

# A303 Sparkford to Ilchester Dualling Scheme TR010036

## 3.1 Draft Development Consent Order

Planning Act 2008  
Infrastructure Planning (Applications: Prescribed  
Forms and Procedure) Regulations 2009  
Tracked Change for Amend Request  
February 2019

Volume 3.0



# **The A303 Sparkford to Ilchester Dualling Development Consent Order 201[ ]**

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## **DRAFT DEVELOPMENT CONSENT ORDER**

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Planning Act 2008	
The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009	
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201[ ] No. [ ]

## INFRASTRUCTURE PLANNING

### The A303 Sparkford to Ilchester Dualling Development Consent Order 201[ ]

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

*Coming into force* - - - - - \*\*\*

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008<sup>(a)</sup> (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009<sup>(b)</sup> for an Order granting development consent.

The application was examined by a Panel of 2 members (“the Panel”) (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010<sup>(c)</sup>.

The Panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Panel, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122, 123, 135, and 138 of, and paragraphs 1 to 3, 10 to 17, 19 to 23, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

## PART 1

### PRELIMINARY

#### **Citation and commencement**

**1.**—(1) This Order may be cited as the A303 Sparkford to Ilchester Dualling Development Consent Order 201[•] and comes into force on [•].

#### **Interpretation**

**2.**—(1) In this Order except where provided otherwise—

- “the 1961 Act” means the Land Compensation Act 1961<sup>(d)</sup>;
- “the 1965 Act” means the Compulsory Purchase Act 1965<sup>(e)</sup>;
- “the 1980 Act” means the Highways Act 1980<sup>(f)</sup>;
- “the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981<sup>(g)</sup>;
- “the 1984 Act” means the Road Traffic Regulation Act 1984<sup>(h)</sup>;
- “the 1990 Act” means the Town and Country Planning Act 1990<sup>(i)</sup>;
- “the 1991 Act” means the New Roads and Street Works Act 1991<sup>(j)</sup>;
- “the 2008 Act” means the Planning Act 2008<sup>(k)</sup>;

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(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of 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. 2014/2381, S.I. 2015/377, S.I. 2017/572; modified by S.I. 2012/1659.

(c) S.I. 2010/103, amended by S.I. 2012/635.

(d) 1961 c. 33.

(e) 1965 c. 56.

(f) 1980 c. 66.

(g) 1981 c. 66.

(h) 1984 c. 27.

(i) 1990 c. 8.

(j) 1991 c. 22.

(k) 2008 c. 29.

“address” includes any number or address for the purposes of electronic transmission;

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“authorised development” means the development and associated development described in Schedule 1 (authorised development);

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“bridleway” has the same meaning as in the 1980 Act;

“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;

“the classification of roads plans” means the plans of that description certified by the Secretary of State as the classification of roads plans for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, creation of working areas for remedial works, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“the Crown land plans” means the plans certified by the Secretary of State as the Crown land plans for the purposes of this Order;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act<sup>(a)</sup>;

“the de-trunking plans” means the plans certified by the Secretary of State as the de-trunking plans for the purposes of this Order;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

“the engineering sections” means the documents certified by the Secretary of State as the engineering sections for the purposes of this Order;

“the environmental statement” means the documents 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;

“the general arrangement plans” means the plans certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

“highway” has the same meaning as in the 1980 Act;

“the land plans” means the plans certified by the Secretary of State as the land plans for the purposes of this Order;

“the limits of deviation” means the limits of deviation referred to in article 8 (limits of deviation);

“the local highway authority” means Somerset County Council;

“maintain” includes, to the extent assessed in the environmental statement, inspect, repair, adjust, alter, remove, replace or reconstruct in relation to the authorised development and any derivative of “maintain” is to be construed accordingly;

“the Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

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(a) The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

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

“the outline environmental management plan” means the plan certified by the Secretary of State as the outline environmental management plan for the purposes of this Order;

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

“the permanent speed limit plans” means the plans certified by the Secretary of State as the permanent speed limit plans for the purposes of this Order;

“relevant planning authority” means the local planning authority for the land in question;

“the rights of way and access plans” means the plans certified by the Secretary of State as the rights of way and access plans for the purposes of this Order;

“the Secretary of State” means the Secretary of State for Transport;

“the speed limit plans” means the plans certified by the Secretary of State as the speed limit plans for the purposes of this Order;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

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

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

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

“the traffic regulation measures plans” means the plans certified by the Secretary of State as the traffic regulation measures plans for the purposes of this Order;

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

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10(c) (general provision as to trunk roads) or section 19(1)(d) (certain special roads and other highways to become trunk roads) of the 1980 Act;
- (b) an order made or direction given under section 10 of that Act;
- (c) an order granting development consent; or
- (d) any other enactment;

“the undertaker” means Highways England Company Limited, company number 09346363, whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans 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 to place and maintain, anything in, on or under land or in the airspace above its surface 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 is otherwise comprised in the Order land.

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(a) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

(b) This section was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22); and brought into force by S.I. 1991/2288.

(c) As amended by section 22(2) of the 1991 Act and paragraph 22 of Schedule 2 to the 2008 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(d) As amended by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).



(3) All distances, directions, areas and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

### **Disapplication of legislative provisions**

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

- (a) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016<sup>(a)</sup> in relation to the carrying on of a flood risk activity or a water discharge activity;
- (b) section 24 (restrictions on abstraction) of the Water Resources Act 1991<sup>(b)</sup>;
- (c) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (bye-law making powers of the appropriate agency) to the Water Resources Act 1991;
- (d) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991<sup>(c)</sup>;
- (e) section 32 (variation of awards) of the Land Drainage Act 1991; and
- (f) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991.

(2) In paragraph (1)(a) “flood risk activity”<sup>(d)</sup> and “water discharge activity”<sup>(e)</sup> have the meaning given in the Environmental Permitting (England and Wales) Regulations 2016.

(3) In so far as they relate to the temporary possession of land, the provisions of the Neighbourhood Planning Act 2017<sup>(f)</sup> do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and any maintenance of any part of the authorised development.

### **Maintenance of drainage works**

**4.—**(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

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

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(a) S.I. 2016/1154.

(b) 1991 c. 57.

(c) 1991 c. 59.

(d) This term is defined in paragraph 3 of Part 1 of Schedule 25 to the Regulations.

(e) This term is defined in paragraph 3 of Schedule 21 to the Regulations.

(f) 2017 c. 20

## PART 2

### PRINCIPAL POWERS

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

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

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

#### **Maintenance of authorised development**

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

#### **Planning permission**

7. 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 carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

#### **Limits of deviation**

8. In carrying out the authorised development the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and
- (b) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections—
  - (i) in respect of Works 81, 85 and 92 to a maximum of 1 metre upwards or 5 metres downwards; or
  - (ii) for all other Works to a maximum of 1 metre upwards or downwards.

except that these maximum limits of vertical deviation do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority and the local highway authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement.

#### **Benefit of Order**

9.—(1) Subject to article 10 (consent to transfer benefit of Order) and paragraph (2), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

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

**10.**—(1) The undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) 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.

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to—

- (a) Scottish and Southern Energy (company number SC117119, whose registered office is at Inveralmond House, 200 Dunkeld Road, Perth, PH1 3AQ) for the purposes of undertaking Works No. 9, 35, 37, 38, 38a, 48, 70, 73, 76 and 79; or
- (b) Wessex Water Services Limited (company number 02366648, whose registered office is at Wessex Water Operations Centre, Claverton Down Road, Claverton Down, Bath, BA2 7WW; for the purposes of undertaking Works No. 32, 44, 46, 74 and 77; or
- (c) British Telecommunications (company number 01800000, whose registered office is at 81 Newgate Street, London, EC1A 7AJ), and Openreach Limited (company number 10690039, whose registered office is at Kelvin House, 123 Judd Street, London, WC1H 9NP); Sky Telecommunications Services Limited, company number 02883980, whose registered office is at Grant Way, Isleworth, Middlesex, TW7 5QD); Virgin Media Limited, company number 02591237, whose registered office is at Media House, Bartley Wood Business Park, Hook, RG27 9UP; Level 3 Communications Limited, (company number 03514850, whose registered office is at 7th Floor, 10 Fleet Place, London, EC4M 7RB); CenturyLink Limited (company number 09626356, whose registered office is at 230 Wharfedale Road, Winnersh Triangle, Wokingham, RG41 5TP); Instalcom Limited, (company number 03421543, whose registered office is at 202 Northolt Road, South Harrow, HA2 0EX); or O’Connor Utilities Limited, (company number 02916906, whose registered office is at 10 Sandfold Lane, Manchester, M19 3BJ) for the purposes of undertaking Works No. 8, 13, 31, 33, 34, 36, 43, 45, 47, 69, 71, 72, 75, 78, 84, 96, 97 and 98.

## **PART 3**

### **STREETS**

#### **Street works**

**11.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets as are within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for, or incidental to, any works referred to in sub-paragraphs (a), (b), (c) and (d).

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

(3) Subject to article 12 (application of the 1991 Act), the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

### **Application of the 1991 Act**

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

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3)(a) of that Act; or
- (b) they are works which, had they been executed by the local highway authority, might have been carried out in exercise of the powers conferred by section 64(b) (dual carriageways and roundabouts) of the 1980 Act or section 184(c) (vehicle crossings over footways and verges) of that Act.

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

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 56(d) (directions as to timing);
- (b) section 56A(e) (power to give directions as to placing of apparatus);
- (c) section 58(f) (restrictions following substantial road works);
- (d) section 58A(g) (restriction on works following substantial street works); and
- (e) schedule 3A(h) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 15 (temporary stopping up and restriction of use of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(i) referred to in paragraph (4) are—

- (a) section 54 (advance notice of certain works), subject to paragraph (6);
- (b) section 55 (notice of starting date of works), subject to paragraph (6);
- (c) section 57 (notice of emergency works);
- (d) section 59 (general duty of street authority to co-ordinate works);
- (e) section 60 (general duty of undertakers to co-operate);
- (f) section 68 (facilities to be afforded to street authority);
- (g) section 69 (works likely to affect other apparatus in the street);

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(a) Section 86(3) defines what highway works are major highway works.

(b) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

(c) As amended by section 4 of, and paragraph 45 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 18 of, and Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22).

(d) As amended by sections 40 and 43 of the Traffic Management Act 2004 (c. 18).

(e) Inserted by section 44 of the Traffic Management Act 2004.

(f) As amended by section 51 of the Traffic Management Act 2004.

(g) Inserted by section 52 of the Traffic Management Act 2004.

(h) Inserted by section 52 of, and Schedule 4 to, the Traffic Management Act 2004.

(i) All as amended by the Traffic Management Act 2004.

- (h) section 75 (inspection fees);
- (i) section 76 (liability for cost of temporary traffic regulation); and
- (j) section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

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

(7) Nothing in article 13 (construction and maintenance of new, altered or diverted streets and other structures)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and the undertaker is not by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to street works to which the provisions of Part 3 of the 1991 Act apply.

### **Construction and maintenance of new, altered or diverted streets and other structures**

**13.—**(1) Any highway (other than a trunk road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a highway (other than a trunk road) is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, that part of the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(3) Where a street which is not and is not intended to be a public highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be) must, when completed to the reasonable satisfaction of the street authority and unless otherwise agreed in writing with the street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(4) Where a highway is de-trunked under this Order—

- (a) section 265 (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway; and
- (b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed in writing with the local highway authority, be maintained by and at the expense of the local highway authority from the date of de-trunking.

(5) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over or under a trunk road, the highway surface must from its completion be maintained by and at the expense of the local highway authority and the structure of the bridge must be maintained by and at the expense of the undertaker.

(6) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over another highway which is not a trunk road, both the highway surface and the structure of the bridge must be maintained by and at the expense of the local highway authority from their completion.

(7) 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.

(8) For the purposes of a defence under paragraph (7), the court must in particular have regard to the following matters—

- (a) the character of the street and 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 to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

#### **Classification of roads, etc.**

**14.—**(1) From the date on which the roads described in Part 1 (trunk roads) of Schedule 3 are completed and open for traffic, they are to become trunk roads as if they had become so by virtue of an order under section 10(2)(a) (general provision as to trunk roads) of the 1980 Act specifying that date as the date on which they were to become trunk roads.

(2) On such day as the undertaker may determine, the roads described in Part 2 (roads to be de-trunked) of Schedule 3 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(3) From the date on which the roads described in Parts 3 and 4 (classified roads) of Schedule 3 are completed and open for traffic, they are to become classified roads for the purpose of any enactment or instrument which refers to highways classified as classified roads as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

(4) From the date on which the roads described in Part 5 (unclassified roads) of Schedule 3 are completed and open for traffic, they are to become unclassified roads for the purpose of any enactment or instrument which refers to unclassified roads.

(5) From the date on which the roads described in Part 6 (speed limits) of Schedule 3 are open for traffic, no person is to drive any motor vehicle at a speed exceeding the limit specified in column (3) of that Part along the lengths of road identified in the corresponding row of column (2) of that Part.

(6) Unless otherwise agreed with the relevant planning authority, the public rights of way set out in Part 11 (public rights of way) of Schedule 3 and identified on the rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use from the date on which the authorised development is open for traffic.

(7) On such day as the undertaker may determine, the orders specified in column (3) of Part 10 (revocations and variations of existing traffic regulation orders) of Schedule 3 are to be varied or revoked as specified in the corresponding row of column (4) of that Part in respect of the lengths of roads specified in the corresponding row of column (2) of that Part.

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(a) As amended by section 22 of the 1991 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015.

(8) The application of paragraphs (1) to (6) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters, including by an instrument made under the 1984 Act where the matter in question could have been included in an order made under that Act.

### **Temporary stopping up and restriction of use of streets**

**15.—**(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter, divert or restrict the use of any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street temporarily stopped up or restricted under the powers conferred by this article, and which is within the Order limits, as a temporary working site.

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

(4) The undertaker must not temporarily stop up, alter, divert or restrict the use of any street for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld or delayed.

(5) 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 of the 1961 Act.

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

### **Permanent stopping up and restriction of use of streets and private means of access**

**16.—**(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets and private means of access specified in columns (1) and (2) of Parts 1, 2, 3 and 4 of Schedule 4 (permanent stopping up of highways and private means of access; provision of new highways and private means of access) to the extent specified and described in column (3) of those Parts of that Schedule.

