



Ferrybridge Multifuel 2 (FM2)

Document Ref: 2.3

PINS Ref: EN010061

The Proposed Ferrybridge Multifuel 2 (FM2) Order Ferrybridge Power Station Site, Knottingley, West Yorkshire Draft Development Consent Order (DCO) - Comparison to Model Provisions Version

The Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure)

Regulations 2009

Regulation 5(2)(b)



Applicant: Multifuel Energy Limited

Date: April 2015



Document Number	2.3		
Revision	3.0		
Author	BJ Gill, Advocate		
Signed	BJ Gill	Date	02.04.15
Approved By	BJ Gill		
Signed	BJ Gill	Date	02.04.15
Document Owner	BJ Gill, Advocate		

Revision History

Revision No.	Date	Reason for Revision	Authorised By
1.0	30.07.14	Submission version (tracked)	BJ Gill
2.0	17.02.15	Revised draft (tracked)	BJ Gill
3.0	02.04.15	Revised draft (tracked)	BJ Gill

Planning Act 2008

Formatted: Font: 10.5 pt

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

The Proposed Ferrybridge Multifuel 2 (FM2) Power Station Order

Comparison with Model Provisions

Model provisions
(Schedule 1 to the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009)

Interpretation

12.— (1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961;

~~“the 1965 Act” means the Compulsory Purchase Act 1965;~~

~~“the 1971 Act” means the Banking and Financial Dealings Act 1971;~~

“the 1980 Act” means the Highways Act 1980;

~~“the 1989 Act” means the Electricity Act 1989;~~

~~“the 1990 Act” means the Town and Country Planning Act 1990;~~

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

“the 2008 Act” means the Planning Act 2008;

~~“the 2010 Regulations” means the Environmental Permitting (England and Wales) Regulations 2010;~~

~~“ancillary works” means the ancillary works described in Part 2 of Schedule A (authorised project) [and any other works authorised by the Order] and which are not development within the meaning of section 32 of the 2008 Act;~~

“authorised development” means the development and associated development described in Schedule 1 (the authorised development)~~Part 1 of Schedule A (authorised project) [and any other development authorised by this Order], which is development within the meaning of section 32 of the 2008 Act;~~

~~“the authorised project” means the authorised development and the ancillary works authorised by this Order;~~

~~“the book of reference” means the book of reference certified by the decision maker as the book of reference for the purposes of this Order;~~

“building” includes any structure or erection or any part of a building, structure or erection;

~~“business day” means any day except—~~

~~(a) Christmas Day;~~

~~(b) Good Friday;~~

~~(c) a day that is a bank holiday in England and Wales by virtue of section 1 of the 1971 Act;~~

~~(d) any other day that is a Saturday or a Sunday;~~

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

~~“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;~~

~~“the decision maker” has the same meaning as in section 103 of the 2008 Act;~~

~~“the environmental permit” means a permit granted under the 2010 Regulations authorising the operation of the authorised development;~~

~~“the environmental statement” means the environmental statement (including the figures and appendices) submitted with the application for this Order and certified as the environmental statement by the Secretary of State for the purposes of this Order under article **Error! Reference source not found.**23;~~

~~“the FM1 Power Station ” means the Ferrybridge Multifuel 1 (FM1) power station within the Ferrybridge Power Station site for which consent under section 36 of the Electricity Act 1989~~

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Normal, Justified, Indent: Left: 1.06 cm, Right: 0.71 cm, Space Before: 4 pt, No widow/orphan control, Don't hyphenate, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

was granted in October 2011;

~~“heavy goods vehicle” means a motor vehicle constructed or adapted to carry or to haul goods of more than 3.5 tonnes in weight;~~

Formatted: Font: (Default) Times New Roman, 10.5 pt

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

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

~~“the land plan” means the plan certified as the land plan by the decision maker for the purposes of this Order;~~

~~“light goods vehicle” means a motor vehicle constructed or adapted to carry or to haul goods of not more than 3.5 tonnes in weight;~~

Formatted: Font: (Default) Times New Roman, 10.5 pt

~~“maintain” includes (i) inspect, repair, adjust, alter, clear, improve, refurbish, reconstruct and decommission and (ii) in relation to a part (but not the whole) of the authorised development, remove, demolish or replace; and “maintenance” and other cognate expressions are to be construed accordingly;~~

~~“the Order land” means the land shown on the land plan which is within the Order limits of land to be acquired and described in the book of reference;~~

~~“the Order limits” means the limits, shown by the red line boundary on the Order plan, on the works plan within which the authorised project development may be carried out;~~

~~“the Order plan” means the document certified as the Order plan by the Secretary of State for the purposes of this Order under article 23;~~

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

~~“a part” of the authorised development means any part of Works Nos. 1-4;~~

~~“the planning authority” means Wakefield Metropolitan District Council, as the planning authority for the area in which the Order land is situated;~~

Formatted: Font: (Default) Times New Roman, 10.5 pt

~~“the requirements” means the requirements set out in Schedule 2 (the requirements); and a reference to a numbered requirement is a reference to the requirement imposed by the corresponding numbered paragraph of that Schedule;~~

Formatted: Normal, Justified, Indent: Left: 1.06 cm, Right: 0.71 cm, Space Before: 4 pt, No widow/orphan control, Don't hyphenate, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

~~“relevant planning authority” means—~~

~~(i) the district planning authority for the area in which the land to which the provisions of this Order apply is situated unless the provisions relate to the construction or alteration of a hazardous waste facility, in which case it means the county planning authority;~~

~~(ii) a National Park Authority;~~

~~(iii) the Broads Authority; and~~

~~(iv) the Greater London Authority if the land to which the provisions of this Order or requirements apply is situated in Greater London;~~

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

~~“rights plan” means the plan certified as the rights plan by the decision maker for the purposes of this Order;~~

~~“the sections” means the sections shown on the plan certified as the section drawings plan by the decision maker for the purposes of this Order;~~

~~“statutory undertaker” means any person falling within section 127(8), 128(5) or 129(2) of the 2008 Act;~~

~~“street” means a street within the meaning of section 48 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;~~

~~“tree preservation order” has the meaning given in section 198 of the 1990 Act;~~

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

~~“undertaker” means the person who has the benefit of this Order in accordance with section 156~~

of the 2008 Act;

“the undertaker” means Multifuel Energy Limited, a company incorporated under the Companies Acts (company number SC286672) and having its registered office at Inveralmond House, 200 Dunkeld Road, Perth PH1 3AQ; or (except in article ~~Error! Reference source not found.~~(2)) any other person to whom the benefit, or any part of the benefit, of this Order may from time to time have been transferred or granted under article ~~Error! Reference source not found.~~(transfer of the benefit of this Order), to the extent of the relevant transfer or grant;

“the unnamed road” means the unnamed road to the east of and adjacent to the A1(M) which leads northwards from Stranglands Lane to the western boundary of Work No. 1A;

“waste derived fuel” means fuel derived from (i) processed municipal solid waste, (ii) commercial and industrial waste or (iii) waste wood;

“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 ~~plan documents~~ certified collectively as the works plans by the ~~decision-maker~~ Secretary of State for the purposes of this Order under article 23.

(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 air-space above its surface.

(3) A reference in this Order to a “grid reference” is a reference to the map co-ordinates on the National Grid used by the Ordnance Survey.

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

(5) All references in this Order to grid references and heights above ordnance datum are to be construed subject to the tolerances to which Ordnance Survey measures them.

(6) A reference in this Order to a “Work” identified by a number is a reference to the Work of that number described in Schedule 1 and shown on the works plans

~~[NOTE: In the case of off shore development, which is outside the area of any planning authority, it will be necessary to identify another appropriate body as the relevant planning authority.]~~

Development consent etc. granted by the Order

~~42.~~—Subject to the provisions of this Order (including the requirements) and to the requirements in the Schedule (requirements) attached to this Order the undertaker is granted—

(a) development consent for the authorised development; ~~and~~

(b) consent for the ancillary works;

to be carried out within the Order limits.

Maintenance of Power to maintain the authorised ~~project development~~

~~73.~~—(1) The undertaker may at any time maintain the authorised ~~project development~~, except to the extent that this Order (including the requirements), or an agreement made under this Order, provides otherwise.

(2) Paragraph ~~Error! Reference source not found.~~(4) does not authorise any works—

(a) not assessed in the environmental statement, or

(b) which would result in the authorised development varying from the description in Schedule 1,

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Indent: Left: 1.06 cm

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Indent: Left: 1.06 cm, Right: 1.06 cm

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Normal, Justified, Space Before: 4 pt, No widow/orphan control, Don't hyphenate, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font color: Black

Formatted: Font color: Auto

Benefit of Order

4. Subject to article 5 (consent to transfer benefit of Order), the provisions of articles [] and [] *[specify relevant articles]* shall have effect solely for the benefit of *[specify person, body or class of person]*.

[NOTE: This article is required where provisions of the Order are specific to a named undertaker or class of undertaker (see section 156(2) of the 2008 Act).]

Consent to transfer ~~Transfer of the~~ benefit of this Order

85. (1) ~~The~~ Where paragraph (3) applies, the undertaker may, with the consent of the *[specify person or body]*—

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

~~(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), shall 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) shall be 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.

