

2017 No. XXXX

INFRASTRUCTURE PLANNING

**The North London Heat and Power Generating Station Order
2017**

Made - - - - - *24th February 2017*

Coming into force - - - - - *18th March 2017*

CONTENTS

1. Citation and commencement
2. Interpretation
3. Development consent etc. granted by Order
4. Limits of deviation
5. Maintenance of authorised development
6. Operation of authorised development
7. Benefit of Order
8. Consent to transfer benefit of Order
9. Defence to proceedings in respect of statutory nuisance
10. Street works
11. Alteration of street layout
12. Public rights of way
13. Temporary stopping up of streets
14. Access to works
15. Agreements with street authorities
16. Discharge of water
17. Protective work to buildings
18. Authority to survey and investigate
19. Compulsory acquisition of land
20. Time limit for exercise of authority to acquire land compulsorily or use land temporarily
21. Power to override easements and other rights
22. Compulsory acquisition of rights
23. Application of the Compulsory Purchase (Vesting Declarations) Act 1981
24. Rights under or over streets
25. Rights over land
26. Temporary use of land for construction of authorised development
27. Temporary use of land for maintaining authorised development
28. Statutory undertakers
29. Recovery of costs of new connections

30. Application of landlord and tenant law
31. Operational land for purposes of the 1990 Act
32. Felling or lopping of trees
33. Certification of documents and plans
34. Arbitration
35. No double recovery
36. Protective provisions for specified undertakers
37. Approvals, consents and appeals

SCHEDULE 1 — AUTHORISED DEVELOPMENT

SCHEDULE 2 — REQUIREMENTS

SCHEDULE 3 — PROCEDURE FOR APPROVALS, CONSENTS AND APPEALS

SCHEDULE 4 — STREETS SUBJECT TO STREET WORKS

SCHEDULE 5 — STREETS SUBJECT TO ALTERATION OF LAYOUT

SCHEDULE 6 — PUBLIC RIGHTS OF WAY TO BE TEMPORARILY SUSPENDED

SCHEDULE 7 — PUBLIC RIGHTS OF WAY TO BE EXTINGUISHED

SCHEDULE 8 — STREETS TO BE TEMPORARILY STOPPED UP

SCHEDULE 9 — ACCESS TO WORKS

SCHEDULE 10 — LAND IN WHICH RIGHTS ETC., MAY BE ACQUIRED

SCHEDULE 11 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

SCHEDULE 12 — LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

SCHEDULE 13 — PROTECTIVE PROVISIONS

PART 1 — Protection of Operators of Electronic Communications Code Networks

PART 2 — Protection of Electricity, Gas, Water and Sewerage Undertakers

PART 3 — Protection of Canal & River Trust

PART 4 — Protection of Environment Agency

PART 5 — Protection of National Grid as Electricity and Gas Undertaker

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 and 120 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 Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(a).

The single appointed person, having considered the application with the documents that accompanied it and the representations made and not withdrawn, has submitted a report with a recommendation 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 has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

The Secretary of State, having decided the application has determined to make this Order giving effect to the proposals comprised in the application on terms which in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State is satisfied that the special category land (as identified in the book of reference), when burdened with rights imposed by this Order, 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.

The Secretary of State, in exercise of the powers conferred by sections 114, 115 and 120 of the 2008 Act, makes the following Order:

Citation and commencement

1. This Order may be cited as the North London Heat and Power Generating Station Order 2017 and comes into force on 18th March 2017.

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.33). 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

“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 pipes, conduits, wires, sewers, drains, tunnels, cables and associated above and below ground structures and any structure for the lodging of apparatus in or for gaining access to apparatus within the Order limits;

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

“authorised development” means the development described in Schedule 1 (authorised development) and any other development authorised by this Order which is 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 33 (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;

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 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.

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

“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 33 (certification of documents and plans);

“commence” means begin to carry out any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised development other than operations consisting of enabling works and the temporary display of site notices or advertisements for the purposes of the authorised development, to the extent that they do not give rise to any materially new or materially different environmental effects to those 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 Schedules 6-8 explanatory diagrams” means the explanatory diagrams relating to Schedule 6 (public rights of way to be temporarily 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 for the purposes of this Order under article 33 (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 33 (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;

“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 of the site location plans;

“electricity and heat generating station” means Works No. 1a;

“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), creation of enabling works accesses (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 which do not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement;

“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 33 (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 33 (certification of documents and plans);

“full operation” means the period of the authorised development’s operation starting from the end of the transitional period;

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

“land clearance” means works to clear land of surface vegetation and to remove detritus;

“land plans” means the plans certified by the Secretary of State as the land plans for the purposes of this Order under article 33 (certification of documents and plans);

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

“maintain” includes to keep up, preserve, conserve, inspect, repair, landscape, plant and re-plant, adjust, alter, remove, clear, refurbish, reconstruct, replace and improve the authorised development, but not so as to vary from the description of the authorised development in Schedule 1 and provided it does not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, and “maintenance” is to be construed accordingly;

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

“National Grid” means National Grid Electricity Transmission Plc and National Grid Gas Distribution Limited, 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 of the site location plans;

“Order land” means the land shown on the land plans which is within the Order limits and described in the book of reference;

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

“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;

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

“stage” means a stage of construction of the authorised development as approved under Requirement 3 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, 18, 19, 20 and 21, as shown on the land plans;

“transitional period” is the period during which the energy from waste facility and the electricity and heat generating station are operating at the same time;

“undertaker” means North London Waste Authority(b) 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

-
- (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.
- (b) A joint statutory waste disposal authority.

“works plans” means the plans certified by the Secretary of State as the works plans for the purposes of this Order under article 33 (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 airspace above its surface.

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

(4) A reference in this Order to “Works” identified by a number is a reference to the Works of the number described in Schedule 1 (authorised development) and shown on the works plans.

Development consent etc. granted by Order

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

Limits of deviation

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

(2) Subject to Schedule 2 (requirements), 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; and
- (b) deviate vertically from the levels shown on the works plans—
 - (i) to any extent upwards within the limits of deviation shown on the works plans; and
 - (ii) to any extent downwards as may be necessary, convenient or expedient.

Maintenance of authorised development

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

Operation of authorised development

6.—(1) The undertaker 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.

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 a transfer or grant has been made in accordance with paragraph (1), references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the lessee.

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

(4) The consent of the Secretary of State is not required for a transfer or grant under paragraph (1) if the transferee or lessee is London Waste 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 section 79(1)(g) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order may be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) relates to premises used by the undertaker for the purposes of 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);
- (b) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided;
- (c) 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) or in accordance with noise levels set out in an environmental permit relating to the operation of the authorised development; or
- (d) 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 and maintaining the authorised development, enter on the parts of any of the streets specified in Schedule 4 (streets subject to street works) as are within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;

(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.

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

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

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

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

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 that Schedule.

Public rights of way

12.—(1) Subject to paragraph (2), the undertaker may for the purposes of constructing and maintaining the authorised development, temporarily suspend the sections of the public rights of way shown on drawings C_0012 Rev 01, C_0013 Rev 00 and C_0014 Rev 01 of the works plans 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 that Schedule for the duration of the construction of the authorised development.

(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 (2) must be provided for the duration of the construction of the authorised development.

(4) Subject to paragraph (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) is extinguished to the extent specified in column (3) of that Schedule.

(5) The public right of way specified in paragraph (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.