(2) No street or private means of access specified in columns (1) and (2) of Parts 2 and 4 of Schedule 4 (being a street or private means of access to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street or private means of access to be constructed and substituted for it, which is specified in column (4) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street or private means of access to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street or private means of access until the completion and opening of the new street or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in columns (1) and (2) of Parts 1 and 3 of Schedule 4 (being a street or private means of access to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street or private means of access to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the undertaker is in possession of the land;
  - (b) there is no right of access to the land from the street or private means of access concerned;
  - (c) there is reasonably convenient access to the land otherwise than from the street or private means of access concerned; or
  - (d) the owners and occupiers of the land have agreed to the stopping up.
- (5) Where a street or private means of access has been stopped up under this article—
- (a) all rights of way over or along the street or private means of access so stopped up are extinguished; and
  - (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street or private means of access as is bounded on both sides by land owned by the undertaker.
- (6) The undertaker may, in connection with the carrying out of the authorised development, alter the private means of access specified in column (1) of Part 5 of Schedule 4 as specified in column (2) of that Part.
- (7) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.
- (8) This article is subject to article 36 (apparatus and rights of statutory undertakers in stopped up streets).

#### **Access to works**

**17.** The undertaker may, for the purposes of the authorised development, form and lay out 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.

#### **Clearways, prohibitions and restrictions**

**18.—**(1) From such day as the undertaker may determine, except as provided in paragraph (4), no person is to cause or permit any vehicle to wait on any part of the lengths of road described in column (2) of Part 7 (traffic regulation measures (clearways and prohibitions)) of Schedule 3 (classification of roads, etc.), except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

(2) From such a day as the undertaker may determine, except as provided in paragraph (4) no person may cause or permit any vehicle to use any part of the length of road described in column (2) of Part 8 (traffic regulation measures (weight restrictions)) of Schedule 3 (classification of roads etc.) where that vehicle exceeds the weight restriction specified in column (3) of that Part.

(3) From such a day as the undertaker may determine, except as provided in paragraph (4) no person may cause or permit any vehicle to wait on any part of the length of road described in column (2) of Part 9 (traffic regulation measures (waiting restrictions)) of Schedule 3 (classification of roads etc.) for a period exceeding two hours.

(4) Nothing in paragraphs (1), (2) or (3) applies—

- (a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—
  - (i) the removal of any obstruction to traffic;
  - (ii) the maintenance, improvement, reconstruction or operation of the road;
  - (iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as



defined in Schedule 3A (the Electronic Communications Code) to the Communications Act 2003(a); or

- (iv) any building operation or demolition;
- (b) in relation to a vehicle being used—
  - (i) for police, ambulance, fire and rescue authority or traffic officer purposes;
  - (ii) in the service of a local authority, safety camera partnership or Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;
  - (iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(b); or
  - (iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Service Act 2000(c); or
- (c) in relation to a vehicle waiting when the person in control of it is—
  - (i) required by law to stop;
  - (ii) obliged to stop in order to avoid an accident; or
  - (iii) prevented from proceeding by circumstances outside the person's control.

(5) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraphs (1) and (3) for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

(6) Paragraphs (1), (2), (3), (4) and (5) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

(7) In this article, “traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004(d).

### **Traffic regulation**

**19.—**(1) This article applies to roads in respect of which the undertaker is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

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(a) 2003 c. 21. Schedule 3A was inserted by paragraph 1 of Schedule 1 to the Digital Economy Act 2017 (c. 30).

(b) 1991 c. 56.

(c) 2000 c. 26.

(d) 2004 c. 18.

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

(a) given not less than—

- (i) 12 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
  - (ii) 4 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,
- to the chief officer of police and to the traffic authority in whose area the road is situated; and

(b) advertised the undertaker's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the undertaker under paragraph (2)—

(a) has effect as if duly made by, as the case may be—

- (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
  - (ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces) of the 1984 Act,
- and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and

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

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (2) within a period of 24 months from the opening of the authorised development.

(8) Before exercising the powers conferred by paragraph (2) the undertaker must consult such persons as the undertaker considers necessary and appropriate and must take into consideration any representations made to the undertaker by any such person.

(9) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(10) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.

## PART 4

### SUPPLEMENTAL POWERS

#### **Discharge of water**

**20.—**(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, maintenance or use of the authorised development and for that purpose may lay down, take up and alter pipes and may, on

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(a) 2004 c. 18.

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 communication with public sewers) of the Water Industry Act 1991(a).

(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; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

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

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

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

(6) 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 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.

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

### **Protective works to buildings**

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

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may (subject to paragraph (5)) enter and survey any building falling within paragraph (1) and any land within its curtilage.

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

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

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(a) 1991 c. 56. Section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(b) 1991 c. 57.

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

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

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 45 (arbitration).

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

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

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

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152(a) (compensation in case where no right to claim in nuisance) of the 2008 Act.

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

(11) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

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

**22.—**(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 and—

- (a) survey or investigate the land (including any watercourses, ground water, static water bodies or vegetation on the land);
- (b) without limitation on the scope of sub-paragraph (a), make any excavations, trial holes and boreholes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and ground water, remove soil samples and discharge water samples on to the land;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including making any excavations or trial holes on the land for such purposes; 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 and boreholes.
- (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 or after entering the land, produce written evidence of their authority to do so; and
  - (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes and boreholes.
- (4) No trial holes or boreholes are to be made under this article—
  - (a) in land located within the highway boundary for which the local highway authority is the highway authority, without the consent of the local highway authority; or
  - (b) in a private street without the consent of the street authority,
 but such consent must not be unreasonably withheld.
- (5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (6) If either the local highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—
  - (a) under paragraph (4)(a) in the case of the local highway authority; or
  - (b) under paragraph (4)(b) in the case of a street authority,
 that authority is deemed to have granted consent.

## PART 5

### POWERS OF ACQUISITION

#### **Compulsory acquisition of land**

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

(2) This article is subject to paragraph (2) of article 26 (compulsory acquisition of rights) and paragraph (8) of article 33 (temporary use of land for carrying out the authorised development).

#### **Compulsory acquisition of land – incorporation of the mineral code**

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

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

**25.**—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and

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(a) 1981 c. 67.

- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 30 (application of the 1981 Act).

(2) The authority conferred by article 33 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker from remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

### **Compulsory acquisition of rights**

**26.**—(1) The undertaker may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 23 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule and relating to that part of the authorised development specified in column (3) of that Schedule.

(3) The power to impose restrictive covenants under paragraph (1) is exercisable only in respect of plots specified in column (1) of Schedule 5.

(4) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 10 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker is not required to acquire a greater interest in that land.

(5) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

### **Public rights of way**

**27.**—(1) The public rights of way identified in columns (1) to (3) of Parts 1 and 2 of Schedule 4 (permanent stopping up of highways and private means of access; provision of new highways and private means of access) and shown on the rights of way and access plans are to be extinguished on the date of the expiry of the notice given under paragraph (2).

(2) Prior to the extinguishment of each of the public rights of way identified in columns (1) to (3) of Parts 1 and 2 of Schedule 4 and shown on the rights of way and access plans, the undertaker must erect a site notice at each end of the rights of way to be extinguished no less than 28 days prior to the extinguishment of that right of way.

### **Private rights over land**

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

- (a) from the date of acquisition of the land 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 earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in

so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

- (a) from the date of the acquisition of the right or 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) (power of entry) of the 1965 Act,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the undertaker within the Order limits which are required to be interfered with or breached for the purposes of this Order are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

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

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 35 (statutory undertakers) applies.

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

- (a) any notice given by the undertaker before—
  - (i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
  - (ii) the undertaker's appropriation of it;
  - (iii) the undertaker's entry onto it; or
  - (iv) the undertaker's taking temporary possession of it,that any or all of those paragraphs do not apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

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

(9) Reference in this article to private rights over land include any trust, incident, 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.

(10) From such date as the undertaker may determine, which may not be later than the date on which the private means of access listed in column 2 of Part 4 of Schedule 4 is stopped up, the owners and occupiers, their agents contractors and any person with the permission of the owner or occupier of the land to be accessed by the private means of access to be created on the Order Land and listed in column 4 of Part 4 Schedule 4, will be entitled to take access to their land at all times with or without vehicles across or along the access tracks to be created on the Order Land listed in column 4 of Part 4 Schedule 4.

## **Modification of Part 1 of the 1965 Act**

**29.**—(1) Part 1 of the 1965 Act, 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)(a) (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 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 25 (time limit for exercise of authority to acquire land compulsorily) of the A303 Sparkford to Ilchester Development Consent Order 20[•]”.

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

(a) in subsection (1)(a), after “land” insert “under that provision”;

(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 25 of the A303 Sparkford to Ilchester Development Consent 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 31(3) (acquisition of subsoil or airspace only) of the A303 Sparkford to Ilchester Development Consent Order 20[•], which excludes the acquisition of subsoil or airspace only from this Schedule;” and

(b) after paragraph 29, end insert—

## **“PART 4**

### **INTERPRETATION**

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 21 (protective works to buildings), 33 (temporary use of land for carrying out the authorised development) or 34 (temporary use of land for maintaining the authorised development) of the A303 Sparkford to Ilchester Development Consent Order 20[•].”

## **Application of the 1981 Act**

**30.**—(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 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 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

(5) Omit section 5A(c) (time limit for general vesting declaration).

(6) In section 5B(d) (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

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(a) As inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(b) As inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

(c) Inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(d) As inserted by section 202(2) of Schedule 3 to the Housing and Planning Act 2016 (c. 22).



year period mentioned in section 5A” substitute “section 118(a) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 25 (time limit for exercise of authority to acquire land compulsorily) of the A303 Sparkford to Ilchester Development Consent Order 20[•]”.

(7) In section 6(b) (notices after execution 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(c) (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

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

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

“(2) But see article 31(3) (acquisition of subsoil or airspace only) of the A303 Sparkford to Ilchester Development Consent Order 20[•], which excludes the acquisition of subsoil or airspace only from this Schedule.”

(10) References to the 1965 Act in the 1981 Act are to 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 29 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil or airspace only**

**31.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph (1) of article 23 (compulsory acquisition of land) 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 or the airspace over the land referred to in paragraph (1), 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 or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the Compulsory Purchase (Vesting Declarations) Act 1981; and
- (c) Section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

(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 manufactory or airspace above a house, building or manufactory.

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

**32.**—(1) The undertaker may enter on and appropriate 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.

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- (a) As amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25, to the Localism Act 2011 (c. 20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c. 2).
  - (b) As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22).
  - (c) As amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011 (c. 20) and S.I. 2012/16.
  - (d) As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(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 in respect of which the power of appropriation conferred by paragraph (1) is exercised 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 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is a statutory undertaker to whom section 85 (sharing of 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 carrying out the authorised development**

**33.—**(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 25(2) (time limit for exercise of authority to acquire land compulsorily)—

(a) enter on and take temporary possession of—

- (i) the land specified in column (1) of Schedule 7 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and
- (ii) any other Order land in respect of which no notice of entry has been served under section 11(a) (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;

(b) remove any buildings and vegetation from that land ;

(c) construct temporary works (including the provision of means of access) and buildings on that land; and

(d) construct any permanent works specified in relation to that land in column (2) of Schedule 7 (land of which only temporary possession may be taken), or any other mitigation works in connection with the authorised development.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

(a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 7 (land of which only temporary possession may be taken); or

(b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by 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.

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(a) Section 11 was amended by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(4) 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; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1)(d); or
- (c) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(5) 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 powers conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) 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 (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from—

- (a) acquiring new rights over any part of that land under article 26 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 31 (acquisition of subsoil or airspace only).

(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) Section 13(a) (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.

(11) Paragraph (1)(a)(ii) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 23 (compulsory acquisition of land) or article 26 (compulsory acquisition of rights).

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

**34.—**(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 upon 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.

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(a) Section 13 was amended by sections 62(3) and 139 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).

(3) Not less than 28 days before entering upon 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 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.

(5) 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.

(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 powers 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, is to be determined under Part 1 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 execution of any works, 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) 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.

(11) In this article "the maintenance period", in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

### **Statutory undertakers**

**35.—**(1) Subject to the provisions of article 26(3) (compulsory acquisition of rights), Schedule 8 (protective provisions) and paragraph (2), the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, any Order land belonging to statutory undertakers; and
- (b) extinguish the rights of, or remove or reposition the apparatus belonging to, statutory undertakers over or within the Order land.

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

- (a) Part 3 (street works in England and Wales) of the 1991 Act; and
- (b) article 36 (apparatus and rights of statutory undertakers in stopped up streets).

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

**36.—**(1) Where a street is stopped up under article 16 (permanent stopping up and restriction of use of streets and private means of access), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 16 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or

- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; 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 to be necessary, then, if it involves cost in the execution of the relocation works 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 paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (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.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, 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 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.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003(a).

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

**37.—**(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 35 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 35, 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 article 36 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

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

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

## **PART 6**

### **OPERATIONS**

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

**38.—**(1) The undertaker may fell or lop any tree or shrub, or cut back its roots, within or overhanging land within the Order limits if it 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 persons using the authorised development.

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

- (a) do no unnecessary damage to any tree or shrub;
- (b) pay compensation to any person for any loss or damage arising from such activity; and
- (c) take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981<sup>(a)</sup> and the Conservation of Habitats and Species Regulations 2017<sup>(b)</sup> or any successor acts and regulations.

(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 carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.

(5) In this article “hedgerow” has the same meaning as in the Hedgerows Regulations 1997<sup>(c)</sup> and includes important hedgerows.

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(a) 1981 c. 69.  
(b) S.I. 2017/1012.  
(c) S.I. 1997/1160.

## PART 7

### MISCELLANEOUS AND GENERAL

#### **Application of landlord and tenant law**

**39.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation 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) 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**

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

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

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

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974<sup>(b)</sup>; or
  - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
  - (iii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

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<sup>(a)</sup> 1990 c. 43.  
<sup>(b)</sup> 1974 c. 40.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

### **Protective provisions**

**42.** Schedule 8 (protective provisions) has effect.

### **Certification of plans etc.**

**43.—**(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the book of reference (document reference TR010036/APP/4.3);
- (b) the classification of roads plans (document reference TR010036/APP/2.7);
- (c) the outline environmental management plan (document reference TR010036/APP/6.7);
- (d) the engineering sections (document reference TR010036/APP/2.17);
- (e) the environmental statement (document reference TR010036/APP/6.1);
- (f) the general arrangement plans (document reference TR010036/APP/2.6);
- (g) the land plans (document reference TR010036/APP/2.2);
- (h) the rights of way and access plans (document reference TR010036/APP/2.4);
- (i) the traffic regulation measures plans (document reference TR010036/APP/2.10) ;
- (j) the permanent speed limit plans (document reference TR10036/APP/2.5);
- (k) the works plans (document reference TR010036/APP/2.3);
- (l) the detrunking plans (document reference TR010036/APP/2.16); and
- (m) any other plans or documents referred to in this Order as requiring certification,

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.

### **Service of notices**

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

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) 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<sup>(a)</sup> 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

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(a) 1978 c. 30.



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

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any 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 name or 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 a 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 7 days of receipt that the recipient requires a paper copy of all or 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 electronic communication given 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 7 days after the date on which the notice is given.