~~(3) This paragraph applies where—~~

~~(a) the Secretary of State consents in writing to the proposed transfer or grant;~~

~~(b) the proposed transfer or grant—~~

~~(i) is to a person who is a street authority, and~~

~~(ii) is a transfer or grant of only the benefit of article **Error! Reference source not found.**9 (street works) and related statutory rights; or~~

~~(c) the proposed transfer or grant—~~

~~(i) is to a person who holds a transmission licence or a distribution licence under section 6 of the 1989 Act, and~~

~~(ii) is a transfer or grant of the benefit of the Order only to the extent necessary for that person to operate the connection to the electricity grid network comprised in Work No. 2.~~

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Normal, Justified, Indent: Left: 1.06 cm, Right: 1.06 cm, Space Before: 4 pt, No widow/orphan control, Don't hyphenate, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

Formatted: Font color: Black

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted: Indent: Left: 2 cm, No bullets or numbering

Formatted: N4, Indent: Left: 2 cm

Formatted: Indent: Left: 2 cm, No bullets or numbering

Application and modification of legislative provisions

6. (1) Subject to the modifications set out in paragraph (2) the following provisions of the *[insert short title of the relevant Act]* shall be incorporated in this Order—

~~(a) section[s] X *[specify relevant section(s)]*.~~

~~(2) The modifications are: *[insert relevant modifications]*.~~

~~(3) In construing the *[insert short title of the relevant Act]* as incorporated the following expressions shall have the following meanings: *[insert relevant expressions and definitions]*~~

Defence to proceedings in respect of statutory nuisance constituted by noise emitted from premises

~~187.~~—(1) ~~Where Paragraph (2) applies where~~ proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within ~~section 79(1)(g) of that Act~~ paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance),

~~(2) no~~ No order shall be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

~~(a) the defendant shows that the nuisance—~~

~~(i)~~

~~(a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project development and is attributable to that construction or maintenance—~~

~~(i) that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 of the Control of Pollution Act 1974 (control of noise on construction site), or~~

~~(ii) in accordance with a consent given under section 61 of that Act (prior consent for work on construction site) or section 65 of that Act (noise exceeding registered level), or~~

~~(iii) in compliance with requirement Error! Reference source not found.20 (construction hours), requirement Error! Reference source not found.23(3) (British Standards) or the programme approved under requirement Error! Reference source not found.23(1), (programme for the monitoring and control of construction noise); of the Control of Pollution Act 1974~~

~~; or~~

~~(ii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or~~

~~(b) the defendant shows that the nuisance—~~

~~(i)~~

~~(b) relates to premises used by the undertaker for the purposes of or in connection with the use operation of the authorised project development and that the nuisance is attributable to that operation in compliance with the programme approved under requirement 24(1) (programme for the monitoring and control of operational noise) environmental permit the use of the authorised project which is being used in accordance with a scheme of monitoring and attenuation of noise agreed with the Commission as described in requirement 25; or~~

~~(c)~~

~~(ii) is a consequence of the use construction, maintenance or operation of the authorised project development and that it cannot reasonably be avoided.~~

~~(32) Section 61(9) of the Control of Pollution Act 1974 (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 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall do 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 project development.~~

Formatted: Indent: Left: 1.06 cm, Right: 1.06 cm

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Street works

~~98.~~—(1) The undertaker may, for the purposes of the authorised project development, enter on so much of any of the streets specified in Schedule B-5 (streets subject to street works) as is 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 **section 51(1)** (prohibition of unauthorised street works) of the 1991 Act.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

~~[NOTE: This article should not be used for the purposes of authorising street works that affect a trunk road (as defined in the 1980 Act); no trunk roads should be specified in Schedule B (streets subject to street works). For any street works affecting a trunk road the undertaker should make an application for a licence under section 50 of the 1991 Act.]~~

Stopping up of streets

~~9.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised project, stop up each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule C (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the works plan, in column (3) of those Parts of that Schedule.~~

~~—(2) No street specified in columns (1) and (2) of Part 1 of Schedule C (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article unless —~~

~~— (a) the new street to be substituted for it, which is specified in column (4) of that Part 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 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 until the completion and opening of the new street in accordance with sub-paragraph (a).~~

~~—(3) No street specified in columns (1) and (2) of Part 2 of Schedule C (being a street to be stopped up for which no substitute is to be provided) shall 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 to be stopped up.~~

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

~~— (a) the undertaker is in possession of the land; or~~

~~— (b) there is no right of access to the land from the street concerned; or~~

~~— (c) there is reasonably convenient access to the land otherwise than from the street concerned; or~~

~~— (d) the owners and occupiers of the land have agreed to the stopping up.~~

~~—(5) Where a street has been stopped up under this article —~~

~~— (a) all rights of way over or along the street so stopped up shall be extinguished; and~~

~~— (b) the undertaker may appropriate and use for the purposes of the authorised~~

~~project so much of the site of the street as is bounded on both sides by land owned by the undertaker.~~

~~—(6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.~~

~~—(7) This article is subject to article 32 (apparatus etc. of statutory undertakers).~~

Public rights of way

~~10.—(1) With effect from the [date of publication of this Order] [the date of certification by the local highway authority that the agreed alternative right of way has been created to the standard defined in the implementation plan], [the section of] the public right of way (being a [insert one of: footpath/bridleway/byway open to all traffic/restricted byway]) shown marked in [red] between the points [A] and [B] on the rights plan is extinguished.~~

~~—(2) With effect from [that same date] [insert later date] an alternative section of [insert description of right of way of that same type] as marked in [green] between the points [C] and [D] on the rights plan is created.~~

~~—(3) In this article—~~

~~“implementation plan” means the written plan agreed between the undertaker and the local highway authority for creation of the agreed alternative right of way to the defined standard; and~~

~~“local highway authority” has the same meaning as in section 329(1) of the 1980 Act.~~

Temporary stopping up of streets

~~11.—(1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street and may for any reasonable time—~~

~~———(a) divert the traffic from the street; and~~

~~———(b) subject to paragraph (2), prevent all persons from passing along the street.~~

~~—(2) The undertaker shall provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.~~

~~—(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, alter or divert the streets specified in columns (1) and (2) of Schedule D (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the works plan, in column (3) of that Schedule.~~

~~—(4) The undertaker shall not temporarily stop up, alter or divert—~~

~~———(a) any street specified as mentioned in paragraph (3) without first consulting the street authority; and~~

~~———(b) any other street without the consent of the street authority which may attach reasonable conditions to any consent.~~

~~—(5) Any person who suffers loss by the suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.~~

Access to works

~~1012.—The undertaker may, for the purposes of the authorised project/development—~~

~~(a) form and lay out means of access, or improve existing means of access, in the location specified in Schedule 6 columns (1) and (2) of Schedule E (access to works); and~~

~~(b) with the approval of the relevant planning authority after consultation with the~~

highway authority, form and lay out such other means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised ~~project~~development.

Agreements with street authorities

- ~~1113.~~—(1) ~~A~~The street authority and the undertaker may enter into ~~an~~ agreements with respect to—
- ~~(a) the construction of any new street including any structure carrying the street over or under a [insert description of development] authorised by this Order;~~
 - ~~(b) the maintenance of the structure of any bridge or tunnel carrying a street over or under a [insert description of development];~~
 - ~~(c) any stopping up, alteration or diversion of a street authorised by this Order; or~~
 - ~~(d) the carrying out in the street~~ of any of the works referred to in article ~~89~~(1) (street works).
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Discharge of water

- ~~1214.~~—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised ~~project~~development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.
- (2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) ~~shall is to~~ be determined as if it were a dispute under section 106 of the Water Industry Act 1991 (right to communicate with public sewers).
- (3) The undertaker ~~shall may~~ 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 shall but may~~ not be unreasonably withheld.
- (4) The undertaker ~~shall may~~ 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 ~~shall may~~ not be unreasonably withheld; and
 - (b) where that person has been given the opportunity to supervise the making of the opening.
- (5) The undertaker ~~shall may~~ not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.
- (6) The undertaker ~~shall must~~ take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.
- (7) This article does not authorise ~~a water discharge activity prohibited by regulation 12 of the 2010 Regulations~~the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991 (offences of polluting water).

(8) In this article—

~~—(a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, a harbour authority within the meaning of section 57 of the Harbours Act 1964 (interpretation), an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and~~

~~—(b) “water discharge activity” has the same meaning as in the 2010 Regulations;~~

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

Protective work to buildings

~~15.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits 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 project; or~~

~~—(b) after the completion of that part of the authorised project 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 project is first opened for use.~~

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

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

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

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

~~—(5) Before exercising—~~

~~—(a) a 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 shall, 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 42 (arbitration).~~

~~—(7) The undertaker shall 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 project 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 project,~~
- ~~— the undertaker shall compensate the owners and occupiers of the building for any loss or damage sustained by them.~~
- ~~— (9) Nothing in this article shall relieve the undertaker from any liability to pay compensation under section 10(2) of the 1965 Act (compensation for injurious affection).~~
- ~~— (10) Any compensation payable under paragraph (7) or (8) shall be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).~~
- ~~— (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 project; 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 project.~~

Authority to survey and investigate the land

1316.—(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 project development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; 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.

(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) ~~shall~~must, if so required when entering the land, produce written evidence of ~~their his or her~~ authority to do so; ~~and~~
- (b) may take with ~~them him or her~~ such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes ~~shall~~may be made under this article—

- (a) in land located within the highway boundary, without the consent of the highway authority; ~~or~~
- (b) in a private street, without the consent of the street authority; ~~r~~

~~— but such consent shall not be unreasonably withheld.~~

~~(5) A consent for the purpose of paragraph **Error! Reference source not found.**(4)(a) or **Error! Reference source not found.**(b) may be given subject to such terms and conditions as the authority giving it may reasonably impose, but may not be unreasonably withheld.~~

~~(65) The undertaker shall~~must compensate ~~the any owners and or~~ occupiers of the land who sustains ~~for any~~ loss or damage arising by reason of the exercise of the authority conferred by this

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

article ~~for that loss or damage.~~

~~(7) Any compensation payable under paragraph (6) is, such compensation~~ to be determined, in case of dispute, ~~under Part 1 of the 1961 Act~~ (determination of questions of disputed compensation) ~~of the 1961 Act.~~

Removal of human remains

~~2017.~~ ~~(1) In this article “the specified land” means *insert description of the land*.~~

~~(12)~~ Before the undertaker carries out any development or works which ~~it has reason to think~~ will or may disturb any human remains in the ~~specified-Order~~ land it ~~shall-must~~ remove those human remains ~~from the specified-land,~~ or cause them to be removed, ~~from the Order land~~ in accordance with the following provisions of this article.

~~(32)~~ Before any such remains are removed ~~from the specified-land~~ the undertaker ~~shall-must~~ give notice of the intended removal, describing the ~~specified-Order~~ 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 ~~project/development;~~ and

(b) displaying a notice in a conspicuous place on or near to the ~~specified-Order~~ land.

~~(34)~~ As soon as reasonably practicable after the first publication of a notice under paragraph ~~(32)~~ the undertaker ~~shall-must~~ send a copy of the notice to ~~Wakefield Metropolitan District Council~~ ~~*insert relevant local authority*.~~

~~(45)~~ At any time within 56 days after the first publication of a notice under paragraph ~~(32)~~ any person who is a personal representative or relative of ~~any-a~~ deceased person whose remains are interred in the ~~specified-Order~~ land may give notice in writing to the undertaker of ~~that person's-his or her~~ intention to undertake the removal of the remains.

~~(56)~~ Where a person has given notice under paragraph ~~(45);~~ and the remains in question can be identified, that person may cause ~~such-the~~ 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-a~~ crematorium,

and that person ~~shall-must~~, 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 ~~(104+)~~.

~~(67)~~ If the undertaker is not satisfied that ~~any-a~~ person giving notice under paragraph ~~(45)~~ is the personal representative or relative ~~of a deceased person whose remains are interred in the Order land as that person claims to be,~~ or that the remains in question can be identified, the question ~~shall 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 ~~shall-is to~~ remove the remains and as to the payment of the costs of the application.

~~(78)~~ The undertaker ~~shall-must~~ pay the reasonable expenses of removing and re-interring or cremating the remains of ~~any-a~~ deceased person under this article.

~~(89)~~ If—

(a) within the period of 56 days referred to in paragraph ~~(45)~~ no notice under that paragraph has been given to the undertaker in respect of any remains in the ~~specified-Order~~ land, ~~;~~ or

(b) such notice is given and no application is made under paragraph ~~(67)~~ 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-an~~ order is made by the county court under paragraph ~~(76)~~ 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 (940) the undertaker ~~shall~~must 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 shall be re-interred in individual containers which ~~shall be~~are identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(940) If the undertaker is satisfied that ~~any a~~ person giving notice under paragraph (45) is the personal representative or relative ~~as that person claims to be of a deceased person whose remains are interred in the Order land~~ and that the remains in question can be identified, but that person does not remove the remains, the undertaker ~~shall~~must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(1014) On the re-interment or cremation of any remains under this article ~~the undertaker must send~~—

(a) a certificate of re-interment or cremation ~~shall be sent by the undertaker~~ 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 (89) ~~shall be sent by the undertaker to Wakefield Metropolitan District Council~~*[insert relevant local authority]* mentioned in paragraph (4).

(1142) The removal of the remains of ~~any a~~ deceased person under this article ~~shall~~must be carried out in accordance with any directions which may be given by the Secretary of State.

(1243) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(1314) Section 25 of the Burial Act 1857 (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) ~~shall does~~ not apply to a removal carried out in accordance with this article.

Compulsory acquisition of land

~~18.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project [or to facilitate, or is incidental, to it][or is required as replacement land].~~

~~—(2) As from the date on which a compulsory acquisition notice under section 134(3) of the 2008 Act is served or the date on which the Order land, or any part of it, is vested in the undertaker, whichever is the later, that land or that part of it which is vested (as the case may be) shall be discharged from all rights, trusts and incidents to which it was previously subject.~~

~~—(3) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.~~

~~—(4) This article is subject to article 25 (acquisition of land limited to subsoil lying more than 9 metres beneath surface) and article 28 (temporary use of land for carrying out the authorised project).~~

Compulsory acquisition of land—incorporation of the mineral code

~~19.—[Part(s)] 2 [and 3] of Schedule 2 to the Acquisition of Land Act 1981 (minerals) [is/are] incorporated in this Order subject to the modifications that—~~

~~—(a) paragraph 8(3) is not incorporated;~~

- ~~————(b) for “the acquiring authority” substitute “the undertaker”;~~
- ~~————(c) [insert additional modifications].~~

Time limit for exercise of authority to acquire land compulsorily

~~20.—(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 shall be served under Part 1 of the 1965 Act; and~~
- ~~————(b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 23 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).~~

~~——(2) The authority conferred by article 28 (temporary use of land for carrying out the authorised project) shall cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph shall prevent the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.~~

Compulsory acquisition of rights

~~21.—(1) The undertaker may acquire compulsorily the existing rights and create and acquire compulsorily the new rights described in the book of reference and shown on the [insert name] plan.~~

~~——(2) As from the date on which a compulsory acquisition notice is served or the date on which any new right is vested in the undertaker, whichever is the later, the land over which any new rights is acquired shall be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of that new right.~~

~~——(3) Subject to section 8 of the 1965 Act, as substituted by article 26 (acquisition of part of certain properties), where the undertaker acquires an existing right over land under paragraph (1), the undertaker shall not be required to acquire a greater interest in that land.~~

~~——(4) Any person who suffers loss as a result of the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.~~

Private rights of way

~~22.—(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—~~

- ~~————(a) as 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) of the 1965 Act (power of entry);~~

~~whichever is the earlier.~~

~~——(2) Subject to the provisions of this article, all private rights of way over land owned by the undertaker which, being within the limits of land which may be acquired shown on the land plan, is required for the purposes of this Order shall be extinguished on the appropriation of the land by the undertaker for any of those purposes~~

~~——(3) Subject to the provisions of this article, all private rights of way over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.~~

~~——(4) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.~~

~~——(5) This article does not apply in relation to any right of way to which section 138 of the 2008~~

Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 31 (statutory undertakers) applies.

~~(6) Paragraphs (1) to (3) shall have effect subject to —~~

~~———— (a) any notice given by the undertaker before —~~

~~———— (i) the completion of the acquisition of 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 shall not apply to any right of way specified in the notice; and~~

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

~~(7) If any such agreement as is referred to in paragraph (6)(b) —~~

~~———— (a) is made with a person in or to whom the right of way 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 shall be effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.~~

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

23. ~~(1) The Compulsory Purchase (Vesting Declarations) Act 1981 shall apply as if this Order were a compulsory purchase order.~~

~~(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied, shall have effect with the following modifications:~~

~~(3) In section 3 (preliminary notices), for subsection (1) there shall be substituted —~~

~~“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include the particulars specified in subsection (3) in a notice which is —~~

~~(a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and~~

~~(b) published in a local newspaper circulating in the area in which the land is situated.”.~~

~~(4) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.~~

~~(5) In that section, for subsections (5) and (6) there shall be substituted —~~

~~“(5) For the purposes of this section, a person has a relevant interest in land if —~~

~~(a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or~~

~~(b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.~~

~~(6) In section 5 (earliest date for execution of declaration) —~~

~~———— (a) in subsection (1), after “publication” there shall be inserted “in a local newspaper circulating in the area in which the land is situated”; and~~

~~———— (b) subsection (2) shall be omitted.~~

~~(7) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.~~

~~—(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 shall be construed as references to that Act as applied by section 125 of the 2008 Act to the compulsory acquisition of land under this Order.~~

Acquisition of subsoil only

~~24.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 18 (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 land under paragraph (1), the undertaker shall not be required to acquire an interest in any other part of the land.~~

~~—(3) Paragraph (2) shall not prevent article 26 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.~~

Acquisition of land limited to subsoil lying more than 9 metres beneath surface

~~25.—(1) This article applies to the land specified in Schedule F (land of which only subsoil more than 9 metres beneath surface may be acquired):~~

~~—(2) In the case of land to which this article applies, the undertaker may only acquire compulsorily under article 18 (compulsory acquisition of land) so much of, or such rights in, the subsoil of the land as may be required for the purposes of the authorised project.~~

~~—(3) Where the undertaker acquires any part of, or rights in, the subsoil of the land to which this article applies, the undertaker shall not be required to acquire a greater interest in the land or an interest in any other part of it.~~

~~—(4) References in this article to the subsoil of land are references to the subsoil lying more than 9 metres beneath the level of the surface of the land; and for this purpose “level of the surface of the land” means —~~

~~—(a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building;~~

~~—(b) in the case of a watercourse or other water area, the level of the surface of the ground nearest to it which is at all times above water level; or~~

~~—(c) in any other case, ground surface level.~~

Acquisition of part of certain properties

~~26.—(1) This article shall apply instead of section 8(1) of the 1965 Act (other provisions as divided land) (as applied by section 125 of the 2008 Act) where —~~

~~—(a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and~~

~~—(b) a copy of this article is served on the owner with the notice to treat.~~

~~—(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter notice objecting to the sale of the land subject to the notice to treat which states that the owner is willing and able to sell the whole (“the land subject to the counter notice”).~~

~~—(3) If no such counter notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.~~

~~—(4) If such a counter notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the undertaker agrees to~~

take the land subject to the counter notice, be referred to the tribunal.

~~—(5) If on such a reference the tribunal determines that the land subject to the notice to treat can be taken—~~

~~——(a) without material detriment to the remainder of the land subject to the counter notice; or~~

~~——(b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter notice and without seriously affecting the amenity and convenience of the house,~~

~~the owner shall be required to sell the land subject to the notice to treat.~~

~~—(6) If on such a reference the tribunal determines that only part of the land subject to the notice to treat can be taken—~~

~~——(a) without material detriment to the remainder of the land subject to the counter notice; or~~

~~——(b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter notice and without seriously affecting the amenity and convenience of the house,~~

~~the notice to treat shall be deemed to be a notice to treat for that part.~~

~~—(7) If on such a reference the tribunal determines that—~~

~~——(a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter notice; but~~

~~——(b) the material detriment is confined to a part of the land subject to the counter notice,~~

~~the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.~~

~~—(8) If the undertaker agrees to take the land subject to the counter notice, or if the tribunal determines that—~~

~~——(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter notice or, as the case may be, without material detriment to the remainder of the land subject to the counter notice and without seriously affecting the amenity and convenience of the house; and~~

~~——(b) the material detriment is not confined to a part of the land subject to the counter notice,~~

~~the notice to treat shall be deemed to be a notice to treat for the land subject to the counter notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.~~

~~—(9) Where, by reason of a determination by the tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.~~

~~—(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.~~

Rights under or over streets

1527.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised ~~project development~~ and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised ~~project development~~.

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

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

(a) ~~any a~~ subway or underground building; ~~or~~

(b) ~~any a~~ 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 (65), ~~the undertaker must compensate any person who is an~~ owner or occupier of land appropriated under paragraph (1) ~~who sustains loss by reason of that appropriation for that loss.~~

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

(5) Compensation ~~shall is~~ not ~~be~~ payable under paragraph (4) to ~~any a~~ person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) 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 project

28.—(1) The undertaker may, in connection with the carrying out of the authorised project—

~~— (a) enter on and take temporary possession of the land specified in columns (1) and (2) of Schedule G (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised project specified in column (4) of that Schedule;~~

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

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

~~— (2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land.~~

~~— (3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (4) of Schedule G.~~

~~— (4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to replace a building removed under this article.~~

~~— (5) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.~~

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

~~— (7) Nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act (further provisions as to compensation for injurious affection) or under any other~~

enactment in respect of loss or damage arising from the carrying out of the authorised project, 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) except that the undertaker shall not be precluded from—~~

~~—(a) acquiring new rights over any part of that land under article 21 (compulsory acquisition of rights); or~~

~~—(b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 24 (acquisition of subsoil only) or in accordance with article 25 (acquisition of land limited to subsoil lying more than 9 metres beneath surface).—~~

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

~~—(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).~~

Temporary use of land for maintaining authorised project

~~29.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised project, the undertaker may—~~

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

~~—(b) 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) shall not authorise the undertaker to take temporary possession of—~~

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

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

~~—(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker shall 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 project 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 shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.~~

~~—(6) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.~~

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

~~—(8) Nothing in this article shall affect any liability to pay compensation under section 10(2) of the 1965 Act (further provisions as to compensation for injurious affection) or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, 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 shall not be required to acquire the land or any interest in it.~~

~~—(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).~~

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

Special category land

~~30.—(1) The special category land shall not vest in the undertaker until the undertaker has acquired the replacement land and *[insert name of relevant body]* has certified that a scheme for the provision of the replacement land as *[common/open space/fuel or field garden allotment]* has been implemented to its satisfaction.~~

~~—(2) On the requirements of paragraph (1) being satisfied, the replacement land shall vest in *[insert name of relevant body]* subject to the same rights, trusts and incidents as attached to the special category land; and the special category land shall be discharged from all rights, trusts and incidents to which it was previously subject.~~

~~—(3) In this article—~~

~~“the special category land” means the land identified as forming part of a common, open space, or fuel or field garden allotment in the book of reference and on the plan entitled “Special Category Land Plan” attached to the land plan, which may be acquired compulsorily under this Order and for which replacement land is to be provided; and~~

~~“the replacement land” means the land identified in the book of reference and on the plan entitled “Replacement Land Plan” attached to the land plan.~~

Statutory undertakers

~~1631.—(1) The undertaker may—~~

~~—(a) acquire compulsorily the land belonging to statutory undertakers shown on the land plan within the limits of the land to be acquired and described in the book of reference;~~

~~—(b) extinguish the rights of, or remove or reposition the apparatus belonging to, statutory undertakers shown on the land *[insert name]* plan and described in the book of reference; and~~

~~—(c) acquire compulsorily the new rights over land belonging to statutory undertakers shown on the *[insert name]* plan and described in the book of reference.~~

~~(2) In paragraph (1), “the land plan” and “the book of reference” mean the documents respectively certified as such by the Secretary of State for the purposes of this Order under article 23.~~

Apparatus and rights of statutory undertakers in stopped-up streets

~~32.—(1) Where a street is stopped up under article 9 (stopping up of streets), any statutory utility whose apparatus is under, in, on, along or across the street shall have 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 9, 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 shall—~~

~~—(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 shall 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) shall 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 shall 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 cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall 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)) shall, 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) shall not apply where the authorised project 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 shall be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and~~

~~—(b) the allowable costs shall 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.~~

Recovery of costs of new connections

1733.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is

removed under article ~~1631~~ (statutory undertakers), any person who is the owner or occupier of premises to which a supply was given from that apparatus ~~shall be 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) ~~shall does~~ not apply in the case of the removal of a public sewer, but where such a sewer is removed under article ~~1634~~ (statutory undertakers), any person who is—

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

(b) the owner of a private sewer which communicated with that sewer, ~~shall be 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 ~~shall not have has no~~ effect in relation to apparatus to which ~~article 32 (apparatus and rights of statutory undertakers in stopped-up streets) or~~ Part 3 of the 1991 Act applies.

(4) In this ~~paragraph article~~—

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

“public utility undertaker” has the same meaning as in the 1980 Act.

Railway and navigation undertakings

~~34.—(1) Subject to the following provisions of this article, the undertaker may not under article 8 (street works) break up or open a street where the street, not being a highway maintainable at public expense (within the meaning of the 1980 Act)—~~

~~———(a) is under the control or management of, or is maintainable by, railway or tramway undertakers or a navigation authority; or~~

~~———(b) forms part of a level crossing belonging to any such undertakers or to such an authority or to any other person;~~

~~except with the consent of the undertakers or authority or, as the case may be, of the person to whom the level crossing belongs.~~

~~——(2) Paragraph (1) shall not apply to the carrying out under this Order of emergency works, within the meaning of Part 3 of the 1991 Act.~~

~~——(3) A consent given for the purpose of paragraph (1) may be made subject to such reasonable conditions as may be specified by the person giving it but shall not be unreasonably withheld.~~

~~——(4) In this paragraph “navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary or harbour.~~

Application of landlord and tenant law

~~2135.—(1) This article applies to—~~

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

(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised ~~project 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 ~~shall prejudice~~ the operation of ~~any an~~ agreement to which this article applies.

(3) ~~Accordingly, no such~~ No enactment or rule of law regulating the rights and obligations of landlords and tenants applies shall apply in relation to the rights and obligations of the parties to any lease granted by or under ~~any such an~~ agreement to which this article applies 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 Town and Country Planning Act 1990 Act

~~2236.~~—Development consent granted by this Order ~~shall is~~ to be treated as specific planning permission for the purposes of section 264(3)(a) of the Town and Country Planning Act 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

~~Deemed consent under section 34 of the Coast Protection Act 1949~~

~~37.~~—The undertaker is granted deemed consent under section 34 of the Coast Protection Act 1949 to carry out the works described in Schedule H, subject to the requirements set out in that Schedule.

~~Deemed licence under Part 2 of the Food and Environment Protection Act 1985~~

~~38.~~—The undertaker is granted a deemed licence under Part 2 of the Food and Environment Protection Act 1985 to carry out the works described in Schedule I, subject to the requirements set out in that Schedule.

Felling or lopping of trees

~~1439.~~—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised ~~project development~~, or cut back its roots, 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 ~~project development~~ or any apparatus used in connection with the authorised ~~project development~~; or

(b) from constituting a danger to passengers or other persons using the authorised ~~project development~~.

(2) In carrying out any activity authorised by paragraph (1), the undertaker ~~may not cause shall do no~~ unnecessary damage to ~~any a~~ tree or shrub ~~and shall pay compensation to any person for any loss or damage arising from such activity~~.

~~(3) The undertaker must compensate any person who sustains loss or damage by reason of the exercise of the authority conferred by this article for that loss or damage.~~

~~(4) Any compensation payable under paragraph (3) is to dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, shall be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).~~

Trees subject to tree preservation orders

~~40.—(1) The undertaker may fell or lop any tree described in Schedule J [and identified on the *{insert name}* plan, or cut back its roots if it reasonably believes it to be necessary in order to do so to prevent the tree or shrub—~~

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

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

- ~~————(a) the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity; and~~
- ~~————(b) the duty contained in section 206(1) of the 1990 Act (replacement of trees) shall not apply.~~

~~————(3) The authority given by paragraph (1) shall constitute a deemed consent under the relevant tree preservation order.~~

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

Certification of documents/plans etc

~~2341.—(1) The undertaker shall must, as soon as practicable after the making of this Order, submit to the decision-maker Secretary of State a copy of each of the documents submitted with the application for this Order and listed in paragraph (2), copies of—~~

- ~~————(a) the book of reference;~~
- ~~————(b) the land plan;~~
- ~~————(c) the rights plan;~~
- ~~————(d) the works plan;~~
- ~~————(e) the sections; and~~
- ~~————(f) any other plans or documents referred to in this Order;~~

~~for certification that they are it is a true copies copy of the documents referred to in this Order.~~

(2) The documents are—

- (a) the biodiversity strategy;
- (b) the book of reference;
- (c) the combined heat and power assessment;
- (d) the design and access statement;
- (e) the environmental statement, including the figures and appendices;
- (f) the grid connection statement;
- (g) the indicative generating station site layout, elevations and sections – concept layout;
- (h) the indicative landscaping plan;
- (i) the land plan;
- (j) the landscaping strategy;
- (k) the lighting strategy;

Formatted: Indent: Left: 0 cm, Right: 0 cm, Space Before: 6 pt

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

- (l) the Order plan;
- (m) the statement of engagement of section 79(1) of the Environmental Protection Act 1990;
- (n) the statement of reasons;
- (o) the works plans.

(2) A ~~plan or~~ document ~~so~~ certified in accordance with paragraph 1(1) is ~~shall be~~ admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Arbitration

2542.—Any ~~difference dispute~~ under any provision of this Order, unless otherwise provided for, ~~shall is to~~ 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 Law Society of England and Wales ~~insert appropriate body~~.

Model provisions in respect of requirements
(Schedule 4 to the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009)

Interpretation

1. — In this Schedule —

“the 1990 Act” means the Town and Country Planning Act 1990;

“the 2008 Act” means the Planning Act 2008;

“authorised development” means the development and associated development described in Part 1 of Schedule A (authorised project) [and any other development authorised by this Order], which is development within the meaning of section 32 of the 2008 Act;

“the authorised project” means the authorised development and the ancillary works authorised by this Order;

“the code of construction practice” means the code of construction practice agreed by [insert relevant body] on [insert date];

“the environmental document” means the document certified as the environmental document by the decision maker for the purposes of this Order;

“highway” and “highway authority” have the same meaning as in the Highways Act 1980;

“the Order limits” means the limits shown on the works plan within which the authorised project may be carried out;

“relevant planning authority” means —

(i) the district planning authority for the area in which the land to which the provisions of this Order apply is situated unless the provisions relate to the construction or alteration of a hazardous waste facility, in which case it means the county planning authority;

(ii) a National Park Authority;

(iii) the Broads Authority; and

(iv) the Greater London Authority if the land to which the provisions of this Order or requirements apply is situated in Greater London;

“stage” means a defined section or part of the authorised development, the extent of which is shown in a scheme submitted to and approved by the Commission pursuant to requirement 3 (stages of authorised development);

Interpretation

47.—(1) In this Schedule —

“a bank holiday” is a day that is a bank holiday in England and Wales by virtue of section 1 of the 1971 Act;

“the biodiversity strategy” means the document certified as the biodiversity strategy by the Secretary of State for the purposes of this Order under article **Error! Reference source not found.23**;

“the CEMP” means the construction environmental management plan approved in accordance with requirement **Error! Reference source not found.48(4)**;

“the commencement of the authorised development” means the first carrying out of any works, other than permitted preliminary works, for the construction of the authorised development; and “commence” and other cognate expressions, in relation to the authorised development, are to be construed accordingly;

“the commercial use” of the authorised development means the export of electricity from the authorised development for commercial purposes;

Formatted: Font: Bold

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

“the commissioning of the authorised development” means the process of testing all systems and components of the authorised development (including systems and components which are not yet installed but the installation of which is near to completion), in order to verify that they function in accordance with the design objectives, specifications and operational requirements of the undertaker; and “commission” and other cognate expressions, in relation to the authorised development, are to be construed accordingly;

“the construction site” means the Order land during the construction of the authorised development;

“the environmental permit” means a permit granted under the 2010 Regulations authorising the operation of the authorised development;

“the indicative landscaping plan” means the document certified as the indicative landscaping plan by the Secretary of State for the purposes of this Order under article **Error! Reference source not found.**23;

“means of enclosure” means fencing, walls or other means of boundary treatment and enclosure;

“permitted preliminary works” means site clearance work, survey work, archaeological field work, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, the diversion and laying of services, the erection of any temporary means of enclosure, the preparation of facilities for the use of the contractor, the temporary display of site notices and advertisements, the provision of site security and any other works agreed by the planning authority; and

“the relevant highway authorities” means Wakefield Metropolitan District Council, North Yorkshire Council and the Highways Agency, each in its capacity as a highway authority.

(2) A reference in this Schedule to an agreement, approval, consent, notice, report, scheme, submission or any other form of communication is a reference to that form of communication in writing.

(3) A reference in this Schedule to details, a method statement, a plan, a programme, a scheme or any other document approved by the planning authority is a reference to that document including any amendments subsequently approved by the planning authority.

Time limits**Commencement of the authorised development**

12. —(1) —The authorised development must ~~be begun~~ commence within ~~five~~ five ~~insert number~~ years of the date ~~of~~ on which this Order comes into force.

(2) The authorised development may not commence unless the undertaker has given the planning authority 14 days’ notice of its intention to commence the authorised development.

Stages of authorised development

3. —No authorised development shall commence until a written scheme setting out all the stages of the authorised development has, after consultation with the relevant planning authority and highway authority, been submitted to and approved by the Commission.

Detailed design approval

4. —(1) Work No. 1 may not commence until details of the following have been submitted to and approved by the planning authority—

- (a) the siting, layout, scale and external appearance (including the colours, materials and surface finishes) of all new temporary and permanent buildings;
- (b) the internal roads, ramps, turning facilities, parking, loading and unloading facilities, weighbridges, hardstandings and pedestrian and cycle facilities and routes;
- (c) drainage, storage tanks and external lighting;
- (d) finished ground and floor levels.

Formatted: Font: Bold

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

(2) Work No. 2 may not commence until notice of which one of Work No. 2A, Work No. 2B or Work No. 2C has been selected as the connection to the electricity grid network, including details of the design of the option selected, has been submitted to and approved by the planning authority.

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

(3) Work No. 3 may not commence until details of the following have been submitted to and approved by the planning authority—

Formatted

(e) surfacing

(f) drainage;

(g) fencing;

(h) external lighting;

(i) pedestrian and cycle facilities and routes.

(4) Work No. 4 may not commence until notice of which one of Work No. 4A or Work No. 4B has been selected as the connection to the foul water system, including details of the design of the option selected, has been submitted to and approved by the planning authority.

(5) All details submitted and approved under subparagraph ~~Error! Reference source not found.~~(4), 0(2), 0(3) or (4)(4) must be in accordance with the design and scale parameters set out in chapter 3 of the environmental statement.

Formatted: N2, Space Before: 0 pt, Widow/Orphan control, Hyphenate, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

~~4. — No [stage of the] authorised development shall commence until [for that stage] written details of the following have, after consultation with the relevant planning authority, been submitted to and approved by the Commission—~~

~~for~~

~~5. — No [stage of the] authorised development shall commence until details of the layout, scale and external appearance of the following elements of the authorised development [within that stage] have, after consultation with the relevant planning authority, been submitted to and approved by the Commission]~~

~~6. — (6) The authorised development must be carried out in accordance with the approved details.~~

Formatted: Font: Not Bold

Provision of landscaping

~~7. — (1) No part of [stage of the] authorised development may be commissioned until a detailed shall until commence a written landscaping scheme [for that stage]part has, after consultation with the relevant planning authority, been submitted to and approved by the Commissionplanning authority.~~

Formatted: Font: Not Bold

(2) Each ~~The landscaping~~ scheme submitted and approved must include details of all proposed hard and soft landscaping works, including—

(a) the treatment of hard surfaced areas;

(b) earthworks, including the proposed levels and contours of landscaped areas;

(c) the seed mix for areas of grassland;

(d) tree and shrub planting, including the height, size and species and the density of distribution;

(e) the management of existing and new areas of grassland and tree and shrub planting;

———(a) location, number, 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) vehicular and pedestrian access, parking and circulation areas;

———(f) minor structures, such as furniture, refuse or other storage units, signs and lighting;

- ~~_____ (g) proposed and existing functional services above and below ground, including drainage, power and communications cables and pipelines, manholes and supports;~~
 - ~~_____ (h) details of existing trees to be retained, with measures for their protection during the construction period;~~
 - ~~_____ (i) retained historic landscape features and proposals for restoration, where relevant;~~
- and

~~(j) an implementation timetables for all the phasing and completion of the landscaping works.~~

~~(3) Each scheme submitted and approved must be in accordance with the indicative landscaping plan, the biodiversity strategy and the biodiversity enhancement and management plan.~~

~~(4) In subparagraph (3), “the biodiversity enhancement and management indicative landscaping plan” means the plan approved under requirement 17(1) document certified as the indicative landscaping plan by the Secretary of State for the purposes of this Order under article 23.~~

Implementation and maintenance of landscaping

~~8.— (1) All landscaping works must be carried out in accordance with the relevant landscaping scheme (including the implementation timetable) approved under requirement 7 and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.~~

~~_____ (2) The landscaping works must be carried out in accordance with implementation timetables approved under requirement 6.~~

~~(23) Any tree or shrub planted as part of an approved landscaping scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the Commission 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, unless otherwise approved by the Commission.~~

~~_____ (3) Any area of grassland planted as part of an approved landscaping scheme that, within a period of five years after planting, dies or becomes, in the opinion of the planning authority, seriously damaged or diseased, must be reseeded in the first available planting season with the same seed mix as that originally planted.~~

~~_____ (4) The undertaker must implement and maintain an annual landscaping maintenance plan during the construction, operation and decommissioning of the authorised development.~~

Trees

~~9.— (1) No [stage of the] authorised development shall commence until written details of any proposed tree planting and the proposed times of planting have, after consultation with the relevant planning authority, been approved in writing by the Commission; and all tree planting shall be carried out in accordance with those details and at those times~~

~~_____ (2) If within a period of [two years] beginning with the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, [or becomes, in the opinion of the Commission, seriously damaged or defective,] another tree of the same species and size as that originally planted shall be planted at the same place, unless the Commission gives its written consent to a variation.~~

Highway accesses

10.— (1) No ~~part of the [stage of the]~~ authorised development ~~shall~~ may commence until ~~for that stage,] written~~ details of the siting, design and layout (including visibility splays and surfacing) of any new ~~or modified~~ permanent or temporary means of access to a highway to be used by vehicular traffic for that part have, ~~or any alteration to an existing means of access to a highway used by vehicular traffic, has, after consultation with the relevant planning authority and highway authority,~~ been submitted to and, after consultation with the relevant highway authorities, approved by the ~~Commission~~ planning authority.

~~(2) The authorised development may not be brought into commercial use until all highway access have been constructed.~~

~~(32)~~ The highway accesses must be constructed in accordance with the relevant approved details.

~~(3) No [stage of the] authorised development shall be begun until [for that stage,] a written Access Management Scheme has, after consultation with the relevant planning authority and highway authority, been submitted to and approved by the Commission.~~

~~(4) The Access Management Scheme must be carried out in accordance with the approved details.~~

Public rights of way

11.— (1) ~~No [stage of the] authorised development shall commence that would affect [insert details of relevant right of way] until a written implementation plan and specification for the making up of an alternative right of way has, after consultation with the relevant planning authority and highway authority, been submitted to and approved by the Commission.~~

~~(2) The alternative [insert details of relevant right of way] shall be implemented in accordance with the approved plan and specification.~~

Fencing — special roads **A1(M)**

112.— (1) ~~The No [stage of the] authorised development shall~~ may not commence until ~~written~~ details of the design and construction of any ~~boundary~~ fencing on the boundary of the authorised development with the A1(M) for special roads have, ~~after consultation with the relevant planning authority and highway authority,~~ have been submitted to and, after consultation with the Highways Agency, approved by the ~~Commission~~ planning authority.

(2) The authorised development ~~shall~~ must be carried out in accordance with the approved ~~design and construction~~ details.

(3) The authorised development may not be brought into commercial use until the fencing has been completed. “Special road” has the same meaning as in section 329 of the Highways Act 1980.

Fencing and other means of enclosure

1213.— (1) No ~~[stage of the] part of the~~ authorised development ~~shall~~ may commence until ~~written~~ details of all proposed ~~permanent and temporary fences, walls or other~~ means of enclosure ~~for that stage] for that part have,~~ after consultation with the relevant planning authority, been submitted to and approved by the ~~Commission~~ planning authority.

(2) ~~The [insert description], and any~~ Any construction areas or sites associated with the authorised development; must remain securely fenced at all times during construction of the authorised development.

(3) Any approved temporary fencing means of enclosure must be removed within 12 months.

~~after on completion of the authorised development is brought into commercial use.~~

(4) ~~The authorised development may not be brought into commercial use until any Any approved permanent means of enclosure has been completed~~~~fencing of the new [insert description] must be completed before the [insert description] is brought into use.~~

(5) ~~Each part of the authorised development must be carried out in accordance with the relevant approved details.~~

Surface ~~and foul~~ water drainage

14.— (1) ~~No part of the [stage of the] authorised development shall may commence until [for that stage.] written details of the surface and foul water drainage systems (including means of pollution control, in accordance with the CEMP) for that part have, after consultation with the relevant planning authority and the sewerage and drainage authority, been submitted to and, after consultation with the Environment Agency, approved by the Commission.~~

(2) ~~The details submitted and approved must be in accordance with the principles and strategy set out in Appendix 12A to the environmental statement.~~

(3) ~~The surface and foul water drainage systems must be constructed in accordance with the relevant approved details.~~

(4) ~~The authorised development may not be commissioned until the surface and foul water drainage systems have been constructed.~~

Contaminated land and groundwater

15.— (1) ~~No part of the [stage of the] authorised development shall may commence until a written scheme [applicable to that stage.] to deal with the contamination of any land, (including groundwater), within the Order limits, which is likely to cause significant harm to persons or pollution of controlled waters or the environment, for that part has, after consultation with the relevant planning authority and the Environment Agency, been submitted to and, after consultation with the Environment Agency, approved by the Commission~~~~planning authority.~~

(2) ~~Each scheme submitted and approved under subparagraph (1),—~~

~~(a) must be in accordance with the principles set out in chapter 13 of, and the Geotechnical Site Investigation Report in Appendix 13A to, the environmental statement;~~

~~(b) may be included in the CEMP.~~

(3) ~~The Each scheme submitted and approved under subparagraph (1) must shall include an investigation and assessment report, prepared by a specialist consultant approved by the relevant planning authority, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on the site.~~

(4) ~~Subparagraph (5) applies if, during the construction of any part of the authorised development, any contamination of land (including groundwater) which was not identified in the approved scheme for that part is found within the Order limits.~~

(5) ~~Unless the planning authority agrees otherwise, no further construction of the relevant part of the authorised development may be carried out until a remediation scheme to deal with the contamination has been submitted to and, after consultation with the Environment Agency, approved by the planning authority.~~

(6) ~~Remediation The authorised development, including any remediation, must be carried out in accordance with the all approved schemes.~~

Formatted: Font: Not Bold

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: Not Bold

Formatted: N2, Indent: Left: 0.3 cm, Space Before: 0 pt, Widow/Orphan control, Hyphenate, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

Formatted: Font: Not Bold, Font color: Auto

Archaeology

16.— (1) No part of the ~~[stage of the]~~ authorised development shall ~~may~~ commence until a programme of archaeological work for that part ~~[for that stage,] a written scheme for the investigation of~~ areas of archaeological interest ~~[as identified in section [] of the environmental document]~~ has, after ~~consultation with the relevant planning authority, has~~ been submitted to and, after consultation with West Yorkshire Archaeology Advisory Service, approved by the ~~Commission~~planning authority.

(2) Each programme submitted and approved must include—

- (a) a written scheme of investigation;
- (b) an assessment of significance and research questions;
- (c) a programme and methodology for site investigation and recording;
- (d) a programme for post-investigation assessment;
- (e) arrangements to be made for—
 - (i) the analysis of site investigation and recording,
 - (ii) the publication and dissemination of the analysis and of the records of the site investigation, and
 - (iii) the archive deposition of the analysis and records;
- (f) the nomination of a competent person or organisation to carry out works set out in the written scheme of investigation.

(3) Any field work must be carried out in accordance with the written scheme of investigation included in the approved programme.

(4) The authorised development may not be brought into commercial use until—

- (a) the site investigation and post-investigation assessment provided for in the approved programme have been completed, and
- (b) the arrangements referred to in subparagraph (2)(e) made under the approved programme have been implemented.

~~(2) The scheme shall identify areas where field work and/or a watching brief are required, and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.~~

~~(3) Any archaeological works or watching brief carried out under the scheme must be by a suitably qualified person or body approved by the Commission.~~

~~(4) Any archaeological works or watching brief must be carried out in accordance with the approved scheme.~~

Ecological Biodiversity enhancement and management plan

17.— (1) ~~The~~ No ~~[stage of the]~~ authorised development shall ~~commence~~ ~~may not be commissioned~~ until a ~~written ecological biodiversity enhancement and~~ management plan ~~[for that stage] reflecting the survey results and ecological mitigation and enhancement measures included in the environmental document, after consultation with the relevant planning authority, shall be~~ ~~has been~~ submitted to and, after consultation with Yorkshire Wildlife Trust, approved by the ~~Commission~~planning authority.

(2) The plan submitted and approved must—

- (a) be in accordance with the survey results and mitigation and enhancement measures included in chapter 12 of the environmental statement, the biodiversity strategy and the indicative landscaping strategy;
- (b) include an implementation timetable and details relating to maintenance and management.

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted: N3, Indent: Left: 1.3 cm

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Font: Not Bold

Formatted

Formatted: N2, Indent: Left: 0.3 cm

Formatted: Font:

Formatted: N2, Indent: Left: 0.3 cm, Space Before: 0 pt, Widow/Orphan control, Hyphenate, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

Formatted: Font: Not Bold, Font color: Auto

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted

(32) ~~The plan must be implemented ecological management plan shall include an implementation timetable and must be carried out~~ as approved.

