

59. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

60.—(1) Where any street is stopped up under article 13 (stopping up of public rights of way) where Anglian Water has apparatus in the street or accessed by virtue of that street, it has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must use reasonable endeavours to grant or procure the grant of legal easements reasonably satisfactory to Anglian Water in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of Anglian Water to require the removal of that apparatus under paragraph 62 or the power of the undertaker to carry out works under paragraph 64.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 12 (temporary prohibition or restriction of the use of streets and public rights of way), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Acquisition of land

61. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

62.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until

(a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and

(b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 63.

(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 Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water 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 Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its 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 Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(5) Anglian Water 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 Anglian Water of any such facilities and rights as are referred to in sub-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 Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water's reasonable requests for a reasonable period of time, being no more than 56 days to enable Anglian Water to:

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

63.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Anglian Water facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water 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 Anglian Water 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 Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting (England and Wales) Regulations 2016(**a**) or other legislation.

Retained apparatus

64.—(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 (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 62(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If Anglian Water 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, sub-paragraphs (1) to (3) and (6) to (8) of paragraph 62 apply as if the removal of the apparatus had been required by the undertaker under paragraph 62(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 instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus:

(a) 4 metres where the diameter of the pipe is less than 250 millimetres;

(b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres;

(c) a distance to be agreed on a case by case basis and before the submission of the Plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres.

Expenses and costs

65.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water 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 this Part of this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(**a**) S.I. 2016/1154.

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

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 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 Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

66.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 62(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

(a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and

(b) make reasonable compensation to Anglian Water for any other reasonable expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional 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 with respect to any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents and nor does sub-paragraph (1) impose any liability in respect of pure economic losses (which term for the avoidance of doubt may not constitute additional operational or administrative costs, fines and expenses, wasted expenditure or charges rendered unnecessary or the additional cost of procuring or providing replacement services).

(4) Anglian Water 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 (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) Anglian Water must use its reasonable endeavours to mitigate losses in whole or in part and to minimise any claim, costs, expenses, loss, demands and penalties. If requested to do so by the undertaker, Anglian Water shall provide an explanation of how the claim has been minimised.

Cooperation

67. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 62(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 64, the undertaker must use reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

Unmapped Apparatus

68. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

Miscellaneous

69. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

70. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

Disputes

71. Any difference or dispute arising between the undertaker and Anglian Water under this Part must, unless otherwise agreed in writing between the undertaker and Anglian Water, be determined by arbitration in accordance with article 43 (arbitration).

PART 7

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY DISTRIBUTION (EAST MIDLANDS) PLC

Application

72. For the protection of National Grid Electricity Distribution (East Midlands) plc the following provisions, unless otherwise agreed in writing between the undertaker and National Grid Electricity Distribution (East Midlands) plc, have effect.

Interpretation

73. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable NGED to fulfil its statutory functions in a manner not less efficient than previously and where the context requires includes any part of such alternative apparatus;

"alternative rights" means all and any necessary legal easements, leases, consents, or permissions required by NGED in order to permit or authorise a diversion and to permit or authorise NGED to lay, keep, operate, maintain, adjust, repair, alter, relay, renew, supplement, inspect, examine, test and remove the alternative apparatus;

"apparatus" means electric lines or electrical plant as defined in the Electricity Act 1989(**a**), belonging to or maintained by NGED;

"diversion" means an alteration to the NGED Network in order to enable or facilitate the authorised development;

"functions" includes powers and duties;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

"NGED" means National Grid Electricity Distribution (East Midlands) plc (company number 02366923) whose registered office is at Avonbank, Feeder Road, Bristol, BS2 0TB;

"NGED Network" means NGED's distribution network operated pursuant to its distribution licence issued pursuant to section 6 of the 1989 Act(**b**);

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

"specified work" means so much of any of the authorised development that is carried out within 6 metres of any apparatus;

"undertaker" means Fosse Green Energy Limited or such other person as has the benefit of the Order; and

other terms have the meaning given in article 2 (interpretation).

Precedence of 1991 Act in respect of apparatus in streets

74. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and NGED are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

75. 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), NGED 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.

No acquisition except by agreement

76. Regardless of any provision in this Order, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

77.—(1) If, in the exercise of the powers conferred by this Order, the undertaker requires that apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of NGED to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, alternative rights acquired or granted for the alternative apparatus and the alternative apparatus is in operation and access to it has been provided if necessary to the reasonable satisfaction of NGED in accordance with sub-paragraphs (2) to (10) or with such alternative or supplementary provisions as the undertaker and NGED may agree between them.