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

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

## **Arbitration**

**45.** Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

## **Appeals relating to the Control of Pollution Act 1974**

**46.—**(1) The undertaker may appeal in the event that a local authority issues a notice under section 60 (control of noise on construction sites), or does not give consent or grants consent but subject to conditions, under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974.

(2) The appeal process is 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 date by which a decision was due to be made, as the case may be;

- (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 local authority and affix a notice to a conspicuous object on or near the site of the works which are the subject of such appeal, which must give details of the decision of the local authority and notice that an appeal has been made together with the address within the locality where the appeal documents may be inspected and details of the manner in which representations on the appeal may be made;
- (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to consider the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person, a start date and the address to which all correspondence for their attention should be sent;
- (d) the local authority must submit their written representations to the appointed person in respect of the appeal within 10 business days of the start date and must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations under sub-paragraph (d); and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

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

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

(5) Any further information required under sub-paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. 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 to the appointed person within 10 business days of the agreed date but must otherwise be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (e).

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

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the local authority (whether the appeal relates to that part of it or not),

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

(7) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside the relevant time limits.

(8) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(9) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(10) Except where a direction is given under sub-paragraph (11) requiring some or all of the costs of the appointed person to be paid by the local authority, the reasonable costs of the appointed person must be met by the undertaker.

(11) The appointed person may give directions as to the costs of the appeal and as to the parties by whom such costs 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 the relevant Planning Practice Guidance published by the Ministry for Housing, Communities and Local Government or such guidance as may from time to time replace it.

### **Removal of human remains**

**47.**—(1) In this article “the specified land” means the land within the Order limits.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the undertaker must give notice of the intended removal describing the specified land and stating the general effect of the following provisions of this article by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person is to, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker is to remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which are to be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment of cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation is to be sent to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) is to be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

(12) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State for Justice.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 of the Burial Act 1857(a) (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) does not apply to a removal carried out in accordance with this article.

### **Crown rights**

**48.—**(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker—

- (a) to use, enter upon or in any manner interfere with any land or rights of any description—
  - (i) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
  - (ii) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
  - (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.
- (b) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory purchase of any interest in any Crown land (as defined in the 2008 Act) for the time being held otherwise than by or on behalf of the Crown.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Signed by authority of the Secretary of State for Transport

Address  
Date

*Name*  
Parliamentary Under Secretary of State  
Department for Transport

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(a) 1978 c.30. There are amendments to this Act which are not relevant to this Order.

# SCHEDULES

## SCHEDULE 1

Article 2

### AUTHORISED DEVELOPMENT

**In the administrative areas of Somerset County Council and South Somerset District Council**

The authorised development is a nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act(a) and associated development within the meaning of section 115(2) of the 2008 Act, comprising—

**Work No.1** – Shown on sheets 1, 2, 3 and 4 of the Works Plans is the construction of the A303 eastbound totalling 5590 metres in length, between point E 300 metres east of Higher Farm Lane Overbridge and point F 550 metres west of the Sparkford Railway Bridge. To include;

- (a) Construction of a new compact junction at Downhead to connect the A303 to the ‘Downhead Junction Link’ (Work No.18).

**Work No.2** – Shown on sheets 1, 2, 3 and 4 of the Works Plans is the construction of the A303 westbound totalling 5606 metres in length, between point E 300 metres east of the Higher Farm Lane Overbridge and point F 550 metres west of the Sparkford Railway Bridge.

- (a) Construction of a new compact junction at Camel Cross to connect the A303 to the ‘Camel Cross Link’ (Work No.15).

**Work No.3** – The construction of new multi-purpose ‘Track 1’, shown on sheet 1 of the Works Plans between points DA and DB. To include;

- (a) Access to land to the north of the new A303.

**Work No.4** – The construction of new multi-purpose ‘Track 3’, shown on sheet 1 of the Works Plans between points DQ and DV. To include;

- (a) Accesses to land to the north of the new A303.

**Work No.5** – Works associated with the closure of the existing slip road from the A303, shown on sheet 1 of the Works Plans between points G and H. To include;

- (a) Construction of the ‘Podimore Turning Head’.

**Work No.6** – The construction of ‘Pond 1’, shown on sheet 1 of the Works Plans. To include;

- (a) The construction of associated outfall works.

**Work No.7** – The construction of ‘Pond 2’, shown on sheet 1 of the Works Plans. To include;

- (a) The construction of associated outfall works.

**Work No.8** – The installation of new telecommunications cable and sub duct within existing duct, shown on sheet 1 of the Works Plans between points KR and JC.

**Work No.9** – The decommissioning of 75 metres of electrical cable, shown on sheet 1 of the Works Plans between points JA and JB.

**Work No.11** – The construction of new multi-purpose ‘Track 2’, shown on sheets 1 and 2 of the Works Plans between points DC and DD. To include;

- (a) Accesses to land to the north of the new A303.

**Work No.12** – The construction of new multi-purpose ‘track 4’, shown on sheets 1 and 2 of the Works Plans between points DE and DF.

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(a) Section 22 was substituted by article 3 of S.I. 2013/1883.

**Work No.13** – The diversion of 1370 metres of telecommunications apparatus, shown on sheets 1 and 2 of the Works Plans between points JC and JF.

**Work No.14** – The construction of new access ‘track 9’, shown on sheets 1 and 2 of the Works Plans between points DG and DH. To include;

- (a) Accesses to land to the south of the new A303.

**Work No.15** – The construction of ‘Camel Cross link’, shown on sheet 2 of the Works Plans between points U and T.

**Work No.16** – The construction of ‘B3151 link’, shown on sheet 2 of the Works Plans between points V and W. To include;

- (a) Access to properties known as ‘Hawk House’ and ‘The Bungalow’ at Camel Cross.

**Work No.17** – The construction of ‘Downhead Lane’, shown on sheet 2 of the Works Plans between points X and Y. To include;

- (a) Access to the property known as ‘The Spinney’.
- (b) Access to land to the north of the A303.

**Work No.18** – The construction of ‘Downhead Junction Link’, shown on sheet 2 of the works plans between points AA and Z.

**Work No.19** – The construction of ‘Howell Hill Link (West)’, shown on sheet 2 of the Works Plans between points AP and AQ.

**Work No.20** – The construction of ‘Stear Hill Link to Old A303’, shown on sheet 2 of the Works Plans between points AR and AS.

**Work No.21** – The construction of ‘Stear Hill Overbridge’, shown on sheet 2 of the Works Plans between points BA and BB.

**Work No.22** – The construction of ‘Bund 1’, shown on sheet 2 of the works plans between points CA and CB.

**Work No.23** - The construction of ‘Bund 2’, shown on sheet 2 of the works plans between points CC and CD.

**Work No.24** – The construction of new maintenance access ‘Track 5’, shown on sheet 2 of the Works Plans between points DI and DJ.

**Work No.25** – Works associated with the retention of the former A303 (Camel Cross to Steart Hill), shown on sheet 2 of the Works Plans between points W and AR. To include;

- (a) Carriageway narrowing involving kerb re-alignment, repositioning of gullies and associated pipework and removal of redundant carriageway surfacing.
- (b) Removal of redundant traffic signs.
- (c) Modification of road markings.
- (d) Reprofilng of the carriageway surface.
- (e) Reprofilng of the adjacent existing footway.

**Work No.26** – Works associated with the retention of the former A303 (West of Howell Hill), shown on sheet 2 of the Works Plans between points AQ and AF. To include;

- (a) Carriageway narrowing involving kerb re-alignment, repositioning of gullies and associated pipework and removal of redundant carriageway surfacing.
- (b) Removal of redundant traffic signs.
- (c) Modification of road markings.
- (d) Reprofilng of the carriageway surface.
- (e) Reprofilng of the adjacent existing footway.

**Work No.27** – Works associated with the closure of local road at Downhead, shown on sheet 2 of the Works Plans between points EJ and EK. To include;

- (a) The construction of Downhead Turning Head.

**Work No.28** – The construction of ‘pond 3’, shown on sheet 2 of the Works Plans. To include;

- (a) The construction of associated outfall works.

**Work No.29** - The construction of ‘pond 4’, shown on sheet 2 of the works plans. To include;

- (a) The construction of associated outfall works.

**Work No.30** – The construction of ‘Stear Hill Roundabout’, shown on sheet 2 of the Works Plans.

**Work No.31** – The installation of new telecommunications cable and sub duct in existing ducting, shown on sheet 2 of the Works Plans between points JF and JQ.

**Work No.32** – The diversion of 500 metres of water distribution apparatus, shown on sheet 2 of the Works Plans between points JD and JJ.

**Work No.33** – The diversion of 295 metres of telecommunications apparatus, shown on sheet 2 of the Works Plans between points JE and JH.

**Work No.34** – The installation of new telecommunications cable and sub duct in existing duct, shown on sheet 2 of the Works Plans between points JT and JU.

**Work No.35** – Shown on sheet 2 of the Works Plans, the diversion of 170 metres of SSE low voltage cable electrical between points JL and JK.

**Work No.36** – The diversion of 430 metres of telecommunications apparatus, shown on sheet 2 of the Works Plans between points JQ and JT.

**Work No.37** – The diversion of 50 metres of electrical apparatus, shown on sheet 2 of the Works Plans between points KN and KO.

**Work No.38** – The diversion of 500 metres of electrical apparatus, shown on sheet 2 of the Works Plans between points JG and JI.

**Work No.38a** – The decommissioning of 275 metres of electrical cable, shown on sheet 2 of the Works Plans between points JI and JW.

**Work No.41** – The construction of ‘Stear Hill Link’, shown on sheets 2 and 3 of the Works Plans between points AB and AC. To include;

- (a) Access to land to the north of the A303.

**Work No.42** – The construction of ‘Howell Hill Link (East)’, shown on sheets 2 and 3 between points AF and AG. To include;

- (a) Access to the properties known as ‘Hill View’, ‘Crusty Cottage’, ‘Lamorna’ and ‘West Camel Methodist Church’ near Canegore Corner.

**Work No.43** – The diversion of 1210 metres of telecommunications apparatus, shown on sheets 2 and 3 of the Works Plans between points JP and JM, and JP and KA.

**Work No.44** – The diversion of 1470 metres of water supply apparatus, shown on sheets 2 and 3 of the Works Plans between points JR, JS, JN, JO and KA.

**Work No.45** – The diversion of 560 metres of telecommunications apparatus, shown on sheets 2 and 3 of the Works Plans between points JU and JX, and JU and JY.

**Work No.46** – The diversion of 250 metres of water distribution apparatus, shown on sheets 2 and 3 of the Works Plans between points JU and JX.

**Work No.47** - The diversion of 340 metres of telecommunications apparatus, shown on sheets 2 and 3 of the Works Plans between points JU and JY.

**Work No.48** – The diversion of 380 metres of electrical apparatus, shown on sheets 2 and 3 of the Works Plans between points JV and JW, and JV and KP.

**Work No.49** – The construction of a temporary southern earthworks haulroute, shown on sheets 2 and 3 of the Works Plans between points LA and LB.

**Work No.50** – The construction of ‘Hazlegrove Junction Eastbound Off-Slip’, shown on sheet 3 of the Works Plans between points M and N.

**Work No.51** – The construction of ‘Stear Hill (North)’, shown on sheet 3 of the Works Plans between points AD and AE.

**Work No.52** – The construction of ‘Stear Hill (South)’, shown on sheet 3 of the Works Plans between points AH and AI. To include;

- (a) Access to the property known as ‘Bromar’ at Conegore Corner.

**Work No.53** – The construction of ‘Vale Farm Link’, shown on sheet 3 between points AL and AM. To include;

- (a) Access to the property known as ‘Pepper Hill Cottage’.
- (b) Access to land to the north of the new A303.

**Work No.54** – The construction of ‘Hazlegrove Junction Underbridge’, shown on sheet 4 of the Works Plans between points BC and BD.

**Work No.55** – The construction of ‘Bund 3’, shown on sheet 3 of the works plans between points CE and CF.

**Work No.56** - The construction of ‘Bund 4’, shown on sheet 3 of the Works Plans between points CG and CH.

**Work No.57** – The construction of new multi-purpose ‘Track 6’, shown on sheet 3 of the Works Plans between points DK and DL. To include;

- (a) Access to land to the south of the new A303.

**Work No.58** – The construction of new multi-purpose ‘Track 7’, shown on sheet 3 of the Works Plans between points DM and DN. To include;

- (a) Access to land to the south of the new A303.

**Work No.60** – Works associated with the retention of the former A303 (East of Steart Hill), shown on sheet 3 of the Works Plans between points AI and EA. To include;

- (a) Carriageway narrowing involving kerb re-alignment, repositioning of gullies and associated pipework and removal of redundant carriageway surfacing.
- (b) Removal of redundant traffic signs.
- (c) Modification of road markings.
- (d) Reprofile of the carriageway surface.

**Work No.61** – Works associated with the closure of former A303, shown on sheet 3 of the Works Plans between points EA and EE. To include;

- (a) Construction of Camel Hill Quarry Turning Head.

**Work No.62** - Works associated with the closure of Traits Lane shown on sheet 3 of the Works Plans between points DN and EF. To include;

- (a) Construction of Traits Lane Turning Head.

**Work No.63** – Works associated with the closure of Gason Lane shown on sheet 3 of the Works Plans between points EG and EH. To include;

- (a) The construction of Gason Lane turning head.



**Work No.64** – Works associated with the closure of the former A303 on sheet 3 of the Works Plans between points EI and EB. To include;

- (a) The construction of Camel Hill Services Turning Head.

**Work No.65** – The construction of Camel Hill Roundabout, shown on sheet 3 of the Works Plans.

**Work No.66** – Works to local road at Camel Hill, shown on sheet 3 of the Works Plans between points AL and FA. To include;

- (a) Verge reinforcement.
- (b) Remedial work to carriageway surfacing.

**Work No.67** – Works to access from local road at Camel Hill, shown on sheet 3 of the Works Plans between points FA, FB and FC.

**Work No.68** – Works to the existing ‘Steart Hill’, shown on sheet 3 of the Works Plans between points AE and AH. To include:

- (a) Installation of surface water drainage.
- (b) Utilities diversions.

**Work No.69** – The installation of new telecommunications cable and sub duct in existing duct, shown on sheet 3 of the Works Plans between points JY and KD.

**Work No.70** – The diversion of 65 metres of electrical apparatus, shown on sheet 3 of the Works Plans between points JY and JZ.

**Work No.71** – The diversion of 800 metres of telecommunications apparatus, shown on sheet 3 of the Works Plans between points KB and KC.

**Work No.72** – The diversion of 920 metres of telecommunications apparatus, shown on sheet 3 of the Works Plans between points KD and KM.

**Work No.73** – The diversion of 40 metres of electrical apparatus, shown on sheet 3 of the Works Plans between points KG and KJ.

