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Your Ref:
Our Ref: EN010071
Date: 1 August 2016

Dear Ms Taylor

**Planning Act 2008 (as amended) – Section 89 and the Infrastructure
Planning (Examination Procedure) Rules 2010 – Rule 17 (as amended)**

**Application by North London Waste Authority for an Order Granting
Development Consent for the North London Heat and Power Project**

Request for Further Information

As I indicated that the conclusion of the last DCO hearing held on 5 July 2016, I would be grateful for the following documents to be submitted by the applicant by deadline 8 of the examination timetable, 22 August 2016:

1. A final clean draft of the DCO in Word format together with a Validation Report.
2. A tracked change version of the draft DCO accompanied by a table of revisions showing changes to the draft DCO between the versions submitted at deadlines 7 and 8.
3. A comprehensive tracked change version of the draft DCO showing all the changes from the version submitted with the application to the final draft.
4. A revised version of the Explanatory Memorandum to accompany the final draft of the DCO.
5. An executed version of the Development Consent Obligation.

6. A statement of the final position of the applicant concerning the outstanding objections to compulsory acquisition submitted by Transport for London, Canal & River Trust, National Grid, Thames Water Utilities Limited, Kennet Properties Limited, Lee Valley Regional Park Authority, and Zayo Group Limited.

I have a number of mostly minor self-explanatory comments on the last version of the draft DCO submitted at deadline 7, and the simplest way of conveying these is through a tracked change copy which is attached. In so doing, I appreciate that the formatting has gone awry in several places, particularly in the Schedules, and where this has occurred such changes are not intended to suggest modifications to the draft DCO.

Those points which require a more detailed explanation are as follows:

Article 2 – enabling works. Further to my second question 2Q 10.7, I remain concerned that “land clearance” is a broad element of enabling works which is itself neither defined nor constrained by requirements. Whilst enabling works are subject to the code of construction practice under requirement 16, I cannot see there is any specific reference in the CoCP to land clearance activities. For that reason, I suggest land clearance is deleted from the definition of enabling works, and included as one of the elements requiring detailed design approval as appropriate for each stage in requirement 4.

Article 5 (2) – on re reading this and paragraph 5.6.3 of the Explanatory Memorandum, I am unclear as to why these specific works need to be mentioned separately, given that they are covered by paragraph (1) and are all authorised development within the Order land.

Article 10 (1) - in several instances, activities relating to the authorised development are described as “purposes” or “carrying out”, whilst in others more specific phraseology is used, for example in articles 4 (1) and 11. I suggest this latter approach is adopted consistently as appropriate.

Article 12 (1) – there are many references to plans C_0012 Rev 01 and C_0014 Rev 01, and the table of revisions to the draft DCO submitted on 16 June 2016 indicates that these drawings have been revised and are being submitted for deadline 6. No revisions to drawings C_0012 and C_0014 were included in the plans document submitted for deadline 6 (AD07.10), and hence the references to these drawings needs to be corrected throughout the draft DCO, particularly in the Schedules.

Requirement 4(3) and similar tailpiece amendments in requirements 9, 10, 12, 15, 16, and 17 – at the first issue specific hearing on the draft DCO held on 18 March 2016, I sought justification for the various tailpiece amendments included in the draft DCO submitted with the application. In the light of that, some of the tailpieces were removed from requirements in the next revised version of the draft DCO submitted in April 2016, whilst the justification for retaining others was set out in the accompanying table of revisions (AD07.03). At the second issue specific hearing on the draft DCO held on 5 July 2016, the applicant explained that it would be reviewing the requirements to revert to the previous position concerning tailpiece wording, and indeed seeking

to increase the number of the requirements where tailpiece wording would be included. As a result, the current draft DCO includes seven requirements with tailpiece amendments. If you consider these conform to the guidance set out in Planning Inspectorate advice note 15 concerning the drafting of development consent orders, a detailed justification provided for them should be provided in the revised Explanatory Memorandum.

An alternative approach would be a single general provision within the framework of requirement 1 (1) and then removing the tailpieces in these requirements accordingly. In addition, whilst the explanation set out in item 48 of the table of revisions to the draft DCO submitted at deadline 7 (AD07.14) concerning article 38 (3) is appreciated, consideration could usefully be given to embracing the content of a revised requirement 1 (1) within this article.

Schedule 3 paragraph 4(2) – the justification for a bespoke appeals mechanism instead of importing articles 78 and 79 of the TCPA 1990 was the subject of the first written question 10.9, and the second written question 2Q10.14. Whilst the precedents from some other development consent orders is understood, the particular circumstances of this application do not appear to be so exceptional to require a purpose built appeals mechanism rather than simply relying upon the well-established processes of the TCPA 1990 used in many other confirmed orders, and which of course would be the situation anyway if this was a planning application rather than an application for development consent.

Schedule 13 – the applicant's final versions of the protective provisions concerning Canal & River Trust and National Grid (hopefully agreed with these bodies) are to be inserted for the final version of the draft DCO.

Yours sincerely

Paul Hudson

Paul Hudson
Examining Inspector

STATUTORY INSTRUMENTS

**201[] No. [] INFRASTRUCTURE PLANNING,
ENGLAND**

**NORTH LONDON HEAT AND POWER GENERATING
STATION ORDER 201[]**

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

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (the “2008 Act”) and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) for an Order under sections 114, 115, 120, 122, 123 and 140 of the 2008 Act.

(a) 2008 c.29 Parts 3 and 6 were amended by Section 137 and Schedule 13 to the Localism Act 2011 (c.20).
(b) S.I. 2009/2264, amended by the Localism Act 2011 (Infrastructure Planning) (Consequential Amendments) Regulations 2012 (S.I. 2012/635), Infrastructure Planning (Prescribed Consultees and Interested Parties etc) (Amendment) Regulations 2012 (S.I. 2012/635), Infrastructure Planning (Prescribed Consultees and Interested Parties etc) (Amendment) Regulations 2013 (S.I. 2013/522), Infrastructure Planning (Applications: Prescribed Forms and Procedure) (Amendment) Regulations 2014 (S.I. 2014/2381) and the Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2012 (S.I. 2012/787).

The application was examined by a single appointed person (appointed by the Secretary of State) in accordance with Chapters 3 and 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010 (a).

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

The Secretary of State, having considered the report and recommendation of the single appointed person, has taken into account the environmental information in accordance with regulation 3 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009(b), and decided the application, and has determined to make this Order giving effect to the proposals comprised in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals.

The Secretary of State is satisfied that the special category land (as identified in the book of reference), when burdened with the Order rights, will be no less advantageous than it was before to persons in whom it is vested, other persons, if any, entitled to rights of common or other rights and the public, and that accordingly, section 132(3) of the 2008 Act applies.

Accordingly, in exercise of the powers conferred by sections 37, 114, 115, 120, 122, 123 and 140 of the 2008 Act, the Secretary of State makes the following Order:

Citation and commencement

1. This Order may be cited as the North London Heat and Power Generating Station Order 201[] and comes into force on [].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(c);

“the 1965 Act” means the Compulsory Purchase Act 1965(d);

-
- (a) 2008(c.29). Sections 86-98 as amended by the Localism Act 2011, Schedule 13 (S.I. 2010/103) and the Localism Act 2011 (Infrastructure Planning) (Consequential Amendments) Regulations 2012 (S.I. 2012/635).
- (b) S.I. 2009/2263 as amended by the Localism Act 2011 (Infrastructure Planning) (Consequential Amendments) Regulations 2012 (S.I. 2012/635) and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2012 (S.I. 2012/787).
- (c) 1961(c.35). Section 1 and subsections (A1), (1) and (3)-(6) of section 4 were amended by articles 5(1), (2) (6) of, and paragraphs 31, 37(a), 37(b), 38, 39(a), 39(b), 39(c), of Schedule 1 and Schedule 5 of Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). There are other amendments to the 1961 Act which are not relevant to this Order.
- (d) 1965(c.56). Subsections (1)-(3) of section 1 and section 30 were amended by subsections (1) and (3) of section 34 of, and paragraph 14 of Schedule 4 to, and Schedule 6 to, the Acquisition of Land Act 1981 (c.67). Subsection (4) of section 1 was amended by section 4 of and paragraph 13(1)(a) and (b) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11). Subsection (5) of section 1 was amended by section 109 of and paragraph 124 of Schedule 10 to, the Courts Act 2003 (c.39). Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991(c.34). Section 4 and subsection (2) of section 11 were amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71). Section 5 was amended by section 67 of the Planning and Compensation Act 1991 (c.34). Subsection (2A)(d) and 2(d) of section 5, section 6, subsections (1) and (3) of section 8 and subsection (1) of section 10, subsection (3) of section 11, subsection (1) of section 15, subsection (1) of section 16, subsection (2) of section 17, subsections (1) and (2)(b) of section 18, subsection (2) of section 19 and subsection (3) of section 20 were amended by articles 5(1), (2) and (6) of, and paragraphs 59, 61, 62, 63, 65, 66, 67, 68, 69 and 70 of Schedule 1 to, and Schedule 5 to the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). Subsection (3) of section 10 was amended by section 4 of, and paragraph 13(2)(a) and (b) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). Subsection (1) of section 11 and sections 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by sections 14 and 70 of, and paragraphs 12(1) and 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c.23). Section 13 was

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

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

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

“the 2008 Act” means the Planning Act 2008;

“Advent Way” means Advent Way, Edmonton, London N18 3AB;

“apparatus” includes but is not limited to pipes, conduits, wires, sewers, drains, tunnels, cables and associated above and below ground structures and any structure for the lodging therein of apparatus or for gaining access to apparatus within the Order limits;

“approval consultee” means a consultee specifically named in a provision of this Order;

“Ardra Road” means Ardra Road, Edmonton, London N9 0BD;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other works authorised by this Order which are development within the meaning of section 32 of the 2008 Act;

“book of reference” means the document certified by the Secretary of State as the book of reference for the purposes of this Order under article 34 (certification of documents and plans);

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

“carriageway” has the same meaning as in section 329 of the 1980 Act;

“cctv” means closed-circuit television cameras and equipment, mounting poles and associated cables;

amended by sections 62 and 139 of, and paragraphs 27 and 28(1) and (2) to, the Tribunals, Courts and Enforcement Act 2007 (c.15). Subsection 2 of section 20 was amended by section 70 of, and paragraph 4 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Subsections 3 and 4 of section 23 and subsection (1) of section 25 were amended by section 59 of, and paragraph 4 of part 2 of Schedule 11 to, the Constitutional Reform Act 2005 (c.4). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). There are other amendments to the 1965 Act which are not relevant to this Order.

- (a) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); sections 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted, and section 1(3) was amended, by section 259(1), (2) and (3) of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c.71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (b) 1990 c.8. Subsection (4)(aa) of section 56 was added by Planning and Compensation Act 1991 (c.34). Subsection (5)(a) of section 56 was amended by subsection (2)(a) of section 40 of the Planning and Compulsory Purchase Act 2004 (c.5) and subsection (1) of section 30 of, and paragraphs 2 and 3 of part 2 of Schedule 4 to, the Infrastructure Act 2015 (c.7). Subsection (5)(b) of section 56 was amended by subsection (4) of section 31 of, and paragraphs 8 and 10 of Schedule 6 to, Planning and Compensation Act 1991 (c.34). Subsections (3), (4), (6) and (7) of section 198 were amended by subsection (1) of section 192 and subsection (2)(a) of section 238 of, and paragraphs 7 and 8 of Schedule 8 to, and Schedule 13 to, the 2008 Act. Subsection (4)(a) of section 198 was amended by sections 31, 32, 42 and 84 of, and paragraphs 8 and 20 of Schedule 6 and paragraphs 8 and 34 of Schedule 7 to and Parts 1 and 2 of Schedule 19 to, the Planning and Compensation Act 1991 (c.34). Subsections (8) and (9) of section 198 were amended by subsection (3) of section 42 to the Planning and Compulsory Purchase Act 2004 (c.5). There are other amendments to the 1990 Act which are not relevant to this Order.
- (c) 1991 c.22. Sections 48(3A) and 50(1A), were inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 49, subsection (3) of section 63, subsection 7A(a) of section 74, subsections (2) and (10)(a) and section 86 were amended by subsection (6) of section 1 of, and paragraphs 113, 117 - 121 of part 2 of Schedule 1 to, the Infrastructure Act 2015 (c.7). Sections 51, 53-60, 65-69, subsections (1A), (4), (4B) and (6) of section 70, 71-72, 73A-73F, subsections (3)(b) and (7B) of section 74, 75, 78A, 39-80, 83, 88, subsection (2) of section 89, 90, 92-93, 95A and 96-97 were amended by sections 40, 42-45, 47-56, 58 and 59 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18). Subsection (5) of section 63 was added by section 32 of, and paragraph 27 of schedule 3 to, the Flood and Water Management Act 2010 (c.29). Subsection (4) of section 64 was added by section 81 of, and paragraph 7 of Schedule 2 to, the Road Traffic Act 1991 (c.40). Subsections (3) and (4A) of section 70 were amended by regulation 17E of The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (S.I. 2007/1951). Subsections (2A), (3), (3)(b), (4), (5A)-(5C), (7), (7A) and (7B) were amended by sections 256 and 274 of, and part V(2) of Schedule 31 to, the Transport Act 2000 (c.38). Subsection (1)(a) of section 89 was amended by subsection (1) of section 2 of, and paragraph 57(1) of Schedule 1 to, the Water Consolidation (Consequential Provisions) Act 1991 (c.60). There are other amendments to the 1991 Act which are not relevant to this Order.