Construction environmental management plan ~~Code of construction practice~~

~~18. —(1) The authorised development may not commence until a construction environmental management plan has been submitted to and, after consultation with Selby District Council, approved by the planning authority.~~

~~(2) The plan submitted and approved must—~~

~~(a) be in accordance with the principles set out in chapters 7 to 16 of the environmental statement and the framework construction environmental management plan contained in Appendix 3A to the environmental statement;~~

~~(b) include measures for the protection of any protected species found to be present on the Order land during construction;~~

~~(c) include the mitigation measures included in chapter 9 of the environmental statement;~~

~~(d) incorporate a code of construction practice; and~~

~~(e) incorporate a scheme for handling complaints received from local residents, business and organisations relating to emissions of noise, odour or dust from the authorised development during its construction, which must include appropriate corrective action in relation to substantiated complaints relating to emissions of noise.~~

~~(3) In subparagraph 0(2)(b), a “protected species” means a species protected under the Wildlife and Countryside Act 1981 or the Conservation of Habitats and Species Regulations 2010.~~

~~(4) All construction works associated with the authorised development must be carried out in accordance with the CEMP.~~

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Field Code Changed

Formatted

~~18. — Construction works shall be carried out in accordance with the agreed code of construction practice, unless otherwise agreed by the Commission, after consultation with relevant planning authority.~~

~~for~~

~~19. — (1) — No [stage of the] authorised development shall commence until a code of construction practice shall, after consultation with the relevant planning authority, be submitted to and approved by the Commission.~~

~~— (2) — All construction works shall be undertaken in accordance with the approved code, unless otherwise agreed by the Commission.]~~

~~*{Note: The code should specify measures designed to minimise the impacts of construction works, such as means of minimising pollution from dust, noise, vibration and lighting, wheel-cleansing facilities, routes for construction traffic, working hours etc. To the extent that it does not, or does not do so adequately, separate conditions are likely to be required, some of which are indicated below}.*~~

Design of roads

~~20. — (1) — No [stage of the] authorised development consisting of the construction or alteration of a street which is a trunk road or including any traffic management and control measures shall commence until written details of the design of the street shall, after consultation with the Highways Agency, be submitted to and approved by the Commission.~~

~~— (2) — The [authorised development] construction or alteration of the street or the taking of traffic management and control measures shall be carried out in accordance with the approved design.~~

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt, Not Bold

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Normal, Space Before: 6 pt, No bullets or numbering, No widow/orphan control, Don't hyphenate, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and

External lighting

~~21. (1) No part of the [stage of the] authorised development shall may commence until written~~

~~details of any a scheme for all temporary and permanent external lighting to be installed during the construction and operation of that part (except the aviation warning lighting required by virtue of requirement 4344) has been at any of the construction sites [within that stage], including measures to prevent light spillage, shall, after consultation with the relevant planning authority and the highway authority, be submitted to and, after consultation with Selby District Council, approved by the Commissionplanning authority; and any approved means of lighting must subsequently be installed and retained for the duration of the construction period.~~

~~(2) Each scheme submitted and approved must—~~

~~(a) include measures to minimise and otherwise mitigate any artificial light emissions during construction and operation of the authorised development;~~

~~(b) be in accordance with the lighting strategy.~~

~~(3) In subparagraph (2)(b), “the lighting strategy” means the document certified as the lighting strategy by the Secretary of State for the purposes of this Order under article 23.~~

~~(4) Each scheme must be implemented as approved.~~

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font color: Black

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted: N2, Indent: Left: 0.3 cm, Space Before: 0 pt, Widow/Orphan control, Hyphenate, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

Formatted: Font: Not Bold, Font color: Auto

Construction traffic routing and management plan

~~1922.— (1) The No [stage of the] authorised development shall may not commence until a construction traffic routing and management plan has been written details of the preferred route to be used by construction traffic shall, after consultation with the relevant planning authority and the highway authority, be submitted to and, after consultation with the relevant highway authorities, approved by the Commissionplanning authority.~~

~~(2) The plan submitted and approved must be in accordance with the principles set out in chapter 7 of the environmental statement and the construction travel plan framework contained in Appendix 7C to the environmental statement.~~

~~(3) The plan submitted and approved must include—~~

~~(a) details of the routes to be used for the delivery of construction materials and any temporary signage to identify routes and promote their safe use, including details of the access points to the construction site to be used by light goods vehicles and heavy goods vehicles;~~

~~(b) details of the routing strategy and procedures for the notification and conveyance of abnormal indivisible loads, including agreed routes, the numbers of abnormal loads to be delivered by road and measures to mitigate traffic impact;~~

~~(c) the construction programme;~~

~~(d) any necessary measures for the temporary protection of carriageway surfaces, the protection of statutory undertakers’ plant and equipment and any temporary removal of street furniture;~~

~~(e) measures to promote the use of sustainable transport modes by construction personnel in order to minimise the overall traffic impact and promote sustainable transport modes;~~

~~(f) details of parking for construction personnel within the construction site; and~~

~~(g) details of a co-ordinator to be appointed to manage and monitor the implementation of the plan, including date of appointment, responsibilities and hours of work.~~

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted

Formatted

~~(4) Notices shall must be erected and maintained throughout the period of construction at every entrance to and exit from the construction site exit, indicating to drivers the approved routes agreed by the Commission for traffic entering and leaving the construction site.~~

~~(5) The plan must be implemented as approved.~~

Control of noise during construction and maintenance

23.— (1) ~~The No [stage of the] authorised development shall may not commence until a programme for the monitoring and control of noise during the construction of the authorised development, after consultation with the relevant planning authority, a written scheme for noise management during construction and maintenance [of that stage] has been submitted to and, after consultation with Selby District Council, approved by the Commission~~planning authority.

(2) ~~The programme submitted and approved must specify—~~

- (a) ~~each location from which noise is to be monitored;~~
- (b) ~~the method of noise measurement;~~
- (c) ~~the maximum permitted levels of noise at each monitoring location for during the daytime, evening and night time periods;~~
- (d) ~~provision as to the circumstances in which construction activities must cease as a result of a failure to comply with a maximum permitted level of noise; and~~
- (e) ~~the noise control measures to be employed.~~

~~(3) All activities on the Order land associated with the construction of the authorised development must be carried out in accordance with British Standards 5228-1:2009 and 5228-2:2009.~~

~~(2) The scheme shall set out the particulars of—~~

- (a) ~~the works, and the method by which they are to be carried out;~~
- (b) ~~the noise attenuation measures to be taken to minimise noise resulting from the works, including any noise limits; and~~
- (c) ~~a scheme for monitoring the noise during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.~~

~~(3) The approved noise management scheme must be implemented before and maintained during construction and maintenance of the [relevant stage of the] authorised development.~~

~~(4) The construction and maintenance works must be undertaken in accordance with the approved noise management scheme.~~

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: Not Bold

Construction hours

2024.— (1) Construction work ~~associated with the authorised development may only take place—~~

- (a) ~~between 0700 and 1900 hours on weekdays (excluding bank holidays);~~
- (b) ~~between 0700 and 1300 hours on Saturdays (excluding bank holidays).~~

~~shall not take place other than between [0800 and 1800 hours on weekdays and 0800 and 1300 hours on Saturdays, excluding public holidays], unless otherwise agreed by the Commission.~~

~~(2) The restrictions in subparagraph (1) do not apply to work as a result of which the level of noise emitted from the construction suite does not exceed the noise limits specified in subparagraph (3) as measured by continuous noise monitoring and which—~~

- (a) ~~does not involve the use of impact wrenches, sheet piling, concrete scabbling, external earthworks or concrete jack hammering,~~
- (b) ~~is associated with an emergency, or~~
- (c) ~~is carried out with the prior approval of the planning authority.~~

(3) The limits are, under reference to British Standard 5228-1:2009+A1:2014—

- (a) ~~55 dB L_{Aeq, 1h} at the receptors identified in chapter 9 of the environmental statement as category C receptors;~~
- (b) ~~50 dB L_{Aeq, 1h} at the receptors identified in chapter 9 of the environmental statement as~~

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt, Not Superscript/ Subscript

Formatted: Not Superscript/ Subscript

category B receptors.

~~(432)~~ Nothing in subparagraph (1) ~~precludes prevents~~—
(a) start-up activities from 0630 to 0700 hours on weekdays and Saturdays (excluding bank holidays).

(b) shut-down activities from 1900 to 1930 hours on weekdays (excluding bank holidays).

(c) shut-down activities from 1300 to 1330 hours on Saturdays (excluding bank holidays).

a start-up period from [0730 to 0800] and a shut-down period from [1800 to 1830] on weekdays (excluding public holidays).

(45) In subparagraph (34), “start-up activities” and “shut-down activities” mean activities carried out by construction staff in preparation for or when finishing work, as applicable, including—

(a) changing into or out of protective clothing,

(b) receiving safety or other briefings, and

(c) any other such activities that do not generate significant levels of noise above ambient levels at the receptors identified in chapter 9 of the environmental statement.

(65) During the construction of the authorised development, heavy goods vehicles may only enter or leave the construction site—

(a) between 0730 and 1900 hours on weekdays (excluding bank holidays);

(b) between 0730 and 1300 hours on Saturdays (excluding bank holidays).

(76) The restrictions in subparagraph (56) do not apply to vehicle movements which are carried out with the prior approval of the planning authority.

Control of noise during operational phase

~~25.— (1) No authorised development shall commence operation until, after consultation with the relevant planning authority, a written scheme for noise management including monitoring and attenuation for the use of the authorised project has been submitted to and approved by the Commission.~~

~~— (2) The noise management scheme must be implemented as approved and maintained for the duration of use of the authorised project.~~

Control of operational noise during operational phase

~~25.— (1) No~~The authorised development may not be commissioned until a programme for the monitoring and control of noise during the operation of the authorised development shall commence operation until, after consultation with the relevant planning authority, a written scheme for noise management including monitoring and attenuation for the use of the authorised project has been submitted to and, after consultation with the Environment Agency and Selby District Council, approved by the ~~Commission~~planning authority.

(2) The programme submitted and approved must specify—

(a) each location from which noise is to be measured;

(b) the method of noise measurement, which must be in accordance with British Standard 4142:2014;

(c) the maximum permitted levels of noise at each monitoring location; and

(d) provision requiring the undertaker to take noise measurements as soon as possible following a request by the planning authority and to submit the measurements to the planning authority as soon as they are available.

Formatted: Not Superscript/ Subscript

Formatted: Font: Not Bold, Font color: Auto

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: Not Bold

(3) The level of noise at each monitoring location must not exceed the maximum permitted level specified for that location in the programme, except—

- (a) in the case of an emergency,
- (b) with the prior approval of the planning authority, or
- (c) as a result of steam purging or the operation of emergency pressure relief valves or similar equipment of which the undertaker has given notice in accordance with subparagraph (4).