**Work No.74** – The diversion of 320 metres of public sewer, shown on sheet 3 of the Works Plans between points JX and KP.

**Work No.75** – The diversion of 215 metres of telecommunications apparatus, shown on sheet 3 of the Works Plans between points JY and KQ.

**Work No.76** – The diversion of 260 metres of electrical apparatus, shown on sheet 3 of the Works Plans between points KE and KF.

**Work No.77** – The diversion of 50 metres of water distribution apparatus, shown on sheet 3 of the Works Plans between points KH and KI.

**Work No.78** – The diversion of 40 metres of telecommunications apparatus, shown on sheet 3 of the Works Plans between points KJ and KK.

**Work No.79** – The diversion of 275 metres of electrical apparatus, shown on sheet 3 of the Works Plans between points KJ and KL.

**Work No.80** – The construction of a temporary northern earthworks haul route, shown on sheet 3 of the Works Plans between points LC and LD.

**Work No.81** – The construction of ‘Camel Hill Link’, shown on sheets 3 and 4 of the Works Plans between points AJ and AK.

**Work No.82** - The construction of ‘Bund 5’, shown on sheets 3 and 4 of the Works Plans between points CI and CJ.

**Work No.83** – Works associated with the retention of the former A303 (West of Hazlegrove Roundabout), shown on sheets 3 and 4 of the Works Plans between points EB and AN. To include;

- (a) Carriageway narrowing involving kerb re-alignment, repositioning of gullies and associated pipework and removal of redundant carriageway surfacing.
- (b) Removal of redundant traffic signs.
- (c) Modification of road markings.
- (d) Reprofilng of the carriageway surface.

**Work No.84** – The installation of new telecommunications cable and sub duct in existing duct, shown on sheets 3 and 4 of the Works Plans between points KM and KS.

**Work No.85** – The construction of ‘Hazlegrove Junction Eastbound On-Slip’, shown on sheet 4 of the Works Plans between points AT and O.

**Work No.86** – The construction of ‘Hazlegrove Junction Westbound On-Slip’, shown on sheet 4 of the Works Plans between points P and Q.

**Work No.87** – The construction of ‘Hazlegrove Junction Westbound Off-Slip’, shown on sheet 4 of the Works Plans between points R and S.

**Work No.88** – The construction of ‘Ridge Copse Link’, shown on sheet 4 of the Works Plans between points AN and AO.

**Work No.89** - The construction of ‘Bund 6’, shown on sheet 4 of the Works Plans between points CK and CL.

**Work No.90** - The construction of ‘Bund 7’, shown on sheet 4 of the Works Plans between points CM and CN.

**Work No.91** - The construction of new maintenance access ‘Track 8’, shown on sheet 4 of the Works Plans between points DO and DP.

**Work No.92** – The construction of ‘Hazlegrove School Access’, shown on sheet 4 of the Works Plans between points DT and DU.

**Work No.93** – Works to the existing Hazlegrove Roundabout, shown on sheet 4 of the Works Plans. To include;

- (a) Removal of redundant traffic signs.
- (b) Modification of road markings.
- (c) Modification of splitter islands to accommodate non-motorised user route.
- (d) Provision of a NMU facility around the southern and western perimeter of the roundabout.

**Work No.94** - The construction of ‘Pond 5’, shown on sheet 4 of the Works Plans. To include;

- (a) The construction of associated outfall works.

**Work No.95** – Works to the existing ‘Pond 6’, shown on sheet 4 of the Works Plans. To include;

- (a) The construction of associated outfall works.
- (b) Removal of existing vegetation from within the existing pond

**Work No.96** – The installation of new telecommunications cable and sub duct in existing duct, shown on sheet 4 of the Works Plans between points KU and KV.

**Work No.97** – The installation of new telecommunications cable and sub duct in existing duct, shown on sheet 4 of the Works Plans between points KT and KU.

**Work No.98** – The installation of new telecommunications cable and sub duct in existing duct, shown on sheet 4 of the Works Plans between points KS and KT.

**Work No.100** – The retention of a section of broadleaved woodland, shown on sheet 4 of the Works Plans.

**Work No.101** – The retention of a section of broadleaved woodland, shown on sheet 4 of the Works Plans.

**Work No.102** – The installation of new signage around Hazlegrove Roundabout to reflect new road layout.

**Work No.103** – The installation of a new sign in the A303 Westbound verge.

Works comprising associated development within the meaning of section 115(2) of the 2008 Act comprising:

**Work No.10** – Ecological mitigation area for Greats Crested Newts, shown on sheet 1 of the Works Plans. To include;

- (a) New wildlife pond.
- (b) Creation of a hibernacula.

**Work No.3** – Ecological mitigation area for common reptiles, shown on sheet 2 of the Works Plans. To include;

- (a) Habitat improvement.
- (b) Creation of a hibernacula.
- (c) Installation of stock proof fencing.

**Work No.40** – Ecological mitigation area for common reptiles, shown on sheet 2 of the Works Plans. To include;

- (a) Habitat improvement.
- (b) Creation of a hibernacula.

~~**Work No.59** – The construction of an accommodation track for Blackwell Farm, shown on sheet 3 of the Works Plans between points DR and DS.~~

**Work No.99** – Ecological mitigation area for Great Crested Newts, shown on sheet 4 of the Works Plans. To include;

- (a) Creation of a hibernacula.

**Work No. 104** – Widening of the carriageway of the public highway at the junction between Traits Lane and Blackwell Road.

In connection with the construction of any of those works, further development within the Order limits consisting of—

- (a) alteration to the layout of any street permanently or temporarily, including but not limited to increasing or reducing the width of the carriageway of the street by reducing or increasing the width of any kerb, footpath, footway, cycle track or verge within the street; and altering the level of any such kerb, footpath, footway, cycle track or verge;
- (b) works required for the strengthening, improvement, maintenance or reconstruction of any street;
- (c) refurbishment works to any existing bridge;
- (d) the strengthening, alteration or demolition of any building;
- (e) works in the verges of public highways;
- (f) temporary diversions of public highways, including laying down or hard surfacing on any land to be used as a temporary diversion;

- (g) creation and removal of ramps, means of access, non-motorised links, footpaths, cycle tracks, bridleways and crossing facilities, including the hard surfacing of ways;
- (h) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, barriers, pumping stations, parapets, drainage, outfalls, ditches, wing walls, highway lighting, fencing and culverts;
- (i) street works, including breaking up or opening up a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street;
- (j) works to place, alter, remove or maintain street furniture or apparatus in a street, or apparatus in other land, including mains, sewers, drains, pipes, cables, ducts and lights;
- (k) works to alter the course of or otherwise interfere with a watercourse;
- (l) landscaping, noise bunds and barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (m) works for the benefit or protection of land affected by the authorised development;
- (n) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling); remediation of contamination;
- (o) the felling of trees;
- (p) construction compounds and working sites, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction-related buildings, temporary worker accommodation facilities, welfare facilities, construction lighting, haulage roads and other buildings, machinery, apparatus, works and conveniences;
- (q) the provision of other works including pavement works, kerbing and paved areas works, signing, signals, gantries, road markings works, traffic management measures including temporary roads and such other works as are associated with the construction of the authorised development;
- (r) removal, alteration and creation of boundary features including fencing and hedgerows; and
- (s) such other works, working sites, storage areas and works of demolition, as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the authorised development.

## SCHEDULE 2 REQUIREMENTS

Article 5

### PART 1 REQUIREMENTS

#### **Interpretation**

##### **1. In this Schedule—**

“CEMP” means the construction environmental management plan;

“contaminated land” has the same meaning as that given in section 78A of the Environmental Protection Act 1990;

“County Archaeologist” means the individual appointed as such by the relevant planning authority;

“Ecological Clerk of Works” means the individual appointed as such by the undertaker;

“HEMP” means the handover environmental management plan, being the CEMP to be developed towards the end of the construction of the authorised development which is to contain—

- (a) the environmental information needed for the future maintenance and operation of the authorised development;
- (b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development; and
- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies.

“LEMP” means the landscape and ecological management plan, including a reptile mitigation strategy;

“protected species” means species which are subject to protection under the laws of England or which are European protected species.

#### **Time limits**

2. The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

#### **Construction Environmental Management Plan**

3.—(1) No part of the authorised development is to commence until a CEMP has been prepared in consultation with the Environment Agency, the relevant planning authority and the local highway authority and submitted to and approved in writing by the Secretary of State.

##### **(2) The CEMP must—**

- (a) be substantially in accordance with the outline construction environmental management plan certified under article 43 (certification of plans, etc.);
- (b) contain a record of all the sensitive environmental features that have the potential to be affected by the construction of the proposed development;
- (c) incorporate the measures detailed in the environmental statement;

- (d) include information on the control measures required to mitigate and reduce potential impacts which reflect the mitigation measures included in the environmental statement;
  - (e) require adherence to working hours of 07:00 to 18:00 on Mondays to Friday and 07:00 to 13:00 on Saturdays, except for—
    - (i) works requiring the full or partial closure of, or otherwise adversely affecting the operation of, the A303 carriageway;
    - (ii) works associated with the diversion of existing utilities;
    - (iii) works associated with traffic management and signal changes;
    - (iv) works associated with tie-ins to existing carriageways;
    - (v) deliveries of abnormally large or indivisible loads; and
    - (vi) any emergency works;
  - (f) include management plans, working methods and mitigation measures for each of the topics covered in the environmental statement, including—
    - (i) LEMP;
    - (ii) Arboricultural Method Statement;
    - (iii) Archaeological Written Scheme of Investigation;
    - (iv) Japanese Knotweed Management Plan;
    - (v) Materials Management Plan;
    - (vi) Soil Handling and Management Plan;
    - (vii) Site Waste Management Plan;
    - (viii) Community Relations Strategy;
    - (ix) Groundwater Monitoring Strategy;
    - (x) Construction Lighting Plan;
    - (xi) Asbestos Management Plan; and
    - (xii) Noise and Vibration Monitoring Strategy.
- (3) The authorised development must be constructed in accordance with the approved CEMP.
- (4) Upon completion of construction of the authorised development the CEMP must be converted into the HEMP and the authorised development must be operated and maintained in accordance with the HEMP.

#### **Details of consultation**

**4.—**(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule following consultation with another party, the details submitted must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation.

(2) At the time of submission to the Secretary of State for approval, the undertaker must provide a copy of the summary report referred to under sub-paragraph (1) to the relevant consultees referred to in the requirement in relation to which approval is being sought from the Secretary of State.

(3) The undertaker must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, but only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.

(4) Where the consultation responses are not reflected in the details submitted to the Secretary of State for approval, the undertaker must state in the summary report referred to under sub-paragraph (1) the reasons why the consultation responses have not been reflected in the submitted details.

## **Landscaping**

**5.**—(1) No part of the authorised development is to commence until a written landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority and the local highway authority.

(2) No part of the authorised development, including vegetation clearance, is to commence until an arboricultural walkover survey and tree survey for that part, taking due regard to the guidance in British Standard 5837:2012 or other recognised codes of good practice, have been undertaken to identify any significant constraints posed by trees.

(3) The landscaping scheme prepared under sub-paragraph (1) must be based on the environmental statement and the results of the surveys undertaken under sub-paragraph (2).

(4) The landscaping scheme prepared under sub-paragraph (1) must include details of hard and soft landscaping works, including—

- (a) location, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) details of existing trees to be retained, with measures for their protection during the construction period; and
- (f) implementation timetables for all landscaping works.

## **Implementation and maintenance of landscaping**

**6.**—(1) All landscaping works must be carried out in accordance with the landscaping scheme approved under Requirement 5.

(2) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(3) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

## **Fencing**

**7.** Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the undertaker's Manual of Contract Documents for Highway Works except where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development.

## **Land and groundwater contamination**

**8.**—(1) No part of the authorised development is to commence until a contamination risk assessment in respect of controlled waters has been produced which is to include details of—

- (a) any existing sources of contamination within the Order limits that may be affected by the carrying out of the authorised development;
- (b) any reasonably required protective measures to ensure that the carrying out of the authorised development does not make worse any adverse conditions or risks associated with such existing sources of contamination; and
- (c) appropriate remediation strategies and mitigation measures to address any historic contamination which is shown to be having significant, unacceptable effects on the environment within the context of the proposed works,

and the assessment has been submitted to and approved by the Secretary of State following consultation with the Environment Agency.

(2) The steps and measures that are identified as necessary for the purposes of carrying out the authorised development in the assessment referred to in sub-paragraph (1) must be implemented as part of the authorised development.

(3) In the event that contaminated material, including impacted groundwater, is found at any time when carrying out the authorised development, which was not previously identified in the environmental statement, the undertaker must cease construction of the authorised development in the vicinity of that contamination and must report it immediately in writing to the Secretary of State, the Environment Agency and the relevant planning authority, and in agreement with the Environment Agency and the relevant planning authority undertaker a risk assessment of the contamination, and sub-paragraphs (4) and (5) will apply.

(4) Where the undertaker determines that remediation is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be prepared submitted to and approved in writing by the Secretary of State following consultation with the Environment Agency and the relevant planning authority.

(5) Remedial measures must be carried out in accordance with the approved scheme.

### **Archaeology**

**9.**—(1) No part of the authorised development is to commence until a written scheme of investigation for the investigation and mitigation of areas of archaeological interest for each area and/or each phase in that part, has been prepared in consultation with the relevant planning authority and the local highway authority, agreed with the County Archaeologist and submitted to and approved in writing by the Secretary of State. The written scheme of investigation shall reflect the mitigation measures included in the environmental statement, and include provision for sub-schemes for specific works, areas or locations, which may include evaluation, detailed excavation or watching brief plans.

(2) The authorised development must be carried out in accordance with the archaeological framework strategy and written schemes of investigation referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State.

(3) A programme of archaeological reporting, post excavation and publication required as part of the archaeological framework strategy and written schemes of investigation referred to in sub-paragraph (1) must be agreed with the County Archaeologist and implemented within a timescale agreed with the County Archaeologist and deposited with the Historic Environment Record of the relevant planning authority within two years of the date of completion of the authorised development or such other period as may be agreed in writing by the relevant planning authority.

(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be subject to appropriate mitigation as set out in the archaeological framework strategy and mitigation agreed with the County Archaeologist.

(5) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (4) for a period of 14 days from the date they are identified unless otherwise agreed in writing by the Secretary of State.

(6) On completion of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be agreed with the County Archaeologist.

### **Protected species**

**10.**—(1) In the event that any protected species which were not previously identified in the environmental statement or nesting birds are found at any time when carrying out the authorised development the undertaker must cease construction works near their location and report it immediately to the Ecological Clerk of Works.