(**a**) 1989 (c. 29). The definition of "electricity plant" (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c. 27).

(**b**) Section 6 was amended by section 30 of the Utilities Act 2000 (c. 27), sections 136(1) and (2) and 145(5), (6) and (7)of, and paragraph 5 of Schedule 19 and Part 1 of Schedule 23 to, the Energy Act 2004 (c. 20), paragraph 2 of Schedule 8 to the Climate Change Act 2008 (c. 27, paragraph 1(3)(a) and (b) of Schedule 1 to the Nuclear Energy (Financing) Act 2022 (c, 15), sections 166(4) to (9) and 186(7) to (9) of the Energy Act 2023 (c. 52) and S.I. 2012/2400.

(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, it must give to NGED written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed. NGED, acting reasonably, shall engage with the undertaker as soon as reasonably possible to agree the submitted details without undue delay.

(3) If as a direct consequence of the exercise of any of the powers conferred by this Order NGED reasonably needs to remove or divert any of its apparatus and the removal of that apparatus has not been required by the undertaker under sub-paragraph (2) then NGED must give to the undertaker written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and this Part has effect as if the removal or diversion of such apparatus had been required by the undertaker under sub-paragraph (2).

(4) If as a direct consequence of the removal or diversion of apparatus under sub-paragraph (2) or (3) alternative apparatus is to be constructed in land owned or controlled by the undertaker then the undertaker must afford to NGED the necessary facilities alternative rights and any necessary third party consent or approvals for the construction of alternative apparatus in the other land owned or controlled by the undertaker as soon as reasonably practicable.

(5) If the undertaker or NGED requires to remove or divert any apparatus placed within the Order land and alternative apparatus is to be constructed in land not owned or controlled by the undertaker as a consequence of the removal or diversion of apparatus then NGED shall use its reasonable endeavours to obtain alternative rights in the land in which the alternative apparatus is to be constructed.

(6) If alternative apparatus is to be constructed in land not owned or controlled by the undertaker and NGED is unable to obtain such alternative rights as are mentioned in sub-paragraph (5), the undertaker and NGED shall consider whether there is an alternative engineering solution that can achieve the diversion without the need for the use of compulsory powers. Should such an alternative engineering solution not be practicable and deliverable in a reasonable timescale and at a reasonable cost (which shall be determined by the undertaker acting reasonably), NGED may but shall not be compelled to use the powers of compulsory acquisition set out in this Order or the Electricity Act 1989(**a**) to obtain the necessary facilities and rights in the land outside the Order limits in which the alternative apparatus is to be constructed in accordance with a timetable agreed between NGED and the undertaker.

(7) Any alternative apparatus required pursuant to sub-paragraphs (2) or (3) must be constructed in such manner and in such line or situation as may be agreed between NGED and the undertaker or in default of agreement settled in accordance with paragraph 82.

(8) NGED must, after the alternative apparatus to be provided or constructed has been agreed or settled pursuant to paragraph 82, and after the acquisition by or grant to NGED of any such facilities and alternative rights as are referred to in sub-paragraphs (2) to (6), 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.

(9) Regardless of anything in sub-paragraph (8), if the undertaker gives notice in writing to NGED 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 NGED, must be executed by the undertaker—

(a) in accordance with plans and specifications and in such line or situation agreed between the undertaker and NGED, or, in default of agreement, determined in accordance with paragraph (82); and

(b) without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of NGED.

(**a**) 1989 (c. 29).

(10) Nothing in sub-paragraph (9) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or alternative apparatus, or execute any filling around the apparatus or alternative apparatus (where the apparatus or alternative apparatus is laid in a trench) within 600 millimetres of the point of connection or disconnection.

Facilities and rights for alternative apparatus

78.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to NGED facilities and alternative rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and alternative rights must be granted upon such terms and conditions as may be agreed between the undertaker and NGED or in default of agreement settled in accordance with paragraph 82.