(6) Subject to paragraph (7), the undertaker may, at any time during the construction and maintenance of the authorised development, temporarily suspend any public right of way over the proposed footpath labelled RW08 on drawing C_0014 Rev 00 of the works plans for a reasonable period of time if necessary in connection with works authorised by the National Grid (North London Reinforcement Project) Order 2014(a).

(7) The public right of way specified in paragraph (6) must not be suspended under this article unless the physical extent and duration of the temporary suspension and the provision of an alternative right of way has been agreed between the undertaker and the undertaker of the National Grid (North London Reinforcement Project) Order 2014, and approved by the relevant planning

(a) S.I.2014/1052.

authority, which may attach reasonable conditions to any approval (such approval to be obtained in accordance with the provisions of Schedule 3 (procedure for approvals, consents and appeals)).

Temporary stopping up of streets

13.—(1) The undertaker, for the purposes of constructing 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 (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 limiting paragraph (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 in Schedule 8 (streets to be temporarily stopped up) without first consulting the street authority; or
- (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 (4) that street authority is deemed to have granted consent.

Access to works

14. For the purposes of constructing the authorised development, the undertaker may—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in Schedule 9 (access to works); and
- (b) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires.

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

(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 on any land within the Order limits 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.

(5) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse, 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.

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

(7) 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.

(8) 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 (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.

(2) Protective works may be carried out—

(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.

- (a) at any time before or during the construction 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 powers under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

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

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

(5) Before exercising—

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

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

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (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 34 (arbitration).

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

(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 construction, operation or maintenance 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 (7) or (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 construction, operation or maintenance 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 maintenance 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 sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limiting sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) The undertaker must serve a notice 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 (1).

(3) Any person entering land under this article on behalf of the undertaker —

- (a) must, if so required when 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, such consent not to be unreasonably withheld or delayed; or
- (b) in a private street without the consent of the street authority, such consent not to 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 22 (compulsory acquisition of rights) and article 26 (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 as is incidental to the authorised development.

(2) From the later of the date on which a compulsory acquisition notice 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) is 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 the period of 5 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^(a) as applied by article 23 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 26 (temporary use of land for construction of authorised development) ceases at the end of the period referred to in paragraph (1), save that, subject to article 26(3) and article 26(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) The construction, operation or maintenance of the authorised development and the doing of anything else authorised by this Order is authorised, 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 use of land arising by contract.

(2) 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.

(3) 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.

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

- (a) is payable under section 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.

(5) 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 (3).

Compulsory acquisition of rights

22.—(1) The undertaker may acquire compulsorily the existing rights over land and create and acquire compulsorily the new rights (including new rights in relation to apparatus owned or operated by statutory undertakers and 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 for the authorised development or to facilitate it or as incidental to it.

(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.

(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 is 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, where the undertaker acquires an existing right over land under paragraph (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 provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

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

- (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 5 (earliest date for execution of declaration), omit subsection (2).

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

(4) 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

24.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the construction, operation or maintenance of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

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

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

(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.

(4) Compensation is not payable under paragraph (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

25.—(1) The undertaker may enter into and appropriate so much of the airspace over any land within the Order limits and over land indicated on drawing number E_0011 Rev 00 of the design code principles as may be required for the construction and maintenance of the authorised development and may use the airspace for those purposes or any other purposes ancillary to the authorised development.

(2) The undertaker may exercise any power conferred by paragraph (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 (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 (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 construction of authorised development

26.—(1) The undertaker may, in connection with the construction 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 and surfacing, erect fencing and other means of enclosure, install utilities and services, and construct temporary works (including access), buildings and structures on that land.

(2) The undertaker must 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 (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 Works No. 7.

(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—

- (a) to 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).

(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 (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 (7).

(10) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1) except that the undertaker is not precluded from acquiring new rights over any part of that land under article 22 (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

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

(3) The undertaker may remain in possession of land under this article only 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 (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 (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 (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

28. 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

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

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 21 or article 22, any person who is—

- (a) the owner or occupier of premises the drains of which are connected with that sewer; or
- (b) the owner of a private sewer which is 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 connect with any other public sewer or with a private sewage 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

30.—(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 authorised development; and
- (b) any agreement entered into by the undertaker with any person for the construction, operation or maintenance of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

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

(3) No enactment or rule of law regulating the rights and obligations of landlords and tenants applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

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

Operational land for purposes of the 1990 Act

31. 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

32.—(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 or 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 (1), the undertaker must not cause unnecessary damage to any tree or shrub and must pay compensation to any person who sustains any loss or damage arising from such activity for that loss or damage.

(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act (determination of questions of disputed compensation).

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

Certification of documents and plans

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

- (a) the works plans (version AD02.01 (revision 2));
- (b) the land plans (version AD02.01 (revision 2));
- (c) the book of reference (version AD04.03 (revision 2));
- (d) the environmental statement (version AD06.02, including volume 3 appendices (revision 1));
- (e) the environmental commitments and mitigation schedule (AD06.03 (revision 2));
- (f) the code of construction practice (AD05.12 (revision 2));
- (g) the design code principles (AD02.02 (revision 1)); and
- (h) the DCO Schedule 6-8 explanatory diagrams (AD03.05 (revision 1)),

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

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

Arbitration

34. Any difference or dispute under any provision of this Order, unless otherwise provided for in this Order or unless otherwise agreed between the parties, is to be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

No double recovery

35. 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

36. Schedule 13 (protective provisions) has effect.

Approvals, consents and appeals

37.—(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 not be unreasonably withheld.

(3) Where any provision of this Order provides that the authorised development is to be constructed, operated or maintained in accordance with a document or details approved by the discharging authority pursuant to this Order, the document or approved details are to be taken to

(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).

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.

Signed by authority of the Secretary of State for Business, Energy and Industrial Strategy

24th February 2017

Giles Scott
Head of Energy Infrastructure Planning and Coal Liabilities
Department for Business, Energy and Industrial Strategy

SCHEDULE 1

AUTHORISED DEVELOPMENT

Article 3

1. The construction and operation of a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act in the London Borough of Enfield comprising—

(1) *Works No. 1a* —an electricity and heat generating station located at the Edmonton EcoPark, fuelled by up to 700,000 tonnes of waste per annum and with an electrical output of up to 70 megawatts of electricity (MW_e) (gross), comprising the following buildings, structures and plant, located within the limits of deviation identified on drawing C_0002 Rev 01 of the works plans—

- (a) a main building housing—
 - (i) a tipping hall;
 - (ii) waste bunker and waste handling equipment;
 - (iii) 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;
 - (iv) facilities for the recovery of incinerator bottom ash and air pollution control residue;
 - (v) steam turbines for electricity generation including equipment for heat off-take; and
 - (vi) a control room containing the operational and environmental control and monitoring systems and offices;
- (b) entry and exit ramps to the electricity and heat generating station;
- (c) a stack containing flues for flue gas exhaust;
- (d) cooling equipment; and
- (e) 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 Works No.1a as follows—

(1) *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 drawing C_0002 Rev 01 of the works plans and as follows—

- (a) a wastewater treatment facility;
- (b) a water pre-treatment plant;
- (c) external stores and workshops;
- (d) a fuelling area and fuel storage, vehicle wash, transport offices and staff facilities, toilets, natural gas intake and management compound, and fire control water tanks; and
- (e) electrical substations.

(2) *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 drawing C_0004 Rev 01 of the works plans and as follows—

- (a) a recycling and fuel preparation facility;
- (b) a reuse and recycling centre;
- (c) offices, and staff and visitor welfare facilities;
- (d) odour abatement and dust suppression plant and equipment; and
- (e) fire control water tanks and pump house and equipment.

(3) *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 drawing C_0006 Rev 01 of the works plans.

(4) *Works No. 4* — utilities and infrastructure works, landscaping, access, security and lighting, and weighbridges located within the limits of deviation identified on drawing C_0008 Rev 01 of the works plans and as follows—

- (a) with regard to potable water, waste water, surface water, foul water, raw water, electricity, gas, cctv, telecoms and data—
 - (i) the diversion, repositioning, decommissioning, removal, replacement, modification or upgrading of existing pipes, cables, systems and associated apparatus;
 - (ii) the laying or installation of new pipes, cables, systems and associated apparatus; and
 - (iii) the creation of connections to existing or new pipes, cables, systems and associated apparatus;
- (b) the erection of a raw water pumping station;
- (c) stabilisation works to the eastern bank of Salmon’s Brook;
- (d) the construction of surface water pumps, pipework and attenuation tanks;
- (e) landscaping works;
- (f) the installation of areas of green roof and brown roof;
- (g) the widening of the existing entrance into the Edmonton EcoPark from Advent Way, including modification or replacement of the bridge over Enfield Ditch;
- (h) the construction within the Edmonton EcoPark of vehicle and cycle parking, vehicle, cycle and pedestrian routes and weighbridges;
- (i) the construction of an access into the Edmonton EcoPark from Lee Park Way, including bridging over Enfield Ditch;
- (j) 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;
- (k) 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;
- (l) the resurfacing of Ardra Road (if required);
- (m) security, fencing and lighting works and equipment;
- (n) 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;
- (o) the upgrade and maintenance of the existing bridge over the River Lee Navigation;
- (p) the installation of photovoltaic panels at roof level of the electricity and heat generating station and the resource recovery facility;
- (q) the modification of kerb lines and pavements within plots 28 and 29;
- (r) the creation of a new footpath within plot 21;
- (s) the improvement of the existing junction between Meridian Way and Ardra Road; and
- (t) the improvement of the existing junction between Advent Way and Lee Park Way.

(5) *Works No. 5* — the creation of a temporary laydown area and its temporary use located within the limits of deviation identified on drawing C_0009 Rev 01 of the works plans and as follows—

- (a) areas of hardstanding;
- (b) the erection of fencing, hoarding or any other means of enclosure;
- (c) the erection of security facilities and equipment and gatehouses;
- (d) vehicle parking;
- (e) office and staff welfare accommodation;
- (f) storage, fabrication, laydown area;
- (g) foul water storage and pumps and surface water attenuation storage and pumps;
- (h) utility works including electricity, water, cctv, telecoms and data;
- (i) the creation of vehicular, cycle and pedestrian access from Lee Park Way to the temporary laydown area;
- (j) the improvement of the existing junction between Walthamstow Avenue and Lower Hall Lane; and
- (k) restoration of the temporary laydown area.

(6) *Works No. 6* — site preparation and demolition works within the area located within the limits of deviation identified on drawing C_0010 Rev 01 of the works plans comprising—

- (a) the demolition of existing buildings, structures and plant excluding demolition of the energy from waste facility;
- (b) the construction of a temporary ash storage building;
- (c) the realignment of the exit ramp from the energy from waste facility; and
- (d) works to prepare the land shown on drawing C_0010 Rev 01 of the works plans for the construction of Works No. 1a, 1b, 2, 3, 4 and 5.

(7) *Works No. 7* — decommissioning, demolition and removal of the energy from waste facility located within the limits of deviation identified on drawing C_0011 Rev 01 of the works plans and demolition and removal of the existing stack, demolition of the existing water pumping station on Ardra Road; and making good.

3. In connection with Works No. 1 to 7, 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.

SCHEDULE 2 REQUIREMENTS

Article 3

Interpretation

1.—(1) In this Schedule—

“AOD” means above ordnance datum;

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

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

(2) Where an approval of details or other document is required under the terms of any Requirement or where compliance with a document contains the wording “unless otherwise agreed” by the discharging authority, such approval of details or of any other document (including any subsequent amendments or revisions) 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 does not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement.

(3) Subject to paragraph (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.

Time limits

2. The authorised development must commence within 5 years of the date on which this Order comes into force.

Stages of the authorised development

3. No authorised development (except enabling works and the temporary display of site notices and advertisements) 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 of the authorised development is to commence until, for that stage, plans and written details of (where relevant)—

- (a) the external appearance of all new buildings and structures (including details of the colour, materials and samples);
- (b) 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 recovery facility (Works No. 2) and the building to provide visitor, community and education facilities and office accommodation (Works No. 3);
- (c) vehicular and pedestrian access;
- (d) parking and circulation areas and hard surfacing materials;
- (e) wayfinding signage outside the operational site; and
- (f) 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 (1) must be in accordance with the design code principles.

(a) 1990 (c.43).

(3) The undertaker must consult the Environment Agency in relation to the details of the piling risk assessments and piling method statements required pursuant to paragraph (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.

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

(5) The authorised development must be carried out in accordance with the plans and details approved under paragraph (1).

Parameters

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

(1) Works No. 1a (Drawing C_0003 Rev 01 of the works plans)—

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

platform enclosure	No.1a (e)	+44.0 AOD)
--------------------	-----------	------------

(2) Works No. 1b (Drawing C_0002 Rev 01 of the works plans)—

<i>Description</i>	<i>Works No.</i>	<i>Height (m)</i>	<i>Height (m AOD)</i>
Wastewater treatment facility, water pre-treatment plant, external stores and workshops, fuelling area and fuel storage, vehicle wash, transport offices and staff facilities, toilets, natural gas intake and management compound, fire control water tanks and electrical substations	Works No. 1b	18	30.5

(3) Works No. 2 (Drawing C_0005 Rev 01 of the works plans)—

<i>Description</i>	<i>Works No.</i>	<i>Length (m)</i>	<i>Width (m)</i>	<i>Height (m)</i>	<i>Height (m AOD)</i>
Resource recovery facility	Works No. 2 (a), (b) and (c)	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 of the works plans)—

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

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. Subject to Requirement 19(2), the waste permitted to be managed at the authorised development must not exceed 890,000 tonnes per annum and must be limited to—

- (a) local authority collected waste;
- (b) other controlled waste;

- (c) any materials derived from the waste referred to in sub-paragraphs (a) and (b) above; and
- (d) hazardous waste delivered to the operational site.

Notices

8. The undertaker must give notice of the following events to the relevant planning authority where practicable prior to the date on which the event is intended to first occur and in any event within 7 days of the first occurrence of the event—

- (a) the commencement of the authorised development;
- (b) the issue of the certificate of practical completion for the electricity and heat generating station; and
- (c) 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 of the authorised development 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) 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 (1).

Provision of landscaping

10.—(1) No stage of the authorised development, 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.

(2) The landscaping scheme submitted for approval must be in accordance with the design code principles and the environmental commitments and mitigation schedule and must 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.

(3) The authorised development must be carried out in accordance with the details approved under paragraph (1), 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.—(1) All landscaping implemented in accordance with an approved landscaping scheme under Requirement 10 must be maintained in accordance with details approved from time to time by the relevant planning authority.

(2) 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 of the authorised development is to commence until written details in relation to that stage of—

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

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

(2) The construction 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 (1).

Operational surface and foul water drainage

13.—(1) No stage of the authorised development 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 (1) before the commencement of the transitional period.

Contaminated land and groundwater

14.—(1) No stage of the authorised development 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 (as defined in the Water Resources Act 1991) 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 each written scheme before submitting it to the relevant planning authority for approval.

(3) Each written scheme submitted and approved under paragraph (1) 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 investigation and assessment report must be accompanied by 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).

(4) Remediation must be carried out in accordance with the relevant written scheme approved under paragraph (1).

(5) If during any stage of the construction of the authorised development contamination not previously identified in the written scheme approved for that stage under paragraph (1) is found to

be present which is 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 on that stage of the authorised development and 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 must be carried out in accordance with any remediation strategy approved pursuant to this paragraph.

(6) 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 any written scheme approved pursuant to paragraph (1) and any remediation strategy approved pursuant to paragraph (5). The verification report must include results of the sampling required by the approved investigation and assessment report submitted as part of any written scheme.

(7) 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. The second verification report must contain the results of monitoring required by the management plan pursuant to paragraph (2), details of any necessary contingency action undertaken as required by the management plan and confirmation that all long term remedial works approved pursuant to paragraphs (1) and (5) have been carried out and that all long term remedial targets have been met.

Ecology

15.—(1) The transitional period must not begin until written details of the approach to monitoring and managing the landscaping and the approach to bird and bat boxes (in accordance with the environmental commitments and mitigation schedule), including an implementation timetable, have been approved by the relevant planning authority.

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

Code of construction practice

16.—(1) Before commencing the enabling works and before commencing each 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.

Control of noise during operational stage

17.—(1) The transitional period must not begin until a written scheme for noise management, including monitoring and attenuation in relation to the authorised development, and an implementation timetable, has been submitted to and approved by the relevant planning authority.

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

(3) The authorised development must be carried out in accordance with the written scheme approved pursuant to paragraph (1).

Combined heat and power

18.—(1) Works No. 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.

(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.

(3) Prior to the full operation of the authorised development the undertaker must submit to the relevant planning authority for its approval a written scheme on combined heat and power feasibility assessing potential commercial opportunities for the use of heat from the authorised development as part of a Good Quality Combined Heat and Power scheme (as defined in Combined Heat and Power Quality Assurance Standard Issue 6) and providing for subsequent reviews of such opportunities.

Transitional period

19.—(1) The transitional period must not last for longer than 12 months. After the transitional period the decommissioning and demolition of the energy from waste facility must be undertaken in accordance with the written scheme approved under Requirement 20.

(2) The amount of waste managed by the existing energy from waste facility 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 comprising Works No. 7 are to begin until a written scheme for such works 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 (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 electricity and heat generating station

21.—(1) Within 24 months of the electricity and heat generating station comprising Works No. 1a 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 plan approved under paragraph (1).

(3) On the first 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 37

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 promptly and in any event 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) The discharging authority must either approve or refuse the application in a written notice.

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

(4) If within 56 days (unless another period is provided for under this Order) the discharging authority has not notified the undertaker of its approval or refusal of the application and the reasons for any refusal, the discharging authority is (unless the parties have agreed otherwise in writing) deemed to have approved the application.

(5) 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.

Further information

2.—(1) In relation to any application for a consent, agreement, approval or notice in respect of a provision of this Order, subject to sub-paragraph (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 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(a)), 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 to approve or refuse an application under paragraph 1.

(3) Any request by the discharging authority for further information under sub-paragraph (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 within the 24 day period referred to in sub-paragraph (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) 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).

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

<i>Category 1</i>	<i>Category 2</i>
Subject to the cap stated below, the erection of buildings— where no floor space is to be created by the development, £195; 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 additional 75 square metres.	The carrying out of any operations not coming within Category 1, £195 for each 0.1 hectare of the site area, subject to a maximum £1,690.
Total Cap: £100,000.	

- (b) where an application is made for the 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 is £385.
- (2) For the purpose of the calculation of fees under sub-paragraph (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 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 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 required or permitted by this Order subject to conditions;
- (c) the discharging authority issues a notice under sections 60 and or 61 of the Control of Pollution Act 1974;
- (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 sub-paragraph (1);
- (b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the 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 the appointed person’s 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 application referred to in sub-paragraph (1) or the notice of appeal referred to in sub-paragraph (2)(a) to the appointed person in respect of the appeal within 10 business days of the notice of appointment in sub-paragraph (2)(c) 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 sub-paragraph (2)(d); and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

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

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

(5) Any further information required under sub-paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. The appointed person must notify the appeal parties of the

revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within 10 business days of the date by which the further information is to be submitted but must otherwise be in accordance with the process and time limits set out in paragraphs 4(2)(c) - (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 the appointed person in the first instance.

(7) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the appointed person’s 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 the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

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

(10) If an approval is given by the appointed person under this Schedule, it is to be treated as an approval for the purposes 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 taken to affect or invalidate the effect of the appointed person’s determination.

(11) Save where a direction is given under sub-paragraph (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 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 Planning Practice Guidance 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> <i>Area</i>	<i>(2)</i> <i>Streets subject to street works</i>
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 plots 14, 15, 21, 22 and 32 on the land plans.
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 within plot 15 on the land plans.
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 within plots 7 and 8 on the land plans.
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 land plans.
In the London Borough of Enfield.	The section of Advent Way at the entrance south of the 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 drawings C_0012 Rev 01, C_0013 Rev 00 and C_0014 Rev 01 of the works plans.
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 drawings C_0012 Rev 01, C_0013 Rev 00 and C_0014 Rev 01 of the works plans.
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.

SCHEDULE 5

Article 11

STREETS SUBJECT TO ALTERATION OF LAYOUT

<i>(1) 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(g)
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 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(i) and (j)

		Advent Way.	
In the London Borough of Enfield.	Deephams Farm Road.	Works to upgrade Deephams Farm Road to make it suitable for operational and construction traffic, including provision of a new security barrier and gatehouse, works to improve the road surface, and new fencing.	4(k), (m) and (n)
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(q)
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(r)

SCHEDULE 6

Article 12

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY SUSPENDED

<i>(1)</i> Area	<i>(2)</i> Public right of way to be temporarily suspended	<i>(3)</i> Extent of temporary suspension	<i>(4)</i> Temporary new public right of way to be provided in substitution
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, drawing C_0013 Rev 00 of the works plans and in more detail on diagram 1 on page 2 of the DCO 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 drawing C_0013 Rev 00 of the works plans.
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, drawing C_0014 Rev 01 of the works plans and in more	For approximately 130 metres within plots 27, 24, 28, 22 and 29 shown on the land plans and on drawing C_0014 Rev 01 of the works plans.	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

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Public right of way to be temporarily suspended</i>	<i>(3)</i> <i>Extent of temporary suspension</i>	<i>(4)</i> <i>Temporary new public right of way to be provided in substitution</i>
	detail on diagram 2 on page 3 of the DCO Schedules 6-8 explanatory diagrams.		drawing C_0014 Rev 01 of the works plans.
In the London Borough of Enfield.	The section of footpath and cycle path 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, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 3 on page 4 of the DCO Schedules 6-8 explanatory diagrams.	For approximately 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.	Approximately 315 metres of temporary footpath and cycle path in the area shown cross hatched to the north of Advent Way and the east of the Edmonton EcoPark as shown on drawing C_0014 Rev 01 of the works plans.
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, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 4 on page 5 of the DCO Schedules 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 drawing C_0014 Rev 01 of the works plans.
In the London Borough of Enfield.	Towpath, footpath and cycle path on the eastern bank of the River Lee Navigation within plots 13 and 17, as shown on the land plans, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 5 on page 6 of the DCO Schedules 6-8 explanatory diagrams.	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 drawing C_0014 Rev 01 of the works plans.
In the London Borough of Enfield.	Cycle path on Lower Hall Lane within plot 20, as shown on the land plans, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 6 on page 7 of the DCO Schedules 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 drawing C_0014 Rev 01 of the works plans.
In the London	Cycle path running parallel	For approximately	Approximately 131

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Public right of way to be temporarily suspended</i>	<i>(3)</i> <i>Extent of temporary suspension</i>	<i>(4)</i> <i>Temporary new public right of way to be provided in substitution</i>
Borough of Enfield.	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, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 7 on page 8 of the DCO Schedules 6-8 explanatory diagrams.	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 Navigation, cutting across Lee Park Way and towards Lower Hall Lane.	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 north of Advent Way, as shown on drawing C_0014 Rev 01 of the works plans.

SCHEDULE 7

Article 12

PUBLIC RIGHTS OF WAY TO BE EXTINGUISHED

<i>(1) Area</i>	<i>(2) Public right of way to be extinguished</i>	<i>(3) Extent of public right of way to be extinguished</i>	<i>(4) New public right of way to be substituted</i>
In the London Borough of Enfield.	The section of footpath and cycle path 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 Schedules 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 drawing C_0014 Rev 01 of the works plans 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 drawing C_0014 Rev 01 of the works plans.

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 stopping up</i>
In the London Borough of Enfield.	Advent Way, within plot 31, as shown on the land plans and on drawing C_0013 Rev 00 of the works plans.	For approximately 42 metres at the entrance to the south of the Edmonton EcoPark within plot 31, as shown on the land plans, drawing C_0013 Rev 00 of the works plans and in more detail on diagram 9 on page 10 of the DCO Schedules 6-8 explanatory diagrams.
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 drawing C_0014 Rev 01 of the works plans.	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, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 10 on page 11 of the DCO Schedules 6-8 explanatory diagrams.
In the London Borough of Enfield.	Lower Hall Lane, within plots 18, 19 and 20 as shown on the land plans and on drawing C_0014 Rev 01 of the works plans.	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

<i>(1) Area</i>	<i>(2) Street to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
		land plans, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 11 on page 12 of the DCO Schedules 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 drawing C_0012 Rev 01 of the works plans.	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, drawing C_0012 Rev 01 of the works plans and in more detail on diagram 12 on page 13 of the DCO Schedules 6-8 explanatory diagrams.
In the London Borough of Enfield.	Tow path, footpath and cycle path along the eastern side of the River Lee Navigation within plots 13 and 17, as shown on the land plans and drawing C_0014 Rev 01 of the works plans.	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, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 13 on page 14 of the DCO Schedules 6-8 explanatory diagrams.
In the London Borough of Enfield.	Cycle path running parallel with Advent Way to the junction of Advent Way with Lee Park Way, within plots 17, 27, 24, 22, 21 as shown on the land plans and drawing C_0014 Rev 01 of the works plans.	For approximately 131 metres within plots 17, 21, 22, 24 and 27, as shown on the land plans, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 14 on page 15 of the DCO Schedules 6-8 explanatory diagrams.
In the London Borough of Enfield.	Cycle path on Lower Hall Lane within plot 20, as shown on the land plans and on drawing C_0014 Rev 01 of the works plans.	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, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 15 on page 16 of the DCO Schedules 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 drawing	For approximately 41 metres on Advent Way and into the southern entrance to the

<i>(1) Area</i>	<i>(2) Street to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
	C_0013 Rev 00 of the works plans.	Edmonton EcoPark, within plots 30 and 31, as shown on the land plans, drawing C_0013 Rev 00 of the works plans and in more detail on diagram 16 on page 17 of the DCO Schedules 6-8 explanatory diagrams.
In the London Borough of Enfield.	The section of footpath and pavement running parallel with Advent Way to the junction of Advent Way with Lee Park Way within plots 22, 24, 27, 28 and 29, as shown on the land plans and drawing C_0014 Rev 01 of the works plans.	For approximately 130 metres within plots 27, 24, 28, 22 and 29, as shown on the land plans, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 17 on page 18 of the DCO Schedules 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 drawing C_0014 Rev 01 of the works plans.	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, drawing C_0014 Rev 01 of the works plans and in more detail on diagram 18 on page 19 of the DCO Schedules 6-8 explanatory diagrams.

SCHEDULE 9

Article 14

ACCESS TO WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of Access</i>	<i>(3)</i> <i>Works Number</i>
In the London Borough of Enfield.	Access from Advent Way to the south of the Edmonton EcoPark as shown on drawings C_0012 Rev 01 and C_0013 Rev 00 of the works plans.	4(g)
In the London Borough of Enfield.	Access from Meridian Way to Ardra Road as shown on drawing C_0013 Rev 00 of the works plans.	4(s)
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 drawings C_0012 Rev 01 and C_0014 Rev 01 of the works plans.	5(j)
In the London Borough of Enfield.	Access from Advent Way to the south of Lee Park Way as shown on drawings C_0012 Rev 01 and C_0014 Rev 01 of the works plans.	4(t)
In the London Borough of Enfield.	Access from Lee Park Way to the south of the temporary laydown area shown on drawings C_0012 Rev 01 and C_0014 Rev 01 of the works plans.	5(i)
In the London Borough of Enfield.	Access from the northern end of Deephams Farm Road as shown on drawing C_0012 Rev 01 of the works plans.	4(k)
In the London Borough of Enfield.	Access from Lee Park Way into the Edmonton EcoPark as shown on drawings C_0012 Rev 01 and C_0014 Rev 01 of the works plans.	4(i)

SCHEDULE 10

Article 22

LAND IN WHICH RIGHTS ETC., MAY BE ACQUIRED

<i>(1)</i> <i>Plot number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights may be acquired</i>
1, 2, 4, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19,	Right of access with or without vehicles, plant, apparatus and materials to execute any works for the purposes of or incidental to the

20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 34.	<p>construction, operation and maintenance of the authorised development.</p> <p>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(a)(i) to (iii) in Schedule 1 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(a)(i) to (iii) in Schedule 1 (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(a)(i) to (iii) in Schedule 1 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 maintenance of street furniture.</p>
14.	Right to maintain the existing bridge over the River Lee Navigation.
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 Way.</p>
15, 17, 21, 22, 23, 24, 25, 26, 27, 28 and 29.	Right of access with or without vehicles, plant, apparatus and materials in connection with the maintenance of landscaping works authorised by this Order.

SCHEDULE 11

Article 22

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 sub-paragraph (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) for “land is acquired or taken” substitute “a right over land is purchased”; and
- (b) for “acquired or taken from him” substitute “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 sub-paragraph (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 (which is deemed for this purpose to have been created on the date of service of the notice).

5. Sections 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) 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 26

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). To maintain the boat canopy that forms part of Works No. 3.	Works No. 3. Drawing C_0006 Rev 01 of the works plans.
16, 18, 19, 20 and 21.	To create and use a temporary laydown area. 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.	Works Nos. 5 and 6. Drawings C_0009 Rev 01 and C_0010 Rev 01 of the works plans.

SCHEDULE 13

Article 36

PROTECTIVE PROVISIONS

PART 1

Protection of 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—

“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 that Act;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network 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 sub-paragraphs (2) and (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 sub-paragraph (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 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 must 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.

5. 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.

6. Any difference or dispute arising between the operator and the undertaker under this Part must, unless otherwise agreed in writing between the operator and the undertaker, be referred to and settled by arbitration under article 34 (arbitration).

7.—(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—

“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 Order 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; and
- (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.—(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

(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).

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 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 sub-paragraph (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 34 (arbitration), and after the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (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 sub-paragraph (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 sub-paragraph (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 without the prior approval of the statutory undertaker (such approval not to be unreasonably withheld or delayed).

5.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 4(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) Any works of the type referred to in paragraph 4(2) are to be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to observe and inspect the execution of those works.

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

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

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

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the 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 sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

6.—(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 works referred to in paragraph 4(2).

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

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 34 (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 sub-paragraph (1) is to be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus 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 sub-paragraph would be payable to a statutory undertaker in respect of works by virtue of sub-paragraph (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.

7.—(1) Subject to sub-paragraphs (2) and (3), if by reason, or in consequence, of the construction of any such works referred to in paragraph 4(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 sub-paragraph (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 claim or demand, and no settlement or compromise may be made without the consent of the undertaker.

8. 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 must 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.

9. Any difference or dispute arising between the statutory undertaker and the undertaker under this Part must, unless otherwise agreed in writing between the statutory undertaker and the undertaker, be referred to and settled by arbitration under article 34 (arbitration).

10.—(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 & River Trust

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

2. In this Part—

“code of practice” means the “Code of Practice for Works Affecting the Canal & River Trust” dated April 2016 and as amended from time to time;

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

“CRT” means the Canal & River Trust and any successor body performing the same functions which holds or manages any of CRT's Property within the Order limits;

“CRT's Property” means each and every part of land owned by CRT (whether beneficially or as trustee of the Waterways Infrastructure Trust) within the Order limits and includes the Waterway and any other land covered with water, sub-soil, air space and waterways;

“detriment” means any damage to the Waterway or any other of CRT's Property that CRT demonstrates to the reasonable satisfaction of the undertaker that the undertaker has caused by the authorised development or presence of the specified works and, without limiting that meaning, includes:

- (a) the erosion of the bed or banks of the Waterway, or the impairment of the stability of any works, lands or premises forming part of the Waterway;
- (b) the deposit of materials or the siltation of the Waterway so as to damage the Waterway;
- (c) the pollution of the Waterway;
- (d) any significant alteration in the water level of the Waterway, or significant interference with the supply of water to the Waterway, or drainage of water from the Waterway; and
- (e) any harm to the ecology of the Waterway (including any adverse impact on any site of special scientific interest comprised within any of CRT's Property).

“engineer” means an engineer appointed by CRT for the relevant purposes of this Order (and includes a suitably qualified employee of CRT so appointed);

“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 of CRT’s Property;

“specified works” means so much of any of the authorised development to be situated upon, across, under, over or within CRT’s Property, or which may in any way cause detriment to the Waterway;

“Waterway” means each and every part of the River Lee Navigation within the Order limits, together with its waterway wall and towing path, and any pond or other waterway or course situated on CRT’s Property, any works, services, apparatus, equipment, lands (including subsoil) or premises belonging to or under the control of CRT and held or used by it in connection with its statutory functions in relation to the River Lee Navigation.

Powers requiring CRT’s consent

3.—(1) The undertaker must not use any of CRT’s Property 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; 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 CRT, its officers, agents and all other persons lawfully on any land or property.

(2) The consents required pursuant to this Part must not be unreasonably withheld or delayed but may be given subject to reasonable terms and conditions.

(3) Nothing in this paragraph applies in relation to anything done in accordance with any approval given by CRT under paragraph 4.

Approval of plans, protective works etc.

4.—(1) Except for works the details of which are required under Schedule 2 (Requirements) to be submitted to the relevant planning authority for approval, the undertaker must, before commencing construction of specified works or carrying out any works on CRT’s Property, supply to CRT proper and sufficient plans of that work for the reasonable approval (having due and proper regard to the timetable for the construction of the authorised development approved under Requirement 3) 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 34 (arbitration).

(2) If the engineer has not confirmed disapproval of the plans supplied pursuant to sub-paragraph (1) and the grounds of disapproval in writing by the end of the period of 28 days beginning with the date on which the last of such required plans have been submitted to CRT by the undertaker, the engineer is deemed to have approved the plans submitted pursuant to that sub-paragraph.

(3) When confirming approval of the plans supplied pursuant to sub-paragraph (1), the engineer may specify reasonable and necessary protective works (whether temporary or permanent and which, for the avoidance of doubt, may include requirements to fence any specified works in order to separate the same from the Waterway or any other of CRT’s Property) which, in the engineer’s reasonable opinion, should be carried out before the commencement of the construction of a specified work, or during the undertaking of those specified works.

(4) Such protective works as may be agreed between the parties or settled by arbitration in accordance with article 34 (arbitration) must be constructed by the undertaker at a reasonable and necessary cost, with all reasonable dispatch. The undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that such of those protective

works as are required to be undertaken prior to commencement of construction have been completed to the engineer's reasonable satisfaction. If the engineer has not confirmed his reasonable satisfaction of the completion of the protective works within 21 days of the undertaker's notification, the engineer is deemed to have confirmed his or her reasonable satisfaction.

Design of specified works

5. Without limiting its obligations as to the delivery of plans to CRT under the foregoing provisions of this Part, the undertaker must consult, collaborate and respond constructively to any approach, suggestion, proposal or initiative made by CRT as to the design and appearance of the specified works, including the materials to be used for their construction, and must have regard to reasonable views as may be expressed by CRT in response to such consultation pursuant in particular to the requirements imposed on CRT by section 22 (general environmental and recreational duties) of the British Waterways Act 1995 and to the reasonable interest of CRT in preserving and enhancing the environment of the Waterway.

Surveying of Waterway

6.—(1) Both before commencing any specified works upon CRT's Property or the Waterway, and following practical completion of those specified works, the undertaker must procure, at a reasonable and necessary expense to the undertaker, the carrying out of a survey (including a dip-survey to measure the depth of the Waterway), by an appropriately qualified structural engineer (the "structural surveyor"), approved by CRT (whose approval is not to be unreasonably withheld or delayed), of so much of the Waterway as may be affected by the specified works ("the survey").

(2) For the purposes of the survey the undertaker and CRT must—

- (a) afford reasonable facilities to the structural surveyor for access to the site of the specified works and to any land and existing works of the undertaker which may provide support for the Waterway and to CRT's Property as will or may be affected by the specified works; and
- (b) supply the structural surveyor as soon as reasonably practicable with all such information as the structural surveyor may reasonably require with regard to such existing works of the undertaker, to the specified works and the proposed method of their construction, and with regard to the Waterway.

(3) The reasonable and necessary costs of the survey include the costs of any dewatering or reduction of the water level of any part of the Waterway (where reasonably required) which may be effected to facilitate the carrying out of the survey and the provisions of this Part apply with all necessary modifications to any such dewatering or reduction in the water level as though the same were specified works.

(4) One electronic copy and one hard copy of the survey must be provided to CRT at no cost to CRT.

Undertaking of works

7.—(1) The undertaker must give to the engineer 14 days' notice of its intention to commence the construction of any specified works or protective works (or such notice as may be reasonably practicable in the case of repair carried out in an emergency), so that, where appropriate, CRT may publish notices bringing the undertaking of those works to the attention of users of the Waterway.

(2) All specified works, and all protective works, when commenced, must be constructed—

- (a) with all reasonable dispatch (having regard to the timetable for construction of the authorised development approved under Requirement 3) in accordance with the plans approved or deemed to have been approved or settled under paragraph 4;

- (b) in accordance with the code of practice and under the supervision (where appropriate), and to the reasonable satisfaction, of the engineer;
- (c) in such manner as to cause as little damage or disturbance as is possible to CRT's Property; and
- (d) so far as is reasonably practicable, so as not to interfere with the safe use of the Waterway.

(3) If any damage to CRT's Property is caused by the carrying out of, or in consequence of the construction of, any specified works, the undertaker must make good such damage and must pay to CRT all reasonable and proper expenses that CRT actually incurs by reason of such damage, interference or obstruction.

(4) 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 CRT or its servants, contractors or agents or any liability on CRT 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.

(5) 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.

(6) CRT must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by CRT 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

Effect of specified works

8. If at any time during the construction of, or after the completion of, any specified works, CRT gives notice to the undertaker informing it that the state of maintenance of those specified works appears to be such as adversely affects the operation of the Waterway, or otherwise adversely affects CRT's Property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put such specified works in such state of maintenance as will no longer have such adverse effect.

Repayment of CRT's fees etc.

9. The undertaker must repay to CRT in accordance with the code of practice all fees, costs, charges and expenses reasonably and properly incurred by CRT for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works or any protective works.

Agreements

10.—(1) The undertaker and CRT may enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any of CRT's 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 of CRT's Property; and
- (c) rights and obligations (whether or not statutory) of CRT relating to any of CRT's Property or any lands, works or other property referred to in this paragraph.

Arbitration

11. Any difference or dispute arising between CRT and the undertaker under this Part must, unless otherwise agreed in writing between the CRT and the undertaker, be referred to and settled by arbitration under article 34 (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 must 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 must, unless otherwise agreed in writing between the Agency and the undertaker, be referred to and settled by arbitration under article 34 (arbitration).

PART 5

Protection of National Grid as Electricity and Gas Undertaker

Application

1. For the protection of the statutory undertaker referred to in this Part the following provisions, unless otherwise agreed in writing between the undertaker and the statutory undertaker, have effect.

Interpretation

2. In this Part—

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

“apparatus” means—

- (a) in the case of National Grid Electricity Transmission Plc, electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by the statutory undertaker for the purposes of electricity supply, transmission or distribution and any of its subsidiaries;
- (b) in the case of National Grid Gas Distribution Limited, any mains, pipes or other apparatus belonging to or maintained by the statutory undertaker for the purposes of gas supply and any of its subsidiaries;

together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of the statutory undertaker or any of its subsidiaries for the purposes of transmission, distribution and supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

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

“functions” includes powers and duties;

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

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

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

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

“maintain” and “maintenance” include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of the statutory undertaker: construct, use, repair, alter, inspect, renew or remove the apparatus;

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

“statutory undertaker” means, as appropriate—

- (a) National Grid Electricity Transmission Plc being a licence holder within the meaning of Part 1 of the Electricity Act 1989; and
- (b) National Grid Gas Distribution Limited as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

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

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus, the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise; and
- (c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22;

3. Except for paragraphs 4 (apparatus of statutory undertakers), 9 (retained apparatus: protection gas undertakers), 10 (retained apparatus: protection: electricity undertakers), 11 (expenses) and 12 (indemnity) of this Part which apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of the statutory undertaker, the other provisions of this Part do 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.

Apparatus of Statutory Undertakers

4.—(1) Subject to sub-paragraph 4(2), if as a consequence of the exercise of the powers of this Order access to the apparatus is to be materially obstructed, the undertaker must first give the

statutory undertaker 14 days written notice of its intention, and 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.

(2) In the event of an emergency, the undertaker is at liberty to access and execute and do all such works and things in, upon or under the Order land if it reasonably considers that immediate measures must be taken. In such circumstances, the undertaker must notify the statutory undertaker as soon as reasonably practicable of such emergency measures and must provide details of the emergency measures and any alternative means of access to the relevant part of the Order land so far as is reasonably safe and practicable.

Protective works to Buildings

5.—(1) In relation to plot 4 referred to in the land plans the undertaker, in exercising the powers conferred by article 17 (protective work to buildings), must exercise those powers so as not to materially obstruct the access to any apparatus without the written consent of the statutory undertaker and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of the statutory undertaker or any interruption in the supply of electricity and gas, as the case may be, by the statutory undertaker is caused, the undertaker must bear and pay on demand the cost reasonably incurred by the statutory undertaker in making good such damage or restoring the supply; and, subject to sub-paragraph 5(2), must—

- (a) pay compensation to the statutory undertaker for any loss sustained by it; and
- (b) indemnify the statutory undertaker against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by that statutory undertaker, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of a statutory undertaker or its contractors or workers; and the statutory undertaker must give to the undertaker reasonable notice of any claim or demand as aforesaid, and no settlement or compromise is to be made by the statutory undertaker, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

Acquisition of land

6.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker may not exercise any power to acquire any land interest or apparatus or override any easement or other interest of the statutory undertaker otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) As a condition of agreement between the parties referred to in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between the statutory undertaker and the undertaker) that are subject to the requirements of this Part that will cause any conflict with or breach the terms of any easement or other land interest of the statutory undertaker relating to the Order land or affects the provisions of any enactment or agreement regulating the relations between the statutory undertaker and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker within the Order land, the undertaker must as the statutory undertaker reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between the statutory undertaker and the undertaker acting reasonably and which must be no less favourable on the whole to the statutory undertaker unless otherwise agreed by the statutory undertaker.

(3) The undertaker and the statutory undertaker agree that where there is any inconsistency or duplication between the provisions set out in this Part relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by the statutory undertaker and/or

other enactments relied upon by the statutory undertaker as of right or other use in relation to the apparatus, then the provisions of this Part prevail.

(4) Any agreement or consent granted by the statutory undertaker under any other paragraph of this Part must not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

7.—(1) If 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 alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the statutory undertaker or the statutory undertaker has confirmed that no alternative apparatus is required.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the statutory undertaker at least 56 days' advance written notice of that requirement, together with a plan of the work proposed.

Facilities and rights for alternative apparatus

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

(2) If the facilities and rights to be afforded by the undertaker and agreed with the statutory undertaker under sub-paragraph 8(1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the matter must be referred to arbitration in accordance with paragraph 16 (arbitration) and, the arbitrator is to make such provision for the payment of compensation by the undertaker to the statutory undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection Gas Undertakers

9.—(1) Not less than 56 days before the commencement of any specified works, the undertaker must submit to National Grid Gas Distribution Limited (the "statutory undertaker") a plan of the works to be carried out and, if reasonably required by the statutory undertaker, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to the statutory undertaker under sub-paragraph 9(1) must include a method statement and describe—

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

(3) The undertaker must not commence any specified works until the statutory undertaker has given written approval of the plan so submitted.

- (4) Any approval of the statutory undertaker required under sub-paragraph 9(2)—
- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs 9(5) or 9(7); and,
 - (b) must not be unreasonably withheld or delayed.
- (5) In relation to any work to which sub-paragraph applies, the statutory undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and necessary means of access to any apparatus.
- (6) Works approved under this paragraph applies must be executed only in accordance with the plan, submitted under sub-paragraph, as approved or as amended from time to time by agreement between the undertaker and the statutory undertaker and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs 9(5) or 9(7) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to watch and inspect the execution of those works.
- (7) Where the statutory undertaker requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature), such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the statutory undertaker's satisfaction (the statutory undertaker's confirmation of whether it is satisfied or not is not to be unreasonably withheld or delayed) prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required, and the statutory undertaker must give at least 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).
- (8) If the statutory undertaker in accordance with sub-paragraphs 9(5) or 9(7) 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 7 and 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).
- (9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.
- (10) The undertaker is not be required to comply with sub-paragraph 9(1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to the statutory undertaker notice as soon as is reasonably practicable and a plan of those works and must—
- (a) comply with sub-paragraphs 9(5), 9(6) and 9(7) insofar as is reasonably practicable in the circumstances; and
 - (b) comply with sub-paragraph 9(11) at all times.
- (11) At all times when carrying out any works authorised under the Order, the undertaker must comply with the statutory undertaker's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and the Health and Safety Executive's "HS(~G)47 Avoiding Danger from underground services".
- (12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development, the undertaker must implement an appropriate ground mitigation scheme, provided that the statutory undertaker retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and may recover any such costs in accordance with paragraph 12 (indemnity).

Retained apparatus: Protection: Electricity Undertakers

10.—(1) Not less than 56 days before the commencement of any specified works, the undertaker must submit to National Grid Electricity Transmission Plc (the "statutory undertaker") a plan of the works to be carried out and seek from the statutory undertaker details

of the underground extent of its electricity tower foundations. The statutory undertaker must not unreasonably withhold or delay its provision of those details.

(2) The plan to be submitted to the statutory undertaker under sub-paragraph 10(1) must include a method statement and describe—

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

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

- (a) details of any cable trench design including route, dimensions and clearance to pylon foundations;
- (b) how pylon foundations will not be affected prior to, during and post-construction;
- (c) details of load-bearing capacities of trenches;
- (d) details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
- (f) written details of the operations and maintenance regime for the cable, including frequency and method of access;
- (g) an assessment of earth rise potential if reasonably required by the statutory undertaker's engineers; and
- (h) evidence that trench-bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic.

(4) The undertaker must not commence any works to which sub-paragraphs 10(2) or 10(3) applies until the statutory undertaker has given written approval of the plan so submitted.

(5) Any approval of the statutory undertaker required under sub-paragraphs 10(2) or 10(3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs 10(6) or 10(8); and,
- (b) must not be unreasonably withheld or delayed.

(6) In relation to any work to which sub-paragraphs 10(2) or 10(3) applies, the statutory undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and necessary means of access to any apparatus.

(7) Works to which this paragraph applies must be carried out only in accordance with the plan, submitted under sub-paragraph 10(1), as approved or as amended from time to time by agreement between the undertaker and the statutory undertaker and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs 10(6) or 10(8) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to watch and inspect the execution of those works.

(8) Where the statutory undertaker requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature), such protective works, inclusive of

any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the statutory undertaker's satisfaction (the statutory undertaker's confirmation of whether it is satisfied or not is not to be unreasonably withheld or delayed) prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required, and the statutory undertaker must give at least 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If the statutory undertaker in accordance with sub-paragraphs 10(6) or 10(8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 7 and 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

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

(11) The undertaker is not required to comply with sub-paragraph 10(1) where it needs to carry out emergency works as defined in the 1991 Act, but in that case it must give to the statutory undertaker notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs 10(6), 10(7) and 10(8) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph 10(12) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with the statutory undertaker's policies for development near overhead lines EN43-8 and the Health and Safety Executive's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

11.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to the statutory undertaker on demand all charges, costs and expenses reasonably anticipated or reasonably and properly incurred by the statutory undertaker in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the carrying out of any authorised works including without limitation—

- (a) the cost of the carrying out of any diversion work;
- (b) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (c) the carrying out of protective works;
- (d) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any authorised works; and
- (e) the approval of plans.

(2) There must be deducted from any sum payable under sub-paragraph 11(1) the value of any apparatus removed under the provisions of this Part, 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 situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 34 (arbitration) to be

necessary, then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory undertaker by virtue of sub-paragraph (1) must be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs must be borne by the undertaker.

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

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

(5) An amount which apart from this sub-paragraph would be payable to a statutory undertaker in respect of works by virtue of sub-paragraph (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.

Indemnity

12.—(1) Subject to sub-paragraphs 12(2) and 12(3), if by reason or in consequence of the construction of any such works authorised by this Part or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part or any subsidence resulting from any of these works, 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 the statutory undertaker, or there is any interruption in any service provided, or in the supply of any goods, by the statutory undertaker, or the statutory undertaker becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay on demand the cost reasonably and properly incurred by the statutory undertaker in making good such damage or restoring the supply; and
- (b) indemnify the statutory undertaker for any other proper and reasonable expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the statutory undertaker, by reason or in consequence of any such damage or interruption or the statutory undertaker becoming liable to any third party as aforesaid other than arising from any default of the statutory undertaker.

(2) The fact that any act or thing may have been done by the statutory undertaker with the agreement of and on behalf of the undertaker or in accordance with a plan submitted by the undertaker and approved by the statutory undertaker or in accordance with any requirement of the statutory undertaker or under its supervision does not (unless sub-paragraph 12(3) applies), excuse the undertaker from liability under the provisions of sub-paragraph 12(1) unless the statutory undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph 12(1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of the statutory undertaker, its officers, servants, contractors or agents; and
- (b) any authorised works or any other works authorised by this Part carried out by the statutory undertaker as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 8 (consent to transfer benefit of Order) subject to the proviso that once such works become apparatus,

any authorised works yet to be executed and not falling within this paragraph 12(3)(b) are subject to the full terms of this Part including this paragraph 12.

(4) The statutory undertaker must give the undertaker reasonable written notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and taking into account undertaker's representations.

Enactments and agreements

13. Save to the extent provided for to the contrary elsewhere in this Part or by agreement in writing between the statutory undertaker and the undertaker, nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and the statutory undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

14.—(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or the statutory undertaker requires the removal of apparatus under paragraph 7(2) or the statutory undertaker makes requirements for the protection or alteration of apparatus under paragraphs 9 or 10, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of the statutory undertaker's undertaking, and the statutory undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

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

Access

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

Arbitration

16. Any difference or dispute arising between the undertaker and the statutory undertaker under this Part must, unless otherwise agreed in writing between the undertaker and the statutory undertaker, be determined by arbitration in accordance with article 34 (arbitration).

Approval Process

17. When submitting the plans to the statutory undertaker for approval under paragraph 8 or paragraph 9 the undertaker must send the plans to the statutory undertaker in hard copy by recorded post and by email to such address as the statutory undertaker may notify the undertaker in writing from time to time and clearly bearing the name of the project and contact details for responses, unless otherwise agreed with statutory undertaker.

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 with a gross generating capacity of up to 70 megawatts of electricity fuelled by waste-derived fuels, together with associated development, in Edmonton, North London. The Order also permits 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 and of the plans and the book of reference mentioned in this Order and certified in accordance with article 33 of the 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 and at the offices of Enfield Borough Council, Civic Centre, Silver Street, Enfield EN1 3XA.