(2) The undertaker must prepare a written scheme for the protection and mitigation measures for any protected species that were not previously identified in the environmental statement or nesting



birds found when carrying out the authorised development. Where nesting birds are identified works should cease within 10 metres of the nest until birds have fledged and the nest is no longer in use.

(3) The undertaker must implement the written scheme prepared under sub-paragraph (2) immediately and construction in the area specified in the written scheme must not recommence until any necessary licences are obtained to enable mitigation measures to be implemented.

### **Traffic management**

**11.—**(1) No part of the authorised development is to commence until a traffic management plan for the construction of the authorised development, substantially in accordance with the draft traffic management plan, has been submitted to and approved in writing by the Secretary of State following consultation with the local highway authority.

(2) The authorised development must be constructed in accordance with the approved traffic management plan.

### **Detailed design**

**12.—**(1) The authorised development must be designed in detail and carried out so that it is compatible with the preliminary scheme design shown on the works plans and the engineering section drawings, unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority and local highway authority on matters related to their functions and provided that the Secretary of State is satisfied that any amendments to the works plans showing departures from the preliminary design would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding works plans or engineering section drawings and the undertaker must make those amended details available in electronic form for inspection by members of the public.

### **Surface water drainage**

**13.—**(1) No part of the authorised development is to commence until written details of the surface water drainage system, reflecting the mitigation measures in the environmental statement and including means of pollution control, have been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority, the Lead Local Flood Authority and the Environment Agency.

(2) Prior to consultation with the relevant planning authority, the Lead Local Flood Authority and the Environment Agency as required by sub-paragraph (1), the undertaker will carry out:

- (a) a CCTV survey of the location and condition of all drainage assets where:
  - (i) the existing A303 is to be de-trunked and retained; and
  - (ii) the existing A303 drainage is connecting into the proposed drainage network; and
- (b) A topographical and condition survey (i.e. visual inspection) of the extents of the ditches downstream of the proposed outfalls as follows:
  - (i) Outfall from Pond 1: up to and including culvert at Farm Lane overbridge (SMIS reference: 6245, culvert registration ID: 13795);
  - (ii) Outfall from Ponds 2 and 3: up to and including culvert at Royal Naval Air Station Yeovilton;
  - (iii) Outfall from Pond 4: up to culvert north of Frog Lane, West Camel (DRN ID: EAEW1001000000172218); and
  - (iv) Outfall from Pond 5 and 6: up to Dyke Brook
- (c) The undertaker will make the results of the surveys undertaken in accordance with this requirement available to the relevant planning authority, the Lead Local Flood Authority

and the Environment Agency when undertaking any consultation required by sub-paragraph (1).

(3) The drainage system must be constructed in accordance with the approved details referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority, the local highway authority and the Environment Agency.

(4) Runoff from natural catchments must be intercepted to prevent flooding of the carriageway in accordance with HA 106/04

(5) Highway drainage will be designed in accordance with HD 33/16 Design of Highway Drainage Systems and any subsequent design manuals amending or replacing that. The system as a minimum will achieve;

- (a) No surcharge of the drainage system during the 100% Annual Exceedance Probability (AEP) storm event
- (b) No flooding from the drainage system during the 20% Annual Exceedance Probability (AEP) storm event
- (c) Design exceedance management during the 1% Annual Exceedance Probability (AEP) storm event
- (d) An allowance for the effects of climate change by allowing for a 40% increase in rainfall intensity.

(6) The highway drainage system will discharge off-site discharge, up to and including the 1% annual probability (1 in 100 year event) to no greater than the undeveloped rate of run-off as determined by the calculation of QBAR or 2 l/s/ha.

### **Noise Mitigation**

**14.—**(1) No part of the authorised development is to commence until written details of proposed noise mitigation in respect of the use and operation of that part of the authorised development, including noise barriers and any very low noise surfacing, have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The written details referred to in sub-paragraph (1) must either reflect the mitigation measures included in the environmental statement or, where the mitigation proposed materially differs from the mitigation identified in the environmental statement, the undertaker must provide evidence with the written details submitted that the mitigation proposed would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement taking into account the mitigation identified in it.

(3) The noise mitigation must be constructed in accordance with the approved details referred to in sub-paragraph (1) and must be retained thereafter.

### **Highway lighting**

**15.—**(1) No part of the authorised development is to commence until a written scheme of the proposed highway lighting to be provided for that part of the authorised development has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and (in the case of proposed lighting for any highway for which the undertaker is not, or will not be following implementation of article 14(2), the highway authority) the local highway authority.

(2) The standard of the highway lighting to be provided by the scheme referred to in sub-paragraph (1) must either reflect the standard of the highway lighting included in the environmental statement or, where the standard of the highway lighting proposed materially differs from the standard of the highway lighting identified in the environmental statement, the undertaker must provide evidence with the written scheme submitted for approval that the standard of the highway lighting proposed would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement taking into account the lighting

identified in it. The standard of the highway lighting must encompass the specification, level of provision, light spillage, intensity and brightness of the highway lighting.

(3) The authorised development must be carried out in accordance with the scheme approved under sub-paragraph (1).

(4) Nothing in this requirement restricts the lighting of the authorised development during its construction or where temporarily required for maintenance.

#### **Approvals and amendments to approved details**

**16.** With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved or agreed in writing by the Secretary of State.

## **PART 2**

### **PROCEDURE FOR DISCHARGE OF REQUIREMENTS**

#### **Applications made under requirements**

**17.—**(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the Secretary of State;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 18; or
- (c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

- (a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;
- (b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and
- (c) the application is accompanied by a report that considers it likely that the subject matter of the application is to give rise to any materially new or materially worse environmental effects in comparison with the authorised development as approved,

then the application is taken to have been refused by the Secretary of State at the end of that period.

#### **Further information**

**18.—**(1) In relation to any part of an application made under this Schedule, the Secretary of State has the right to request such further information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary, the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the Secretary of State does not give such notification within this 21 day period the Secretary of State is deemed to have sufficient information to consider the

application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 17 and in this paragraph.

(4) In this paragraph, “business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(a).

### **Register of requirements**

**19.**—(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

### **Anticipatory steps towards compliance with any requirement**

**20.** If before this Order came into force the undertaker or any other person took any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

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(a) 1971 c. 80.

# SCHEDULE 3

## CLASSIFICATION OF ROADS, ETC.

Articles 14 and 18

### PART 1

#### TRUNK ROADS

Shown as dashed purple lines on the Classification of Roads Plans

(1) <i>Area (Parish)</i>	(2) <i>Length of road</i>
Yeovilton West Camel Queen Camel Sparkford	A303 eastbound between points A and B on sheets 1,2,3 and 4 of the Classification of Roads Plans, comprising of 5590 metres.
Yeovilton West Camel Queen Camel Sparkford	A303 westbound between points C and D on sheets 1,2,3 and 4 of the Classification of Roads Plans, comprising of 5606 metres.
West Camel	Camel Cross Westbound Merge between points H and I of sheet 2 of the Classifications of Roads Plans, comprising of 78 metres.
West Camel	Camel Cross Link between points T and H on sheet 2 of the Classification of Roads Plans, comprising of 83 metres.
West Camel	Camel Cross Westbound Diverge between points G and H of sheet 2 of the Classifications of Roads Plans, comprising of 58 metres.
West Camel	Downhead Junction Eastbound Diverge between points J and K on sheet 2 of the Classification of Roads Plans comprising of 38 metres.
West Camel	Downhead Junction Link between points K and Y on sheet 2 of the Classification of Roads Plans, comprising of 36 metres.
West Camel	Downhead Junction Eastbound Merge between points K and L on sheet 2 of the Classification of Roads Plans, comprising of 36 metres.
Queen Camel	Hazlegrove Junction Eastbound Off Slip between points M and N on sheet 3 of the Classification of Roads Plans, comprising of 228 metres.
Queen Camel Sparkford	Hazlegrove Junction Eastbound On Slip between points AT and O on sheet 4 of the Classification of Roads Plans, comprising of 431 metres.
Sparkford	Hazlegrove Junction Westbound On Slip between points P and Q on sheet 4 of the Classification of Roads Plans, comprising of 313 metres.
Sparkford	Hazlegrove Junction Westbound Off Slip between points R and S on sheet 4 of the Classification of Roads Plans, comprising of 340 metres.

### PART 2

#### ROADS TO BE DETRUNKED

(1) <i>Area Parish</i>	(2) <i>Length of road</i>
West Camel	Former A303 from Camel Cross to Steart Hill between points W and AR on sheet 1 of the Detrunking plans, comprising of 535 metres.
West Camel	Former A303 West of Howell Hill between points AQ and AF on sheet 2 of the Detrunking plans, comprising of 120 metres.
West Camel Queen Camel	Former A303 east of Steart Hill between points AI and EA on sheet 2 of the Detrunking plans, comprising of 279 metres

Queen Camel Sparkford	Former A303 west of Hazlegrove roundabout between points AN and EI on sheet 3 of the Detrunking plans, comprising of 622 meters
Sparkford	Hazlegrove roundabout between points P, S, AO and AK on sheet 3 of the Detrunking plans comprising of 167 metres

## PART 3

### CLASSIFIED A ROADS

Shown as dashed blue lines on the Classification of Roads Plans

(1) <i>Area</i>	(2) <i>Length of road</i>
Queen Camel	Camel Hill Roundabout on sheet 3 of the Classification of Roads Plans, circulatory carriageway length comprising of 113 meters.
Queen Camel Sparkford	Camel Hill Link, between points AJ and AK on sheets 3 and 4 of the Classification of Roads Plans, comprising of 687 metres.
Sparkford	Hazlegrove Roundabout on sheet 4 of the Classification of Roads Plans, circulatory carriageway length comprising of 167 meters.

## PART 4

### CLASSIFIED B ROADS

Shown as dashed green lines on the Classification of Roads Plans

(1) <i>Area</i>	(2) <i>Length of road</i>
West Camel	B3151 Link between points V and W, on sheet 2 of the Classification of Roads Plans, comprising of 490 metres.
West Camel	Former A303 (Camel Cross to Steart Hill) between points W and AR on sheet 2 of the Classification of Roads Plans, comprising of 535 metres.
West Camel	Steart Hill Link to Old A303 between points AR and AS on sheet 2 of the Classification of Roads Plans, comprising of 210 metres.
West Camel	Downhead Junction Link between points Z and Y on sheet 2 of the Classification of Roads Plans, comprising of 305 metres.
West Camel	Steart Hill Roundabout on sheet 2 of the Classification of Roads Plans, circulatory carriageway length comprising of 88 meters.

## PART 5

### UNCLASSIFIED ROADS

Shown as dashed orange lines on the Classification of Roads Plans

(1) <i>Area</i>	(2) <i>Length of road</i>
Yeovilton West Camel	Podimore Turning Head between points EC and ED on sheet 1 of the Classification of Roads Plans, comprising of 27 meters.
West Camel	Howell Hill Link (West) between points AP and AQ on sheet 2 of the Classification of Roads Plans, comprising 180 metres.

West Camel	Former A303 (West of Howell Hill) between points AQ and AF on sheet 2 of the Classification of Roads Plans, comprising 120 metres.
West Camel	Howell Hill Link (East) between points AF and AG on sheets 2 and 3 of the Classification of Roads Plans, comprising 376 metres.
West Camel	Downhead Lane between points X and Y on sheet 2 of the Classification of Roads Plans, comprising 365 metres.
West Camel	Stear Hill Link between points AB and AC on sheets 2 and 3 of the Classification of Roads Plans, comprising 594 metres.
West Camel	Stear Hill (north) between points AD and AE on sheet 3 of the Classification of Roads Plans, comprising 54 metres.
West Camel	Stear Hill between points AE and AH on sheet 3 of the Classification of Roads Plans, comprising 72 metres.
West Camel	Stear Hill (south) between points AH and AI on sheet 3 of the Classification of Roads Plans, comprising 120 metres.
West Camel Queen Camel	Former A303 (East of Stear Hill) between points AI and EA on sheet 3 of the Classification of Roads Plans, comprising 235 metres.
Queen Camel	Camel Hill Quarry Turning Head between points EA and EE on sheet 3 of the Classification of Roads Plans, comprising of 44 metres.
West Camel	Downhead Turning Head between points EK and EJ on sheet 2 of the Classification of Roads Plans, comprising of 33 metres.
Queen Camel	Vale Farm Link between points AL and AM on sheet 3 of the Classification of Roads Plans, comprising 339 metres.
Queen Camel	Camel Hill Services Turning Head between points EI and EB on sheet 3 of the Classification of Roads Plans, comprising of 32 metres.
Queen Camel	Gason Lane Turning Head between points EG and EH on sheet 3 of the Classification of Roads Plans, comprising of 33 metres.
Queen Camel Sparkford	Former A303 (West of Hazlegrove Roundabout) between points EB and AN on sheets 3 and 4 of the Classification of Roads Plans, comprising 596 metres.
Sparkford	Ridge Copse Link between points AN and AO on sheet 4 of the Classification of Roads Plans, comprising 87 metres.
Queen Camel	Traits Lane Turning Head between points DN and EF on sheet 3 of the Classification of Roads Plans, comprising 39 metres.