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the expert must—

(a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker;

(b) have regard to the terms and conditions, if any, applicable to the apparatus for which the alternative apparatus is to be substituted;

(c) have regard to NGED's ability to fulfil its service obligations and comply with its licence conditions; and

(d) have regard to the standard form rights NGED ordinarily secures for the type of alternative apparatus to be constructed in the circumstances similar to the authorised development. If the facilities and alternative rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and alternative rights are to be granted, are in the opinion of the expert less favourable on the whole to NGED than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the expert must make such provision for the payment of compensation by the undertaker to NGED as appears to the expert to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

79.—(1) Not less than 60 days before the undertaker intends to start the execution of any specified work where the removal of the apparatus in question has not been required under paragraph 77, the undertaker shall submit to NGED a plan of the works to be executed. Any submission must note the time limits imposed on NGED under sub-paragraph (3) below.

(2) Subject to sub-paragraph (3) below the undertaker shall not commence any works to which sub-paragraph (1) applies until NGED has identified any reasonable requirements it has for the alteration or protection of the apparatus, or for securing access to it.

(3) If by the expiry of 60 days beginning with the date on which a plan under sub-paragraph (1) is submitted NGED has not advised the undertaker in writing of any reasonable requirements for the alteration or protection of the apparatus, or for securing access to it, it shall be deemed not to have any such requirements and the undertaker shall be at liberty to proceed with the works.

(4) The works referred to in sub-paragraph (1) must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with any reasonable requirements as may be notified in accordance with sub-paragraph (2) by NGED and NGED shall be entitled to watch and inspect the execution of those works.

(5) At all times when carrying out the authorised development the undertaker shall comply with NGED's Avoidance of Danger from Electricity Overhead Lines and Underground Cables (2014), the Energy Network Association's A Guide to the Safe Use of Mechanical Plant in the Vicinity of

Electricity Overhead Lines (undated), the Health and Safety Executive's GS6 Avoiding Danger from Overhead Power Lines and the Health and Safety Executive's HSG47 Avoiding Danger from Underground Services (Third Edition) (2014) as the same may be replaced from time to time.

(6) If NGED, in accordance with sub–paragraph (2) and in consequence of the works proposed by the undertaker, reasonably requires the removal or diversion of any apparatus and gives written notice to the undertaker of that requirement, this Part of this Schedule applies as if the removal or diversion of the apparatus had been required by the undertaker under paragraph 77(3).

(7) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 60 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(8) The undertaker is not required to comply with sub–paragraph (1) in a case of emergency but in that case it must give to NGED notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with any reasonable requirements stipulated by NGED under sub-paragraph (2) and with sub–paragraphs (5) and (6) in so far as is reasonably practicable in the circumstances. Nothing in this sub-paragraph prevents NGED from exercising its rights under sub-paragraph (7).

Expenses and costs

80.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to NGED the proper and reasonable expenses reasonably incurred by NGED in, or in connection with, the inspection, removal, diversion, alteration or protection of any apparatus, the construction of any alternative apparatus and the acquisition or grant of alternative rights for the alternative apparatus, arising as a result of the powers conferred upon the undertaker pursuant to this Order.

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule NGED requires that alternative apparatus of better type, of greater capacity, of greater dimensions or at a greater depth is necessary in substitution for existing apparatus which for NGED's network requirements is over and above what is necessary as a consequence of and for the purpose of the authorised development, NGED shall reduce the cost of such additional requirements from the amount payable by the undertaker pursuant to sub-paragraph (1).

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

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a 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.

Liability

81.—(1) Subject to sub-paragraph (2) if by reason or in consequence of the construction of any specified work or any subsidence resulting from any of those works any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of NGED the undertaker is to—

(a) bear and pay the cost reasonably incurred by NGED in making good such damage or restoring the supply; and

(b) reimburse NGED for any other expenses, loss, damages, penalty or costs reasonably and properly incurred by NGED, 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 NGED, its officers, servants, contractors or agents.

(3) NGED 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, is to have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) NGED must act reasonably in relation to any claim or demand served under sub-paragraph (1) and use its reasonable endeavours to mitigate and minimise any costs, expenses, loss, demands, proceedings and penalties to which a claim or demand under sub-paragraph (1) applies.

(5) NGED's liability to the undertaker for negligence or breach of contract, in respect of each diversion, shall be limited to the value of that diversion and NGED shall not otherwise be liable to the undertaker for any losses or costs incurred by the undertaker resulting from delays to the authorised development as a result of its failure to undertake works to deliver any alternative apparatus.