“code of construction practice” means the document certified by the Secretary of State as the code of construction practice for the purposes of this Order under article 34 (certification of documents and plans);

“commence” means begin to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of enabling works and the temporary display of site notices or advertisements, to the extent that they do not give rise to any new significant adverse environmental effects that were not assessed in the environmental statement and “commencement” is to be construed accordingly;

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

“DCO ~~S~~schedules 6-8 explanatory diagrams” means the explanatory diagrams relating to Schedule 6 (public rights of way to be suspended), Schedule 7 (public rights of way to be extinguished) and Schedule 8 (streets to be temporarily stopped up) certified by the Secretary of State under article 34 (certification of documents and plans);

“design code principles” means the document certified by the Secretary of State as the design code principles for the purposes of this Order under article 34 (certification of documents and plans);

“discharging authority” means the relevant authority, body or person responsible under the provisions of this Order for approving, consenting or discharging any matter;

“EcoPark House” means a new visitor, community and education centre with offices to be constructed within the Edmonton EcoPark to the west of the River Lee Navigation as part of the authorised development;

Comment [PH1]: Is this any different to Works No. 3 in Schedule 1? If not, define as such?

“Edmonton EcoPark” means the land at Edmonton EcoPark, Advent Way, London N18 3AG, the location of which is shown on drawing number A_0003 Rev 00;

“the electricity and heat generating station” means Works No. 1a in Schedule 1 (authorised development);

“enabling works” includes surveying, ~~land clearance,~~ geological testing and sampling, environmental and hazardous substance testing and sampling (including the making of trial boreholes, window sampling and test pits in connection with such testing and sampling), soil tests, pegging out, tree protection, ecological survey and mitigation works, archaeological investigation, removal of minor and re-locatable buildings and structures (other than the works described in Works No. 7 of Schedule 1), creation of enabling works access~~es~~ (other than the creation of the new accesses to the north and east of the Edmonton EcoPark and the widening of the existing access to the south of the Edmonton EcoPark), and for works falling within this definition, the erection of fencing, hoarding or any other means of temporary enclosure, temporary facilities including re-locatable buildings, connections to utilities, and in all cases similar related works which do not give rise to any new significant adverse environmental effects that were not assessed in the environmental statement;

Comment [PH2]: See letter

“energy from waste facility” means all existing buildings structures and plant comprising the existing generating station at the Edmonton EcoPark and includes the waste reception hall, bunkers, cranes, grate fired boilers, ash handling system, flue gas cleaning system, waste water treatment plant, chimney stack and flues, turbine hall and electrical system and water cooled condensers;

“environmental commitments and mitigation schedule” means the document certified by the Secretary of State as the environmental commitments and mitigation schedule for the purposes of this Order under article 34 (certification of documents and plans);

“environmental statement” means the document certified by the Secretary of State as the environmental statement for the purposes of this Order under article 34 (certification of documents and plans);

“full operation” means the end of the transitional period;

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

“the land plans” means the plans certified by the Secretary of State as the land plans for the purposes of this Order under article 34 (certification of documents and plans);

“Lee Park Way” means Lee Park Way, Edmonton, London N18 3AB;

“maintain” has its ordinary meaning and includes, to the extent assessed in the environmental statement, to keep up, preserve, conserve, inspect, repair, landscape, plant and re-plant, adjust, alter, remove, clear, refurbish, reconstruct, replace and improve, but not so as to vary the authorised development as described in Schedule 1, and “maintenance” is to be construed accordingly;

“Meridian Way” means Meridian Way, Edmonton, London N9 0AR;

“National Grid” means National Grid Electricity Transmission Plc, National Grid Gas Plc, any other company within the National Grid group of companies that owns or maintains apparatus within the Order limits, and their successors in title, assigns and any other person exercising their powers;

“operational site” means the area shown hatched green on drawing number A_0004 Rev 00;

“Order land” means the land required for, or affected by, the authorised development shown within the site boundary on the land plans and described in the book of reference;

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

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

“relevant planning authority” means the London Borough of Enfield;

“stage” means a stage of construction of the authorised development as approved under requirement 3 of Schedule 2 (requirements) and excludes enabling works;

“statutory undertaker” means any person falling within section 127(8) 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;

“temporary laydown area” means the land within plot numbers 16, ~~17~~, 18, 19, 20 and 21, as shown on the land plans;

“transitional period” is the period defined in paragraph 19(1) of Schedule 2;

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

“undertaker” means North London Waste Authority or a successor body, or such other person who has the benefit of this Order in accordance with article 8 (consent to transfer benefit of Order);

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

“the works plans” means the plans certified by the Secretary of State as the works plans for the purposes of this Order under article 34 (certification of documents and plans).

(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) All distances, directions and lengths referred to in this Order are approximate.

(a) 1981 (c. 67). Section 4 was amended by articles 5(1), (2) and (6) of, paragraphs 149 and 150 of Schedule 1 to, and Schedule 5 to, the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). Section 7 was amended by article 8 of, and paragraph 23 of part 1 of Schedule 3 to, (S.I. 1990/776), sections 70 and subsections (1), (3) and (8) of, and paragraph 9 of part 1 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34); section 328 of, and paragraphs 34(1) and (2) of part 1 of Schedule 29 to, the Greater London Authority Act 1999 (c.29), article 3(1), and sub-paragraphs (1) and (2) of paragraph 54 of Schedule 1 to, the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1990 (S.I. 2001/1149); section 53(1) of, and paragraph 53 of Schedule 1 to, the Fire and Rescue Services Act 2004 (c.21); and section 91 of, and paragraph 110 of part 3 of Schedule 12 to, the Postal Services Act 2011 (c.5). There are other amendments to this Act which are not relevant to this Order.

Comment [PH3]: Now removed from Schedule 12 (item 85 of AD07.14)

Development consent etc. granted by the Order

3. Subject to the provisions of this Order including Schedule 2 (requirements) and Schedule 13 (protective provisions), the undertaker is granted development consent for the authorised development (as described in Schedule 1 (authorised development)) to be constructed, operated and maintained within the Order limits.

Limits of deviation

4.—(1) The development authorised by this Order must be constructed, operated and maintained in the lines or situations shown on the works plans.

(2) In constructing, operating and maintaining the authorised development, the undertaker may—

- (a) ~~deviate laterally from the lines or situations shown on the works plans to the extent of the limits of deviation shown on the works plans~~ subject to lateral limits of deviation relating to piling approved in piling risk assessments and method statements submitted pursuant to requirement 4 (detailed design approval) of Schedule 2 (requirements) ~~—deviate laterally from the lines or situations shown on the works plans to the extent of the limits of deviation shown on the works plans~~; and
- (b) deviate vertically from the levels shown for those works on the works plans—
 - (i) subject to requirement 5 (parameters) of Schedule 2 (requirements) to any extent upwards within the limits of deviation shown on the works plans; and
 - (ii) subject to vertical limits of deviation relating to piling approved in piling risk assessments and method statements submitted pursuant to requirement 4 (detailed design approval) of Schedule 2 (requirements) to any extent downwards as may be necessary, convenient or expedient.

Maintenance of authorised development

5.—(1) Subject to article 3 (development consent etc. granted by the Order), article 4 (limits of deviation), article 16 (discharge of water), and article 28 (temporary use of land for maintaining authorised development) and Schedule 2 (requirements) of this Order, the undertaker may at any time maintain the authorised development, except as far as this Order or an agreement made under this Order provides otherwise.

(2) Subject to Schedule 2 (requirements), the power to maintain the authorised development includes the power to carry out and maintain any of the following as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction or operation of the authorised development, namely –

- (a) works to alter the position of apparatus above and below ground level;
- (b) works to maintain the proposed access from Lee Park Way (including the bridge over the River Lee Navigation within the Order limits) that is included in the description of Works No. 4 in Schedule 1 (authorised development); and
- (c) works to maintain the landscaping that is included in the description of Works No. 4 in Schedule 1 (authorised development).

Comment [PH4]: See letter

Operation of the authorised development

6.—(1) The undertaker (and any person to whom the undertaker grants a contract to operate the authorised development) is authorised to operate the authorised development.

(2) Other than as set out in this Order, this article does not relieve the undertaker of any requirement to obtain any permit or licence or any other obligation under any other legislation that may be required to authorise the operation of any part of the authorised development.

Comment [PH5]: I take it that this is not the same as a transferee or lessee under article 8?

Benefit of Order

7. Subject to article 8 (consent to transfer benefit of Order), this Order is for the benefit of the undertaker.

Consent to transfer benefit of Order

8.—(1) The undertaker may, with the consent of the Secretary of State—

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

(2) Where an agreement has been made in accordance with paragraph 8(1) references in this Order to the undertaker, except in paragraph 8(3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph 8(1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is not required if the transferee or lessee is LondonWaste Limited provided it is wholly owned by North London Waste Authority.

Defence to proceedings in respect of statutory nuisance

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

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(b); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in accordance with a scheme of monitoring and attenuation of noise agreed with the relevant planning authority as described in requirement 17 (control of noise during operational stage) of Schedule 2

(a) 1990 (c.43). Subsection (1) of section 79 was amended by section 24 of the London Local Authorities Act 1996 (c.i), section 120 of, paragraphs 1 and 2(a) of Schedule 17 to, paragraph 89 of Schedule 22 to, and Schedule 24 to the Environment Act 2005 (c.25), section 101 of the Clean Neighbourhoods and Environment Act 2005 (c.16) and section 2 of the Noise and Statutory Nuisance Act 1993 (c.40). Section 82 was amended by section 107 of and paragraphs 1 and 6 of Schedule 17 to, the Environment Act 1995 (c.25), section 5 of the Noise and Statutory Nuisance Act 1993 (c.40), and section 103 of the Clean Neighbourhoods and Environment Act 2005 (c.16). There are other amendments to this Act which are not relevant to this Order.

(b) 1974 (c.40). Section 61(9) was amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 (c.25). There are other amendments to this Act which are not relevant to this Order.

(requirements) or in accordance with noise levels set out in an environmental permit relating to the operation of the authorised development; or

- (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

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

Street works

10.—(1) The undertaker may, for the purposes of ~~constructing [operating and maintaining?]~~ the authorised development, enter on the parts of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order limits and may—

Comment [PH6]: See letter

- (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 paragraphs 10(1)(a) to 10(1)(d).

(2) The authority given by paragraph 10(1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph 10(1).

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

Alteration of street layout

11. The undertaker may for the purposes of constructing the authorised development, alter the layout of each of the streets specified in column (2) of Schedule 5 (streets subject to alteration of layout) (and carry out works ancillary to such alteration) in the way specified in relation to that street in column (3) of Schedule 5 (streets subject to alteration of layout).

Public rights of way

12.—(1) Subject to paragraph 12(2), the undertaker may, ~~for the purposes of constructing in connection with the carrying out of~~ the authorised development, temporarily suspend the sections of the public rights of way shown on plans ~~C_0012 Rev 01 C_0012 Rev 00~~, C_0013 Rev 00 and ~~C_0014 Rev 01 C_0014 Rev -00~~ and specified in columns (2) and (3) of Schedule 6 (public rights of way to be temporarily suspended) to the extent specified in column (3) of Schedule 6 (public rights of way to be temporarily suspended) for the duration of the construction of the authorised development.

Comment [PH7]: See letter

(2) The public rights of way specified in columns (2) and (3) of Schedule 6 (public rights of way to be temporarily suspended) must not be suspended under this article unless the alternative rights of way specified in column (4) of Schedule 6 (public rights of way to be temporarily suspended) are first provided by the undertaker.

(3) The alternative rights of way referred to in paragraph 12(2) must be provided for the duration of the construction of the authorised development.

(4) Subject to paragraph 12(5), with effect from the commencement of the authorised development the section of public right of way along Lee Park Way as referred to in column (2) of Schedule 7 (public rights of way to be extinguished) will be extinguished to the extent specified in column (3) of Schedule 7 (public rights of way to be extinguished).

(5) The public right of way specified in paragraph 12(4) must not be extinguished under this article unless the alternative rights of way shown in column (4) of Schedule 7 (public rights of way to be extinguished) are first provided, to the reasonable satisfaction of the relevant planning authority.

Temporary stopping up of streets

13.—(1) The undertaker, ~~during and~~ for the purposes of ~~carrying out~~ constructing [operating and maintaining?] the authorised development, may temporarily stop up, alter or divert any street (or part of it) within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street (or the relevant part of it); and
- (b) subject to paragraph 13(2), prevent all persons from passing along the street (or the relevant part of it).

(2) The undertaker must 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 (or relevant part of it) if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph 13(1), the undertaker may temporarily stop up, alter or divert the streets specified in Schedule 8 (streets to be temporarily stopped up) to the extent specified in that Schedule.

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

- (a) any street specified ~~as mentioned in paragraph 13(3) in Schedule 8 (streets to be temporarily stopped up)~~ without first consulting the street authority in accordance with the provisions of Schedule 3 (procedure for approvals, consents and appeals); and
- (b) any other street without the consent of the street authority which may attach reasonable conditions to any consent (such consent to be obtained in accordance with the provisions of Schedule 3 (procedure for approvals, consents and appeals)).

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

(6) If the relevant street authority fails to notify the undertaker of its decision within 56 days beginning with the receipt of an application for consent under paragraph 13(4) that street authority will be deemed to have granted consent.

Access to works

14. For the purposes of constructing [operating and maintaining?] the authorised development, the undertaker may—

~~(1a)~~ form and lay out means of access, or improve existing means of access, in the locations specified in Schedule 9 (access to works); and

~~(2b)~~ 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 development.~~

Agreements with street authorities

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

the construction or demolition of any structure carrying a street over a body of water; (b)

the maintenance of the structure of any bridge carrying a street over a body of water;

(c) the construction or alteration of any new or existing access to the authorised development;

(d) any temporary stopping up, alteration or diversion of a street authorised by this Order; or

(e) the carrying out in the street of any of the works referred to in article 10 (street works) or any of works referred to in article 11 (alteration of street layout).