## PART 6

### SPEED LIMITS

(1) <i>Area</i>	(2) <i>Road name, number and length</i>	(3) <i>Speed limit</i>
Yeovilton West Camel Queen Camel Sparkford	A303 eastbound, comprising a length of 5590 metres Shown as a dashed purple line between points A and B as shown on sheets 1,2,3 and 4 of the Permanent Speed Limit Order Plans.	National Speed Limit
Yeovilton West Camel Queen Camel Sparkford	A303 westbound, comprising a length of 5606 metres Shown as a dashed purple line between points C and D as shown on sheets 1,2,3 and 4 of the Permanent Speed Limit Order Plans.	National Speed Limit
Yeovilton West Camel	Podimore Turning Head shown as a dashed purple line between points EC and	National Speed Limit

	ED on sheet 1 of the Permanent Speed Limit Order Plans, comprising 27 metres.	
West Camel	B3151 Link shown as a dashed green line between points V and W on sheet 2 of the Permanent Speed Limit Order Plans, comprising 490 metres.	50 miles per hour
West Camel	Camel Cross Junction Westbound Merge shown as a dashed purple line between points H and I on sheet 2 of the Permanent Speed Limit Order Plans comprising of 78 metres.	National Speed Limit
West Camel	Camel Cross Link shown as a dashed purple line between points T and H on sheet 2 of the Permanent Speed Limit Order Plans, comprising 79 metres.	National Speed Limit
West Camel	Camel Cross Junction Westbound Diverge shown as a dashed purple line between points G and H on sheet 2 of the Permanent Speed Limit Order Plans, comprising of 58 metres.	National Speed Limit
West Camel	Downhead Turning Head shown as a dashed purple line between points EJ and EK on sheet 2 of the Permanent Speed Limit Order Plans, comprising 33 metres.	National Speed Limit
West Camel	Former A303 (Camel Cross to Steart Hill) shown as a dashed green line between points W and AR on sheet 2 of the Permanent Speed Limit Order Plans, comprising 535 metres.	50 miles per hour
West Camel	Downhead Lane shown as a dashed purple line between points X and Y on sheet 2 of the Permanent Speed Limit Order Plans, comprising 365 metres.	National Speed Limit
West Camel	Downhead Junction Eastbound Diverge shown as a dashed purple line between points J and K on sheet 2 of the Permanent Speed Limit Order Plans, comprising of 38 metres.	National Speed Limit
West Camel	Downhead Junction Link shown as a dashed purple line between points K and Z on sheet 2 of the Permanent Speed Limit Order Plans, comprising 338 metres.	National Speed Limit
West Camel	Downhead Junction Eastbound Merge shown as a dashed purple line between points K and L on sheet 2 of the Permanent Speed Limit Order Plans, comprising of 36 metres.	National Speed Limit
West Camel	Steart Hill Link to Old A303 shown as a dashed green line between points AR and AS on sheet 2 of the Permanent Speed Limit Order Plans, comprising 210 metres.	50 miles per hour
West Camel	Steart Hill Roundabout shown as a dashed green line on sheet 2 of the Permanent Speed Limit Order Plans, circulatory carriageway length comprising 88 metres.	50 miles per hour



West Camel	Stearthill Link shown as a dashed purple line between points AB and a point 100m south-west of point AD on sheet 2 and 3 of the Permanent Speed Limit Order Plans, comprising 417 metres.	National Speed Limit
West Camel	Howell Hill Link (West) shown as a dashed orange line between points AP and AQ on sheet 2 of the Permanent Speed Limit Order Plans, comprising 180 metres.	30 miles per hour
West Camel	Former A303 (West of Howell Hill) shown as a dashed orange line between points AQ and AF on sheet 2 of the Permanent Speed Limit Order Plans, comprising 120 metres.	30 miles per hour
West Camel	Howell Hill Link (East) shown as a dashed orange line between points AF and AG on sheets 2 and 3 of the Permanent Speed Limit Order Plans, comprising 376 metres.	30 miles per hour
West Camel	Stearthill Link shown as a dashed orange line between a point 100m southwest of point AD and point AC on sheet 3 of the Permanent Speed Limit Order Plans, comprising 174 metres.	30 miles per hour
West Camel	Stearthill (north) shown as a dashed orange line between points AD and AE on sheet 3 of the Permanent Speed Limit Order Plans, comprising 54 metres.	30 miles per hour
West Camel	Stearthill shown as a dashed orange line between points AE and AH on sheet 3 of the Permanent Speed Limit Order Plans, comprising 72 metres.	30 miles per hour
West Camel	Stearthill (south) shown as a dashed orange line between points AH and AI on sheet 3 of the Permanent Speed Limit Order Plans, comprising 120 metres.	30 miles per hour
West Camel Queen Camel	Former A303 (East of Stearthill) shown as a dashed orange line between points AI and EA on sheet 3 of the Permanent Speed Limit Order Plans, comprising 235 metres.	30 miles per hour
Queen Camel	Camel Hill Quarry Turning Head shown as a dashed orange line between points EA and EE on sheet 3 of the Permanent Speed Limit Order Plans, comprising 44 metres.	30 miles per hour
Queen Camel	Traits Lane Turning Head shown as a dashed purple line between points DN and EF on sheet 3 of the Permanent Speed Limit Order Plans, comprising 39 metres.	National Speed Limit
Queen Camel	Vale Farm Link shown as a dashed purple line between points AL and AM on sheet 3 of the Permanent Speed Limit Order Plans, comprising 339 metres.	National Speed Limit
Queen Camel	Hazlegrove Junction Eastbound Off slip shown as a dashed purple line between points M and N on sheet 3 of the	National Speed Limit

	Permanent Speed Limit Order Plans, comprising 228 metres.	
Queen Camel	Gason Lane Turning Head shown as a dashed purple line between points EH and EG on sheet 3 of the Permanent Speed Limit Order Plans, comprising 33 metres.	National Speed Limit
Queen Camel	Camel Hill Roundabout shown as a dashed purple line on sheet 3 of the Permanent Speed Limit Order Plans, circulatory carriageway length comprising 113 metres.	National Speed Limit
Queen Camel	Camel Hill Services Turning Head shown as a dashed purple line between points EI and EB on sheet 3 of the Permanent Speed Limit Order Plans, comprising 32 metres.	National Speed Limit
Queen Camel Sparkford	Camel Hill Link shown as a dashed purple line between points AJ and AK on sheets 3 and 4 of the Permanent Speed Limit Order Plans, comprising 687 metres.	National Speed Limit
Sparkford Queen Camel	Former A303 (West of Hazlegrove Roundabout) shown as a dashed purple line between points EB and AN on sheet 3 and 4 of the Permanent Speed Limit Order Plans, comprising 596 metres.	National Speed Limit
Queen Camel Sparkford	Hazlegrove Junction Eastbound On slip shown as a dashed purple line between points AT and O on sheet 4 of the Permanent Speed Limit Order Plans, comprising 431 metres.	National Speed Limit
Sparkford	Ridge Copse Link shown as a dashed purple line between points AN and AO on sheet 4 of the Permanent Speed Limit Order Plans, comprising 87 metres.	National Speed Limit
Sparkford	Hazlegrove Junction Westbound on slip shown as a dashed purple line between points P and Q on sheet 4 of the Permanent Speed Limit Order Plans, comprising 313 metres.	National Speed Limit
Sparkford	Hazlegrove Roundabout shown as a dashed purple line on sheet 4 of the Permanent Speed Limit Order Plans, circulatory carriageway length comprising 167 metres.	National Speed Limit
Sparkford	Hazlegrove Junction Westbound off slip shown as a dashed purple line between points R and S on sheet 4 of the Permanent Speed Limit Order Plans, comprising 340 metres.	National Speed Limit

## PART 7

### TRAFFIC REGULATION MEASURES (CLEARWAYS AND PROHIBITIONS)

(1) Area	(2) Road name, number and length	(3) Measures
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Yeovilton West Camel Queen Camel Sparkford	A303 eastbound shown as a dashed green line between points A and B on sheets 1,2,3 and 4 of the Traffic Regulation Measures Plans, comprising of 5590 metres.	Clearway (to include verges, hard shoulders and hard strips)
Yeovilton West Camel Queen Camel Sparkford	A303 westbound shown as a dashed green line between points C and D on sheets 1,2,3 and 4 of the Traffic Regulation Measures Plans, comprising of 5606 metres.	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Camel Cross Westbound Merge shown as a dashed green line between points H and I of sheet 2 of the Traffic Regulation Measures Plans, comprising of 78 metres.	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Camel Cross Link shown as a dashed green line between points T and H on sheet 2 of the Traffic Regulation Measures Plans, comprising 77 metres.	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Camel Cross Westbound Diverge shown as a dashed green line between points G and H of sheet 2 of the Traffic Regulation Measures Plans, comprising of 58 metres.	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Downhead Junction Eastbound Diverge shown as a dashed green line between points J and K on sheet 2 of the Traffic Regulation Measures Plans, comprising of 38 metres	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Downhead Junction Link shown as a dashed green line between points K and Y on sheet 2 of the Traffic Regulation Measures Plans comprising 33 metres.	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Downhead Junction Eastbound Merge shown as a dashed green line between points K and L on sheet 2 of the Traffic Regulation Measures Plans, comprising of 36 metres.	Clearway (to include verges, hard shoulders and hard strips)
Queen Camel	Hazlegrove Junction Eastbound Off Slip shown as a dashed green line between points M and N on sheet 3 of the Traffic Regulation Measures Plans, comprising of 228 metres.	Clearway (to include verges, hard shoulders and hard strips)
Queen Camel Sparkford	Hazlegrove Junction Eastbound On Slip shown as a dashed green line between points A T and O on sheet 4 of the Traffic Regulation Measures Plans, comprising of 431 metres.	Clearway (to include verges, hard shoulders and hard strips)
Sparkford	Hazlegrove Junction Westbound On Slip shown as a dashed green line between points P and Q on sheet 4 of the Traffic Regulation Measures Plans, comprising of 313 metres.	Clearway (to include verges, hard shoulders and hard strips)
Sparkford	Hazlegrove Junction Westbound Off Slip shown as a dashed green line between points R and S on sheet 4 of the Traffic Regulation Measures Plans, comprising of 340 metres.	Clearway (to include verges, hard shoulders and hard strips)

## PART 8

### TRAFFIC REGULATION MEASURES (WEIGHT RESTRICTIONS)

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Measures</i>
West Camel	Howell Hill Link (West) shown as a dashed purple line between points AP and AQ on sheet 2 of the Traffic Regulation Measures Plans, comprising 180 metres.	7.5 tonne weight restriction (except for loading and exempt vehicles)
West Camel	Former A303 (West of Howell Hill) shown as a dashed purple line between points AQ and AF on sheet 2 of the Traffic Regulation Measures Plans, comprising 120 metres.	7.5 tonne weight restriction (except for loading and exempt vehicles)
West Camel	Howell Hill Link (East) shown as a dashed purple line between points AF and AG on sheets 2 and 3 of the Traffic Regulation Measures Plans, comprising 376 metres.	7.5 tonne weight restriction (except for loading and exempt vehicles)

## PART 9

### TRAFFIC REGULATION MEASURES (WAITING RESTRICTIONS)

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Measures</i>
West Camel	A303 eastbound, located at 1,210 meters in eastern direction from Higher Farm Lane Overbridge, layby shown coloured light blue on sheet 1 of the Traffic Regulation Measures Plans	Waiting restricted to two hours
West Camel,	A303 westbound, located at 3,477 meters in eastern direction from Higher Farm Lane Overbridge, layby shown coloured light blue on sheet 3 of the Traffic Regulation Measures Plans	Waiting restricted to two hours

## PART 10

### REVOCATIONS AND VARIATIONS OF EXISTING TRAFFIC REGULATION ORDERS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Title of Order</i>	<i>(4)</i> <i>Revocations or variations</i>
Yeovilton West Camel Queen Camel Sparkford	A303	The A303 Trunk Road (Sparkford to Podimore) (50 miles per hour speed limit) Order 1999	To be revoked in its entirety
West Camel Queen Camel Sparkford	A303	The London-Penzance Trunk Road (A303) Tintinhull to West of Sparkford (Prohibition of Waiting) (Clearways) Order 1978	To be partially revoked between the junction of the A303 and the A359 (Hazlegrove Roundabout) and the junction of the A303 and

			the B3151 (Camel Cross) (as shown on the Traffic Regulation Measures Plans sheets 2,3 and 4, comprising 3,490 meters.
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## PART 11

### PUBLIC RIGHTS OF WAY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Length of Footpath/Cycle track/Footway in verge</i>
West Camel	Footway in verge. Reference AN-AO shown on sheet 2 of the Rights of Way and Access Plans. 175m.
West Camel	Footway in verge. Reference AP-AQ-BV shown on sheet 2 of the Rights of Way and Access Plans. 230m.
West Camel	Footway in verge. Reference AW-AX shown on sheets 2 and 3 of the Rights of Way and Access Plans. 370m
West Camel	Footway in verge. Reference AR-AV shown on sheet 2 of the Rights of Way and Access Plans. 40m.
West Camel	Bridleway in verge. Reference AV-AS shown on sheet 2 of the Rights of Way and Access Plans. 330m.
West Camel	Bridleway in verge. Reference AJ-BW shown on sheets 2 and 3 of the Rights of Way and Access Plans. 420m.
West Camel	Bridleway in verge. Reference AB-AK shown on sheet 2 of the Rights of Way and Access Plans. 40m.
Queen Camel	Bridleway in verge. Reference BE-BF-BM shown on sheets 3 and 4 of the Rights of Way and Access Plans. 150m.
Queen Camel	Footway in verge. Reference BC-BD shown on sheet 3 of the Rights of Way and Access Plans. 30m.
Queen Camel Sparkford	Bridleway in verge. Reference BX-BQ-BH-BG shown on sheet 4 of the Rights of Way and Access Plans. 675m.
Sparkford	Footway/cycleway in verge. Reference BT-BU shown on sheet 4 of the Rights of Way and Access Plans. 100m.
Sparkford	Footway/cycleway in verge. Reference BR-BS shown on sheet 4 of the Rights of Way and Access Plans. 30m.
Queen Camel Sparkford	Bridleway in verge. Reference BK-BJ-BI shown on sheets 3 and 4 of the Rights of way and Access Plans. 620m.

## SCHEDULE 4

Articles 16, 27 and 28

### PERMANENT STOPPING UP OF HIGHWAYS AND PRIVATE MEANS OF ACCESS; PROVISION OF NEW HIGHWAYS AND PRIVATE MEANS OF ACCESS

In relation to this Schedule to the rights of way and access plans, the provisions described in this Schedule are shown on the rights of way and access plans in the following manner—

- (a) Existing highways to be stopped up, as described in column (2) of Part 1 and Part 2 of this Schedule, are shown by thick black diagonal hatching (as shown in the key on the rights of way and access plans) over the extent of the area to be stopped up, which is described in column (3) of Part 1 and Part 2 of this Schedule.

- (b) New highways which are to be substituted for a highway to be stopped up (or which are otherwise to be provided), as are included in column (4) of Part 2 of this Schedule, are shown by red cross-hatching (for trunk roads) and blue cross-hatching (for other classified roads and highways) (as shown in the key on the rights of way and access plans), and will be a road unless the description 'footpath', 'bridleway', 'footway' or 'cycle track' is stated in column (4) of Part 2 of this Schedule.
- (c) Private means of access to be stopped up, as described in column (2) of Parts 3 and 4 of this Schedule, are shown by solid black shading (as shown in the key on the rights of way and access plans) over the extent of stopping up described in column (3) of Parts 3 and 4 of this Schedule, and are given a reference label (a capital letter B followed by the reference number for that access in a circle).
- (d) New private means of access to be substituted for a private means of access to be stopped up (or which are otherwise to be provided), as are included in column (4) of Part 4 of this Schedule, are shown by thin black line hatching (as shown in the key on the rights of way and access plans) and are given a reference label (a number in a circle).