Expert determination

82.—(1) Article 43 (arbitration) shall apply to any difference as to the legal interpretation of this Schedule and as provided for in sub–paragraph (7).

(2) Save as provided for in sub–paragraph (1) or sub–paragraph (7) any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers or the President of the Institution of RICS or the President of the Institution of Engineering and Technology (as relevant and agreed between NGED and the undertaker, both acting reasonably and without delay).

(3) All parties involved in settling any difference must use best endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The costs and fees of the expert and the costs of NGED and the undertaker are payable by the parties in such proportions as the expert may determine. In the absence of such determination the costs and fees of the expert are payable equally by the parties who shall each bear their own costs.

(5) The expert must—

(a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 14 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;

(c) issue a decision within 14 days of receipt of the submissions under sub-paragraph (b); and

(d) give reasons for the decision.

(6) The expert must consider where relevant—

(a) the development outcome sought by the undertaker;

(b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;

(c) the nature of the power sought to be exercised by the undertaker;

(d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;

(e) NGED's service obligations and licence conditions; and

(f) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 43 (Arbitration).

Co-operation

83.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or NGED requires the removal and/or diversion of apparatus under paragraph 77 or NGED makes requirements for the protection or alteration of apparatus under paragraph 79, the undertaker must use its reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic operation of NGED's undertaking and NGED must use its reasonable endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever NGED'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, it must not be unreasonably withheld or delayed.

Access

84. If in consequence of the agreement reached under paragraph 76 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable NGED to maintain or use the apparatus no less effectively than was possible before such obstruction.

PART 8

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER

Application

85.—(1) For the protection of National Grid Electricity Transmission Plc as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, where the benefit of this Order is transferred or granted to another person under article 35 (Consent to transfer the benefit of the Order)—

(a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid Electricity Transmission Plc and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to National Grid Electricity Transmission Plc on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid Electricity Transmission Plc (but without prejudice to 11(3)(b)).

Interpretation

86. In this Part of this Schedule—

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than: (i) "A-" if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and "A3" if the rating is assigned by Moody's Investors Services Inc.;

"acceptable insurance" means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance shall include (without limitation)—

(a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid Electricity Transmission Plc;

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

"acceptable security**"** means either—

(a) a parent company guarantee from a parent company in favour of National Grid Electricity Transmission Plc to cover the undertaker's liability to National Grid Electricity Transmission Plc to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid Electricity Transmission Plc, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Grid Electricity Transmission Plc to cover the undertaker's liability to National Grid Electricity Transmission Plc for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid Electricity Transmission Plc);

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of National Grid Electricity Transmission Plc to enable National Grid Electricity Transmission Plc to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means—

(a) any electric lines or electrical plant as defined in the Electricity Act 1989(**a**), belonging to or maintained by National Grid Electricity Transmission Plc together with any replacement apparatus;

(b) such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid Electricity Transmission Plc for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus; and

(c) any electrical lines or electrical plant as defined in the Electricity Act 1989(**b**), any mains, pipes, plant or other apparatus belonging to, operated or maintained by National Grid Electricity Transmission Plc for the purposes of the construction, operation and maintenance of the Navenby Project, whether temporary or permanent, and includes, where the context so requires, apparatus constructed as part of the authorised development and intended for the beneficial use by National Grid Electricity Transmission Plc ("Navenby apparatus");

"authorised works" has the same meaning as is given to the term "authorised development" in article 2(1) (Interpretation) of this Order and includes any associated development authorised

(**a**) 1989 (c. 29).
(**b**) 1989 (c. 29). The definition of "electrical plant" (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c. 27).

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;

"commence" and "commencement" in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

"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;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by National Grid Electricity Transmission Plc (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, shall require the undertaker to submit for National Grid Electricity Transmission Plc'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;

"Incentive Deduction" means any incentive deduction National Grid Electricity Transmission Plc Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

"maintain" and "maintenance" shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid Electricity Transmission Plc: construct, use, repair, alter, inspect, renew or remove the apparatus;

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

"Navenby Project" means the proposed construction of the Navenby substation and associated overhead electricity lines to be undertaken by National Grid Electricity Transmission Plc;

"Navenby Site" includes—

(a) land on which any Navenby Project apparatus is situated;

(b) land on which Navenby Project apparatus is anticipated to be situated (in so far as the same has been notified by National Grid Electricity Transmission Plc in writing to the undertaker); and

(c) land on which any rights associated with the Navenby Project are anticipated (in so far as the same has been notified by National Grid Electricity Transmission Plc in writing to the undertaker);

"NGESO" means as defined in the STC;

"parent company" means a parent company of the undertaker acceptable to and which shall have been approved by National Grid Electricity Transmission Plc acting reasonably;

"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;

"specified works" means any of the authorised works or activities 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 paragraph 91(2) or otherwise; and/or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 91(2) or otherwise; and/or

(c) includes any of the activities that are referred to in development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

"STC" means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NGESO as modified from time to time;

"STC Claims" means any claim made under the STC against National Grid Electricity Transmission Plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission Plc's transmission system which arises as a result of the authorised works;

"Transmission Owner" means as defined in the STC;

"undertaker" means the undertaker as defined in article 2 of this Order;

Interaction with the Navenby Project

87. Without limiting any other provision of this Part of this Schedule, the undertaker must use reasonable endeavours to avoid any conflict arising between the carrying out, maintenance and operation of the authorised development and the Navenby Project. For the purposes of this paragraph "reasonable endeavours" means—

(a) undertaking consultation with National Grid Electricity Transmission Plc on detailed design and programming of works for the authorised development and ensuring the plans as submitted for approval under the requirements do not unreasonably impede or interfere with the construction of the Navenby Project;

(b) having regard to the anticipated programme of works for the Navenby Project and facilitating a co-ordinated approach to construction programming, land assembly (in so far as the extent of the Navenby Site has been notified by National Grid Electricity Transmission Plc to the undertaker in writing), and the carrying out of works in connection with the authorised development and the Navenby Project; and

(c) providing a point of contact for continuing liaison and co-ordination throughout the construction and operation of the authorised development.

On Street Apparatus

88. Except for paragraphs 89 (apparatus of National Grid Electricity Transmission Plc in affected streets), 93 (retained apparatus: protection), 94 (expenses) and 95 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid Electricity Transmission Plc, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid Electricity Transmission Plc are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid Electricity Transmission Plc in affected streets

89.—(1) Where any 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), if National Grid Electricity Transmission Plc has any apparatus in the street

or public right of way accessed via that street or public right of way National Grid Electricity Transmission Plc has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid Electricity Transmission Plc, or procure the granting to National Grid Electricity Transmission Plc of, legal easements reasonably satisfactory to National Grid Electricity Transmission Plc in respect of such apparatus and access to it prior to the stopping up of any such street or public right of way but nothing in this paragraph affects any right of the undertaker or National Grid Electricity Transmission Plc to require the removal of that apparatus under paragraph 91 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 93.

(2) Notwithstanding the temporary stopping up or alteration or diversion of any street or public right of way under the powers of articles 8, 10, 11, 12 and 13, National Grid Electricity Transmission Plc, subject to reasonable health and safety measures agreed in advance with the undertaker, is at liberty at all times to take all necessary access across any such stopped up street or public right of way and to execute and do all such works and things in, upon or under any such street or public right of way as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Acquisition of land

90.—(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 (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid Electricity Transmission Plc otherwise than by agreement.

(2) Regardless of any provision in this Order or anything shown on the land plans, the undertaker mut not unless otherwise agreed in writing acquire any land forming part of the Navenby Site.

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

(4) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker the undertaker and National Grid Electricity Transmission Plc agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/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 National Grid Electricity Transmission Plc and/or other enactments relied upon by National Grid Electricity Transmission Plc as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(5) Any agreement or consent granted by National Grid Electricity Transmission Plc under paragraph 92 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

91.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any Order land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid Electricity Transmission Plc to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid Electricity Transmission Plc in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works comprised in the authorised development 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 National Grid Electricity Transmission Plc advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed. National Grid Electricity Transmission Plc, acting reasonably, must engage with the undertaker without undue delay. In that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid Electricity Transmission Plc reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid Electricity Transmission Plc to its satisfaction (taking into account paragraph 92(1) below) the necessary facilities and rights—

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and

(b) 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 or land secured by 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, National Grid Electricity Transmission Plc may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid Electricity Transmission Plc to use its compulsory purchase powers to this end unless it 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 National Grid Electricity Transmission Plc and the undertaker.

(5) National Grid Electricity Transmission Plc must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid Electricity Transmission Plc of any such facilities and rights as are referred to in sub-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.