(4) Except in the case of an emergency, the undertaker must give the planning authority 24 hours' notice of any proposed steam purging or operation of emergency pressure relief valves or similar equipment.

(5) So far as is reasonably practicable, steam purging and the operation of emergency pressure relief valves or similar equipment may only take place—

- (a) between 0900 and 1700 hours on weekdays (excluding bank holidays);
- (b) between 0900 and 1300 hours on Saturdays (excluding bank holidays).

(6) Where the level of noise at a monitoring location exceeds the maximum permitted level specified for that location in the programme because of an emergency—

(a) the undertaker must, as soon as possible and in any event within two business days of the beginning of the emergency, submit to the planning authority a statement detailing—

- (i) the nature of the emergency, and
- (ii) why it is necessary for the level of noise to have exceeded the maximum permitted level; and

(b) if the undertaker expects the emergency to last for more than 24 hours, it must inform local residents and businesses affected by the level of noise at that location of—

- (i) the reasons for the emergency, and
- (ii) how long it expects the emergency to last.

~~(2) The noise management scheme must be implemented as approved and maintained for the duration of use of the authorised project.~~

Control of odour emissions

~~2426.— (1) The No [stage of the] authorised development shall commence may not be commissioned until, after consultation with the relevant planning authority, a written a scheme for the management and mitigation of odour emissions has been submitted to and, after consultation with Selby District Council, approved by the Commissionplanning authority.~~

~~(2) The scheme submitted and approved must be in accordance with the principles set out in the odour management plan contained in Appendix 8B to the environmental statement.~~

~~(3) The authorised development may not be brought into commercial use until the approved scheme has been implemented.~~

~~(4) The approved scheme for the management and mitigation of odour emissions must be implemented before and maintained throughout the during the construction, operation and decommissioning of the [relevant stage of the] authorised development.~~

Control of artificial light emissions

~~27.— (1) No [stage of the] authorised development shall commence until, after consultation with the relevant planning authority, a written scheme for the management and mitigation of artificial light emissions has been submitted to and approved by the Commission.~~

~~(2) The approved scheme for the management and mitigation of artificial light emissions must be implemented before and maintained during the construction, operation and decommissioning of the [relevant stage of the] authorised development.~~

Control of dust emissions

~~2528.~~— (1) ~~The No [stage of the]~~ authorised development ~~shall may not~~ commence until, ~~after consultation with the relevant planning authority, a written a~~ scheme for the management and mitigation of dust emissions has been submitted to and, ~~after consultation with Selby District Council,~~ approved by the ~~Commissionplanning authority.~~

(2) The approved scheme ~~for the management and mitigation of dust emissions~~ must be implemented before and maintained during the construction, operation and decommissioning of the ~~[relevant stage of the]~~ authorised development.

Control of smoke emissions

~~2629.~~— (1) ~~The No [stage of the]~~ authorised development ~~shall may not~~ commence until, ~~after consultation with the relevant planning authority, a written a~~ scheme for the management and mitigation of smoke emissions has been submitted to and, ~~after consultation with Selby District Council,~~ approved by the ~~Commissionplanning authority.~~

(2) The approved scheme ~~for the management and mitigation of smoke emissions~~ must be implemented before and maintained during the construction, operation and decommissioning of the ~~[relevant stage of the]~~ authorised development.

Control of steam emissions

~~2730.~~— (1) ~~No [stage of the]~~ The authorised development ~~shall may not~~ commence until, ~~after consultation with the relevant planning authority, a written a~~ scheme for the management and mitigation of steam emissions has been submitted to and, ~~after consultation with Selby District Council,~~ approved by the ~~Commissionplanning authority.~~

(2) The approved scheme ~~for the management and mitigation of steam emissions~~ must be ~~implemented before and~~ maintained during the construction, operation and decommissioning of the ~~[relevant stage of the]~~ authorised development.

Control of insects and vermin

~~2831.~~— (1) ~~The No [stage of the]~~ authorised development ~~shall commence may not be commissioned~~ until, ~~—~~

~~(a) ,after consultation with the relevant planning authority, a written a~~ scheme to ~~prevent the ensure the~~ prevention of infestation or emanation of insects from the authorised development has been submitted to and approved by the ~~Commissionplanning authority; and~~

~~(b) the approved scheme has been implemented.~~

(2) The approved scheme ~~for the prevention of infestation or emanation of insects~~ must be ~~implemented before and~~ maintained ~~throughout the operation during the construction, operation and decommissioning~~ of the ~~[relevant stage of the]~~ authorised development.

(3) ~~In subparagraph (1)~~For the purposes of this requirement, “insects and vermin” excludes insects and vermin that are wild animals included in Schedule 5 to the Wildlife and Countryside Act 1981 (animals which are protected), unless they are included in respect of section 9(5) of that Act only.

Accumulations and deposits

~~2932.~~— (1) ~~The No [stage of the]~~ authorised development ~~shall may not~~ commence until, ~~after-~~

Formatted: Font: (Default) Times New Roman, 10.5 pt

~~consultation with the relevant planning authority, a written a scheme for the management of relevant any accumulations [or] and deposits whose effects may be harmful or visible or otherwise noticeable from outside the Order limits has been submitted to and approved by the Commissionplanning authority.~~

~~(2) In subparagraph (1), “relevant accumulations and deposits” means accumulations and deposits~~

~~(a) which may occur during the construction, operation or decommissioning of the authorised development, and~~

~~(b) the effects of which may be harmful or noticeable from outside the Order limits,~~

~~(3) The approved scheme for the management of accumulations and deposits must be implemented before and maintained during the construction, operation and decommissioning of the [relevant stage of the] authorised development.~~

Travel plan ~~—operational staff~~

~~33.— (1) The No [stage of the] of the authorised development may not be brought into commercial use until shall be begun until, after consultation with the relevant planning authority and the highway authority, a travel plan for operational staff [for the contractor's workforce], which must include details of the expected means of travel to and from [the authorised [project]][the construction site] and any parking to be provided, has been submitted to and, after consultation with the relevant highway authorities, approved by the Commissionplanning authority.~~

~~(2) No part of the authorised project shall be brought into use until, after consultation with the relevant planning authority and the highway authority, a travel plan, which must include details of the expected means of travel to and from the authorised project and any parking to be provided, has been submitted to and approved by the Commission.~~

~~(2) The plan submitted and approved must be in accordance with the principles set out in chapter 7 of the environmental statement and the operational travel plan framework contained in Appendix 7C to the environmental statement.~~

~~(3) The plan submitted and approved must include—~~

~~(a) details of the travel plan budget;~~

~~(b) measures to promote the use of sustainable transport modes to and from the authorised development by operational staff;~~

~~(c) provision as to the responsibility for, and timescales of, the implementation of those measures;~~

~~(d) a monitoring and review regime,~~

~~(4) The approved plan approved under paragraph (1) must be implemented during the construction of the authorised development and the plan approved under paragraph (2) must be implemented [within one six months of after the authorised project being development is brought into commercial use] and must be maintained throughout the operation of shall continue to be implemented for as long as the authorised project is useddevelopment.~~

European protected species

~~34.— (1) No [stage of the] authorised development shall commence until [further] survey work has been carried out to establish whether a European protected species is present on any of the land affected, or likely to be affected, by the authorised development or in any of the trees to be lopped or felled or buildings to be demolished during [that stage of] the authorised development.~~

~~(2) Where a European protected species is shown to be present, no authorised development [of that stage] shall be begun until, after consultation with the relevant planning authority, Natural England and the Secretary of State for the Environment, Food and Rural Affairs, a scheme of protection and mitigation—~~

Formatted: Font: Not Bold

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: Not Bold

Formatted: Font: (Default) Times New Roman, 10.5 pt, Bold

Formatted: Font: Not Bold

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: Not Bold

~~measures has been submitted to and approved by the Commission; and the authorised development shall be carried out in accordance with the approved scheme.~~

~~(3) “European protected species” has the same meaning as in regulations 38 and 42 of the Conservation (Natural Habitats, &c.) Regulations 1994.~~

Restoration of land used temporarily for construction

~~3035. (1) The authorised development may not be brought into commercial use until a scheme for the restoration of any land within the Order limits which ~~is~~ has been used temporarily for construction has been submitted to and approved by the planning authority, must be reinstated to its former condition, or such condition as the Commission may approve, within [six] months of completion of authorised development.~~

~~(2) The land must be restored within 12 months after the authorised development is brought into commercial use, in accordance with—~~

~~(a) the restoration scheme approved in accordance with subparagraph (1),~~

~~(b) each landscaping scheme approved in accordance with requirement 7, and~~

~~(c) the biodiversity enhancement and management plan approved in accordance with requirement [Error! Reference source not found.](#)17.~~

Formatted: Font: Not Bold

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

Formatted: Indent: Left: 1.3 cm, No bullets or numbering

Formatted

Field Code Changed

Formatted: Font: Not Bold

Requirement for written approval

~~36. Where under any of the above requirements the approval or agreement of the Commission or another person is required, that approval or agreement must be given in writing.~~

Amendments to approved details

~~37. With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the Commission, the approved details shall be taken to include any amendments that may subsequently be approved in writing by the Commission.~~

Requirement for consent of Civil Aviation Authority and Ministry of Defence

~~38. No [stage of the] authorised development shall commence until [for that stage], after consultation with the Civil Aviation Authority and the Ministry of Defence, written details for the operation of the authorised project [and its effect on radar] have been submitted to and agreed by the Commission.~~

~~[Note: This requirement is only relevant in the context of authorised development that involves a wind farm.]~~