## PART 1

### HIGHWAYS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
Yeovilton West Camel	Bridleway Y30/28	To be stopped up over distance of 27 metres northwards from its junction with the existing A303. Shown as a red dotted line in Inset C, sheet 1 of the Rights of Way and Access Plans.
Yeovilton West Camel	A303 westbound off slip at Podimore.	To be stopped up over a distance of 156 metres, eastwards from a point 775 metres east of the existing Higher Farm Lane Overbridge. Reference A1 shown as a black dashed hatch in Inset C, Sheet 1 of the Rights of Way and Access Plans.
West Camel	Footpath Y27/21	To be stopped up in its entirety. Shown as a red dotted line in Inset D, sheet 2 of the Rights of Way and Access Plans.
West Camel	Un-named road at Camel Cross	To be stopped up over a distance of 115 metres, northwards from its southern limits. Reference A4 shown as a black dashed hatch in Inset D, Sheet 2 of the Rights of Way and Access Plans.
Queen Camel	Traits Lane, Camel Hill	To be stopped up over a distance of 5 metres southwards from its junction with the existing A303. Reference A11 shown as a black dashed hatch in Inset G, Sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Footpath WN23/32	To be stopped up over a distance of 131 metres northwards from its junction with the existing A303. Shown as a red dotted line in Inset G sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Footpath WN23/10	To be stopped up over a distance of 66 metres southwards from its junction with the existing A303. Shown as a red dotted line in Inset G sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Footpath WN23/33	To be stopped up over a distance of 60 metres northwards from its junction with the existing

		A303. Shown as a red dotted line in Inset G sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Gason Lane, Camel Hill	To be stopped up over a distance of 21 metres southwards from its junction with the existing A303. Reference A13 shown as a black dashed hatch in Inset G, Sheet 3 of the Rights of Way and Access Plans.

## PART 2

### HIGHWAYS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW HIGHWAYS WHICH ARE OTHERWISE TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Highway to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) New highway to be substituted/provided</i>
West Camel	A303 Trunk Road at Camel Cross	To be stopped up over a distance of 475 metres westwards from a point 585 metres west of the existing A303 / Plowage Lane junction. Reference A2 shown as a black dashed hatch in Inset D, Sheet 2 of the Rights of Way and Access Plans.	A303 Eastbound and A303 Westbound.
West Camel	A303 Trunk Road at Camel Cross	To be stopped up over a distance of 130 metres westwards from a point 417 metres west of the existing A303 / Plowage Lane junction. Reference A3 shown as a black dashed hatch in Inset D, Sheet 2 of the Rights of Way and Access Plans.	A303 Eastbound and A303 Westbound.
West Camel	Footpath Y27/UN	To be stopped up over a distance of 27 metres northwards from its junction with the existing A303. Shown as a red dotted line in Inset D sheet 2 of the Rights of Way and Access Plans.	New footway AN-AO. Then Existing footway AO-AP. Then New footway AP-AQ. Then Road crossing AQ-AR. Then New footway AR-AV. Then New bridleway in verge AV-AS. Then Road crossing AS-AJ. Then

			New bridleway AJ-AI-AH-AG-AF-AE-AD-AC. Then Road crossing AC-AB. Then New bridleway in verge AB-AK. Then Existing footpath Y27/10.
West Camel	Footpath Y27/10	To be stopped up over a distance of 208 metres northwards from its junction with the existing A303. Shown as a red dotted line in Inset E sheet 2 of the Rights of Way and Access Plans.	New bridleway AT-AU. Then Road crossing AU-AV. Then New bridleway in verge AV-AS. Then Road crossing AS-AJ. Then New bridleway AJ-AI-AH-AG-AF-AE-AD-AC. Then Road crossing AC-AB. Then New bridleway in verge AB-AK.
West Camel	Un-named road at Plowage	To be stopped up over a distance of 165 metres northwards from its junction with the existing A303. Reference A5 shown as a black dashed hatch in Inset E, Sheet 2 of the Rights of Way and Access Plans.	Downhead Lane Downhead Junction Link Stear Hill Roundabout Stear Hill Link to Old A303
West Camel	Footpath Y27/29	To be stopped up in its entirety. Shown as a red dotted line in Inset E sheet 2 of the Rights of Way and Access Plans.	New bridleway AF-AE-AD-AC Road crossing AC-AB
West Camel	Footpath Y27/9	To be stopped up over a distance of 245 metres northwards from its junction with the existing A303. As shown as a red dotted line in Inset E sheet 2 of the Rights of Way and Access Plans.	New bridleway AT-AU. Then Road crossing AU-AV. Then New bridleway in verge AV-AS. Then Road crossing AS-AJ. Then New bridleway AJ-AI-AH-AG-AF
West Camel	A303 Trunk Road at Canegore Corner	To be stopped up over a distance of 146 metres eastwards from a point 567 metres east of the existing A303 /Plowage Lane junction.	A303 Eastbound and A303 Westbound.



		Reference A6 shown as a black dashed hatch in Inset F, Sheet 3 of the Rights of Way and Access Plans.	
West Camel	Stear Hill, near Canegore Corner	To be stopped up over a distance of 74 metres, northwards from a point 134 metres north of the Steart Hill junction with the existing A303. Reference A7 shown as a black dashed hatch in Inset F, Sheet 3 of the Rights of Way and Access Plans.	Stear Hill Link Stear Hill (North).
West Camel	Stear Hill, Canegore Corner	To be stopped up over a distance of 17m northwards from its junction with the existing A303. Reference A8 shown as a black dashed hatch in Inset F, Sheet 3 of the Rights of Way and Access Plans.	Stear Hill (South) Stear Hill (North) Stear Hill Link Downhead Junction Link Stear Hill Roundabout Stear Hill Link to Old A303 B3151 Link Camel Cross Link
West Camel	Howell Hill, Canegore Corner	To be stopped up over a distance of 79 metres southwards from its junction with the existing A303. Reference A9 shown as a black dashed hatch in Inset F, Sheet 3 of the Rights of Way and Access Plans.	Howell Hill Link (East) and Howell Hill Link (West). Stear Hill Roundabout Downhead Junction Link Stear Hill Link to Old A303 B3151 Link Camel Cross Link
Queen Camel	A303 Trunk Road at Camel Hill	To be stopped up over a distance of 232 metres westwards from a point 298 metres west of the existing A303 / Traits Lane junction. Reference A10 shown as a black dashed hatch in Inset F, Sheet 3 of the Rights of Way and Access Plans.	A303 Eastbound and A303 Westbound.
Queen Camel	Un-named road at Camel Hill	To be stopped up over a distance of 70 metres northwards from its junction with the existing A303. Reference A12 shown as a black dashed hatch in Inset G, Sheet 3 of	Vale Farm Link Camel Hill Roundabout Camel Hill Link

		the Rights of Way and Access Plans.	
Queen Camel	A303 Trunk Road at Camel Hill	To be stopped up over a distance of 111 metres eastwards from a point 43 metres east of the existing A303 /Gason Lane junction. Reference A14 shown as a black dashed hatch in Inset G, Sheet 3 of the Rights of Way and Access Plans.	A303 Eastbound and A303 Westbound.
Queen Camel Sparkford	Footpath WN23/12	To be stopped up over a distance of 434 metres eastwards from its junction with the existing A303. Shown by a red dotted line in Inset H sheet 4.	New bridleway in verge BJ-BI. Then New bridleway BI-BH. Then New bridleway in verge BH-BG. Then Road crossing BG-BF. Then New bridleway in verge BF-BM. Then New bridleway BM-BN, then New footpath BO-BP
Sparkford	A303 Trunk Road eastbound carriageway at Hazlegrove	To be stopped up over a distance of 254 metres, eastwards from a point 38 metres east of its junction with the existing Hazlegrove Roundabout. Reference A15 shown by a black dashed hatch in Inset H, Sheet 4 of the Rights of Way and Access Plans.	A303 Eastbound.

### PART 3

#### PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) Area	(2) <i>Private means of access to be stopped up</i>	(3) <i>Extent of stopping up</i>
Queen Camel	Access to land to the east of Camel Hill Farm.	Reference 25 shown in solid black on sheet 3 of the Rights of Way and Access Plans

## PART 4

### PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW PRIVATE MEANS OF ACCESS WHICH ARE OTHERWISE TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Private means of access to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) New private means of access to be substituted/provided</i>
Yeovilton West Camel	Field access off the northern verge of the A303 at Eastmead Lane	Reference B1 shown in solid black in Inset C of sheet 1 of the Rights of Way and Access Plans.	Reference 1 via Tracks 2 and 3 from Downhead Lane, shown on sheets 1 and 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near the slip road to Podimore.	Reference B2 shown in solid black in Inset C of sheet 1 of the Rights of Way and Access Plans	Reference 2 via Tracks 2 and 3 from Downhead Lane, shown on sheets 1 and 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near the slip road to Podimore.	Reference B3 shown in solid black in Inset C of sheet 1 of the Rights of Way and Access Plans	Reference 3 via Tracks 2 and 3 from Downhead Lane, shown on sheets 1 and 2 of the Rights of Way and Access Plans.
Yeovilton West Camel	Field access off the southern verge of the A303 near the slip road to Podimore.	Reference B4 shown in solid black in Inset C of sheet 1 of the Rights of Way and Access Plans	References 4 and 5 via Tracks 4 and 9 from Camel Cross Link, shown on sheets 1 and 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near the slip road to Podimore.	Reference B5 shown in solid black in Inset C of sheet 1 of the Rights of Way and Access Plans	Reference 6 via Tracks 2 and 3 from Downhead Lane, shown on sheets 1 and 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near Camel Cross.	Reference B6 shown in solid black in Inset D of sheet 2 of the Rights of Way and Access Plans	Reference 7 via Track 2 from Downhead Lane, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near Camel Cross.	Reference B7 shown in solid black in Inset D of sheet 2 of the Rights of Way and Access Plans	Reference 8 via Track 2 from Downhead Lane, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Field access off the western verge of the un-named local road at Plowage	Reference B8 shown in solid black in Inset E of sheet 2 of the Rights of Way and Access Plans	Reference 9 via Track 2 from Downhead Lane, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Field access off the eastern verge of the un-named local road at Plowage	Reference B9 shown in solid black in Inset E of sheet 2 of the Rights of Way and Access Plans	Reference 10 shown on sheet 2 of the Rights of Way and Access Plans.

West Camel	Access to The Spinney, off the eastern verge of the un-named local road at Plowage	Reference B10 shown in solid black in Inset E of sheet 2 of the Rights of Way and Access Plans	Reference 11 shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Access to Hill View, off the southern verge of the A303 near Canegore Corner.	Reference B11 shown in solid black in Inset F of sheet 3 of the Rights of Way and Access Plans	Reference 18 shown on sheet 3 of the Rights of Way and Access Plans.
West Camel	Field access off the western verge of Steart Hill.	Reference B12 shown in solid black in Inset F of sheet 3 of the Rights of Way and Access Plans	Reference 14 shown on sheet 2 of the Rights of Way and Access Plans.
West Camel Queen Camel	Field access off the southern verge of the A303 near Canegore Corner.	Reference B13 shown in solid black in inset F of sheet 3 of the Rights of Way and Access Plans	Reference 20 via Track 6 from Howell Hill Link (East), shown on sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Field access off the southern verge of the A303 near Camel Hill.	Reference B14 shown in solid black in inset G of sheet 3 of the Rights of Way and Access Plans	Reference 21 via Track 7 from Traits Lane Turning Head, shown on sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Access off the northern verge of the A303 at Camel Hill	Reference B15 shown in solid black in inset G of sheet 3 of the Rights of Way and Access Plans	Reference 23 via local road at Camel Hill and Vale Farm Link, shown on sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Access off the northern verge of the A303 to Pepper Hill Cottage.	Reference B17 shown in solid black in inset G of sheet 3 of the Rights of Way and Access Plans	Reference 24, as shown on sheet 3 of the Rights of Way and Access Plans
Queen Camel Sparkford	Access off the Hazlegrove Roundabout to Hazlegrove School.	Reference B18 shown in solid black in inset H of sheet 4 of the Rights of Way and Access Plans	Reference 27 via Hazlegrove School Access from Camel Hill Link, as shown on sheet 4 of the Rights of Way and Access Plans

## PART 5

### ALTERATIONS TO PRIVATE MEANS OF ACCESS

(1) <i>Parish(es)</i>	(2) <i>Private Means of Access to be altered</i>
West Camel	Reference 12. Modified access to Hawk House across verge, shown on sheet 2 of the Rights of Way and Access Plans
West Camel	Reference 13. Modified access to Hawk House / The Bungalow across verge, shown on sheet 2 of the Rights of Way and Access Plans
West Camel	Reference 15. Modified access to Lamorna across verge, shown on sheet 2 of the Rights of Way and Access Plans

West Camel	Reference 16. Modified access to West Camel Methodist Church across verge, shown on sheet 2 of the Rights of Way and Access Plans
West Camel	Reference 17. Modified access to Crusty Cottage across verge, shown on sheet 2 of the Rights of Way and Access Plans
West Camel	Reference 19. Modified access to Bromar across verge, shown on sheet 3 of the Rights of Way and Access Plans
Queen Camel	Reference 22. Access to land west of Traits Lane, via Traits Lane Turning Head, shown on sheet 3 of the Rights of Way and Access Plans
West Camel	Reference 26. Modified access to MOD land from Gason Lane Turning Head, shown on sheet 3 of the Rights of Way and Access Plans

## SCHEDULE 5

Article 26

### LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN AND ONLY NEW RIGHTS ETC. MAY BE PERMANENTLY ACQUIRED

<i>(1) Plot reference number shown on land plans</i>	<i>(2) Purpose for which rights over land may be acquired</i>	<i>(3) Relevant part of the authorised development</i>
1/2b	To designate the road to be formed on the plot as public highway open to vehicular traffic. To transfer responsibility for maintenance of the public highway so designated to Somerset County Council.	Works 2 and 5
1/4a	To construct, operate and maintain a drainage outfall including access with or without vehicles.	Work 6
1/5a	To designate the road to be formed on the plot as public highway open to vehicular traffic To transfer responsibility of maintenance of the public highway so designated to Somerset County Council.	Work 5
2/2e	To construct and maintain a boundary fence, plant and maintain hedgerows and undertake and maintain landscaping, including planting.	Work 11
3/1a	To undertake all works necessary to use the land for the ecological works including translocation of Great Crested Newts, reptiles and other species from the Order Land; and also including vegetation clearance, planting, landscaping, creation of a hibernacula, habitat improvement and the installation of fencing and access with or without vehicles to maintain the same. To impose a restrictive covenant that the owner may not remove, damage, obstruct or interfere with any works undertaken for the purposes of using the land for the translocation of species from the Order Land for a period of five years from the date of opening of the Scheme.	Work 39
3/1b	To undertake all works necessary to use the land for the ecological works including translocation of Great Crested Newts, reptiles and other species from the Order Land; and also including vegetation clearance, planting, landscaping, creation of a hibernacula, habitat improvement and the installation of fencing and access with or without vehicles to maintain the same. To impose a restrictive covenant that the owner may not remove, damage, obstruct or interfere with any works undertaken for the purposes of using the land for the translocation of species from the Order Land for a period of five years from the date of opening of the Scheme.	Work 40
3/2a	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it.	All Works