Facilities and rights for alternative apparatus

92.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid Electricity Transmission Plc facilities and rights in land for the construction, use, maintenance and protection 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 National and must be no less favourable on the whole to National Grid Electricity Transmission Plc than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid Electricity Transmission Plc.

(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 less favourable on the whole to National Grid Electricity Transmission Plc 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 matter may be referred to arbitration in accordance with paragraph 99 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid Electricity Transmission Plc as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

93.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid Electricity Transmission Plc a plan of the works to be executed and seek from National Grid Electricity Transmission Plc details of the underground extent of their electricity assets.

(2) In relation to specified works the plan to be submitted to National Grid Electricity Transmission Plc 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;

(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;

(f) any intended maintenance regimes;

(g) an assessment of risks of rise of earth issues; and

(h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

(a) details of any cable trench design including route, dimensions, clearance to pylon foundations;

(b) demonstration that pylon foundations will not be affected prior to, during and post construction;

(c) details of load bearing capacities of trenches;

(d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;

(e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;

(f) written details of the operations and maintenance regime for any cable, including frequency and method of access;

(g) assessment of earth rise potential if reasonably required by National Grid Electricity Transmission Plc's engineers; and

(h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid Electricity Transmission Plc has given written approval of the

(5) plan so submitted.

(6) Any approval of National Grid Electricity Transmission Plc required under sub-paragraph (4)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8);

(b) may be given subject to such reasonable requirements as National Grid Electricity Transmission Plc may have in connection with the safe, economic and efficient construction, commissioning, operation and maintenance of the Navenby Project; and,

(c) must not be unreasonably withheld.

(7) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid Electricity Transmission Plc may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(8) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid Electricity Transmission Plc and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid Electricity Transmission Plc for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid Electricity Transmission Plc will be entitled to watch and inspect the execution of those works.

(9) Where National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and National Grid Electricity Transmission Plc shall give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(10) If National Grid Electricity Transmission Plc in accordance with sub-paragraphs (6) or (8) 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, sub-paragraphs (1) to (3) and (5) to (7) apply as if the removal of the apparatus had been required by the undertaker under paragraph 91(2).

(11) 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 before commencing the execution of the authorised development, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(12) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid Electricity Transmission Plc notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times.

(13) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid Electricity Transmission Plc's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

94.—(1) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid Electricity Transmission Plc within 30 days of receipt of an itemised invoice or claim from National Grid Electricity Transmission Plc all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid Electricity Transmission Plc 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 including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by National Grid Electricity Transmission Plc in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid Electricity Transmission Plc as a consequence of National Grid Electricity Transmission Plc—

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 90(3); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid Electricity Transmission Plc;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(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.

(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 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 99 (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 National Grid Electricity Transmission Plc 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 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) Any amount which apart from this sub-paragraph would be payable to National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc 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.

Indemnity

95.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule 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 him) 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 works) or property of National Grid Electricity Transmission Plc, or there is any interruption in any service provided, or in the supply of any goods, by National Grid Electricity Transmission Plc, or National Grid Electricity Transmission Plc becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from National Grid Electricity Transmission Plc the cost reasonably and properly incurred by National Grid Electricity Transmission Plc in making good such damage or restoring the supply; and

(b) indemnify National Grid Electricity Transmission Plc for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid Electricity Transmission Plc, by reason or in consequence of any such damage or interruption or National Grid Electricity Transmission Plc becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any default of National Grid Electricity Transmission Plc.

(2) If as a result of the authorised development National Grid Electricity Transmission Plc's access to the Navenby Project or to any Navenby Site is materially obstructed, the undertaker must provide such alternative means of access that will allow National Grid Electricity Transmission Plc to maintain apparatus or use apparatus no less efficiently than was possible before the obstruction.

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

(4) Nothing in sub-paragraph (1) shall impose 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 National Grid Electricity Transmission Plc, its officers, servants, contractors or agents;

(b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Grid Electricity Transmission Plc 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 95; and/or

(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 or interruption, which is not reasonably foreseeable.

(5) National Grid Electricity Transmission Plc must 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.

(**a**) 2008 (c. 29)

(6) National Grid Electricity Transmission Plc must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(7) National Grid Electricity Transmission Plc must 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 National Grid Electricity Transmission Plc's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid Electricity Transmission Plc's control and if reasonably requested to do so by the undertaker National Grid Electricity Transmission Plc must provide an explanation of how the claim has been minimised, where relevant.

(8) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Grid Electricity Transmission Plc or in respect of which National Grid Electricity Transmission Plc has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Grid Electricity Transmission Plc's apparatus until the following conditions are satisfied—

(a) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid Electricity Transmission Plc has confirmed the same to the undertaker in writing; and

(b) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid Electricity Transmission Plc that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid Electricity Transmission Plc has confirmed the same in writing to the undertaker.

(9) In the event that the undertaker fails to comply with paragraph 95(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Grid Electricity Transmission Plc from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

96. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid Electricity Transmission Plc and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid Electricity Transmission Plc 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

97.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid Electricity Transmission Plc requires the removal of apparatus under paragraph 91(2) or National Grid Electricity Transmission Plc makes requirements for the protection or alteration of apparatus under paragraph 93, the undertaker shall—

(a) use its reasonable endeavours to ensure the efficient and economic execution of the authorised works and the efficient operation of National Grid Electricity Transmission Plc's undertaking; and

(b) use its best endeavours to co-ordinate the execution of the works in the interests of safety taking into account the need to ensure the safe operation of National Grid Electricity Transmission Plc's undertaking

(c) and National Grid Electricity Transmission Plc shall use its best endeavours to co-operate with the undertaker in respect of paragraph 97(1)(b).

(2) For the avoidance of doubt whenever National Grid Electricity Transmission Plc'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, it must not be unreasonably withheld or delayed.

Access

98. If in consequence of the agreement reached in accordance with paragraph 90(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid Electricity Transmission Plc to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

99. Save for differences or disputes arising under paragraph 91(2), 91(4) 92(1) and 93 any difference or dispute arising between the undertaker and National Grid Electricity Transmission Plc under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, be determined by arbitration in accordance with article 43 (arbitration).

Notices

100. Notwithstanding article 45 (service of notices), any plans submitted to National Grid Electricity Transmission Plc by the undertaker pursuant to paragraph 93 must be submitted using the LSBUD system (https://lsbud.co.uk/) or to such other address as National Grid Electricity Transmission Plc may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 9

FOR THE PROTECTION OF PRAX LINDSEY OIL REFINERY LIMITED (IN LIQUIDATION) AND PRAX DOWNSTREAM UK LIMITED (IN LIQUIDATION)

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

102. In this Part of this Schedule—

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

"alternative apparatus" means alternative apparatus adequate to enable Prax to fulfil its statutory functions in a manner not 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, Prax for the purposes of Prax's undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Prax for the purposes of Prax's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land; and

(**a**) 1991 (c. 22).

"Prax" means Prax Lindsey Oil Refinery Limited (in Liquidation) and Prax Downstream UK Limited (in Liquidation) and includes its successors in function in respect of the operation of the Fina Fuel Lindsey Oil Refinery to Buncefield Pipeline.

103. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Prax are regulated by the provisions of Part 3 of the 1991 Act.

104. 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.

105.—(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 Prax's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Prax 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 Prax 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 Prax 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 Prax reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Prax 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, Prax 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 Prax and the undertaker or in default of agreement settled by arbitration in accordance with article 43 (arbitration).

(5) Prax 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 Prax of any such facilities and rights as are referred to in sub-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 Prax 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 Prax, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Prax.

(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.

106.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Prax 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 Prax 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 Prax 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 Prax as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

107.—(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 105(2), the undertaker must submit to Prax 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 Prax for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Prax is entitled to watch and inspect the execution of those works where reasonably practicable to do so.

(3) Any requirements made by Prax 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 Prax 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 101 to 106 apply as if the removal of the apparatus had been required by the undertaker under paragraph 105(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 Prax 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.

108.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Prax the reasonable expenses incurred by Prax 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 105(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 Prax 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 105(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 Prax 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 Prax 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.

109.—(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 105(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 Prax, or there is any interruption in any service provided, or in the supply of any goods, by Prax, the undertaker must—

(a) bear and pay the cost reasonably incurred by Prax in making good such damage or restoring the supply; and

(b) make reasonable compensation to Prax for any other expenses, loss, damages, penalty or costs incurred by Prax,

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 Prax, its officers, servants, contractors or agents.

(3) Prax 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.

110. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Prax in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

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;

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

(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 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 25 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) 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.