- (2) Without limiting paragraph 15(1), such an agreement may—
- (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

16.—(1) The undertaker may use any watercourse ~~or any~~ public sewer or drain on any land within the Order limits for the drainage of water in connection with the ~~carrying out of~~ construction, operation or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, ~~on any land within the Order limits,~~ make openings into, and connections with, the watercourse, public sewer or drain.

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

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

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

(4) The undertaker must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river, subject to the works that are authorised under this Order. The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse ~~or~~ public sewer or drain under this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(5) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph 16(1) shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(6) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board, a local authority, or a sewerage undertaker; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(b) have the same meaning as in that Act.

(7) This article does not relieve the undertaker of any obligation to obtain from the Environment Agency any permit, licence or any other obligation under any other legislation that may be required to authorise the making of a connection to or the use of a public sewer or drain by the undertaker under paragraph 16(1) or the discharge of any water into any watercourse, sewer or drain under paragraph 16(2).

Protective work to buildings

17.—(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.

(a) 1991 (c.56). Section 106 has been amended by sections 35, 43 and 56 of the Competition and Service (Utilities) Act 1992 (c.43), sections 36 and 99 of the Water Act 2003 (c.37) and section 32 of, and paragraph 16(1) of Schedule 3 to, the Flood and Water Management Act 2010 (c.29). There are other amendments to this Act that are not relevant to this Order.

(b) 1991 (c.57). There are other amendments to this Act that are not relevant to this Order.

(2) Protective works may be carried out—

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

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph 17(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 17(5) and 17(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 17(1) to carry out protective works to a building;
- (b) a right under paragraph 17(3) to enter a building and land within its curtilage;
- (c) a right under paragraph 17(4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph 17(4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days² notice of its intention to exercise that right and, in a case falling within paragraph 17(5)(a) or 17(5)(c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph 17(5)(a), paragraph 17(5)(c) or paragraph 17(5)(d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 7 days beginning with the day on which the notice was served, require the question of whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 35 (arbitration).

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

(8) Where—

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

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

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

(10) Any compensation payable under paragraph 17(7) or paragraph 17(8) must 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~~ construction, operation or maintenance ~~or use~~ of the authorised development; and

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

Authority to survey and investigate

18.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits, or onto any land which may be affected by the authorised development up to 250 metres away from the Order limits, or onto land which may be affected by the authorised development which is more than 250 metres from the Order limits with the prior approval of the relevant planning authority (or the local planning authority for land outside the London Borough of Enfield), and—

- (a) survey or investigate the land;
 - (b) without limiting paragraph 18(1)(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 limiting paragraph 18(1)(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) ~~The undertaker must serve a~~ notice ~~must be served~~ on every owner and occupier of the land at least 14 days before any land may be entered or equipment placed or left on or removed from the land under paragraph 18(1).
- (3) Any person entering land under this article on behalf of the undertaker —
- (a) must, if so required entering the land, produce written evidence of their authority to do so; and
 - (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes may be made under this article—
- (a) in land located within the highway boundary without the consent of the highway authority, but such consent must not be unreasonably withheld or delayed; or
 - (b) in a private street without the consent of the street authority, but such consent must not be unreasonably withheld or delayed.
- (5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, in accordance with Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Compulsory acquisition of land

19.—(1) Save in relation to land ~~to~~ which article 23 (compulsory acquisition of rights) and article 27 (temporary use of land for carrying out the authorised development) applies, the undertaker may acquire compulsorily so much of the Order land as is required for or to facilitate the authorised development, or is incidental to the authorised development.

(2) From the later of 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, that land or that part of it which is vested (as the case may be) will be discharged from all leases, licences, rights, easements, liberties, privileges, advantages, restrictions, covenants, trusts and incidents to which it was previously subject.

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

Time limit for exercise of authority to acquire land compulsorily or use land temporarily

20.—(1) After the end of 7 years beginning on the day on which this Order is made—

- (a) no notice to treat may be served under Part 1 of the 1965 Act; and
- (b) no declaration may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 24 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 27 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph 20(1), save that subject to article 27(3) and article 27(5) nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Power to override easements and other rights

21.—(1) Any authorised activity carried out by the undertaker or ~~by its successor~~ under a transfer or lease under article 8 (consent to transfer benefit of Order), is authorised if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land to which this article applies.

(2) In this article “authorised activity” means—

- (a) the construction, operation or maintenance of the authorised development;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land (including the temporary use of land) authorised by this Order.

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

(4) Where any interest, right or restriction to which this article applies is interfered with or breached, the interest, right or restriction is extinguished, temporarily suspended or discharged at the time the interference or breach commences in respect of the authorised activity in question, to the extent required for or ancillary or incidental to the carrying out of the authorised activity.

(5) Where any interest, right or restriction to which this article applies is interfered with or breached under paragraph 21(1), compensation—

- (a) is payable under sections 7 or 10 of the 1965 Act; and
- (b) is to be assessed in the same way and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable by any person on any grounds other than such an extinguishment, temporary suspension or discharge as is mentioned in paragraph 21(4).

Statutory authority to override easements and other rights

22.—(1) The ~~construction, operation or maintenance carrying out or use~~ of development authorised by this Order and the doing of anything else authorised by this Order is authorised by virtue of section 158 (nuisance: statutory authority) of the 2008 Act, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to user of land arising by contract.

Comment [PH8]: Successor is defined as meaning the same as the undertaker in article 2

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to user of land arising by contract,

authorised by virtue of this Order and the operation of section 158 of the 2008 Act.

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

(4) Subsection (2) of section 10 (further provision as to compensation for injurious affection) of the 1965 Act applies to paragraph 22(2) by virtue of section 152(5) of the 2008 Act.

(5) Any rule or principle applied to the construction of section 10 of the 1965 Act must be applied to the construction of paragraph 22(2) (with any necessary modifications).

Compulsory acquisition of rights

23.—(1) The undertaker may acquire compulsorily ~~the~~ existing rights and create and acquire compulsorily ~~the~~ new rights (including new rights in relation to apparatus owned or operated by statutory undertakers and / or rights over land belonging to statutory undertakers within the Order land) described in the book of reference, set out in Schedule 10 (land in which rights etc., may be acquired) and shown on the land plans.

Comment [PH9]: Appropriate for a SI?

(2) From the later of—

- (a) the date on which a compulsory acquisition notice is served; or
- (b) the date on which any new right is vested in the undertaker,

the land over which any new rights are acquired will 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 Schedule 11 (modification of compensation and compulsory purchase enactments for creation of new rights) where the undertaker acquires an existing right over land in paragraph 23(1) the undertaker is not required to acquire a greater interest in that land.

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

(5) Schedule 11 (modification of compensation and compulsory purchase enactments for creation of new rights) has effect for the purpose of modifying the enactments relating to compensation and the provision of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

24.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(a)—

(a) 1981 (c.66), Sections 2 and 6 and subsection (6) of section 11 have been amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). Section 3 has been amended by section 34 of, and paragraph 37 of part 3 of Schedule 5 to, the Infrastructure Act 2015 (c.7). Section 10, subsection (4) of section 11 and paragraphs 4, 8 and 9 of Schedule 1 have been amended by article 5 of, paragraphs 145 – 148 of Schedule 1 to, and Schedule 5 to, the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). Section 15 and Schedule 2 have been amended by section 161 of, and paragraphs 6 and 7 of Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c.28) and sections 56 and 321 of, paragraph 33 of Schedule 8 to, and Schedule 16 to the Housing Regeneration Act 2008 (c.17). Paragraphs 1 and 3 have also been amended by section 76 of, and paragraph 12 of part II of Schedule 9 to, the Housing Act 1988 (c.50). Schedule 3 was amended by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c.51). There are other amendments to this Act that are not relevant to this Order.

- (a) applies as if this Order were a compulsory purchase order; and
 - (b) as so applied, has effect with the following modifications.
- (2) In section 3 (preliminary notices), for subsection (1) substitute—
- “(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority must 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”
- (3) In that section, in subsection (2), for “(1)(b)” substitute “(1)” and after “given” insert “and published”.
- (4) In that section, for subsections (5) and (6) substitute—
- “(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.”
- (5) In section 5 (earliest date for execution of declaration)—
- (a) in subsection (1), after “publication” insert “in a local newspaper circulating in the area in which the land is situated”; and
 - (b) omit subsection (2).
- (6) In section 7 (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (7) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are to 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.

Rights under or over streets

25.—(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 construction, operation or maintenance purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) The undertaker may exercise any power conferred by paragraph 25(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) Subject to paragraph 25(4), any person who is an owner or occupier of land appropriated under paragraph 25(1) without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) Compensation is not payable under paragraph 25(3) to any 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.

Rights over land

26.—(1) The undertaker may enter into and appropriate so much of the air-space over any land within the Order limits and over land indicated on drawing number E_0011 Rev 00 as may be required for the construction, [operation or maintenance?] purposes of the authorised development and may use the air-space for those purposes or any other purposes ancillary to the authorised development.

(2) The undertaker may exercise any power conferred by paragraph 26(1) in relation to land without being required to acquire any part of the land or any easement or right in the land.

(3) Subject to paragraph 26(4), any person who is an owner or occupier of land appropriated under paragraph 26(1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(4) Compensation is not payable under paragraph 26(3) to any 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 development

27.—(1) The undertaker may, in connection with the construction, operation or maintenance ~~carrying out~~ of the authorised development—

- (a) enter on and take temporary possession of the land specified in Schedule 12 (land of which temporary possession may be taken) for the purpose specified in relation to that land in that Schedule relating to the part of the authorised development specified in that Schedule;
- (b) remove any buildings, structures and vegetation from that land; and
- (c) remediate, carry out site levelling, surfacing, erect fencing and/or other means of enclosure, install utilities and services, and construct temporary works (including the provision of means of accesses), buildings and structures on that land.

Comment [PH10]: As above

(2) The undertaker must ~~service serve~~ notice of its intended entry on the owners and occupiers of the land at least 14 days before entering on and taking temporary possession of the land under this article.

(3) Subject to paragraph 27(4), 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 development specified in relation to that land in Schedule 12 (land of which temporary possession may be taken).

(4) The undertaker may remain in possession of the temporary laydown area for up to two years from the date of completion of the authorised development.

Comment [PH11]: As the temporary laydown area is itself part of the authorised development should this refer to specific Works Nos?

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the relevant land to—

- (a) the reasonable satisfaction of the owners of the land;
- (b) in accordance with the design code principles; and
- (c) to a condition no worse than the relevant land was in before temporary possession of the relevant land was taken pursuant to this article,

but the undertaker is not required to replace a building removed under this article.

(6) The undertaker must produce a written record of the condition of the relevant land prior to taking possession (such record to be agreed by the owner~~s~~).

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

(8) Any dispute as to a person's entitlement to compensation under paragraph 27(7), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(9) Nothing in this article affects 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 development, other than loss or damage for which compensation is payable under paragraph 27(7).

(10) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph 27(1) except that the undertaker is not precluded from acquiring new rights over any part of that land under article 23 (compulsory acquisition of rights).

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

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

Temporary use of land for maintaining authorised development

28.—(1) At any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; 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) The undertaker must serve notice on the owners and occupiers of the land at least 14 days before entering on and taking temporary possession of the land under this article. The requirement to serve at least 14 days' notice does not apply where the undertaker has identified a potential risk to the safety of—

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment,

and the undertaker may enter the land under paragraph 28(1) subject to giving such period of notice (if any) as is reasonably practicable in all the circumstances.

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

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

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

(6) Any dispute as to a person's entitlement to compensation under paragraph 28(5), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects 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 development, other than loss or damage for which compensation is payable under paragraph 28(5).

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

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

(10) In this article, "the maintenance period", in relation to any part of the authorised development with the exception of the development described in paragraph 28(11), means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

(11) In this article, "the maintenance period" in relation to—

- (a) the operational site;
- (b) landscaping over plots 15, 17, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 32 shown on the land plans; and
- (c) Lee Park Way (including plot number 14, which is the bridge over the River Lee Navigation),

means the lifetime of the authorised development beginning with the date on which those parts of the authorised development are first opened for use.

Statutory undertakers

29. Subject to Schedule 13 (protective provisions), the undertaker may—

- (~~a~~) acquire compulsorily land belonging to statutory undertakers within the Order limits as described in the book of reference;
- (~~b~~) temporarily suspend or extinguish the rights of statutory undertakers within the Order limits as described in the book of reference and remove or reposition the apparatus belonging to statutory undertakers within the Order limits; and
- (~~c~~) acquire compulsorily new rights over land belonging to statutory undertakers within the Order limits as described in the book of reference.

Recovery of costs of new connections

30.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 21(1) (power to override easements and other rights) or article 23(1) (compulsory acquisition of rights) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph 30(1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 21(1) or article 23(1), any person who is—

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

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

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

(4) In this article—

- (a) “public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003(~~a~~); and
- (b) “public utility undertaker” has the same meaning as in the 1980 Act.

Application of landlord and tenant law

31.—(1) This article applies to—

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

(a) 2003 (c.21). There are other amendments to this Act that are not relevant to this Order.

- (b) any agreement entered into by the undertaker with any person for the construction, ~~operation or maintenance, use or operation~~ of the authorised development, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

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

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

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

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

Felling or lopping of trees

33.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

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

(2) In carrying out any activity authorised by paragraph 33(1), the undertaker must not do unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph 33(2), or as to the amount of compensation, will be determined under Part 1 of the 1961 Act.

Certification of documents and plans

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

- (a) the works plans;
- (b) the land plans;
- (c) the book of reference;
- (d) the environmental statement;
- (e) the environmental commitments and mitigation schedule;
- (f) the code of construction practice;
- (g) the design code principles; and
- (h) the DCO ~~schedule~~ ~~Schedules~~ 6-8 explanatory diagrams,

for certification that they are true copies of the documents referred to in this Order.

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

Arbitration

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

No double recovery

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

Protective provisions for specified undertakers

37. Schedule 13 (protective provisions) has effect.

Approvals, consents and appeals

38.—(1) Save as provided otherwise by this Order, Schedule 3 (procedure for approvals, consents and appeals) has effect in relation to all applications for consents, agreements, approvals or notices in relation to—

- (a) the provisions of this Order;
- (b) any document referred to in any provision of this Order; and
- (c) the functions of the local authority set out in sections 60 and 61 of the Control of Pollution Act 1974(a).

~~(2) Where an application is made to the discharging authority for any consent, agreement, approval or notice required or contemplated by any provision of this Order, such consent, agreement, approval or notice must, if given, be given in writing and must not be unreasonably withheld or delayed.~~

(3) Where any provision of this Order provides that the authorised development is to be ~~constructed, operated or maintained in~~ carried out in accordance with a document or details approved by the discharging authority pursuant to this Order, the document or approved details is to be taken to include any amendment or revision that may subsequently be approved or agreed by the discharging authority, or other consent, agreement or approval of the discharging authority.

Comment [PH12]: This seems to be covered by Schedule 3 paragraph 1(1) which specifies 56 days

Signatory text

Address
Date

Name
Parliamentary Under Secretary of State
Department

(a) 1974 (c.40) Section 61 has been amended by the Building (Scotland) Act 2008; section 58 of the Building Act 1984 (c.55); Schedule 24 of the Environmental Act 1995 (c.25); section 162(i) of, and paragraph 15 of Schedule 15 to, the Environmental Protection Act 1990 (c.43).

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

1. A nationally significant infrastructure project as defined in sections 14 and 15 of Part 3 of the 2008 Act in the London Borough of Enfield comprising—

(1) *Works No. 1a* — the construction of an electricity and heat generating station located at the Edmonton EcoPark, fuelled by up to 700,000 tonnes of waste and with a capacity of more than 50 megawatts of electricity (MW_e) (gross), comprising the following buildings, structures and plant, located within the limits of deviation identified on Works Plan C_0002 Rev 01—

- (i) a main building housing:
 - (a) a tipping hall;
 - (b) waste bunker and waste handling equipment;
 - (c) two process lines (with each line having a capacity of up to 350,000 tonnes of waste per annum), consisting of a moving grate, furnace, boiler and a flue gas treatment plant;
 - (d) facilities for the recovery of incinerator bottom ash and air pollution control residue;
 - (e) steam turbine(s) for electricity generation including equipment for heat off-take; and
 - (f) a control room containing the operational and environmental control and monitoring systems, and offices;
- (ii) entry and exit ramps to the electricity and heat generating station;
- (iii) a stack containing flues for flue gas exhaust;
- (iv) cooling equipment; and
- (v) an observation platform enclosure.

2. Associated development within the meaning of section 115(2) of the 2008 Act in connection with the nationally significant infrastructure project ~~referred to in~~ Works No. 1a as follows:

- (a) *Works No. 1b* – works required to provide buildings, structures, plant and equipment needed for the operation of the electricity and heat generating station located within the limits of deviation identified on Works Plan C_0002 Rev ~~00-01~~ and as follows—
 - (i) ~~wastewater~~ treatment facility;
 - (ii) a water pre-treatment plant;
 - (iii) external stores and workshops;
 - (iv) a fuelling area and fuel storage, vehicle wash, transport offices and staff facilities, toilets, natural gas intake and management compound, and fire control water tank(s); and
 - (v) electrical substation(s).
- (b) *Works No. 2* – the construction of a resource recovery facility comprising the following buildings, structures and plant located within the limits of deviation identified on Works Plan C_0004 Rev 01 and as follows—
 - (i) a recycling and fuel preparation facility;
 - (ii) a reuse and recycling centre;
 - (iii) offices, and staff and visitor welfare facilities;
 - (iv) odour abatement and dust suppression plant and equipment; and
 - (v) fire control water tank(s) and pump house and equipment.
- (c) *Works No. 3* — the construction of a building to provide visitor, community and education facilities, office accommodation and a boat canopy located within the limits of deviation identified on Works Plan C_0006 Rev 01.

Comment [PH13]: Insert "a"

- (d) *Works No. 4* – utilities and infrastructure works, landscaping, access, security and lighting, and weighbridges located within the limits of deviation identified on Works Plan C_0008 Rev 01 and as follows—
- (i) with regard to potable water, waste water, surface water, foul water, raw water, electricity, gas, cctv, telecoms and data—
 - (a) the diversion, repositioning, decommissioning, removal, replacement, modification or upgrading of existing pipes, cables, systems and associated apparatus;
 - (b) the laying or installation of new pipes, cables, systems and associated apparatus; and
 - (c) the creation of connections to existing or new pipes, cables, systems and associated apparatus;
 - (ii) the erection of a raw water pumping station;
 - (iii) stabilisation works to the eastern bank of Salmon’s Brook;
 - (iv) the construction of surface water pumps, pipework and attenuation tanks;
 - (v) landscaping works;
 - (vi) the installation of areas of green roof and/or brown roof;
 - (vii) the widening of the existing entrance into the Edmonton EcoPark from Advent Way, including modification or replacement of the bridge over Enfield Ditch;
 - (viii) ~~the~~ construction within the Edmonton EcoPark of vehicle and cycle parking, vehicle, cycle and pedestrian routes, and weighbridges;
 - (ix) ~~the~~ construction of an access into the Edmonton EcoPark from Lee Park Way, including bridging over Enfield Ditch;
 - (x) improvements to Lee Park Way including vehicle barriers and the creation of segregated pedestrian and cycle paths or the repositioning of existing pedestrian and cycle paths;
 - (xi) improvements to Deephams Farm Road (including improvements to the existing access into Deephams Farm Road from Ardra Road) and the use of Deephams Farm Road as an access to and from the Edmonton EcoPark;
 - (xii) the resurfacing of Ardra Road (if required);
 - (xiii) security, fencing, and lighting works and equipment;
 - (xiv) the erection of security facilities and equipment and gatehouses within the operational site at access points from Advent Way, Ardra Road, and Lee Park Way;
 - (xv) the upgrade and maintenance of the existing bridge over the River Lee Navigation;
 - (xvi) the installation of photovoltaic panels at roof level of the electricity and heat generating station and the resource recovery facility;
 - (xvii) the modification of kerb lines and pavements within plots 28 and 29;
 - (xviii) the creation of a new footpath within plot 21;
 - (xix) the improvement of the existing junction between Meridian Way and Ardra Road;
 - (xx) the improvement of the existing junction between Walthamstow Avenue and Lower Hall Lane; and
 - (xxi) the improvement of the existing junction between Advent Way and Lee Park Way.
- (e) *Works No. 5* —~~works for~~ the creation of ~~the a~~ temporary laydown area and its temporary use located within the limits of deviation identified on Works Plan C_0009 Rev 01 and as follows:
- (i) areas of hardstanding;
 - (ii) the erection of fencing, hoarding or any other means of enclosure;
 - (iii) the erection of security facilities and equipment and gatehouses;

- (iv) vehicle parking;
 - (v) office and staff welfare accommodation;
 - (vi) storage, fabrication, laydown area;
 - (vii) foul water storage and pumps and surface water attenuation storage and pumps;
 - (viii) utility works including electricity, water, cctv, telecoms and data;
 - (ix) the creation of vehicular, cycle and pedestrian access from Lee Park Way to the temporary laydown area; and
 - (x) restoration of the temporary laydown area.
- (f) *Works No. 6* – site preparation and demolition works within the area located within the limits of deviation identified on Works Plan C_0010 Rev 01 comprising—
- (i) the demolition of existing buildings, structures and plant excluding demolition of the energy from waste facility;
 - (ii) the construction of a temporary ash storage building;
 - (iii) the realignment of the exit ramp from the energy from waste facility; and
 - (iv) works to prepare the land shown on works plan C_0010 Rev 01 for the construction of works numbers 1a, 1b, 2, 3, 4 and 5.
- (g) *Works No. 7* – decommissioning, demolition and removal of the energy from waste facility and demolition and removal of—
- (i) the existing stack;
 - (ii) demolition of the existing water pumping station on Ardra Road; and
 - (iii) making good,
- located within the limits of deviation identified on Works Plan C_0011 Rev 01.

3. In connection with Works No. 1 to Works No. 7 (inclusive), to the extent that they do not otherwise form part of any such work, being associated development within the meaning of section 115(2) of the 2008 Act—:

(a) the enabling works; and

(b) such other works as may be necessary or expedient for the purposes of or in connection with the construction, operation and maintenance of the authorised development which do not give rise to any new significant adverse environmental effects that were not assessed in the environmental statement.

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SCHEDULE 2 REQUIREMENTS

Article 3

Interpretation

1.—(1) Where an approval is required under the terms of any requirement or where compliance with a document referred to in a requirement is required and that requirement or document contains the wording “unless otherwise approved” or “unless otherwise agreed” by the discharging authority, such approval or agreement by the discharging authority is not to be given except in relation to minor or immaterial changes or deviations where it has been demonstrated to the satisfaction of the discharging authority that the subject-matter of the approval or agreement sought ~~is unlikely to~~ does not give rise to any new significant adverse environmental effects that were not assessed in the environmental statement.

(2) Subject to paragraph 1(1), where any requirement refers to a document or plan, that document or plan is to be taken as the version certified by the Secretary of State under the provisions of this Order or to any subsequent version of that document or plan approved or agreed by the discharging authority under a requirement of this schedule.

(3) In this schedule—

| “AOD” means above ordnance datum;

“controlled waste” has the meaning given in section 75(4) Environmental Protection Act 1990; and

“hazardous waste” has the meaning given in section 75(8A) Environmental Protection Act 1990.

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Time limits

2. The authorised development must not be commenced after the expiration of 5 years from the date this Order comes into force.

Stages of the authorised development

3. No authorised development (except enabling works) is to commence until a written scheme setting out all the stages of construction of the authorised development has been submitted to and approved by the relevant planning authority. Nothing in this requirement prevents the undertaker from submitting further written schemes revising the approved stages of development for the approval of the relevant planning authority.

Detailed design approval

4.—(1) No stage is to commence until, for that stage plans and written details of (where relevant)—

(a) land clearance;

(b) the external appearance of all new buildings and structures (including details of the colour, materials and samples);

(c) piling risk assessments and piling method statements (both of which must include lateral and vertical limits of deviation for piling, such limits to not exceed those lines or situations shown on the works plans) relating to the electricity and heat generating station (Works No. 1a), the resource and recovery facility (Works No. 2) and the building to provide visitor, community and education facilities, and office accommodation (Works No. 3);

(d) vehicular and pedestrian access;

(e) parking and circulation areas and hard surfacing materials;

(f) wayfinding signage outside the operational site; and

(g) external operational lighting and cctv on the boundary of the operational site,

have been submitted to and approved in writing by the relevant planning authority.

(2) The details submitted under paragraph 4(1) must be in accordance with the design code principles.

~~(3) The authorised development must be carried out in accordance with the details approved under paragraph 4(1) unless otherwise approved by the relevant planning authority.~~

Comment [PH14]: See letter

~~(4) In respect of paragraph 4(1)(b),~~ the relevant planning authority must consult the Environment Agency in reaching its decision with respect to paragraph 4(1)(b), the piling risk assessments and the piling method statements. The approval of the relevant planning authority of the piling risk assessments and the piling method statements may only be given where the ~~approved~~ investigation and assessment report (~~approved~~ pursuant to requirement 14(2)) has concluded there is no unacceptable risk to groundwater in the relevant part of the Order land.

~~(4) The authorised development must be carried out in accordance with the details approved under paragraph 4(1).~~

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Parameters

5. The authorised development must be constructed within with the following parameters—

(1) Works No. 1a (Drawing C_0003 Rev 01)—

<i>Description</i>	<i>Work No.</i>	<i>Length (m)</i>	<i>Width (m)</i>	<i>Height (m)</i>	<i>Height (m)</i>
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						<i>AOD)</i>
<u>Tippling hall</u>	<u>Works No. 1a paragraph (i)(a)</u>	48	74	31.5		+44.0 AOD
<u>Waste bunker and waste handling equipment</u>	<u>Works No. 1a paragraph (i)(b)</u>	42.3	85	44.5		+57.0 AOD
<u>Two process lines consisting of a moving grate, furnace, boiler and flue gas treatment plant and steam turbine(s)</u>	<u>Works No. 1a paragraph (i)(c) and Works No. 1a paragraph (i)(e)</u>	130.7	74	56.5		+69.0 AOD
<u>Facilities for the recovery of incinerator bottom ash and air pollution control residue</u>	<u>Works No. 1a paragraph (i)(d)</u>	Below ground only				
<u>Control room containing operational and environmental control and monitoring systems and offices</u>	<u>Works No. 1a paragraph (i)(f)</u>	65.6	21	44.5		+57 AOD
<u>Stack containing flues for flue gas exhaust</u>	<u>Works No. 1a paragraph (i)(f)(iii)</u>	24	12.5	105		+117.5 AOD
<u>Cooling equipment</u>	<u>Works No. 1a paragraph (i)(f)(iv)</u>	60	24	28.7		+41.2 AOD
<u>Observation platform enclosure</u>	<u>Works No.1a paragraph (i)(f)(v)</u>	17	13	6 (above +44.0 AOD)		+50 AOD

(2) Works No. 1b (Drawing C_0002 Rev 01)—

<i>Description</i>	<i>Work No.</i>	<i>Height (m)</i>	<i>Height (m AOD)</i>
<u>Wastewater treatment facility, water pre-treatment plant, external stores and workshops, fuelling</u>	Works No. 1b	18	30.5

area and fuel storage,
vehicle wash,
transport offices and
staff facilities, toilets,
natural gas intake and
management
compound, fire
control water tank(s)
and electrical
substation(s)

(3) Works No. 2 (Drawing C_0005 Rev 01)—

<i>Description</i>	<i>Work No.</i>	<i>Length (m)</i>	<i>Width (m)</i>	<i>Height (m)</i>	<i>Height (m)</i> <u><i>AOD</i></u>
Resource recovery facility	Works No. 2 paragraph (i), Works No. 2 paragraph (ii) and Works No. 2 paragraph (iii)	127	180	20	+30.5 AOD

Maximum dimensions based on dimensions of enclosing rectangle oriented north-south.

(4) Works No. 3 (Drawing C_0007 Rev 01)—

<i>Description</i>	<i>Work No.</i>	<i>Length (m)</i>	<i>Width (m)</i>	<i>Height (m)</i>	<i>Height (m)</i> <u><i>AOD</i></u>
Visitor, community and education facilities, office accommodation and boat canopy	Works No. 3	41	16.7	14	+24.6 AOD

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Environmental commitments and mitigation schedule

6. The authorised development must be implemented in accordance with the measures set out in the environmental commitments and mitigation schedule.

Type of waste to be managed

7. The waste permitted to be managed at the authorised development must ~~be limited to not exceed~~ 890,000 tonnes per annum and be limited to—

~~(1) the management of—~~

- (a) local authority collected waste;
- (b) other controlled waste;
- (c) any materials derived from the waste referred to at (a) and (b) above; and

~~(2) the management of (d)~~ hazardous waste delivered to the operational site.

Notices

8. Notice of the following events must be given to the relevant planning authority where practicable prior to the date on which the relevant event is intended to first occur and in any event within 7 days of the first occurrence of such event—

- (1a) the commencement of the authorised development;
- (2b) the issue of the certificate of practical completion for the electricity and heat generating station; and
- (3c) the commencement of the full operation of the electricity and heat generating station (following the completion of any period of testing and commissioning).

BREEAM Rating

9.—(1) No stage is to commence until, in relation to any new buildings within that stage (excluding temporary structures and temporary buildings)—

- (a) a pre-construction stage consultation with the Building Research Establishment (BRE) (in accordance with the BRE's requirements for such construction) has been carried out; and
 - (b) proposals identifying the range of options to achieve the British Research Establishment Environmental Assessment Methodology (BREEAM) rating of no less than “very good” have been submitted to and approved in writing by the relevant planning authority.
- (2) The relevant stage must be carried out in accordance with the details approved under paragraph 9(1), ~~unless otherwise approved by the relevant planning authority.~~

Provision of landscaping

10.—(1) No development within any stage, other than the restoration of the temporary laydown area, is to commence until a landscaping scheme for that stage has been submitted to and approved by the relevant planning authority. The landscaping scheme submitted for approval must be in accordance with the design code principles, the environmental commitments and mitigation schedule and include details of all proposed hard and soft landscaping works in the relevant stage including—

- (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) permanent boundary fencing or other means of permanent enclosure;
 - (d) expected finished ground levels;
 - (e) any trees proposed to be retained, with measures for their protection during the construction period of the relevant stages; and
 - (f) implementation timetable.
- (2) The authorised development must be carried out in accordance with the details approved under paragraph 10(1), ~~unless otherwise approved by the relevant planning authority,~~ and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards, and in all cases must comply with the measures set out in the environmental commitments and mitigation schedule.

Maintenance of landscaping

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

Access and Roads

12.—(1) No stage is to commence until written details in relation to that stage of—

- (a) the design, layout and management of any relevant new permanent or temporary means of access from the Order land to a public highway to be used by vehicular traffic; or
- (b) any alteration to an existing means of access to a public highway used by vehicular traffic; and
- (c) the taking of any necessary traffic management and control measures,

have been submitted to and approved by the relevant planning authority.

~~(2) The accesses must be constructed in accordance with the approved details.~~

~~(3) The construction of of accesses or alteration of the street or the taking of traffic management and control measures must be carried out in accordance with the details approved under paragraph 12(1), unless otherwise approved by the relevant planning authority.~~

Operational Surface and Foul Water Drainage

13.—(1) No stage is to commence until written details of the operational surface and foul water drainage system (including means of pollution control) applicable to that stage have been submitted to and approved by the relevant planning authority in consultation with the relevant sewerage and drainage authority.

(2) The operational surface and foul water drainage system must be constructed in accordance with the details approved under paragraph 13(1) before the commencement of full operation* of the electricity and heat generating station.

Contaminated land and groundwater

14.—(1) No stage is to commence until a written scheme applicable to that stage to deal with any pre-existing contamination of land, including groundwater, within the Order limits which is likely to cause significant harm to persons or pollution of controlled waters or the environment has been submitted to and approved by the relevant planning authority in consultation with the Environment Agency.

(2) The undertaker must consult the Environment Agency in relation to the written scheme before submitting it to the relevant planning authority for approval. The written scheme must include an investigation and assessment report, prepared by a specialist consultant to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose (such remedial measures to include details of the data and sampling to be collected to demonstrate that the remedial measures are complete). The ~~submission of the~~ investigation and assessment report must be accompanied by ~~the submission of~~ a management plan which sets out long-term measures with respect to any contaminants remaining on the Order land (such management plan to include details of and a timetable and targets for long-term monitoring of pollutant linkages, the provision of regular reports, any maintenance measures of groundwater monitoring boreholes and equipment deemed necessary and arrangements for any contingency action deemed necessary as a consequence of the monitoring results).

(3) Remediation must be carried out in accordance with the written scheme approved under paragraph 14(2).

(4) If during any stage of the construction of the authorised development contamination not previously identified by the investigation and assessment report is found to be present which is assessed by the undertaker as likely to cause significant harm to persons or likely to cause pollution of controlled waters or the environment, then unless otherwise agreed by the relevant planning authority, no further development or works may be carried out in that part of the Order land in which contamination is identified until a remediation strategy is submitted to and approved by the relevant planning authority in consultation with the Environment Agency. The authorised development shall be carried out in accordance with any remediation strategy approved pursuant to paragraph 14(4), unless otherwise approved by the relevant planning authority.

(5) A verification report must be submitted to and approved by the relevant planning authority (in consultation with the Environment Agency) demonstrating compliance with the remedial measures set out in the written scheme approved pursuant to paragraph 14(2) and any strategy approved pursuant to paragraph 14(4). The verification report must include results of the sampling required by the approved investigation and assessment report submitted as part of the written scheme.

(6) A second verification report must be submitted to and approved by the relevant planning authority (in consultation with the Environment Agency) when all long term monitoring has been completed. ~~It must and~~ contain the results of monitoring required by the management plan ~~approved~~ pursuant to paragraph 14(2), details of any necessary contingency action undertaken as required by the ~~approved~~ management plan ~~that has been undertaken~~ and confirmation that all long term remedial works approved pursuant to paragraph 14(3) and paragraph 14(4) have been carried out and that all long term remedial targets have been met.

(7) The undertaker must consult the Environment Agency in relation to the details of the piling risk assessments and piling method statements required pursuant to requirement 4(1) before submitting them to the relevant planning authority for approval. The undertaker must implement the piling design based on the approved piling risk assessments and piling method statements.

Ecology

15.—(1) Full operation of the electricity and heat generating station must not occur until written details of the approach to monitoring and managing the landscaping and bird and bat boxes (in accordance with the environmental commitments and mitigation schedule) and including an implementation timetable have been approved by the relevant planning authority.

~~(2) The approach to monitoring and managing the landscaping and bird and bat boxes submitted pursuant to paragraph 15(1) must include an implementation timetable.~~

~~(3) The approach to monitoring and managing the landscaping and bird and bat boxes approved pursuant to paragraph 15(1) must be implemented in accordance with the approved details including the implementation timetable, unless otherwise approved by the relevant planning authority. authorised development must be carried out in accordance with the details approved under paragraph 15(1).~~

Code of Construction Practice

16.—(1) ~~The authorised development must be undertaken in accordance with the code of construction practice, unless otherwise approved by the relevant planning authority.~~

(2) Before commencing the enabling works or any stage of the authorised development, the undertaker must review the code of construction practice to establish whether it should be updated to reflect any new relevant construction methodology or environmental guidance and, where it is to be updated, the undertaker must seek the approval in writing of the relevant planning authority to any update of the code of construction practice.

~~(2) The authorised development must be undertaken in accordance with the code of construction practice~~

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Control of noise during operational stage

17.—(1) Full operation of the electricity and heat generating station must not commence until a written scheme for noise management, including monitoring and attenuation in relation to the authorised development, and including an implementation timetable ~~such written scheme to replicate the noise levels set out in any environmental permit relating to the authorised development~~, has been submitted to and approved by the relevant planning authority.

(2) The written scheme for noise management submitted pursuant to paragraph 17(1) must replicate the noise levels set out in any environmental permit relating to the authorised development. ~~include an implementation timetable.~~

(3) The authorised development must be carried out in accordance with the written scheme approved under paragraph 17(1). ~~written scheme for noise management approved pursuant to paragraph 17(1) must be implemented in accordance with the approved details, including the~~

| ~~implementation timetable, unless otherwise approved by the relevant planning authority.~~

Combined Heat and Power

18.—(1) Works No. ~~4A-1a~~ must be constructed to produce combined heat and power through the provision of steam and hot water pass-outs and the preservation of space for the future provision of water pressurisation, heating and pumping systems; ~~and.~~

(2) A corridor of land to contain heat pipes from the proposed electricity and heat generating station to the edge of the Edmonton EcoPark must be safeguarded, the location of which must be broadly in accordance with that identified on indicative drawing number D_0013 Rev 00 of the design code principles.

Transitional period

19.—(1) The energy from waste facility and the electricity and heat generating station must not operate at the same time for longer than 12 months, following which time the decommissioning and demolition of the energy from waste facility must be undertaken in accordance with the written scheme approved under requirement 20, and “transitional period” is to be construed accordingly.

(2) The amount of waste managed by the existing energy from waste facility, ~~on the Edmonton EcoPark~~ or the electricity and heat generating station, or both, during the transitional period must be no more than 700,000 tonnes per annum in aggregate.

Decommissioning and demolition of the energy from waste facility

20.—(1) None of the works ~~described in comprising~~ Works No. 7 are to commence until a written scheme for such works ~~described in Works No. 7~~ has been submitted to and approved by the relevant planning authority in consultation with the Environment Agency.

(2) The written scheme referred to in paragraph 20(1) must include details of the methods and timing for the decommissioning, demolition and removal of the energy from waste facility.

Decommissioning and demolition of the proposed electricity and heat generating station

21.—(1) Within 24 months of the electricity and heat generating station ceasing to be used for waste management purposes, a plan for the decommissioning, demolition and removal of the electricity and heat generating station must be submitted to the relevant planning authority for approval.

(2) Subject to obtaining the necessary consents and approvals, the decommissioning, demolition and removal of the electricity and heat generating station must be implemented in accordance with the ~~approved plan~~ ~~approved under paragraph 21(1)~~.

(3) On the one year anniversary of the operational site ceasing to be used for waste management purposes the undertaker must notify the relevant planning authority of the same.

SCHEDULE 3

Article 38

PROCEDURE FOR APPROVALS, CONSENTS AND APPEALS

Applications made for approvals and consents required by this Order

1.—(1) If an application has been made to a discharging authority for any consent, agreement, approval or notice required by a provision of this Order, the discharging authority must give notice to the undertaker of its decision on the application within a period of 56 days (unless another period is provided for under this Order) beginning with the working day immediately following that on which the application is received by the discharging authority.

(2) In determining any application to which paragraph 1(1) applies, the discharging authority may either grant or refuse consent in a written notice.

~~(3) Where consent is refused the discharging authority must provide its reasons for the refusal.~~

~~(34) If within 56 days (unless another period is provided for under this Order) after an application to which paragraph 1(1) applies the discharging authority has not notified the undertaker of its approval or disapproval and the grounds—reasons for of—any such—disapproval, refusal, the discharging authority will (unless the parties have agreed otherwise in writing) be deemed to have approved the application.~~

~~(45) Where the discharging authority intends to refuse an application, it must notify the undertaker of its intention to refuse as soon as such intention arises within the 56-day decision making period referred to in paragraph 1(1).~~

~~(5) Where consent is refused the discharging authority must provide its reasons for the refusal in a written notice of refusal.~~

Further information

2.—(1) In relation to any application for a consent, agreement ~~or,~~ approval or notice in respect of a provision of this Order, subject to paragraph 2(3) the discharging authority may request such further information from the undertaker as is necessary to enable it to consider the application.

(2) Where consent, agreement, approval or notice ~~an approval, agreement or consent~~ is required under a provision in this Order or by the code of construction practice (unless this Order or the code of construction practice requires that a consent be obtained pursuant to section 61 of the Control of Pollution Act 1974), the discharging authority must, in addition to any named consultee in the relevant provision, consult all other relevant and appropriate statutory consultees before deciding whether ~~or not to~~ approve, agree or grant or refuse consent under paragraph 1(2).

(3) Any request by the discharging authority for further information under paragraph 2(1) must be made in writing within 24 days of receipt of the application and must specify the further information required.

(4) In the event that the discharging authority does not make a request for further information under this paragraph 2 within the 24 day period referred to in paragraph 2(3) it will be deemed to have sufficient information to consider the application and may not after that period request further information (unless agreed in writing between the undertaker and the discharging authority within that 24 day period).

Fees further to requirements

3.—(1) Where an application is made to the discharging authority for written consent, agreement or approval in respect of a requirement, a fee must be paid to that authority as follows—

(a) fees must be calculated in accordance with the following table—

Category 1

Category 2

Subject to the cap stated below, the erection of The carrying out of any operations not coming

buildings—
where no floor space is to be created by the development, £195;

within Category 1, £195 for each 0.1 hectare of the site area, subject to a maximum £1,690

where the area of gross floor space to be created by the development does not exceed 40 square metres, £195;

where the area of the gross floor space to be created by the development exceeds 40 square metres, but does not exceed 75 square metres, £385;

where the area of the gross floor space to be created by the development exceeds 75 square metres, but does not exceed 3750 square metres, £385 for each 75 square metres of that area; and

where the area of gross floor space to be created by the development exceeds 3750 square metres, £19,449; and an additional £115 for each 75 square metres.

Total Cap: £100,000.

- (b) where an application is made for discharge of a requirement (“current application”) in respect of which an application has been made previously, the fee payable in respect of the current application must be £385.
- (2) For the purpose of the calculation of fees under paragraph 3(1)(a)—
- (a) the area is to be taken as consisting of the area of land or floor space (as the case may be) to which the application relates;
- (b) where the application relates to development within Category 1, the area of gross floor space created by the development is to be ascertained by external measurement of the floor space, whether or not it is bounded (wholly or partly) by external walls of a building;
- (c) where the application relates to development within Category 1 and the gross floor space to be created by the development exceeds 75 square metres and is not an exact multiple of 75 square metres, the area remaining after division of the total number of square metres of gross floorspace by the figure of 75 is to be treated as being 75 metres; and
- (d) where the application relates to development within Category 2 and the site area exceeds 0.1 hectares and is not an exact multiple of 0.1 hectares, the area remaining after division of the total number of hectares by the figure of 0.1 hectares is to be treated as being 0.1 hectares.

Appeals

- 4.—(1) Save as otherwise provided in this Order, the undertaker may appeal in the event that—
- (a) the discharging authority refuses an application for any consent, agreement, approval or notice consent, agreement or approval required or permitted by—
- (i) a requirement included in this Order; or
- (ii) a document referred to in any requirement included in this Order (unless such consent, agreement, approval or notice consent, agreement or approval has to be obtained by virtue of any other legal requirement); or

- (iii) any other provision of this Order;
 - (b) the discharging authority grants an application for any consent, agreement, approval or notice consent, agreement or approval required or permitted by this Order subject to conditions;
 - (c) the discharging authority issues a notice further to sections 60 and or 61 of the Control of Pollution Act 1974(a);
 - (d) on receipt of a request for further information under paragraph 2 of this Schedule, the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
 - (e) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.
- (2) The appeal process is as follows—
- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination giving rise to the appeal as referred to in paragraph 4(1);
 - (b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the discharging authority and any requirement consultee and must on the same date affix a notice to a conspicuous object or objects on or near the site of the works which are the subject of such appeal which must give details of the decision of the discharging authority and of the application and notice that an appeal has been made together with the address within the locality where appeal documents may be inspected;
 - (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to consider the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent;
 - (d) the discharging authority and any requirement consultee (if applicable) must submit their written representations together with any other representations received by them under the notice of application referred to in paragraph 4(2)(a) or the notice of appeal referred to in paragraph 1(1) to the appointed person in respect of the appeal within 10 business days of the start date and must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
 - (e) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations pursuant to paragraph 4(2)(c); and
 - (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

Comment [PH15]: See letter

(3) The appointment of the person under paragraph 4(2)(2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

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

(5) Any further information required under paragraph 4(4) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within 10 business days of

(a) 1974 (c.40), Section 61 has been amended by the Building (Scotland) Act 2008; section 58 of the Building Act 1984 (c.55); Schedule 24 of the Environment Act 1995 (c.25); and section 162(1) of, and paragraph 15 of Schedule 15 to, the Environmental Protection Act 1990 (c.25).

the agreed date but must otherwise be in accordance with the process and time limits set out in paragraph 4(2)(c) - 4(2)(e)

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

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

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

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

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

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

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

(11) Save where a direction is given under paragraph 4(12) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(12) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to Communities and Local Government Circular 03/2009 or any circular or guidance which may from time to time replace it.

SCHEDULE 4

Article 10

STREETS SUBJECT TO STREET WORKS

<i>(1)</i> <u>Area</u>	<i>(2)</i> <u>Streets subject to Street Works</u>
In the London Borough of Enfield.	The section of Lee Park Way starting from the junction with Advent Way, to the new access on the eastern edge of the Edmonton EcoPark from Lee Park Way. This section is within <u>plots 14, 15, 21, 22 and 32 on the land plans.</u>
In the London Borough of Enfield.	The section of Lee Park Way to north of the new access to be created on the eastern edge of the Edmonton EcoPark. This section is <u>within plot 15 on the land plans.</u>
In the London Borough of Enfield.	The section of Ardra Road, from its junction with Deephams Farm Road, to its junction with Meridian Way. This section is <u>within plots 7 and 8 on the land plans.</u>
In the London Borough of Enfield.	The section of Lower Hall Lane, from its junction with Walthamstow Avenue leading to proposed the temporary laydown area. This section is within plots 18, 19 and 20 on the <u>land plans.</u>
<u>In the London Borough of</u>	<u>The section of Advent Way at the entrance south of the</u>

Enfield.	Edmonton EcoPark. This section is within plot 31 on the land plans.
In the London Borough of Enfield.	The sections of cycle path within plots 14, 15, 17, 20, 21, 22, 24, 26, 27, and 32 on the land plans and also as shown on plan numbers C_0012 Rev 0+00 , C_0013 Rev 00 and C_0014 Rev 00
In the London Borough of Enfield.	The sections of footpaths within plots 8, 14, 15, 17, 21, 22, 24, 27, 28, 29, 30, 31 and 32 on the land plans and also as shown on plan numbers C_0012 Rev 0+00 , C_0013 Rev 00 and C_0014 Rev 00
In the London Borough of Enfield.	The section of the tow path running along the eastern side of the River Lee Navigation, within plot 17 on the land plans.
In the London Borough of Enfield.	Deephams Farm Road, which is plot 6 on the land plans.

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SCHEDULE 5

Article 11

STREETS SUBJECT TO ALTERATION OF LAYOUT

<i>(1) Borough Area</i>	<i>(2) Street to be altered</i>	<i>(3) Description of alteration</i>	<i>(4) Works number</i>
In the London Borough of Enfield.	The section of Advent Way shown within plot 31 on the land plans.	Works to widen the existing access from Advent Way into the Edmonton EcoPark, including modification to kerb lines and pavements within plot 31.	4(vii)
In the London Borough of Enfield.	The section of Lee Park Way shown within plots 14, 15, 21, 22, and 32 on the land plans.	Works to reposition footpaths and cycle ways-paths that run along the section of Lee Park Way falling within plots 14, 15, 21, 22 and 32. Works to create a new access branching off the section of Lee Park within plot 15, into the Edmonton EcoPark. The installation of vehicle barriers on Lee Park Way near the new access from Lee Park Way into the Edmonton EcoPark and on Lee Park Way near its junction with	4(ix) and 4(x)
In the London Borough of Enfield.	Deephams Farm Road.	Works to upgrade Deephams Farm Road to make it suitable for	4(xi), 4(xiii) and 4(xiv)

		operational and construction traffic, including provision of a new security barrier and gatehouse, works to improve the road surface, and new fencing.	
In the London Borough of Enfield.	Land on the verge of Lee Park Way within plots 28 and 29 as shown on the land plans.	Modification to kerb lines and pavements within these verges that fall within plots 28 and 29.	4(xvii)
In the London Borough of Enfield.	Footpath within plot 21 as shown on the land plans.	Creation of a new footpath to branch out from the existing footpath within this plot 21 south east towards Advent Way.	4(xviii)

SCHEDULE 6

Article 12

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY SUSPENDED

(1) Area	(2) Footpath to be temporarily suspended	(3) Extent of temporary suspension	(4) Temporary footpath to be provided in <i>new substitution</i>
In the London Borough of Enfield.	The section of pavement on the north side of Advent Way within plots 30 and 31, as shown on the land plans, plan C_0013 Rev 00 and in more detail on diagram 1 on page 2 of the DCO schedule Schedules 6-8 explanatory diagrams.	For approximately 41 metres on Advent Way and into the southern entrance to the Edmonton EcoPark.	Approximately 42 metres of temporary footpath in the area shown cross hatched at the southern exit entrance to the Edmonton EcoPark leading onto Advent Way as shown on plan C_0013 Rev 00.
In the London Borough of Enfield.	The section of footpath and pavement running parallel with Advent Way to after the junction of Advent Way with Lee Park Way within plots 22, 24, 27, 28 and 29, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 2 on page 3 of the DCO schedule 6-8 explanatory diagrams.	For approximately 130 metres within plots 27, 24, 28, 22 and 29 shown on the land plans and on plan C_0014 Rev 01.	Approximately 130 metres of temporary footpath in the area shown cross hatched bordering the northern edge of Advent Way and the southern section of Lee Park Way as shown on plan C_0014 Rev 01.
In the London Borough of Enfield.	The section of footpath and pavement running parallel with Advent Way to after the junction of Advent Way with Lee Park Way within plots 22, 24, 27, 28 and 29, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 2 on page 3 of the DCO schedule 6-8 explanatory diagrams.	For approximately 130 metres within plots 27, 24, 28, 22 and 29 shown on the land plans and on plan C_0014 Rev 01.	Approximately 130 metres of temporary footpath in the area shown cross hatched bordering the northern edge of Advent Way and the southern section of Lee Park Way as shown on plan C_0014 Rev 01.

Comment [PH16]: As these deal with more than footpaths, retitle Public Rights of Way

Comment [PH17]: Ditto

Comment [PH18]: Such references in Schedules 6, 7 and 8 below to be amended similarly

(1) Area	(2) Footpath to be temporarily suspended	(3) Extent of temporary suspension	(4) Temporary footpath to be provided to be substituted
Borough of Enfield.	<u>eyeleway-cycle path</u> running from the junction of Advent Way with Lee Park Way and along Lee Park Way within plots 14, 15, 21, 22 and 32, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 3 on page 4 of the DCO schedule	315 metres within plots 14, 15, 21, 22 and 32 from the junction of Advent Way with Lee Park Way and along Lee Park Way.	metres of temporary footpath <u>and cycle path</u> in the area shown cross hatched to the north of Advent Way and the east of the Edmonton EcoPark as shown on plan C_0014 Rev 01.
In the London Borough of Enfield.	Footpath leading from Lee Park Way to the tow path on the River Lee Navigation within plot 21, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 4 on page 5 of the DCO schedule 6-8 explanatory diagrams.	For approximately 41 metres at the point of the access to be constructed to the temporary laydown area from Lee Park Way towards the eastern bank of the River Lee Navigation (north of the bridge over the River Lee Navigation).	Approximately 41 metres of temporary footpath in the area shown cross hatched to the north of Lee Park Way and the east of the River Lee Navigation on plan C_0014 Rev 01.
In the London Borough of Enfield.	Towpath, footpath and cycle <u>way-path</u> on the eastern bank of the River Lee Navigation within plots 13 and 17, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 5 on page 6 of the DCO schedule 6-8	For approximately 26 metres under the bridge over the River Lee Navigation forming part of Lee Park Way.	Approximately 201 metres of temporary footpath in the area shown on plan <u>C_0014</u> Rev 01.
In the London Borough of Enfield.	Cycle <u>way-path</u> on Lower Hall Lane within plot 20, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 6 on page 7 of the DCO schedule 6-8 explanatory diagrams.	For approximately 59 metres across the part of Lower Hall Lane bordering the access from Lower Hall Lane to the temporary laydown area.	Approximately 59 metres of temporary footpath in the area shown cross hatched across Lower Hall Lane leading to the junction with Walthamstow Avenue on plan C_0014 Rev 01.
In the London Borough of Enfield.	Cycle <u>way-path</u> running parallel with Advent Way to after the junction of Advent Way with Lee Park Way, within plots 17, 27, 24, 22 and 21, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 7 on page 8 of the DCO schedule	For approximately 131 metres across plots 17, 27, 24, 22, 21 on the land plans, running to the north of Advent Way, east of the tow path running along the western edge of the River Lee	Approximately 131 metres of temporary footpath in the area shown cross hatched across plots 17, 27, 24, 22, 21 on the land plans on the land to the east of the River Lee Navigation and

Comment [PH19]: Where is this shown on this plan?

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Footpath to be temporarily suspended</i>	<i>(3)</i> <i>Extent of temporary suspension</i>	<i>(4)</i> <i>Temporary footpath to be provided in substitution</i>
	6-8 explanatory diagrams.	Navigation, cutting across Lee Park Way and towards Lower <u>Hall Lane.</u>	north of Advent Way, as shown on plan C_0014 Rev 01.

SCHEDULE 7

Article 12

PUBLIC RIGHTS OF WAY TO BE EXTINGUISHED

<i>(1) Area</i>	<i>(2) Footpath to be extinguished</i>	<i>(3) Extent of public right of way to be <u>extinguished</u></i>	<i>(4) New footpath to be substituted</i>
In the London Borough of Enfield.	The section of footpath and cycle <u>way-path</u> on Lee Park Way within plots 14, 15, 21, 22 and 32 as shown on the land plans and in more detail on diagram 8 on page 9 of the DCO schedule 6-8 explanatory diagrams.	For approximately 315 metres from the junction of Advent Way and Lee Park Way leading north as shown hatched red on plan C_0014 Rev 01 on Lee Park Way.	Approximately 315 metres of footpath along Lee Park Way and approximately 314.5 metres of cycle path along Lee Park Way within plots 14, 15, 21, 22 and 32 on the land plans and as shown on plan <u>C_0014 Rev 01.</u>

SCHEDULE 8

Article 13

STREETS TO BE TEMPORARILY STOPPED UP

<i>(1) Area</i>	<i>(2) Street to be temporarily stopped up</i>	<i>(3) Extent of temporary <u>stopping up</u></i>
In the London Borough of Enfield.	Advent Way, within plot 31, as shown on the land plans and on plan C_0013 Rev 00.	For approximately 42 metres at the entrance to the south of the Edmonton EcoPark within plot 31, as shown on the land plans, plan C_0013 Rev 00 and in more detail on diagram 9 on page 10 of the DCO schedule 6-8 explanatory <u>diagrams.</u>
In the London Borough of Enfield.	Lee Park Way, within plots 14, 15, 21, 22 and 32, as shown on the land plans and on plan C_0014 Rev 01.	For approximately 315 metres from the junction of Advent Way and along Lee Park Way within plots 14, 15, 21, 22 and 32 as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 10 on page 11 of the DCO schedule <u>6-8 explanatory diagrams.</u>
In the London Borough of Enfield.	Lower Hall Lane, within plots 18, 19 and 20 as shown on the land plans and on plan C_0014 Rev 01.	For approximately 41 metres from the junction of Lower Hall Lane and Walthamstow Avenue to the entrance to the temporary laydown area from Lower Hall Lane, within plots 18, 19 and 20 as shown on the land plans, plan C_0014 Rev 01 and in more detail on

<i>(1) Area</i>	<i>(2) Street to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
		diagram 11 on page 12 of the DCO schedule 6-8 explanatory diagrams.
In the London Borough of Enfield.	Ardra Road, within plots 7 and 8, as shown on the land plans and on plan C_0012 Rev 01.	For approximately 470 metres on plots 7 and 8 between the junction between Ardra Road and Meridian Way and the junction between Ardra Road and Deephams Farm Road as shown on the land plans, plan C_0012 Rev 01 and in more detail on diagram 12 on page 13 of the DCO schedule 6-8 explanatory diagrams.
In the London Borough of Enfield.	Tow path, footpath and cycle <u>way-path</u> along the eastern side of the River Lee Navigation within plots 13 and 17, as shown on the land plans and plan C_0014 Rev 01.	For approximately 26 metres within plots 13 and 17 from Advent Way, running north along the eastern bank of the River Lee Navigation towards the northern end of the temporary laydown area, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 13 on page 14 of the DCO schedule 6-8 explanatory diagrams.
In the London Borough of Enfield.	Cycle <u>path</u> way running parallel with Advent Way to after the junction of Advent Way with Lee Park Way, within plots 17, 27, 24, 22, 21 as shown on the land plans and plan C_0014 Rev 01.	For approximately 131 metres within plots 17, 21, 22, 24 and 27, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 14 on page 15 of the DCO schedule 6-8 explanatory diagrams.
In the London Borough of Enfield.	Cycle <u>way-path</u> on Lower Hall Lane within plot 20, as shown on the land plans and on plan C_0014 Rev 01.	For approximately 59 metres across the part of Lower Hall Lane bordering the access from Lower Hall Lane to the temporary laydown area, within plot 20, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 15 on page 16 of the DCO schedule 6-8 explanatory diagrams.
In the London Borough of Enfield.	The section of pavement on the north side of Advent Way, within plots 30 and 31, as shown on the land plans and on plan C_0013 Rev 00.	For approximately 41 metres on Advent Way and into the southern entrance to the Edmonton EcoPark, within plots 30 and 31, as shown on the land plans, plan C_0013 Rev 00 and in more detail on diagram 16 on page 17 of the DCO schedule 6-8 explanatory diagrams.

Comment [PH20]: Which?

<i>(1) Area</i>	<i>(2) Street to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
In the London Borough of Enfield.	The section of footpath and pavement running parallel with Advent Way to after the junction of Advent Way with Lee Park Way within plots 22, 24, 27, 28 and 29, as shown on the land plans and plan C_0014 Rev 01.	For approximately 130 metres within plots 27, 24, 28, 22 and 29, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 17 on page 18 of the DCO schedule 6-8 explanatory diagrams.
In the London Borough of Enfield.	Footpath leading from Lee Park Way to the tow path on the River Lee Navigation within plot 21 as shown on the land plans and plan C_0014 Rev 01.	For approximately 37 metres from the point of the access to be constructed to the temporary laydown area from Lee Park Way towards the eastern bank of the River Lee Navigation (north of the bridge over the River Lee Navigation), within plot 21, as shown on the land plans, plan C_0014 Rev 01 and in more detail on diagram 18 on page 19 of the DCO schedule 6-8 explanatory diagrams.

Comment [PH21]: Which?

SCHEDULE 9
ACCESS TO WORKS

Article 14

<i>(1)</i> <u>Area</u>	<i>(2)</i> <u>Description of Access</u>	<i>(3)</i> <u>Works Number</u>
In the London Borough of Enfield.	Access from Advent Way to the south of the Edmonton EcoPark as shown on plans C_0012 Rev 01 and C_0013 Rev 00.	4(vii)
In the London Borough of Enfield.	Access from Meridian Way to Ardra Road as shown on plan C_0013 Rev 00.	4(xix)
In the London Borough of Enfield.	Access from Walthamstow Avenue to the south of Lower Hall Lane into the temporary laydown area as shown on plans C_0012 Rev 01 and C_0014 Rev 01.	4(xx)
In the London Borough of Enfield.	Access from Advent Way to the south of Lee Park Way as shown on plans C_0012 Rev 01 and C_0014 Rev 01.	4(xxi)
In the London Borough of Enfield.	Access from Lee Park Way to the south of the temporary laydown area shown on plans C_0012 Rev 01 and C_0014 Rev 01.	5(ix)
In the London Borough of Enfield.	Access from the northern end of Deephams Farm Road as shown on plan C_0012 Rev 01.	4(xi)
In the London Borough of Enfield.	Access from Lee Park Way into the Edmonton EcoPark as shown on plans C_0012 Rev 01 and C_0014 Rev 01.	4(ix)

SCHEDULE 10

Article 23

LAND IN WHICH RIGHTS ETC., MAY BE ACQUIRED

<i>(1)</i> <u>Plot number of land shown on land plans</u>	<i>(2)</i> <u>Purpose for which rights may be acquired</u>
1, 2, 4, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 34.	Right of access with or without vehicles, plant, apparatus and materials to execute any works for the purposes of or incidental to the operation and maintenance of the authorised development. Right to divert, reposition, decommission, remove, replace, modify or upgrade existing pipes, cables, systems and associated apparatus with regard to those utilities listed in Works No. 4(i)(a) to (h) in Schedule 1

Comment [PH22]: Construction also?

	<p>of this Order (including existing apparatus belonging to statutory undertakers located within the Order land and including existing apparatus located on land belonging to statutory undertakers within the Order land).</p> <p>Right to lay, install, use and maintain new pipes, cables, systems and associated apparatus with regard to those utilities listed in Works No. 4(i)(a) to (h) in Schedule 1 (authorised development) of this Order (including over and under existing apparatus belonging to statutory undertakers within the Order land and including on land belonging to statutory undertakers within the Order land).</p> <p>Right to create, use and maintain new connections to existing and new pipes, cables, systems and associated apparatus with regard to those utilities listed in Works No. 4(i)(a) to (h) in Schedule 1 (authorised development) of this Order (including existing apparatus belonging to statutory undertakers located within the Order land and including existing apparatus located on land belonging to statutory undertakers within the Order land).</p>
7 and 8.	<p>Right of way with or without vehicles over Ardra Road between the junction with Meridian Way and Deephams Farm Road.</p> <p>Right of access with or without vehicles, plant, apparatus and materials in connection with the maintenance of Ardra Road and any works ancillary to such maintenance including but without limitation the <u>maintenance of street furniture.</u></p>
14.	<u>Right to maintain the existing bridge over the River Lee Navigation.</u>
14, 15, 21, 22 and 32.	<p>Right of way with or without vehicles over Lee Park Way.</p> <p>Right of access with or without vehicles, plant, apparatus and materials in connection with the maintenance of Lee Park Way and any works ancillary to such maintenance including but without limitation the maintenance of street furniture.</p> <p>Right of access with or without vehicles to maintain the access way to be constructed into the east of the Edmonton EcoPark from Lee Park <u>Way.</u></p>
15, 17, 21, 22, 23, 24, 25, 26, 27, 28 and 29.	<u>Right of access with or without vehicles, plant, apparatus and materials in connection with the maintenance of landscaping works authorised by this Order.</u>

SCHEDULE 11

Article 23

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

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as to compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right, as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limiting paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in paragraph 2(2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act—

- (a) the words “land is acquired or taken” are substituted with the words “a right over land is purchased”; and
- (b) the words “acquired or taken from him” are substituted with the words “over which the right is exercisable”.

Application of 1965 Act

3.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without limiting paragraph 3(1), Part 1 of the 1965 Act applies to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. Section 11 of the 1965 Act (powers of entry) is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any new right, it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or (which is deemed for this purpose to have been created on the date of service of the notice).

5. Sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

(a) 1973 (c. 26). Section 44 was amended by paragraph 13(b) of Schedule 24 to the Highways Act 1980, paragraph 14(d) of Schedule 7 to the Gas Act 1986 (c.44) and paragraph 23 of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c.60).

SCHEDULE 12

Article 27

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1) Number of land shown on land plans</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Works No. and plan number</i>
11 and 12.	To temporarily place equipment in these plots (which are part of the River Lee Navigation).	Work No. 3. C_0006 Rev 01.
	To maintain the boat canopy that forms part of Works <u>number 3.</u>	
16, 18, 19 and 20.	To create and use a temporary laydown area.	Work Nos. 5 and 6. C_0009 Rev 01 and C_0010 Rev 01.
	To use as an access to the temporary laydown area from Walthamstow Avenue.	
	To carry out restoration works to restore the current landscaping in the area used for the temporary laydown area.	

SCHEDULE 13

Article 37

Comment [PH23]: See letter

PROTECTIVE PROVISIONS

PART 1

Protection for Operators of Electronic Communications Code Networks

1. The provisions of this Part have effect for the protection of the operators referred to in this Part, unless otherwise agreed in writing between the undertaker and the operator concerned.

2. In this Part—

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

“2003 Act” means the Communications Act 2003;

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

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act as defined in section 106(1) of the 2003 Act;

“electronic communications code network” means—

so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

an electronic communications network that the Secretary of State is providing or proposing to provide;

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

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

3.—(1) Subject to paragraphs 3(2) and 3(3), if, as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator); or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the reasonable and proper cost actually incurred by the operator in making good such damage or restoring the supply as the case may be and must make proper and reasonable compensation to an operator for any other reasonable and proper expenses, loss, damages, penalty or costs actually incurred by it.

(2) Nothing in paragraph 3(1) imposes any liability on the undertaker with respect to any damage or interruption as far as it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable prior written notice of any such claim or demand and no settlement or compromise may be made without the consent of the undertaker.

4.—(1) If in consequence of the exercise of the powers of this Order the access to the operator’s apparatus is materially obstructed, the undertaker shall provide such reasonable alternative means of access to such apparatus as will enable the operator to operate, maintain, repair or replace or use the apparatus.

(2) This Part does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or

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

5. Any difference or dispute arising between the operator and the undertaker under this Part of this Schedule shall, unless otherwise agreed in writing between the operator and the undertaker, be referred to and settled by arbitration under article 35 (arbitration).

6.—(1) Where, under this Part or anywhere else under this Order, the operator is required to give its consent or approval in respect of any matter, that consent or approval must not be unreasonably withheld or delayed.

(2) In respect of any specified work or the acquisition of rights under or over or use of the operator’s property, the operator must co-operate with the undertaker with a view to avoiding undue delay.

PART 2

Protection of Electricity, Gas, Water and Sewerage Undertakers

1. Except in relation to National Grid, the provisions of this Part have effect for the protection of the statutory undertakers referred to in this Part, unless otherwise agreed in writing between the undertaker and the statutory undertaker concerned.

2. In this Part—

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

“alternative apparatus” means alternative apparatus adequate to enable the statutory undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means any apparatus within the works limits as follows—

- (a) in the case of a statutory undertaker within paragraph (a) of the definition, electric lines or electrical plant (as defined in section 64 of the Electricity Act 1989(a)), belonging to or maintained by the undertaker for the purposes of electricity supply;
- (b) in the case of a statutory undertaker within paragraph (b) of the definition, any gas mains, pipes or other apparatus belonging to or maintained by the undertaker for the purposes of gas supply;
- (c) in the case of a statutory undertaker within paragraph (c) of the definition, water mains, pipes or other apparatus belonging to or maintained by the undertaker for the purposes of water supply; and
- (d) in the case of a statutory undertaker within paragraph (d) of the definition—
 - (i) any drain or works vested in the statutory undertaker under the Water Industry Act 1991; and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

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

“statutory undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
 - (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986**(b)**;
 - (c) a water undertaker within the meaning of Schedule 1 of the Interpretation Act 1978**(a)**;
- and

-
- (a) (c.29). Section 6(1) has been amended by section 30 of the Utilities Act 2000 (c.27) and sections 136 and 197 of, and part 1 of Schedule 23 to, the Energy Act 2004 (c.20). Section 64 has been amended by article 24(c) of the Competition Act 1998 (Competition Commission) Transitional, Consequential and Supplemental Provisions Order 1999 (S.I. 1999/506), section 108 of, paragraphs 24 and 38 of part 2 of Schedule 6 to, and Schedule 8 to the Utilities Act 2000 (c.27), sections 44, 89, 102, 143, 147, 180 and 197 of, paragraphs 3 and 15 of Schedule 19 to, and Part 1 of Schedule 23 to, the Energy Act 2000 (c.20), section 79 of, and paragraph 5 of Schedule 8 to, the Climate Change Act 2008 (c.27), section 72 of, and paragraph 5 of Schedule 8 to, the Energy Act 2011 (c.16), regulation 48 of the Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), articles 2 and 13 of the Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), section 26 of, and paragraphs 30 and 43 of part 1 of Schedule 6 to, the Enterprise and Regulatory Reform Act 2013 (c.24), and regulation 5 of the Electricity and Gas (Internal Markets) Regulations (S.I. 2014/3332).
 - (b) (c.44). Section 7 (1) was amended by section 76 of the Utilities Act 2000 (c.27) and section 197 of, and part 1 of Schedule 23 to, the Energy Act 2004 (c.20).

(d) a sewerage undertaker,

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

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

4. Despite any provision in this Order or anything shown on the land plans, the undertaker ~~does~~ **must** not acquire any apparatus otherwise than by agreement.

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part and any right of a statutory undertaker to maintain that apparatus in that land must not be extinguished until (if so required by the statutory undertaker) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the statutory undertaker in question.

(2) If, for the purpose of executing any works in, on, over or under any land purchased, held, appropriated or used under this Order or in, on, over or under any land within the ~~works-Order~~ limits, the undertaker requires the removal of any apparatus placed in that land, it must give to the statutory undertaker in question written notice of that requirement, together with a plan and section of the work proposed.

(3) If alternative apparatus or any part of such apparatus is to be constructed as a consequence of the removal of apparatus placed on the land referred to in paragraph 5(2), the statutory undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in other land in which the alternative apparatus is to be constructed.

(4) The statutory undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 35 (arbitration), and after the grant to the statutory undertaker of any such facilities and rights as are referred to in paragraph 5(3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(5) Despite anything in paragraph 5(4), if the undertaker gives notice in writing to the statutory undertaker in question that it desires itself to execute any work or part of any work in connection with the construction or removal of apparatus, that work, instead of being executed by the statutory undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if so required by the statutory undertaker, and to the reasonable satisfaction of the statutory undertaker.

(6) Nothing in paragraph 5(5) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

6.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5(2) that will or may adversely affect any apparatus the removal of which has not been required by the undertaker under that paragraph, the undertaker must submit to the statutory undertaker in question a plan, section and description of the works to be executed.

(2) ~~Those-Any~~ works of the type referred to in paragraph 5(2) are to be executed only in accordance with the plan, section and description submitted under paragraph 6(1) and in accordance with such reasonable requirements as may be made in accordance with paragraph 6(3) by the statutory undertaker for the alteration or otherwise

(a) (c.30). The definition of “water undertaker” within that act was amended by sections 2 and 4 of, and paragraph 32 of Schedule 1 to, the Water Consolidation (Consequential Provisions) Act 1991 (c.60) and sections 58, 101, 141, 160, 163, 189, 190 and 193 of, paragraph 55 of Schedule 25 to, and paragraphs 3, 17, 40, 57 and 58 of Schedule 26 to the Water Act 1989 (c.15).

for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to ~~watch~~observe and inspect the execution of those works.

(3) Any requirements made by a statutory undertaker under paragraph 6(2) must be made within a period of 21 days beginning with the day on which a plan, section and description under paragraph 6(1) are submitted to it.

(4) If a statutory undertaker in accordance with paragraph 6(3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs ~~6(1)~~ to ~~6(6)~~ apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph ~~6~~ precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and if this is done, the provisions of this paragraph ~~6~~ apply to and in respect of the new plan, section and description.

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

7.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a statutory undertaker the proper and reasonable expenses actually incurred by that statutory undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).

(2) The value of any apparatus removed under the provisions of this Part is to be deducted from any sum payable under paragraph 7(1), that value being calculated after removal.

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

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 35 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part exceeding those 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 but for this paragraph would be payable to the statutory undertaker in question by virtue of paragraph 7(1) is to be reduced by the amount of that excess.

(4) For the purposes of paragraph 7(3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which but for this paragraph 7(5) would be payable to a statutory undertaker in respect of works by virtue of paragraph 7(1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory undertaker 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.

8.—(1) Subject to paragraphs 8(2) and 8(3), if by reason, or in consequence, of the construction of any such works referred to in paragraph 5(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a statutory undertaker, or there is any material interruption in any service provided, or in the supply of any goods, by any statutory undertaker, the undertaker must—

- (a) bear and pay the proper and reasonable cost actually incurred by that statutory undertaker in making good such damage or restoring the supply; and
- (b) make proper and reasonable compensation to that statutory undertaker for any other reasonable and proper expenses, loss, damages, penalty or costs actually incurred by the statutory undertaker,

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

(2) Nothing in paragraph 8(1) imposes any liability on the undertaker with respect to any damage or interruption as far as it is attributable to the act, neglect or default of a statutory undertaker, its officers, servants, contractors or agents.

(3) A statutory undertaker must give the undertaker reasonable prior written notice of any such claim or demand, and no settlement or compromise may be made without the consent of the undertaker.

9. If in consequence of the exercise of the powers of this Order the access to the statutory undertaker's apparatus is materially obstructed, the undertaker shall provide such reasonable alternative means of access to such apparatus as will enable the statutory undertaker to operate, maintain, repair or replace or use the apparatus.

10. Any difference or dispute arising between the statutory undertaker and the undertaker under this Part of this Schedule shall, unless otherwise agreed in writing between the statutory undertaker and the undertaker, be referred to and settled by arbitration under article 35 (arbitration).

11.—(1) Where, under this Part or anywhere else under this Order, the statutory undertaker is required to give its consent or approval in respect of any matter, that consent or approval must not be unreasonably withheld or delayed.

(2) In respect of any specified work or the acquisition of rights under or over or use of the statutory undertaker's property, the statutory undertaker must co-operate with the undertaker with a view to avoiding undue delay.

PART 3

Protection of Canal and River Trust

1. The provisions of this Part have effect for the protection of Canal & River Trust, unless otherwise agreed in writing between the undertaker and Canal & River Trust.

2. In this Part—

“1965 Act” means the Compulsory Purchase Act 1965;

“Canal & River Trust” means the Canal & River Trust acting as a trustee of the Waterways Infrastructure Trust or any successor body performing the same functions which holds any waterways within the works limits;

“code of practice” means the code of practice for works affecting British waterways (April 2010) as amended from time to time;

“construction” includes execution, placing, alteration and reconstruction, and “construct” and “constructed” have corresponding meanings;

“engineer” means an engineer appointed by Canal & River Trust and approved by the undertaker for the purposes of this Order;

“plans” includes sections, designs, design data, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), programmes and details of the extent, timing and duration of any proposed use or occupation of any Canal & River Trust property;

“specified work” means so much of any of the authorised development to be situated upon, across, under, over or within the waterway or that may in any way adversely affect the waterway;

“Canal & River Trust property” means any land owned by Canal & River Trust within the ~~works-Order~~ limits and includes land covered with water, sub-soil, air space and waterways;

“waterway” means the canal within the ~~works-Order~~ limits and includes any pond or other waterway or course situated on Canal & River Trust property, any works, services, apparatus, equipment, lands (including subsoil) or premises belonging to or under the control of Canal & River Trust and held or used by it in connection with its statutory functions.

3.—(1) Where, under this Part or anywhere else under this Order, Canal & River Trust (or the engineer) is required to give its consent or approval in respect of any matter, that consent or approval must not be unreasonably withheld or delayed.

(2) In respect of any specified work or the acquisition of rights under or over or use of Canal & River Trust property, Canal & River Trust must co-operate with the undertaker with a view to avoiding undue delay.

4. The undertaker shall not use any land or property of Canal & River Trust forming part of the waterway for the passage or siting of vehicles, plant or machinery employed in the construction of the specified works other than—

- (a) with the consent in writing of the engineer whose consent shall not be unreasonably withheld or delayed; and
- (b) subject to compliance with such reasonable requirements as the engineer may from time to time specify—
 - (i) for the prevention of detriment; or
 - (ii) in order to avoid or reduce any inconvenience to Canal & River Trust, its officers, agents and all other persons lawfully on such land or property, but nothing in this paragraph shall apply in relation to anything done in accordance with any approval given by Canal & River Trust under paragraph 6.

5.—(1) The undertaker must, before commencing construction of any specified work or carrying out any works on Canal & River Trust property, supply to Canal & River Trust proper and sufficient plans of that work for the reasonable approval (having due and proper regard to the undertaker’s timetable for the construction of the authorised development) of the engineer, and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer (such approval not to be unreasonably withheld or delayed) or settled by arbitration in accordance with article 35 (arbitration) of this Order.

(2) If by the end of the period of 14 days beginning with the date on which such plans have been supplied to Canal & River Trust the engineer has not intimated disapproval of those plans and the grounds of disapproval the engineer is deemed to have approved the plans as submitted.

(3) When signifying approval of the plans, the engineer may specify any protective works (whether temporary or permanent) that in the engineer’s reasonable opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of the waterway or the continued safe and efficient use of the waterway or any Canal & River Trust property, and such protective works (which for the avoidance of doubt may include requirements to fence any proposed works in order to separate the same from the waterways, ponds or watercourses situated on Canal & River Trust property either on a permanent or temporary basis) as may be reasonably necessary for those purposes must be constructed by the undertaker, as agreed between the parties or settled by arbitration in accordance with article 35

(arbitration) of this Order, and such protective works must be carried out at the expense of the undertaker with all reasonable dispatch, and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

6.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(3) must, when commenced, be constructed—

- (a) with all reasonable dispatch (having regard to the undertaker's timetable for construction of the authorised development) in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage or disturbance as is possible to the waterway;
- (d) in such a manner to ensure that as few materials are discharged or deposited into any stream, watercourse, waterway, pond or any other water feature on or forming part of Canal & River Trust property as reasonable practicable; and
- (e) so far as is reasonably practicable, so as not to interfere with the safe use of the waterway.

(2) If any damage to the waterway is caused by the carrying out of, or in consequence of, the construction of a specified work, the undertaker must make good such damage and must pay to Canal & River Trust all reasonable and proper expenses that Canal & River Trust actually incurs by reason of such damage, interference or obstruction.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligent act or default of Canal & River Trust or its servants, contractors or agents or any liability on Canal & River Trust with respect to any damage, costs, expenses or loss attributable to the negligent act or default of the undertaker or its servants, contractors or agents.

7. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

8. Canal & River Trust must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Canal & River Trust under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

9. The undertaker must repay to Canal & River Trust all reasonable and proper fees, costs, charges and expenses reasonably and actually incurred by Canal & River Trust in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified.

10. If at any time during or after the completion of a specified work, Canal & River Trust gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of the waterway, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as to not adversely affect the operation of the waterway.

11. The undertaker and Canal & River Trust may enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any Canal & River Trust property shown on the works or land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such Canal & River Trust property; and

- (c) any rights and obligations (whether or not statutory) of Canal & River Trust relating to any of Canal & River Trust property or any lands, works or other property referred to in this paragraph.

12. The undertaker shall repay to Canal & River Trust all fees, costs, charges and expenses reasonably and properly actually incurred by Canal & River Trust –

- (a) in constructing any protective works under the provisions of paragraph 5(3);
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer (if reasonably required) of the construction or repair of a specified work and any protective works;
- (c) in bringing the specified works or any protective works to the notice of users of CRT’s network.

13.—(1) If any permanent or temporary alterations or additions to Canal & River Trust property are reasonably necessary in consequence of the construction of a specified work, or during a period of 12 months after the completion of the authorised development in order to ensure the safety of Canal & River Trust property or the continued safe operation of the waterway, such alterations and additions may be carried out by Canal & River Trust, and if Canal & River Trust gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Canal & River Trust the proper and reasonable cost of those alterations or additions.

(2) If the cost of maintaining, working or renewing Canal & River Trust property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Canal & River Trust under this paragraph.

14.—(1) Canal & River Trust must, on receipt of a request from the undertaker provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part.

(2) In respect of any sums due to the Canal & River Trust from the undertaker referred to in this Part, the Canal & River Trust shall provide such details of the formula by which those sums have been calculated and a breakdown of those sums as the undertaker may reasonably require.

(3) In the assessment of any sums payable to Canal & River Trust under this Part, there must not be taken into account any increase in the sums claimed that are attributable to any action taken by or any agreement entered into by Canal & River Trust if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.

15. Any difference or dispute arising between the operator and the undertaker under this Part of this Schedule shall, unless otherwise agreed in writing between the operator and the undertaker, be referred to and settled by arbitration under article 35 (arbitration).

PART 4

Protection of Environment Agency

1.—(1) The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this Part—

“1973 Transfer Rights” means a right of way over parts of plots 1, 30 and 31 (as shown on the land plans) pursuant to a transfer dated 19 January 1973 as detailed in registered title number MX410055;

“Agency” means the Environment Agency;

2. The undertaker must not in the exercise of the powers conferred by this Order unreasonably prevent the Agency's access to and use of the dosing station adjacent to Salmon's Brook in the vicinity of the southern entrance to the Edmonton EcoPark except where construction and operation of the authorised development reasonably requires interference with or obstruction of the free, uninterrupted and safe use of the 1973 Transfer Rights in which case a suitable alternative access shall be agreed with the Agency and provided prior to and for the duration of any such interference.

3. Any difference or dispute arising between the undertaker and the Agency under this Part of this Schedule shall, unless otherwise agreed in writing between the Agency and the undertaker, be referred to and settled by arbitration under article 35 (arbitration).

PART 5

Protection of National Grid

[wording to be inserted once it has been agreed with National Grid]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for and authorises North London Waste Authority (referred to in this Order as the undertaker) to construct, operate and maintain an electricity and heat generating station, together with associated development, in Edmonton, North London. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose. A copy of the Order plans and the book of reference mentioned in this Order and certified in accordance with article 34 of this Order (certification of documents and plans) may be inspected free of charge during working hours at the offices of North London Waste Authority, Unit 1B, Berol House, 25 Ashley Road, Tottenham Hale, London N17 9LJ.