	To transfer responsibility of maintenance of the way to Somerset County Council.	
4/1f	To construct, operate, access and maintain a way suitable for use by the public on foot, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	Work 16
4/2a	To construct, operate, access and maintain a way suitable for use by the public on foot, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	Work 16
4/4b	To designate the road to be formed on the plot as public highway open to vehicular traffic. To transfer responsibility for maintenance of the public highway so designated to Somerset County Council. To construct, divert, use and maintain utility connections and equipment including electric cables, equipment and apparatus including access with or without vehicles.	Works 27, 38 and 38A
4/4g	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
4/7a	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
4/8b	To construct, operate and maintain a drainage outfall including access with or without vehicles.	Work 29
5/1b	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
5/3j	To designate the road to be formed on the plot as public highway open to vehicular traffic To transfer responsibility for maintenance of the public highway so designated to Somerset County Council To construct, divert, use and maintain utility connections and equipment including electric cables, equipment and apparatus including access with or without vehicles. To construct, divert, use and maintain utility connections and equipment including telecommunication cables	Works 61 and 69

	equipment and apparatus including access with or without vehicles.	
5/4c	To construct, divert, use and maintain utility connections and equipment including electric cables, equipment and apparatus including access with or without vehicles	Work 48
5/5c	To construct, divert, use and maintain utility connections and equipment including electric cables, equipment and apparatus including access with or without vehicles.	Work 48
5/8b	To construct, operate, access and maintain a private means of access including creation of vehicular rights of access to the property served thereby.	Work 52
5/9b	To construct, divert, use and maintain utility connections and equipment including electric cables, equipment and apparatus including access with or without vehicles.	Work 45, 46, 47, 48 and 74
6/1e	To construct, divert, use and maintain utility connections and equipment including telecommunication cables equipment and apparatus including access with or without vehicles.	Works 66 and 71
7/1c	To designate the road to be formed on the plot as public highway open to vehicular traffic. To transfer responsibility for maintenance of the public highway so designated to Somerset County Council.	Work 62
7/5a	To designate the road to be formed on the plot as public highway open to vehicular traffic. To transfer responsibility of maintenance of the public highway so designated to Somerset County Council. To construct, divert, use and maintain utility connections and equipment including electric cables and telecommunication cables equipment and apparatus including access with or without vehicles.	Works 63, 72 and 79
7/6a	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
7/7a	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
7/7c	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
7/7d	To designate the road to be formed on the plot as public highway open to vehicular traffic. To transfer responsibility of maintenance of the public highway so designated to Somerset County Council.	Work 63



7/8b	<p>To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it.</p> <p><u>To create a private right of access with or without vehicles, plant and machinery in favour of the owners of Blackwell Farm to take access over the plot for the purposes of agriculture.</u></p> <p>To transfer responsibility of maintenance of the way to Somerset County Council.</p>	Work 72
7/8c	<p>To designate the road to be formed on the plot as public highway open to vehicular traffic.</p> <p>To transfer responsibility for maintenance of the public highway so designated to Somerset County Council</p>	Work 64
8/2a	To construct, operate and maintain a drainage outfall including access with or without vehicles	Work 94
8/3a	<p>To construct, improve, operate, access and maintain a way suitable for use by the public on foot and by bicycle including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it.</p> <p>To transfer responsibility for maintenance of the way to Somerset County Council.</p>	All works

## MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

### *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 imposition of a restrictive covenant as they apply as respects compensation for the compulsory purchase of land and interests in land.

**2.—**(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

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

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 6 to the A303 Sparkford to Ilchester Development Consent Order 20[•] (the “[•] 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 6 to the [•] 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 when it entered on that land for the purpose of exercising that right.”

**3.—**(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

### **Application of Part 1 of the 1965 Act**

**4.** Part 1 of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 29 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 23 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 26(1) (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(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

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(a) 1973 c. 26.

- (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 or 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 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 (owners under incapacity);
- (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 so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 23), 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; and sections 11A(a) (powers of entry: further notices of entry), 11B(b) (counter-notice requiring possession to be taken on specified date, 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20 (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 the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 29(4) is also modified so 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, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

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(a) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).  
 (b) Section 11B was inserted by section 187(2) of the above Act.

# **“SCHEDULE 2A**

## **COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT**

### **IN NOTICE TO TREAT**

#### **Introduction**

**1.**—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a 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 30 (application of the 1981 Act) of the A303 Sparkford to Ilchester Development Consent Order 20[•] in respect of the land to which the notice to treat relates.

(2) But see article 31(3) (acquisition of subsoil or airspace only) of the A303 Sparkford to Ilchester Development Consent Order 20[•] which excludes the acquisition of subsoil or airspace 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 acquiring authority to purchase the owner’s interest in the house, building or factory.

**4.** A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

#### **Response to counter-notice**

**5.** On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

**6.** The authority must serve notice of their decision on the owner within the period of 3 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 it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

**9.** If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

#### **Determination by the Upper Tribunal**

**10.** On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right of 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 the 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 acquiring authority ought to be required to take.

**13.** If the Upper Tribunal determines that the acquiring 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 acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 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 it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.

**15.** Any dispute as to the compensation is to be determined by the Upper Tribunal.”

# SCHEDULE 7

Article 33

## LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE TAKEN

(1) <i>Plot Reference Number shown on land plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
1/3e	Working area and materials storage	All works
1/4c	Working area and materials storage, construction compounds	All works
2/2b	Working area and materials storage	All works
2/2c	Decommissioning of 75 metres of electrical cable	Work 9
2/2d	Working area and materials storage	All works
2/4b	Working area and materials storage, construction compounds	All works
2/4c	The construction of B3151 link, works to the public highway, utility diversions under the public highway	Works 16, 32 and 33
2/5b	<del>Working Access to working area, and materials storage and, construction compounds</del>	All works
<u>2/5e</u>	<u>Working area and materials storage, construction compounds</u>	<u>All works</u>
3/2c	Working area and materials storage	All works
4/1c	Works associated with the closure of local road at Downhead, the construction of Downhead Turning Head, utility diversions	Works 27 and 38
4/1i	The construction of 'Downhead Lane and accesses, utility diversions	Works 17, 43 and 44
4/1j	Working area and materials storage	All works
4/4c	Working area and materials storage	All works
4/4d	Working area and materials storage	All works
4/5a	The decommissioning of overhead electrical cables	Work 38a
4/5b	The decommissioning of overhead electrical cables	Work 38a
4/8c	Temporary highway diversions	All works
4/8e	Temporary highway diversions Construction and use of a temporary southern earthworks haul route	All works Work 49
5/1a	Working area and materials storage	All works
5/3d	The construction of Steart Hill Link and Steart Hill North Utility diversions	Works 41,43, 44, 51 and 75
5/4a	Construction and use of a temporary southern earthworks haul route	Work 49
5/4b	Construction and use of a temporary southern earthworks haul route	Work 49
5/5b	The construction of Howell Hill Link (East)	Work 42
5/7a	Construction and use of a temporary northern earthworks haul route	Work 80

5/7b	Landscaping works and works to retain existing hedgerow	All works
5/7c	Working area for utility diversions	Works 45, 48 and 74
5/8c	Works to create alternative private means of access	Work 52
5/9c	Construction and use of a temporary southern earthworks haul route	Work 49
5/10a	Construction and use of a temporary northern earthworks haul route	Work 80
5/12a	Construction and use of a temporary northern earthworks haul route	Work 80
5/12b	Construction and use of a temporary northern earthworks haul route	Work 80
5/13b	Working area and materials storage, construction compounds	All works
6/1a	Works to local road junction at Camel Hill Construction and use of a temporary northern earthworks haul route	Works 67 and 80
6/1b	Construction and use of a temporary northern earthworks haul route	Work 80
6/1c	Works to local road junction at Camel Hill	Works 66 and 67
6/1d	Works to local road junction at Camel Hill	Work 66
6/2a	Works to local road junction at Camel Hill	Work 67
6/3a	Diversion of a public right of way in highway verge	All works
7/1b	Working area and materials storage, construction compounds	All works
7/4c	Working area for utility diversions	Work 77
7/5b	Diversion of a public right of way	Work 72
<del>7/7b</del>	<del>The construction of an accommodation track for Blackwell Farm.</del>	<del>Work 59</del>
8/1a	Diversion of a public right of way Utility diversions	All works Work 84
8/1c	Diversion of a public right of way Utility diversions	All works Work 84

# SCHEDULE 8

## PROTECTIVE PROVISIONS

Article 42

### 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 otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

“alternative apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989<sup>(a)</sup>), 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 within the meaning of Part 1 of the Gas Act 1986<sup>(b)</sup> for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; 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<sup>(c)</sup>; and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreement to adopt sewers, drains or sewage disposal works at future date) of that Act<sup>(d)</sup>,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

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

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; 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;
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

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(a) 1989 c. 29.

(b) 1986 c. 44.

(c) 1991 c. 56.

(d) Section 104 was amended by section 42(3) of the Flood and Water Management Act 2010 (c. 29).



### **On street apparatus**

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

### **Apparatus in stopped up streets**

4.—(1) Where any street is stopped up under article 16 (permanent stopping up and restriction of streets and private means of access), any utility undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 15 (temporary stopping up and restriction of use of streets), a utility undertaker 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.

### **Protective works to buildings**

5. The undertaker, in the case of the powers conferred by article 21 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

### **Acquisition of land**

6. 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**

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (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 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(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 45 (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 45 (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 the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

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

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 45 (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.

#### **Retained apparatus**

9.—(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 7(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

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

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

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(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 it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

(7) In relation to works which will or may be situated on, over, under or within 10 metres measured in any direction of any electricity apparatus, the plan to be submitted to the utility undertaker under sub-paragraph (1) must be detailed, include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which they are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all electricity apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

### **Expenses and costs**

**10.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2).

(2) 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—

- (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 45 (arbitration) to be necessary then, if such placing involves cost exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus must 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 must 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.

**11.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 5 or 7(2) any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility 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 a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(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 act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) 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 and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise of any proceedings necessary to resist the claim or demand.

### **Cooperation**

**12.** Where in consequence of the proposed construction of any part of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, 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 development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

**13.** Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus 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**

**14.** For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

**15.** In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) (interpretation of code) of that code;

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(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(a) (application of the electronic communications code) of the 2003 Act;

“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 undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

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

**16.** The exercise of the powers conferred by article 35 (statutory undertakers) is subject to Part 10 (undertaker’s works affecting electronic communications apparatus) of Schedule 1 to the Digital Economy Act 2017(b).

**17.—**(1) Subject to sub-paragraphs (2) to (4), if as a result of the authorised development or its construction, or of any subsidence resulting from the authorised development—

- (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 the authorised development), 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 and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise 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 45 (arbitration).

(5) 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 damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.
- (c) 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 in land belonging to the undertaker on the date on which this Order is made.

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(a) Section 106 was amended by section 4 of the Digital Economy Act 2017.

(b) 2017 c. 30.

## PART 3

### FOR THE PROTECTION OF DRAINAGE AUTHORITIES

**18.** The provisions of this Part have effect for the protection of the drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

**19.** In this Part—

“construction” includes execution, placing, altering, replacing, relaying and removal; and  
“construct” must be construed accordingly;

“drainage authority” means—

- (a) in relation to an ordinary watercourse, the drainage board concerned within the meaning of section 23 of the Land Drainage Act 1991; and
- (b) in relation to a main river or sea defence work, the Environment Agency;

“drainage work” means any watercourse and includes any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence, sea defence or tidal monitoring which is the responsibility of the drainage authority as identified in the crossings schedule subject to such changes as notified to the undertaker;

“ordinary watercourse” has the meaning given by section 72 of the Land Drainage Act 1991;

“plans” includes any information reasonably required by the drainage authority including location details, grid references, sections, drawings, specifications, assessments and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 9 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse; or
- (c) affect the conservation, distribution or use of water resources.

**20.**—(1) Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may within 28 days of the submission of the plans reasonably require.

(2) The undertaker must not commence construction of the specified work until approval, unconditionally or conditionally, has been given as provided in this paragraph.

(3) A specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph 11.

(4) Any approval of the drainage authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) whichever is the later; and
- (c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work, for the protection of any navigation work, for the protection of water resources, for the prevention of pollution or in the discharge of its environmental functions.

(5) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

**21.** Without limiting paragraph 20, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the

strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage by reason of any specified work; or
- (b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired, and that the risk of flooding is not otherwise increased, by reason of any specified work.

**22.—**(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 21, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and
- (b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority—

- (a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and
- (b) notice in writing of its completion not later than 7 days after the date of completion.

(3) If the drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work.

(4) If any part of a specified work or any protective work required by the drainage authority is constructed otherwise than in accordance with the requirements of this Part, the drainage authority may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is agreed, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice and any expenditure incurred by it in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined.

**23.—**(1) Subject to sub-paragraph (5), the undertaker must from the commencement of the construction of the specified work maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation on land held by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority, the drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of the work, or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the

drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the drainage authority, or which the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable.

**24.** If by reason of the construction of a specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or that drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker as soon as reasonably practicable to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

**25.** The undertaker must indemnify the drainage authority in respect of all costs, charges and expenses which the drainage authority may reasonably incur, have to pay or sustain—

- (a) in the examination or approval of plans under this Part; and
- (b) in inspecting the construction of the specified work or any protective works required by the drainage authority under this Part; and
- (c) in carrying out any surveys or tests by the drainage authority which are reasonably required in connection with the construction of the specified work.

**26.—(1)** Without limiting the other provisions of this Part, the undertaker must indemnify the drainage authority from all claims, demands, proceedings, costs, damages, expenses or loss, which may be made or taken against, recovered from, or incurred by, the drainage authority by reason of—

- (a) any damage to any drainage work;
- (b) any raising or lowering of the water table in land adjoining the authorised project or any sewers, drains and watercourses; or
- (c) any flooding or increased flooding of any such lands and, where the drainage authority is the Environment Agency, inadequate water quality in any watercourse or other surface waters or in any groundwater,

caused by the construction of any specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged on the work.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

**27.** The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part.

**28.** Any dispute arising between the undertaker and the drainage authority under this Part, if the parties agree, is to be determined by arbitration under article 45 (arbitration), but otherwise is to be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Business, Energy and Industrial Strategy acting jointly on a reference to them by the undertaker or the drainage authority, after notice in writing by one to the other.



## **EXPLANATORY NOTE**

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

This Order authorises Highways England to construct the A303 Sparkford to Ilchester Dualling and carry out all associated works.

The Order permits Highways England to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also makes provision in connection with the maintenance of the authorised development.

A copy of the plans, engineering drawings and sections, book of reference and environmental statement mentioned in this Order and certified in accordance with article 43 (certification of plans, etc.) may be inspected free of charge during working hours at Highways England, Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ.