



# Little Crow

*Solar Park*

*Little Crow Solar Park, Scunthorpe*

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## APPLICANT'S RESPONSES TO THE EXAMINING AUTHORITY'S WRITTEN QUESTIONS (EXQ2)

### DEADLINE 4

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**APPLICANT'S RESPONSE TO THE EXAMINING AUTHORITY'S WRITTEN  
QUESTIONS AND REQUESTS FOR INFORMATION (EXQ2)**

**ON BEHALF OF INRG SOLAR (LITTLE CROW) LTD**

**DEADLINE 4**

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## **1. APPLICANT'S RESPONSE TO EXAMINING AUTHORITY'S QUESTIONS (ExQ2)**

### **Purpose of this Document**

- 1.1 This document is submitted by INRG Solar (Little Crow) Ltd ("the Applicant") and contains the Applicant's response to the second round of Examining Authority's written questions and requests for information (ExQ2) issued on Friday 11 June 2021.
- 1.2 The Applicant's response is presented in a tabulated format.

## APPLICANT'S RESPONSE

ExQ2	Question to:	Question:	Applicant response
<b>1. General and Cross-topic Questions, including general matters relating to the Environmental Statement</b>			
2.1.1	The Applicant	<p>At Deadlines 2 and 3 the Applicant submitted the following revised documents as revisionsto the originally submitted application documents:</p> <ul style="list-style-type: none"> <li>• REP3-007 – Outline Construction Environmental Management Plan (original versionAPP-077)</li> <li>• REP3-009 – Outline Decommissioning Strategy (original version APP-078)</li> <li>• REP3-011 – Outline Landscape and Ecological Management Plan (original versionAPP-097)</li> <li>• REP2-012 – Air Quality and Carbon Assessment (original version APP-081)</li> <li>• REP2-014 – Noise Impact Assessment (original version APP-085)</li> </ul> <p>The Deadline 2 Application Index [REP3-002] records that the above listed documents have replaced their originally submitted versions. The front/cover pages for the originally submitted versions of these documents explicitly refer to them being Environmental Statement (ES) Technical Appendices and thus forming part of the ES. For the avoidanceof doubt, most particularly in relation to the discharge of the Requirements in any made DCO, should the above listed revised documents include an explicit reference to them forming part of the ES, as had previously been the case?</p>	<p>The Applicant confirmed at Issue Specific Hearing 2 (ISH2) that each of these updated documents form part of the Environmental Statement (ES) and supersede their respective original versions within the ES.</p> <p>Article 14(1)(b) of the dDCO (Document 3.1D LC DCO), which lists the documents to be certified following the making of the Order, sets out the updated versions and dates of these documents so it is clear that these updated versions are those which are secured under the DCO and to which the Requirements relate. This will be updated to reflect the final submitted versions of these documents in due course.</p> <p>Notwithstanding the above, it was agreed at ISH2 that, for clarity, final versions of the updated documents would be submitted before the close of the Examination (Deadline 7) with cover sheets containing an explicit reference.</p>
2.1.2	The Applicant	<p>With respect to provisions of s115 of the PA2008 and the guidance on associated development, most particularly paragraph 5(iii) of the 'Guidance on associated development applications for major infrastructure projects' (Department for Communitiesand Local Government April 2013) (the Guidance), please clarify whether the availability of the proposed battery electricity storage system would serve to '...cross-subsidise the cost of the principal development'? In this regard the ExA notes that the Explanatory Memorandum (the EM) [REP3-004], most particularly at paragraph 4.16, in referring to the associated development that it is intended would form part of the Proposed Development draws attention to the first (direct relationship), second (being subordinate) and fourth (proportionate in nature) of the 'Associated development principles' listed in paragraph 5 of the Guidance, while making no reference to the third of the principles (source of additional revenue).</p>	<p>The Applicant considers that the battery energy storage system ("BESS") accords with all of the Associated Development Principles outlined in paragraph 5 of the Guidance, as explained below. The principles from the Guidance are set out for ease of reference followed by the Applicant's justification.</p> <p>(i) <i>The definition of associated development, as set out in paragraph 3 above, requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts.</i></p> <p>As set out in paragraph 4.15 of the Explanatory Memorandum (Document Reference 3.2C LC DCO, PINS Reference REP3-004), the BESS has a <u>direct relationship</u> with the principal development (i.e. the solar array) as its primary purpose is store the electricity produced by the solar panels and release it to the grid at a later time.</p> <p>The Solar PV element of the Proposed Development will generate electricity throughout the year</p>

			<p>and the primary purpose of the BESS is to facilitate the efficient commercial operation of that element in the following ways:</p> <ol style="list-style-type: none"> <li>1. When the electricity generation exceeds the grid export capacity, the excess electricity will be used to charge the BESS and the BESS will be discharged later in the day when the electricity generation from the PV element has reduced below the grid export capacity.</li> <li>2. When the electricity generation is below the grid export capacity, it provides the operator of the solar park with the option of exporting directly to the grid as the electricity is produced and/or charging the BESS and discharging the electricity stored in the BESS to the grid at a later time.</li> </ol> <p>The decision on when and how to charge the BESS, export to the grid or run both operations concurrently will be made by the operator of the solar park and they form part of the overall commercial operations of the solar park.</p> <p>As noted in paragraph 8.7 of the Technical Guide (PINS Reference REP1-011) if the BESS was not part of the project then the installed capacity of the PV element would be limited to c130MWp to ensure that it never exceeded the grid export capacity. In the Applicant's view this would not maximise the renewable energy generation potential of the site in response to Government policy and therefore not represent the most efficient and effective use of the site.</p> <p>The Applicant outlined in paragraph 8 of the Technical Guide submitted at Deadline 1 (Document Reference 9.20 LC OTH, PINS Reference REP1-011) how a BESS works and the potential options available to the operator for its use as part of solar development. An updated version of the Technical Guide is submitted at Deadline 4 (Document Reference 9.20A LC OTH).</p> <p><i>(ii) Associated development should not be an aim in itself but should be subordinate to the principal development.</i></p> <p>The BESS would not be needed without the solar park. As outlined above, its principal purpose is to store electricity produced by the solar pv element of the Proposed Development and it is therefore <u>clearly subordinate</u> to the NSIP, and not an aim in itself.</p> <p><i>(iii) Development should not be treated as associated development if it is only necessary as a source of additional revenue for the applicant, in order to cross-subsidise the cost of the principal development. This does not mean that the applicant cannot cross-subsidise, but if part of a proposal is only necessary as a means of cross-subsidising the principal development then that part should not be treated as associated development.</i></p> <p>As explained above, the principal purpose of the BESS is to store electricity generated by the solar pv element of the Proposed Development so that it can be exported to the grid at a later time.</p> <p>Dependent upon how the operator uses the battery, the BESS could also offer a source of additional revenue but for the purposes of this element of the Guidance it is clear that its <u>sole</u> purpose is not to cross-subsidise the solar pv element of the scheme. It is included within the authorised development as associated development because it provides the ability to maximise the electricity generating capacity of the site for solar development and to provide the operator with commercial flexibility on how to supply that electricity to the grid.</p> <p>The ways in which the operator might operate the BESS to provide a source of additional revenue</p>
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			<p>are:</p> <ul style="list-style-type: none"> <li>• storing the energy for export at a time which is commercially advantageous; or</li> <li>• in response to one or more of the options outlined in paragraph 8.4 of the Technical Guide (Document Reference 9.20 LC OTH, PINS Reference REP1-011)– Capacity Market, Maintaining System Frequency and/or Balancing Mechanism.</li> </ul> <p>The inclusion of the BESS is therefore <u>not needed only as a means of cross-subsidising the principal development</u>, it is needed to support the NSIP and ensure the most efficient use of the solar development.</p> <p>(iv) <i>Associated development should be proportionate to the nature and scale of the principal development. However, this core principle should not be read as excluding associated infrastructure development (such as a network connection) that is on a larger scale than is necessary to serve the principal development if that associated infrastructure provides capacity that is likely to be required for another proposed major infrastructure project<sup>1</sup>. When deciding whether it is appropriate for infrastructure which is on a larger scale than is necessary to serve a project to be treated as associated development, each application will have to be assessed on its own merits. For example, the Secretary of State will have regard to all relevant matters including whether a future application is proposed to be made by the same or related developer as the current application, the degree of physical proximity of the proposed application to the current application, and the time period in which a future application is proposed to be submitted.</i></p> <p>The nature of the NSIP is the generation of electricity, and the BESS will enable the storage of that electricity for export to the grid as needed.</p> <p>The Applicant has secured a grid connection for the solar pv element and the BESS element at export capacity of 99.9MW. The BESS will enable the storage of the energy generated by the NSIP as outlined above, thereby maximising the efficiency of the NSIP.</p> <p>Its inclusion in the dDCO as associated development is therefore proportionate to the nature of the principal development.</p>
2.1.3	The Applicant	With respect to the area of the Order Limits that would be occupied by solar arrays under the candidate design for the Proposed Development, in response to ISH1 agenda question 3a) the coverage is expected to be around 924,346 square metres (sqm) [page 3 of REP1-008]. The ExA notes that in Appendix 2 of REP1-011 (Technical Guide) the generating simulation for the candidate 420 watt peak (Wp) modules (panels) utilise a 'Module area' of '793,584 m <sup>2</sup> '.	

<sup>1</sup> For example, in the case of an application for an offshore generating station, the Secretary of State may consider it appropriate for a degree of overcapacity to be provided in respect of the associated transmission infrastructure, so that the impacts of one or more other planned future projects which could make use of that infrastructure would be reduced by taking advantage of it. Applications that include elements designed for the basis of overcapacity would be expected to demonstrate the need for the overcapacity as well as fully assessing the environmental effects.

		<p>a) Is the Module area relied upon for the simulation of the 420 Wp candidate panels and reported in REP1-011 correct? If the incorrect Module area has been used, then please submit a corrected version of Appendix 2 in REP1-011.</p> <p>b) For the purposes of Appendices 2 and 3 of REP1-011 please clarify whether the references to 'm<sup>2</sup>' are to square metre or metre squared, given that other application and Examination documents refer to square metres(s) (sqm).</p>	<p>a) The Applicant confirms that the Module area used for the simulation of the 420 Wp candidate panels in Appendix 2 of the Technical Guide submitted at Deadline 1 (Document Reference 9.20 LC OTH, PINS Reference REP1-011) is correct based on the module type chosen in that PV Syst report. The module area relies upon the physical dimensions of a particular module and therefore the exact coverage of the site will depend on the module used. The area referenced in the Applicant's Post Hearing Submissions (ISH1) in respect of Agenda item 3a) is based on the module used in Works Details Plan – Whole Site Plan (Document Reference 2.10 LC DRW, PINS Reference APP-015) which has assumed physical dimensions of what would be a reasonable module size.</p> <p>b) The references to m<sup>2</sup> in Appendices 2 and 3 of REP1-011 is a reference to square metre. The Applicant notes the ExA's request for consistency with regard to these references and will ensure that all future documentation refers to square metres (sqm).</p>
2.1.4	The Applicant	<p>Please provide non-technical explanations/definitions for the following terms/abbreviations used in Appendices 2 and 3 of the Technical Guide [REP1-011]:</p> <p>a) Shed  b) 'Ground cov. Ratio'  c) 'Pnom ratio'  d) Performance ratio  e) 'GlobHor'/Horizontal global irradiation  f) 'DiffHor'/Horizontal diffuse irradiation  g) 'T_Amb'  h) 'GlobInc'/Global incident in coll. Plane  i) 'GlobEff'/Effective Global, corr. For IAM shading</p>	<p>The Applicant has taken the opportunity to include these and other explanations and definitions within the updated version of the Technical Guide which is submitted at Deadline 4 (Document Reference 9.20A LC OTH). They are contained within the Glossary at Appendix 6 of the guide, and the particular terms in ExQ2.1.4 are also set out below for ease of reference.</p> <p>a) Shed: arrays of solar panels.  b) Ground cov. Ratio, Ground Coverage Ratio: ratio of the module area to the overall area of the array – Collector Width/Sheds Spacing.  c) Pnom ratio: the ratio of Nominal Power of the solar farm to the active power (AC) of the grid or inverters.  d) Performance Ratio: a dimensionless quantity that gives an indication of the quality of the solar farm.  e) Glob Hor/Horizontal Global Irradiance: the amount of solar irradiance reaching a horizontal surface.  f) Diff Hor/Horizontal Diffuse Irradiation: the amount of scattered irradiance (did not arrive on a direct path from the sun) reaching a horizontal surface.  g) T_Amb is the ambient air temperature.  h) Glob Inc/Global Incidence: the total solar irradiance reaching the tilted surface (module area).  i) Glob Eff/Effective Global Incidence: the effective total solar irradiation reaching the titled surface (module area) after optical losses (shadings, IAM (Incidence Angle Modifier, soiling losses)).</p>
2.1.5	The Applicant	<p>For the Work Numbers shown on the submitted Works Plan [APP-013] please provide the following information:</p> <p>a) The gross land area that each of the Work Numbers would occupy within the Order Limits in square metres and hectares;</p>	<p>a) The Applicant confirmed at ISH2 that it would provide individual plans at Deadline 4 showing the gross land area for each of the proposed works and this is presented as Document Reference 2.44 LC DRW – Work Area Plans. The area of each Work Number is set out in the table below along with the percentage of the Order Limits in response to b). Plans have been provided showing Works Numbers 1, 2A, 2B and 3 for each scenario, since the areas of Works Numbers 1 and 3 will change, depending upon which of Works Number 2A or 2B is delivered. The table below also identifies the differences in those areas and the relevant percentage of the Order Limits.</p>



b) The percentage of the Order Limits that Work Numbers 1 to 7 inclusive would each occupy;

c) The worked calculations for the responses to parts a) and b) of this question; and

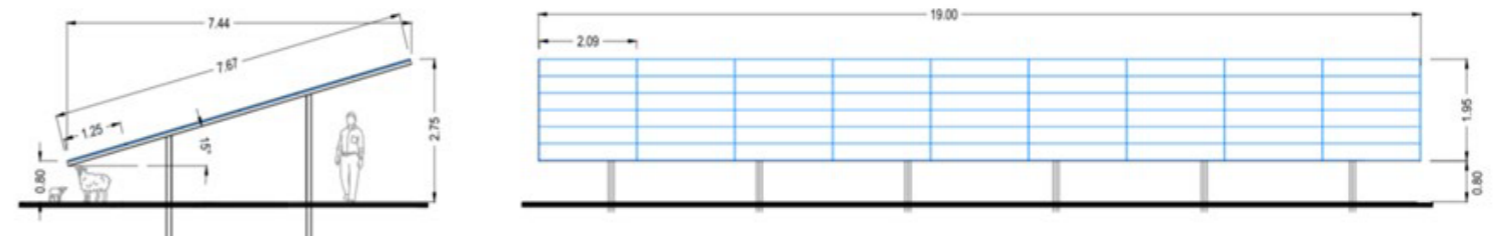
d) For the parts of the Proposed Development notated as 'PV Module Table' and shown on drawing 'Works Details - Whole Site Plan' [APP-015] please confirm the land area, in square metres and hectares, that has been shown on this drawing as being occupied by PV module tables. In responding to this part of this question a worked calculation should be provided.

b) The percentage of the Order Limits for each Work Number is set out below, together with the area of each Work Number.

	OPTION 1 – BATTERY ENERGY STORAGE SYSTEM ON WORK NO 2A		OPTION 2 – BATTERY ENERGY STORAGE SYSTEM ON WORK NO 2B	
	Ha	%	Ha	%
<b>work 1</b>	153.42	68.10	152.28	67.59
<b>work 2a</b>	0.53	0.23		
<b>work 2b</b>			1.14	0.51
<b>work 3</b>	59.83	26.56	60.35	26.79
<b>work 4</b>	0.64	0.28	0.64	0.28
<b>work 5</b>	0.78	0.35	0.78	0.35
<b>work 6</b>	7.66	3.40	7.66	3.40
<b>work 7</b>	2.43	1.08	2.43	1.08
<b>Total</b>	<b>225.29</b>	<b>100 %</b>	<b>225.29</b>	<b>100 %</b>

c) The relevant gross land area has been calculated using CAD as demonstrated by the Applicant at ISH2. The CAD software automatically calculates the area of any polygon shape within it and the figures provided in the table presented at b) above reflect the each of the areas shown on the Work Area Plans (Document Reference 2.44 LC DRW).

d)



The 'Works Details - Whole Site Plan' assumes, as per the drawing above, 6 panels in landscape with each panel being 2.09m in length. The 6 panels in landscape based on the section detail above produce a ground coverage length of 7.44m so 1 panel would produce a ground coverage of 7.44m divided by 6 which equals 1.24m. There are 356,670 panels in total on drawing Works Details - Whole Site Plan therefore the land area occupied by PV module tables is:

$$356,670 \times 2.09\text{m} \times 1.24\text{m} = 924,346\text{sqm}$$

$$924,346\text{sqm} = 92.4 \text{ hectares}$$

			For the avoidance of doubt the area occupied by PV module tables/area of land within Work No 1 has no correlation with the Ground Coverage Ratio as explained in Appendix 4 of the updated Technical Guide (Document Reference 9.20A LC OTH), since the latter is purely a calculation of the ratio between the ground covered by the panel area and the ground covered by the panels plus the spacing between each row of panels. Other land areas falling within Work No 1, most notably the land at the end of each row of panels, and land used for internal access tracks are excluded from the GCR calculation.
2.1.6	The Applicant	<p>Following on from the predicted hourly and monthly power generating outputs shown in Figures 6 and 7 in section 6 of the Technical Guide [REP1-011], for the Proposed Development please provide hourly and monthly predictions in an appropriate generating unit for electricity for:</p> <p>a) The generation of electricity by the proposed solar array; and</p> <p>b) The export of electricity to the grid from the Proposed Development, ie directly from the solar array or via the solar array in combination with the battery storage system or the battery storage system alone.</p>	<p>a) Please see the following supporting documents provided at Deadline 4:</p> <p>(i) Document Reference 9.34 LC OTH – Potential Projected Hourly Output for 420Wp with Grid Export Limited to 99MW</p> <p>(ii) Document Reference 9.35 LC OTH – Potential Projected Hourly Output for 420Wp with Grid Export Unlimited</p> <p>(iii) Document Reference 9.36 LC OTH – Potential Projected Hourly Output for 535Wp with Grid Export Limited to 99MW</p> <p>(iv) Document Reference 9.37 LC OTH – Potential Projected Hourly Output for 535Wp with Grid Export Unlimited</p> <p>b) As outlined in the Applicant’s response to ExQ2.1.2, the timing of the export to electricity to the grid will depend on how the operator uses the battery storage system.</p>
2.1.7	The Applicant	Please provide in graphic form the predicted instances in a calendar year when the Proposed Development would be expected to be exporting electricity to grid at the export limit level of 99.9 MW.	The Applicant has provided predictions of the generation of electricity (see ExQ2.1.6 above), however, the export will depend on how the operator chooses to export the electricity. The Applicant expects that the grid connection export capacity will be utilised every day.
2.1.8	The Applicant	Having regard to what is stated in section 8 of the Technical Guide [REP1-011] could there be instances when the generating capacity was exceeding the grid export limit of 99.9 MW and the battery storage system was fully charged? If so, please provide a prediction for the frequency of such events occurring, supported by worked calculations.	The Applicant does not expect any instances to arise where the generating capacity will exceed the grid export limit and the battery storage system will be fully charged.
2.1.9	The Applicant	The ExA is mindful of the Applicant’s reply to first written question 1.1.5 (availability of a connection to the electrical grid) [REP2-022]. However, if a connection to the electrical grid was not so readily available as part of the Proposed Development and a linear cable connection would be required, as part of the Applicant’s site selection process would the Order Limits have	As set out in the Applicant’s response to ExQ1.1.5 (Document Reference 9.24 LC OTH, PINS Reference REP2-022) the UK Solar PV Strategy Part 1: Roadmap to a Brighter Future (UK Solar PV Roadmap) provides four guiding principles that form the basis of the Government’s strategy for solar PV. Principle III states “Support for solar PV should ensure proposals are appropriately sited, give proper weight to environmental considerations such as landscape and visual impact, heritage

		emerged as a potential location for the Proposed Development, given that at paragraph 4.23.2 of Chapter 4 of the ES [APP-061] it is stated ' <i>One of the biggest constraints which has to be considered when developing renewable led energy scheme is securing a viable point of connection to the electricity network</i> '.	and local amenity, and provide opportunities for local communities to influence decisions that affect them". With or without a grid connection, the Applicant strongly believes that the site would be appropriate for ground mounted solar and battery energy storage system when having regard to environmental considerations located within and surrounding the Order Limits. Notwithstanding the environmental suitability of the site, and this would apply to any renewable scheme at any site, the project would only come forward if it was financially viable. It is for the Applicant to ensure that there will be the necessary infrastructure and capacity within a transmission network to accommodate the electricity generated. Grid connection is an important factor in energy generation project timescales and costs and the availability of viable grid connections allows projects to come forward.
2.1.10	The Applicant	Please comment on what, if any, relationship the Applicant has with INRG Solar (Conesby) Limited, the applicant for the proposed Conesby solar farm/park [REP1-014]. Does the Applicant know whether there is an intention to implement the Conesby planning permission?	INRG Solar (Conesby) Limited was previously owned by INRG Solar Limited who is the owner of INRG Solar (Little Crow) Limited. The Conesby Solar Farm was subsequently sold to a third party.  It is the Applicant's understanding that construction works at Conesby Solar Farm will be commencing in the coming months.
2.1.11	Northern Powergrid Limited	Please advise whether grid connections have been sought and/or agreed for the operation of the following proposed solar farms: a) Sweeting Thorns, Holme, Scunthorpe, subject to North Lincolnshire Council planning application reference PA/2015/0114 and granted planning permission on appeal on 5 December 2016 [REP1-021].  b) 40 Megawatts at Conesby House Farm, Normandy Road, Scunthorpe DN15 8QZ, subject to North Lincolnshire Council planning application reference PA/2018/2140 and granted planning permission on 22 February 2019 [REP1-014].	
<b>2 Agriculture and Soils</b>			
2.2.1	North Lincolnshire Council	The Council in paragraph 6.5 of its Local Impact Report (LIR) [REP2-026] has referred to grazing not taking place at operational local solar farms. Please:  a) advise how many operational solar farms are being referred to in paragraph 6.5 of the LIR;  b) comment on why grazing is understood not to be taking place at the operational solar farms referred to in paragraph 6.5 of the LIR; and  c) comment on whether the Council considers sufficient grass could be grown under the proposed solar arrays to enable sheep to be grazed either on a commercial or non-commercial basis.	

2.2.2	The Applicant	<p>Please provide examples of operational solar parks/farms in the United Kingdom where sheep are being grazed. In responding to this question for each solar park/farm example please give details of the: location; land area; generating capacity; and size of the grazingsheep flock.</p>	<p>The Applicant has attached at Appendix 1 a list of operational solar farms of which it is aware are being grazed by sheep.</p> <p>The Agricultural Good Practice Guidance for Solar Farms. BRE (2014) (attached at Appendix 2 also contains at section 4 some case studies including solar farms which are grazed by sheep.</p>
2.2.3	The Applicant	<p>Please clarify when the grass seeding for the parts of the Order Limits intended to be occupied by the proposed solar arrays would be undertaken, given:</p> <ul style="list-style-type: none"> <li>• paragraph 2.1.3 of the outline Landscape and Ecological Environment Management Plan (LEMP) [REP3-011] states that <i>'Following installation of the solar array, the grassland within and beneath the array will be seeded'</i>;</li> <li>• in the LEMP's first management prescription it is stated <i>'On the completion of construction, a grassland seed mix will be sown ... In areas where a machine is unable to access, such as far underneath panels ...'</i>; and</li> <li>• the Applicant's answer to the ExA's first written question (FWQ) 1.2.1 [REP2-022] states <i>'A permanent green cover, established prior to construction, will continue to grow ...'</i>.</li> </ul>	<p>The grassland for the parts of the Order limits to be occupied by the solar arrays will be seeded after installation of the arrays as per the Outlined LEMP. The Applicant's response to ExQ1.2.1 (Document Reference 9.24 LC OTH, PINS Reference REP2-022) should have stated that the green cover would be established <i>post</i> construction.</p>
2.2.4	The Applicant	<p>With respect to the grazing of the land beneath the proposed solar arrays, paragraph 4.5.2 of the ES [APP-061] states the <i>'Land between and beneath the arrays will be used for biodiversity enhancements and seasonal sheep grazing'</i>, while the sixth management prescription (management of grassland beneath solar panels) in the LEMP [REP3-011] states <i>'The proposed solar PV development has been divided into fields targeted for conservation grazing, and those which may be grazed for agricultural grazing ...'</i>. At paragraph 6.5 of the Applicant's comments on the LIR [REP3-014] it is stated <i>'The Applicant would repeat those reassurances contained within the ES Chapter and confirms that grazing is anticipated to be the key habitat management tool for the scheme'</i>.</p> <p>Please advise:</p> <p>a) Whether the land beneath below the proposed solar arrays would or would not be grazed by sheep;</p>	<p>a) As explained at ISH2, the Applicant has a reasonable expectation that the site will be grazed by sheep. The primary purpose of grazing is to maintain the grass in and around the solar pv arrays, as set out in the Outline Landscape and Ecological Management Plan (Outline LEMP) (Document Reference 7.8C LC TA4.1). However, the grazing of sheep will be dependent upon a number of factors which, at this stage, are not within the Applicant's control and therefore a firm commitment</p>

		<p>b) Who would be grazing any sheep within the Order Limits, given the Applicant's comment <i>'The Applicant understands that the Estate currently undertakes grazing across circa 800ha, utilising 1000-2000 sheep typically for grazing off winter grass and cover crops on arable land, prior to spring cropping. Grazing the land using sheep would therefore not be a new activity to the estate'</i> [paragraph 6.5 of REP3-014], while at paragraph 7.10.6 of the ES [APP-064] it is stated <i>'It is therefore the intention of the landowner to manage all habitat within the site using the sheep specifically acquired for the array. An appropriately experienced stockperson will be appointed to manage the flock and ensure that grazing adheres to the approach detailed within the LEMP'</i>. Please explain what constitutes the 'estate' and whether that is one and the same as the landowner and what the relationship with the Applicant/Undertaker would be, given the EM [REP3-004] explains at paragraph 4.7 that the Applicant has an 'option' over the land comprising the Order Limits.</p> <p>c) How sheep grazing would be secured through any made DCO. In this regard while Requirement 10(2)(c) of the dDCO [REP3-003] states that the required Landscape and Ecological Management Plan (LEMP) must include 'details of ongoing management include seasonal grazing regime ...' the wording of the dDCO would not compel there to be the grazing of sheep in association with the operation of the Proposed Development.</p> <p>d) Please identify any impediments that there might be to the grazing of sheep in association with the operation of the Proposed Development.</p>	<p>for sheep grazing cannot be secured.</p> <p>The Applicant confirmed at ISH2 that if the site cannot be grazed by sheep for any particular reason, the measures required by the Outline LEMP can and will be carried out by other active management/maintenance. The Applicant advised it would review and update the Outline LEMP to ensure this alternative mechanism is clear and the updated version is submitted at Deadline 4 (Document Reference 7.8C LC TA4.1)</p> <p>b) The 'Estate' refers to Brocklesby Estate who are the landowners of part of the site. The Applicant has secured options to lease the land within the Order limits from the two landowners (i) The Brocklesby Estate and (ii) William Robert Strawson.</p> <p>As outlined above and discussed in ISH2, the Applicant cannot confirm the position for sheep grazing at this stage, however the maintenance regime is set out in the Outline LEMP and secured by Requirement 10 of the dDCO.</p> <p>c) Please see response to a) above.</p> <p>d) There will not be any impediment to the grazing of sheep and the Applicant refers to the examples of solar park developments which have sheep grazing as set out in the Applicant's response to ExQ2.2.2 above.</p>
<p><b>3</b></p>		<p><b>AIR QUALITY</b></p>	

2.3.1	The Applicant	Further to the Applicant's response to the ExA's FWQ 1.3.2 [REP2-022], in terms of the use of the main access for the Proposed Development please comment on what level of vehicular generation you consider would be required to cause any adverse air quality effect for the owners and occupiers of Heron Lodge/Fennswood?	<p>The Applicant is not able to provide an answer to this question in the terms posed because the level of vehicle generation is so low that further assessment against Environmental Protection UK/ Institute of Air Quality Management best practice planning guidance is not required and has therefore not been undertaken. Without such an assessment the Applicant cannot provide an indication of the level of traffic required to cause an adverse air quality effect for the owners and occupiers of Heron's Lodge/Fennswood.</p> <p>The threshold for further assessment in the above guidance is obviously set at a suitably precautionary level to ensure that there is no possibility of significant adverse effect arising.</p> <p>In addition, the Applicant has incorporated mitigation measures within the Outline CEMP (paragraphs 6.12 and 6.13 Document Reference 7.8B LC TA 4.1, PINS Reference REP3-007 – an updated version of the Outline CEMP is submitted at Deadline 4, Document Reference 7.8C LC TA 4.1) to address the concerns of the owner and occupiers of Heron's Lodge/Fennswood related to the vehicular traffic predicted to use the access track.</p>
2.3.2	North Lincolnshire Council	The Applicant's Air Quality and Carbon Assessment [REP2-012] refers to the Order Limits being in an Air Quality Management Area (AQMA) that has been declared by the Council because of exceedances of the air quality objective for PM10. Please provide a copy of the AQMA, including a map showing its extent, and any annual monitoring results for the AQMA since its declaration that are in the public domain.	
<b>4 Amenity and recreation</b>			
The ExA has no questions relating to this issue at this time			
<b>5 Biodiversity, Ecology and the Natural Environment</b>			
2.5.1	The Applicant	Please provide a copy of 'Document Ref. 2.42 LC DRW for locations' referred to in the 'Habitats Regulations Statement No Significant Effects Report' [PDA-015], also listed in the Deadline 3 version of the application Index [REP3-002]. That document appearing not to have been submitted by the Applicant as either part of the originally submitted application or as a Procedural Deadline A submission.	The Applicant apologises; there is an error in the referencing – the correct reference is Document Ref 2.41 LC DRW.
2.5.2	Natural England	The Applicant in its response to ExA's first written question 1.5.9 [page 17 in REP2-022] has submitted that the site for the Proposed Development '... is highly unlikely to represent important functionally-linked land ...' for the Humber Estuary Special Protection Area (SPA), including effects for Lapwing which are identified in the citation for the SPA as being an 'Assemblage qualification' species. With Lapwing having been found by the Applicant to be present within the Order Limits, please:	<p>The Applicant confirmed at ISH2 that it would provide a note to the ExA on the Applicant's view as to how the species identified as being subject to an assemblage qualification for the SPA should be considered for the purposes of undertaking a Habitat Regulations Assessment under the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended). This note is attached at Appendix 1 of the Applicant's Post Hearing Submissions (ISH2) (Document Reference 9.32 LC OTH).</p> <p>The Applicant also encloses at Appendix 3 a letter from Natural England dated 14<sup>th</sup> September</p>

		<p>a) Advise whether Natural England agrees or disagrees with the Applicant's view that the Proposed Development would be unlikely to have a significant effect on the interest features of the SPA either alone or in-combination with other plans and/or projects?</p> <p>Advise on how species identified as being subject to an assemblage qualification for the SPA should be considered for the purposes of undertaking a Habitat Regulations Assessment under the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended).</p>	<p>2018 which states:</p> <p><i>'Natural England is satisfied that, on the basis of the information provided, it can be excluded that the proposed plan or project will have a significant effect on the Humber Estuary SAC/ SPA/ Ramsar, either individually or in combination with other plans or projects.'</i></p> <p>This is also summarised in Table 7.1 of the Ecology and Nature Conservation Chapter of the ES (Document Reference 6.7 LC ES Ch 7, PINS Reference APP-064) and in the draft Statement of Common Ground with Natural England which is submitted at Deadline 4 (Document Reference 9.10A LC OTH).</p>
<b>6. Draft Development Consent Order (DCO)</b>			
2.6.1	The Applicant	<p>With respect to the interpretation for 'commence/commencement /commenced' and 'sitepreparation works' included in Article 2 of the dDCO [REP3-003], please explain what diversion and laying of services are expected to be required as part of the Proposed Development.</p>	<p>The Applicant currently anticipates that services will need to be installed for welfare facilities in the compound area.</p> <p>The Applicant does not currently anticipate the need for any diversion of services as part of the Proposed Development. This wording is included to retain flexibility to allow for any unforeseen necessity to divert services (for example if currently unknown services are discovered), and therefore any diversion needed in site preparation is likely to be extremely minor.</p>
2.6.2	The Applicant	<p>With respect to Article 12 (removal of human remains) of the dDCO [REP3-003], is it necessary to introduce the phrase 'the specified land' and then define it as the Order limits in subparagraph 1, given that any made DCO would only authorise the implementation of the Proposed Development within the extent of the Order Limits?</p>	<p>The Applicant has reviewed article 12 and is content to remove subparagraph (1) and amend the references to "specified land" to "Order limits" throughout the remainder of the Article. These changes have been made in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO).</p>
2.6.3	The Applicant	<p>Article 17 and Schedule 5 of the dDCO [REP3-003] relate to the availability of an arbitration mechanism within any made Order. The ExA observes that the dDCO appears only to refer to arbitration within the context of the protective provisions for electricity, gas, water and sewerage undertakers contained in Schedule 6 of the dDCO. Please:</p> <p>a) Advise whether there are any matters other than the statutory undertakers' protective provisions that would come within the scope of the proposed arbitration mechanism.</p>	<p>Article 17 and Schedule 5 apply to any provision of the dDCO unless otherwise specified and not only to the protective provisions in Schedule 6. The Applicant is aware that some protective provisions in other DCO apply alternative dispute provisions such as expert determination and not arbitration, however that is not the case in the dDCO, where the provisions of article 17 are specifically applied.</p> <p>a) Article 17 is deliberately drafted so as to ensure it applies to any provision of the dDCO, unless otherwise specified, and not only to the protective provisions in Schedule 6. Whilst potential for dispute can be expressly envisaged in respect of the protective provisions, this does not mean that dispute or differences may not arise in relation to other matters under the Order. The article provides for a holistic dispute resolution mechanism for any potential issue arising under the DCO and its aim is to provide a mechanism for dealing with any such issues without the need to resort to enforcement provisions pursuant to section 161 of the Planning Act 2008 in the first instance.</p>

		<p>b) In the event it is envisaged that the arbitration mechanism would only concern the protective provisions concerning statutory undertakers' apparatus and equipment etc, should Schedules 5 and 6 be amalgamated and become a two part Schedule, with the arbitration rules being contained in what would be the second part of any such amalgamated schedule?</p> <p>c) Comment on whether or not Article 17 should expressly refer to the Articles and/or Schedules within any made Order to which the proposed arbitration mechanism would relate.</p>	<p>There could be potential for dispute arising under several provisions of the dDCO, for example, any of the below (this list is not exhaustive):</p> <ul style="list-style-type: none"> <li>• differences relating to the temporary closure and diversion of the public footpath pursuant to article 8 – for example, as to whether it is done to the extent authorised/in accordance with the powers of the temporary diversion;</li> <li>• whether or not the discharge of water is carried out in accordance with any consent given in article 9(3), or whether it is carried out in line with the plans approved pursuant to article 9(4);</li> <li>• matters relating to the entry and undertaking of surveys or investigations on land under article 10 (whilst disputes on compensatory matters are covered by article 10(5), dispute in respect of other matters is not covered);</li> <li>• disputes or differences pursuant to the removal of human remains under article 12, be it relating to the procedure, method, extent of “reasonable” expenses or other issue;</li> <li>• matters concerning whether a particular notice had been appropriately served;</li> <li>• an issue regarding the felling/lopping of a particular tree or removal of a hedgerow and e.g. whether its removal satisfied article 16(1)(a) or (b); and</li> <li>• disagreement as to whether or not a particular matter has been carried out in accordance with a requirement which has been discharged, in line with the approval of that requirement.</li> </ul> <p>b) The arbitration provisions in article 17 and Schedule 5 apply to the whole dDCO and the Arbitration Rules contained in Schedules 5 are a standalone procedure. The Applicant therefore considers that it would not be appropriate to amalgamate Schedules 5 and 6 and these should remain as drafted.</p> <p>c) The Applicant does not consider that article 17 should expressly refer to any articles and/or Schedules within the Order. The purpose of the Article is to provide a dispute resolution mechanism for of any issues that might arise under the Order which might not be and cannot, at this stage, be foreseen and therefore it applies to all provisions. Restricting the article would, the Applicant considers, create uncertainty should a dispute arise which related to a provision which wasn't specifically mentioned; it is clearer for the article to relate to the Order as a whole.</p> <p>Article 17 follows Article 42 of The Infrastructure Planning (Model Provisions)(England and Wales) Order 2009 (“the Model Provisions”) which, though no longer in force, is still considered to provide useful guidance for DCO drafting. This model provision also begins “Any difference under any provision of this order, unless otherwise provided for...”</p> <p>The Applicant notes that similar drafting has been applied in other made DCO such as The Hornsea Two Offshore Wind Order 2016 (S.I. 2016 No. 844) (see Appendix 4) provides at article 41 an example of a similar provision which applies to any difference and all parties under the Order. A similar approach was applied in article 38 of The Norfolk Vanguard Offshore Wind Farm Order 2020 (S.I. 2020 No. 706) (see Appendix 5), article 35 of The Cleve Hill Solar Park Order 2020 (S.I. 2020 No. 547) and most recently in article 17 of The Wheelabrator Kemsley K3 Generating Station Order 2021 (S.I. 2021 No. 173) (see Appendix 6).</p>
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2.6.4	The Applicant	Should the references to gross electrical output in Part 1 of Schedule 1 (Authorised Development) of the dDCO [REP3-003] be ' <i>... 50 megawatts peak ...</i> ' or 50 megawatts? In this regard the ExA notes that in Part 1 of Schedule 1 of the Cleve Hill Solar Park Order 2020 [Appended to REP1-008] the reference is to megawatts rather than megawatts peak. In this regard the ExA observes from the explanation of megawatts peak provided during Issue Specific Hearing 1 and in REP1-011 that references to peak relate to the installed panels performance relative to standard test conditions and that the generating station capacity threshold referred to in s15(2)(c) PA2008 is stated simply as ' <i>... more than 50 megawatts</i> '.	<p>The references to gross electrical output in Part 1 of Schedule 1 (Authorised Development) of the dDCO should be '<i>... 50 megawatts</i>'.</p> <p>The Applicant has updated the dDCO to remove 'peak' (Document Reference 3.1D LC DCO).</p>
2.6.5	The Applicant	With respect to the generating capacity for the Proposed Development, the ExA is mindful of the Applicant's preference for this to be stated as over 50 megawatts in Schedule 1 of any made DCO, as opposed to a maximum capacity greater than 50 megawatts, as expressed by the Applicant in writing in AS-004 and during ISH1 [REP1-008]. In this regard the ExA is mindful of how the Secretary of State (SoS) has approached this matter in the made DCOs for the Cleve Hill solar park and the Hornsea Three offshore wind farm [appended to REP1-008]. Notwithstanding the foregoing should the ExA be minded to recommend to the SoS that any made Order should state a maximum generating capacity, what would be an appropriate maximum generating capacity for the ExA to recommend to the SoS?	<p>The ExA is aware of the Applicant's position in respect of how the maximum capacity is referred to in the DCO, as outlined in the Applicant's Response to the s51 Advice, (Document Reference 9.14 LC OTH, PINS Reference AS-004), at ISH1 and in the Applicant's Post Hearing Submissions (Document Reference 9.17 LC OTH, PINS Reference REP1-008), as noted by the ExA in this ExQ2.6.5.</p> <p>The Applicant considers that it is not possible to specify a maximum capacity and indeed imposing any maximum capacity would be an arbitrary limit which would not be related in any way to the environmental impacts which have all been assessed based on physical parameters only, and not on a generating capacity.</p> <p>The imposition of a maximum capacity would limit the generation of renewable energy at a time when there is a significant Government policy imperative to increase renewable energy.</p> <p>Notwithstanding the Applicant's strongly held view, if the ExA were minded to recommend the imposition of a maximum capacity, it should, in the Applicant's view relate to the combined capacity of both the solar and the battery and the Applicant would suggest a combined capacity of 500MW as this would allow some flexibility for reasonably foreseeable technological advances. However, if the ExA were to make such a recommendation, the Applicant would request that it is phrased as a Requirement in the following terms "the combined capacity of the solar PV and battery storage shall not exceed 500MW without the approval of the Secretary of State."</p>
2.6.6	The Applicant and North Lincolnshire Council	<p>With respect to Requirement 4 in Part 1 of Schedule 2 of the dDCO [REP3-003]:</p> <p>a) In subparagraph (1) is there a need to refer to the potential for there to be multiple schemes, if so, should all references to scheme in this subparagraph appear as 'scheme(s)'?</p> <p>b) In subparagraph (2)(a) do either 'landowner' and/or 'substation operator' need to be defined and be included in the interpretation within either Article 2 or Requirement 1?;</p>	<p>a) The Applicant cannot be certain at this stage whether the decommissioning process can or will be covered by one single scheme or whether multiple schemes might be needed and therefore it is considered prudent to retain drafting for the possibility of multiple schemes. The Requirement has been amended to preserve that ability in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO).</p> <p>b) The Applicant agrees that these terms should be defined and has also taken the opportunity to clarify this subparagraph and the revised wording is contained in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO).</p>

		<p>c) In subparagraph (2)(a) in the interests of clarity, should the bracketing of 'with the exception of ... by the substation operator' be deleted and replaced with a comma after 'authorised development' in the first line?</p> <p>d) In subparagraph (3) is there a need for '... and within the period set out in ...' to be included given that under subparagraph (1) there would be a requirement for the decommissioning and restoration scheme to accord with the outline decommissioning strategy, which in its Deadline 3 version [REP3-009] refers to an anticipated period of 11 months for those works to be completed? In the interests of clarity should the existing wording be substituted with 'The decommissioning of the authorised development and the restoration of the land affected by the authorised development must be undertaken in accordance with the approved decommissioning and site restoration scheme' (or schemes depending on the answer to part a) of this question?</p>	<p>c) The Applicant agrees and has deleted the brackets in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO).</p> <p>d) The wording "within the period set out in" was included to ensure that the timing for decommissioning was specifically covered by the requirement, and, given the uncertainties around decommissioning which is to take place so far in the future, it was felt that a reference to timing was prudent. The Applicant has added the word "time" to this subparagraph in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO) to add further clarity to this requirement, but considers that the wording does need to be retained, on the basis that whilst the Outline Decommissioning Strategy (Document Reference 7.9B LC TA 4.2, PINS Reference REP3-009) provides an anticipated timeframe, the definitive time period for the decommissioning will not be determined until the time of decommissioning. Since that is over 35 years from the first export of electricity, it is possible that the time period might be different to that anticipated within the Outline Decommissioning Strategy – for example, there could be certain ecological features present on the site which would require certain decommissioning activities to be undertaken at a certain period or within a certain timeframe which then might dictate the overall decommissioning time period.</p>
2.6.7	The Applicant	<p>With respect to Requirement 7 (battery safety management) [REP3-003]:</p> <p>a) In subparagraph (1), should the reference to 'Article 3(4)(a)' be to 'Article 3(4)', given there are no subparagraphs within this part of Article 3?</p> <p>b) Under subparagraph (3) what is the justification for the local planning authority needing to consult with the Health and Safety Executive and the Humberside Fire Rescue Service before determining any approval for a battery safety management plan, with the Applicant's Consultation Report [APP-050] recording that the Health and Safety Executive had no comments to make with respect to electrical safety? Have either of the Health and Safety Executive and the Humberside Fire Rescue Service been consulted in relation to the content of the draft battery safety management plan [APP-083]?</p>	<p>a) The Applicant agrees that in Article 3 subparagraph (1), there should be a reference to 'Article 3(4)' rather than to 'Article 3(4)(a)'. This amendment has been made in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO).</p> <p>b) The Health and Safety Executive and the Humberside Fire Rescue Service were consulted on the application and whilst they did not comment on the outline battery safety management plan, the Applicant anticipates that the local planning authority would not necessarily have the expertise to consider any changes to the outline battery safety management plan related to fire safety and prevention and would consult those bodies in any event. The requirement pre-empted this on the face of the Order.</p>
2.6.8	The Applicant and North Lincolnshire Council	<p>With respect to Requirement 8(2)(h) (protocol in the event of unexpected contamination)[REP3-003] should the consultation referred to include North Lincolnshire Council as well as the Environment Agency?</p>	<p>The requirement to consult with the local planning authority in respect of unexpected contamination is set out in paragraph 16.3 of the Outline Construction Environmental Management Plan (Document Reference 9.1C LC TA 4.1). Requirement 8(2)(h) therefore doesn't need to specifically include reference to the consultation with local planning authority.</p> <p>This also applies to the Environment Agency, however, the Applicant added the explicit obligation to consult the Environment Agency to requirement 8(2)(h) as requested by the Environment Agency in its Relevant Representation (PINS Reference RR-005) and agreed in the Statement of Common Ground (Document Reference 9.6A LC OTH, PINS Reference REP2-019) that there would be a clear reference on the face of the DCO to consult with them.</p>

2.6.9	The Applicant	With respect to Requirement 10(2)(d) (Landscape and Ecological Management Plan (LEMP)) of the dDCO [REP3-003], the provisions of the outline LEMP [REP3-011] and the comments made by North Lincolnshire Council at paragraph 6.7 in its LIR [REP2-026], please comment on what is meant precisely by 'long-term landscape management'.	The requirement, and the outline LEMP, secure the maintenance provisions for the life-time of the authorised development. The term "long-term landscape management" is therefore intended to cover that period. The Applicant has added the wording "during the lifetime of the scheme" to the end of requirement 10(2)(d), for clarity. This also mirrors the wording in requirement 10(2)(c).
2.6.10	The Applicant	<p>a) With respect to subparagraph 1 of Requirement 11 (construction hours) in the dDCO [REP3-003] and the response made in REP3-013 to the North Lincolnshire Council's reply [REP2-027] to the ExA's first written question 1.6.7b, please explain of why the tailpiece text would be needed given the provisions of subparagraphs 2 and 3 insofar as they relate to emergency (unforeseen) works.</p> <p>b) With respect subparagraph 1(a) of Requirement 11 and the comments made by the Council in paragraph 8.5 of its LIR [REP2-026] with respect to a starting time of 07:00 hour between Monday and Friday, please explain what works would be expected to be undertaken between 07:00 and 08:00 hours.</p>	<p>a) The tailpiece text is considered necessary by the Applicant because it allows the local planning authority to provide authorisation for any specific works that might fall outside of the allotted working hours. This does not necessarily refer to just emergency (unforeseen) works. It permits a degree of flexibility to the Applicant but only with the local planning authority's approval. For example, this provision could apply on days where continuous concrete pouring is required but cannot be completed within the specified construction hours, or the continuation of an element of construction work is necessary where to halt that activity would be a health and safety concern.</p> <p>This approach was accepted in The West Burton C (Gas Fired Generating Station) Order 2020 (requirement 20(2)(c)) (S.I. 2020 No. 1148) (see Appendix 7) and the Immingham Open Cycle Gas Turbine Order 2020 (requirement 18(3)(b)) (S.I. 2020 No. 847) (see Appendix 8) both of which disapply the restricted hours of operation where the prior approval of the local planning authority has been given, separately from any emergency situation.</p> <p>b) There are no particular planned works proposed within the period 07:00 – 08:00. Examples of the types of works which might ordinarily be carried out were discussed at ISH2 and include start-of-day operations, health and safety inductions and checking machinery.</p> <p>The Applicant refers to its previous submissions on construction hours and specifically its response to North Lincolnshire Council's Local Impact Report at paragraph 8.5 (Document Reference 9.30 LC OTH, PINS Reference REP3-014).</p>
2.6.11	The Applicant and North Lincolnshire Council	<p>In relation to Requirement 13 (archaeology) of the dDCO [REP3-003], further to the submission of the Council's LIR [REP2-026] and the Applicant's comments in response to the LIR, it appears that the Applicant is placing significant reliance upon the submission of and the subsequent approval of a 'written scheme of investigation' (WSI). For the avoidance of doubt and to ensure that the various archaeological commitments* that the Applicant has made would be included in the WSI submitted for approval, should an outline WSI be submitted as an Examination document, which could then be referred to in Requirement 13 of the dDCO, similar to the approach that would be followed for compliance with the outline CEMP and the outline LEMP referred to in Requirements 8 and 10 of the dDCO?</p> <p>(*Such as: works affecting any as yet unidentified lime kilns; works other than hedge pruning on Ermine Street; identifying the locations where archaeological investigation would be appropriate; and responding to the discovery of human remains [stated in either Chapter 8 of the ES [APP-065] or REP3-014])</p>	<p>As discussed at ISH2, the Applicant understood that the local planning authority's concerns mentioned in the LIR to require detail adding to the Outline Landscape and Environmental Management Plan and the Outline Construction Environment Management Plan and those documents were updated to satisfy those concerns and submitted at Deadline 3 (Document Reference 7.29B LC TA 7.8, PINS Reference REP3-011 and Document Reference 7.8B LC TA4.1, PINS Reference REP3-007 respectively).</p> <p>The Applicant has agreed to prepare a standalone document which includes the relevant provisions relating to archaeological matters from the Outline Landscape and Environmental Management Plan and the Outline Construction Environment Management Plan so that they are contained in one document and this will be called the Outline Archaeological Management Plan. Requirement 13 has been amended to reflect this. The Applicant is in the process of preparing and agreeing that document as part of ongoing discussions with the local planning authority in relation to the Statement of Common Ground. Once that has been agreed, the Outline Archaeological Management Plan will be submitted as an Examination document and it is anticipated further amendments to requirement 13 will be necessary, which will be made at the relevant time.</p>

2.6.12	The Applicant and North Lincolnshire Council	With respect to Requirement 14(2) (protected species) [REP3-003], is there a need for a reference to there being pre-consultation with the local planning authority about the content of the mitigation scheme, given that the local planning authority would be the determining authority for submissions made under Requirement 14 and none of the other requirements in the dDCO involving the approval of details include a pre-consultation mechanism with the local planning authority?	The Applicant has considered this Requirement and agrees that the wording is not required, and has taken the opportunity to tighten the drafting to remove wording which was perhaps unclear. The second sentence of Requirement 14(2) has therefore been removed in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO).
2.6.13	The Applicant	With respect to Requirement 15(1) (operational noise) of the dDCO [REP3-003], should 'No phase of the authorised development may commence until ...' be replaced with 'The authorised development must not be commenced until ...' to be more consistent with the wording of other requirements in the dDCO?	The Applicant requires the retention of the phasing element, but agrees with the ExA that the drafting of the requirement should be consistent with others in the dDCO. The Applicant has undertaken a comprehensive review of the requirements to ensure consistency in that drafting approach and this is reflected in the requirements in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO).
2.6.14	The Applicant	<p>With respect to Part 2 of Schedule 2 of dDCO (Procedure for the discharge of Requirements) [REP3-003], in the interests of clarity:</p> <p>a) Would it be easier if Part 2 was removed from Schedule 2 to become a schedule in its own right and potentially renamed 'Procedure for approvals, consents and appeal', with the paragraph numbering starting from 1 and cross references to other Articles and Schedules being included in any such schedule, as necessary, given that the discharge procedure would not be limited to the Requirements included in any made DCO?</p> <p>b) Or if Schedule 2 is to include two parts, should the interpretation for 'requirement' included in Article 2 be amended so as to refer to the requirements contained in Part 1 of Schedule 2?</p>	<p>a) Part 2 of Schedule 2 (the procedure for discharge of requirements) relates only to the discharge of requirements in Part 1 of Schedule 2, and not the discharge or approval of any other consent under the dDCO as previously indicated by the Applicant at ISH1. The mechanism for dealing with any disputes or differences or appeal type issues in relation to any other consent or approval required in the dDCO outside of Part 1 of Schedule 2 is the arbitration mechanism provided in article 17 and Schedule 5 (please also see the Applicant's response to ExQ2.6.3 above).</p> <p>There are two consequent amendments required to the dDCO to address the typographical errors in relation to Part 2 of Schedule 2, these are:</p> <ol style="list-style-type: none"> <li>a. Article 18(2) needs amending on the third line to refer to the requirements in Part 1 of Schedule 2 (rather than Part 2 of Schedule 2); and</li> <li>b. All references in Part 2 of Schedule 2 to "a requirement contained in Part 2 of this Schedule" should be to "a requirement contained in Part 1 of this Schedule".</li> </ol> <p>These typographical errors have been corrected in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO).</p> <p>b) This is correct and those typographical errors have been corrected in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO).</p>
2.6.15	The Applicant and North Lincolnshire Council	<p>With respect to appeals being made against notices or consents issued under sections 60 and 61 of the Control of Pollution Act 1974 (CPA1974) (paragraph 22 in Part 2 of Schedule 2 of the dDCO [REP3-003]), the ExA notes the comments made by the Applicant and North Lincolnshire Council during ISH1 and in REP2-022, REP2-027 and REP3-013.</p> <p>Please comment on the justification for any consent that might be issued pursuant to section 61 of the CPA1974 being subject</p>	The Applicant agreed in ISH2 to remove the application of matters under sections 60 and 61 of the Control of Pollution Act 1974 from the dDCO and this has been done in the dDCO submitted at Deadline 4 (Document Reference 3.1D LC DCO).

		to the appeal mechanism proposed in the dDCO, given that the procedure for issuing any section 61 consent of itself would not be governed by any of the provisions included in any made DCO and would not be comparable with the discharging of the Requirements included in Part 1 of Schedule 2 of the dDCO.																			
2.6.16	The Applicant	Further to the response given to FWQ 1.6.11 a) [REP2-022], please explain why Natural England, the Humberside Fire and Rescue Service and the Health and Safety Executive should be considered as being discharging authorities for the purposes of Part 2 of Schedule 2 of the dDCO [REP3-003], given that in the dDCO those organisations would be consultees for the purposes of the discharge of Requirements 7 (battery safety management) and 14 (protected species) and do not appear to be responsible for issuing any approvals, consents or permissions referred to in the dDCO.	The Applicant acknowledges that Natural England, Humberside Fire and Rescue Service and the Health and Safety Executive are only consultees for the requirements specified. However, whilst they are not expressly a discharging authority for the purposes of the requirement, it is possible that these bodies might need to give approvals to activities undertaken pursuant to documents submitted under the requirements. The Applicant notes that Part 2 of Schedule 2 of the dDCO expressly applies to the giving of consent, agreement or approval further to documents referred to in the requirements (such as the CEMP and LEMP, for example).																		
2.6.17	The Applicant	<p>With respect to the revisions that have been made to the Explanatory Memorandum (EM) at Deadlines 1, 2 and 3 [REP1-005, REP2-005 and REP3-004] please undertake a review for consistency as it appears that changes made to REP1-005 and intended for retention in REP2-005 were not carried forward into REP2-005, with reversion to the text contained in the originally submitted version of the EM [APP-046] reappearing. Some possible inconsistencies between REP1-005 and REP2-005 are listed below:</p> <table border="1"> <thead> <tr> <th></th> <th>D1 version of EM</th> <th>D2 version of EM</th> </tr> </thead> <tbody> <tr> <td>Glossary</td> <td>MWp</td> <td>MWP</td> </tr> <tr> <td>Glossary</td> <td>50 MWp</td> <td>50 Megawatts</td> </tr> <tr> <td>Paragraphs 2.3 and 2.10</td> <td>50MWp</td> <td>50MWP</td> </tr> <tr> <td>Paragraph 2.11(vi)</td> <td>'... gantry with voltage and current transformers, security ...'</td> <td>'... gantry, security ...'</td> </tr> <tr> <td>Paragraph 2.11(viii)</td> <td>'<b>Work No. 6</b> (a)-(i): creation of perimeter development buffer, comprising security fencing, boundary treatment, and other means of enclosure, bunds, embankments and swales, temporary diversion of public footpath during construction and decommissioning ... maintenance corridor and planting and ecological works incorporating the biodiversity objectives and</td> <td>'<b>Work No. 6</b> (a)-(i): creation of perimeter development buffer, comprising security fencing, boundary treatment, and other means of enclosure, bunds, embankments and swales, temporary diversion of public footpath, ancient woodland buffer, public footpath buffer, pond buffer, hedge buffer, swale buffer and</td> </tr> </tbody> </table>		D1 version of EM	D2 version of EM	Glossary	MWp	MWP	Glossary	50 MWp	50 Megawatts	Paragraphs 2.3 and 2.10	50MWp	50MWP	Paragraph 2.11(vi)	'... gantry with voltage and current transformers, security ...'	'... gantry, security ...'	Paragraph 2.11(viii)	' <b>Work No. 6</b> (a)-(i): creation of perimeter development buffer, comprising security fencing, boundary treatment, and other means of enclosure, bunds, embankments and swales, temporary diversion of public footpath during construction and decommissioning ... maintenance corridor and planting and ecological works incorporating the biodiversity objectives and	' <b>Work No. 6</b> (a)-(i): creation of perimeter development buffer, comprising security fencing, boundary treatment, and other means of enclosure, bunds, embankments and swales, temporary diversion of public footpath, ancient woodland buffer, public footpath buffer, pond buffer, hedge buffer, swale buffer and	The Applicant notes the inconsistencies mentioned and is undertaking a review of the Explanatory Memorandum to address these. As agreed at ISH2, a final version of the Explanatory Memorandum will be submitted at Deadline 7 with the Applicant's final dDCO.
	D1 version of EM	D2 version of EM																			
Glossary	MWp	MWP																			
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		management prescriptions set out in the LEMP.'	mitigation planting and maintenance corridor.'	
<b>7. Historic Environment</b>				
The ExA has no questions relating to this issue at this time.				
<b>8. Landscape and Visual Effects</b>				
The ExA has no questions relating to this issue at this time.				
<b>9. Noise</b>				
2.9.1	The Applicant	Please advise whether British Standard BS 4142:2014 (Methods for rating and assessing industrial and commercial sound) referred to in the Noise Impact Assessment [REP2-014] is the most up to date version of this British Standard? If BS 4142:2014 has been revised, then please explain what implications that might have for the assessment of noise that has been undertaken and submit a revised Noise Impact Assessment as necessary.		The Applicant confirms that the 2014 version of the Standard is the last time any material changes were made to the methodology, requirements and criteria. It is noted that in 2019, an amendment to the Standard was made, resulting in Standard 'BS 4142:2014+A1:2019'. This amendment largely comprised the addition of worked examples and clarification on some elements of the 2014 version. The methodology, requirements and criteria were completely unchanged and the Applicant confirms that there are no implications of the assessment undertaken.
2.9.2	The Applicant	Further to the Applicant's response to ExA's FWQ 1.9.2 [REP2-022], in terms of the use of the main access for the Proposed Development please comment on what level of vehicular generation you consider would be required to cause an adverse noise effect for the owners and occupiers of Heron Lodge/Fennswood?		<p>The Applicant has carried out some calculations, based on the stated noise levels set out in Table 6.4 and Table 7 of the Noise Impact Assessment (NIA) submitted at Deadline 2 (Document Reference 7.16A LC TA 4.9, PINS Reference REP2-014). The Applicant has divided the findings between construction and operational phases as follows:</p> <p><u>Construction Noise</u></p> <p>Based on the Guidance of BS 5228-1 and the determination of criteria shown in Sections 4.3 and 5.2 of the NIA, a significant effect is deemed to occur when a receiver noise level of 65 dB(A) is exceeded. As shown in the NIA, a reference period of 1 hour was established in order to be robust. It is anticipated that a single HGV trip along the access route would be around 30 seconds (paragraph 6.3 of the NIA).</p> <p>In order for 65 dB(A) to be exceeded during a worst case one hour period (with other construction works also occurring as shown), and therefore for there to result in an adverse effect on the owners and occupiers of Heron Lodge/Fennswood, there would need to be 32 30-second HGV trips along the access road, compared with the 8 30-second HGV trips predicted for the Proposed Development.</p> <p>The 32 trips required to cause a significant impact represents a 300% increase in traffic flows compared with the 8 predicted trips.</p> <p><u>Operational Noise</u></p> <p>Operational noise is assessed relative to the background noise level, as shown in the NIA. BS 4142</p>

			<p>determines that an adverse impact is likely to occur where the noise rating level exceeds the background noise by 5 dB, in a one hour daytime period.</p> <p>In order for this 5 dB threshold to be reached, and therefore for there to result in an adverse effect on the owners and occupiers of Heron Lodge/Fennswood, calculations have determined that, in addition to ongoing operational noise from the solar park plant, there would need to be 4. LGV trips along the access track in a one-hour period, rather than the 4. per year anticipated.</p>
<b>10 Transport and Traffic</b>			
The ExA has no questions relating to this issue at this time.			
<b>11 Water and flooding</b>			
2.11.1	The Applicant	Based on the information presented in the Flood Risk Assessment and Drainage Strategy[APP-072] it is unclear if climate change allowances have been considered in the assessment. Please explain how the Flood Risk Assessment and Drainage Strategy has considered climate change allowances?	<p>The Flood Risk Assessment and Drainage Strategy (Document Reference 7.3 LC TA 3.1, PINS Reference APP-072) ("FRA") confirms at Section 7 that the Government's Guidance on Flood Risk Assessments: Climate Change Allowance, July 2020 has been taken into account.</p> <p>The Guidance at Table 2, shows that increased rainfall to 2055 for Central Allowance (less vulnerable development (such as the Proposed Development)) is predicted to be 10%.</p> <p>The site is largely used for arable farming and as confirmed in the FRA at Section 1 (Bullet 3), this causes compaction, reduces absorption of rainwater and increases soil and silt run off, particularly after harvesting. Section 4 (page 11) explains that arable farming causes high levels of runoff during the autumn and winter.</p> <p>The FRA confirms at Section 1 (Bullet 8) that the proposed development will result in the elimination of compaction and allow the vegetation, which will improve the character of the soil and reduce runoff. This will therefore not only reduce the existing runoff rates, but also reduce the impact of the Climate Change Allowance.</p> <p>The Game &amp; Wildlife Conservation Trust report 'The Soil and Water Balance' describes the virtues of the no tillage approach resulting from the Proposed Development. This document is submitted at <b>Appendix 9</b>. It refers to The Soil and Water Protection (SOWAP) research project by Cranfield University, Syngenta, Freshwater Habitats Trust and RSPB (2003 – 2006) which discovered that runoff was lowered by up to 90% and sediment runoff lowered by reduced tillage and permanent soil cover with vegetation, as with the proposal.</p> <p>The 'Soil and Water Balance' report also refers to the Mitigation Options and Phosphorous and Sediment (MOPS) research project by Allerton project by ADAS, Lancaster University, HGCA and NFU (2009 – 2013) which found that runoff from tramline plots (the tractor tracks resulting from seeding, spraying, etc) was three times higher than that from plots without tramlines, and 80% of the sediment came from areas of the field with tramlines. Tramlines will be eliminated with the introduction of the Proposed Development.</p>

			The resulting reduction in runoff from continuous vegetation, elimination of tillage and tramlines from the proposed development will therefore far exceed the small increase in rainfall due to climate change, as confirmed by the results of research and the change in character of the land.
2.11.2	The Applicant	Within the Flood Risk Assessment and Drainage Strategy [APP-072] it is not clearly explained what volume of surface water run-off might arise and how the proposed swales have been designed to accommodate that run-off. Please explain how the design of proposed swales would be appropriate for the purposes of managing the surface water run-off arising from the Proposed Development?	<p>The introduction of swales in solar farms is precautionary because of the significant improvement in infiltration characteristics as explained in Section 7 of the FRA and in the response to ExQ2.11.1 above.</p> <p>The runoff will be reduced in volume, rate and frequency as revealed by the research described above.</p> <p>The volume of runoff from a field depends on a range of factors – the antecedent conditions, the rainfall intensity, duration of storm, size of catchment, infiltration rate, etc and no two storms are the same. Unlike an impermeable development, the conditions are so variable a volume cannot be calculated. However, with the permeable soil at the site, the critical time is when there is no vegetation (ie after harvesting) when the rainfall can cause erosion and silt runoff.</p> <p>The swales are therefore provided as a precautionary feature to intercept water borne silt runoff and reduce potential contamination of the receiving watercourses during the works, after which the continuous vegetation and eliminated disturbance of the soil will bring significant reduction in the runoff volume for the site.</p> <p>FRA Section 8 explains that the works will be undertaken in appropriate weather and in accordance with the CEMP.</p> <p>In summary the volume of runoff will be significantly reduced through the continued vegetation and improved soil characteristics and the consequent improved infiltration capacity.</p> <p>The Applicant notes that the solar farm approx. 250m south of the proposal is constructed on the same soil type. It is shown to have dense vegetation and the swales, which can be seen along the perimeter, are densely vegetated and show no signs of running water, stored water or directing water off-site – there is no apparent receiving watercourse for the swales.</p>





**APPENDIX 1 LIST OF OPERATIONAL GROUND MOUNTED SOLAR SITES WITH SHEEP GRAZING**

## LIST OF OPERATIONAL GROUND MOUNTED SOLAR SITES WHICH HAVE SHEEP GRAZING

Site Name	Applicant or Operator	Location	Approx. Area	Capacity
Berthlwyd	Greencoat Capital	Pontypridd, Rhondda Cynon Taff	11ha	5MW
Bryn Bachau	BNRG Renewables	Chwilog, Gwynedd	14ha	4.42MW
Creathorne	Good Energy Generation	Poundstock, Cornwall	3.14ha	1.8MW
Fiveoaks	John Laing Environmental Assets	Horsham, West Sussex	11.2ha	5MW
Rookwood	Good Energy Generation	Broad Town, Wiltshire	11.7ha	5MW
Grange Farm	Solar Power South	Newent, Gloucestershire	13.4ha	5MW
Great Hewas	Lightsource Renewable Energy	St Stephen, Cornwall	13.2ha	5.8MW
Hall	TGC Renewables	East Beckham, Norfolk	25ha	10.5MW
Hazard	TGC Renewables	Totnes, Devon	11.8ha	5.7MW
Hendre Fawr	INRG Solar	Rhigos, Rhondda Cynon Taff	25ha	11.6MW
Hoback Solar	Solarcentury	Wimpole, Cambridgeshire	32.8ha	17.5MW
Lower End Farm	Good Energy Generation	Marston, Wiltshire	10.1ha	5MW
Mount Farm	INRG (Solar Parks) 14	Wickhamford, Worcestershire	48ha	22MW
Newton Downs	Core Aries	Plymouth, Devon	12ha	5MW
Northmoor	Electro Greenpower	Whitstone, Cornwall	12ha	5MW
Penyrheollas	Pearmat Solar	Manmoel, Caerphilly	9.4ha	5MW
Milford Haven	Milford Haven Port Authority	Milford Haven, Pembrokeshire	60ha	24MW
Rymes	Solarcentury	Newent, Gloucestershire	6.5ha	6.8MW
Somerton Door	Lightsource Renewable Energy	Somerton, Somerset	21.5ha	8.7MW
Welbeck	Solarcentury	Carburton, Nottinghamshire	12.8ha	12.2MW
West Hall	INRG Solar	West Aberthaw, Vale of Glamorgan	14ha	5.6MW
West Raynham	Bluefield Solar	Fakenham, Norfolk	91ha	50MW

## SELECTION OF PHOTOGRAPH SHOWING SHEEP GRAZING

Site	Photograph
Hendre Fawr	
Grange Farm	

Lower End Farm



Northmoor Solar



Penyrheollas



**APPENDIX 2 THE AGRICULTURAL GOOD PRACTICE GUIDANCE FOR SOLAR FARMS**

# Agricultural Good Practice Guidance for Solar Farms



EUROPEAN UNION  
Investing in Your Future  
European Regional  
Development Fund 2007-2013

BRE  
NATIONAL  
SOLAR  
CENTRE

**Principal Author and Editor** Dr Jonathan Scurlock, National Farmers Union

This document should be cited as: BRE (2014) Agricultural Good Practice Guidance for Solar Farms. Ed J Scurlock

**BRE National Solar Centre would like to sincerely thank colleagues from the following organisations who have made significant contributions to the development of this guidance:**



**With thanks to:**

Marcus Dixon and Neil Macdonald of British Solar Renewables; Liza Gray of Lightsource; Julie Rankin and Amy Thorley of Lark Energy; Kate Covill of Orta Solar; Ben Cosh of TGC Renewables; Ben Thompson of Foresight Group; Simon Stonehouse of Natural England; Leonie Greene of the Solar Trade Association; and Tom Fullick, Gary Ford and Richard Wordsworth of the NFU.

**With thanks to NSC Founding Partners:**



## Context

This document describes experience and principles of good practice to date for the management of small livestock in solar farms established on agricultural land, derelict/marginal land and previously-developed land.

Proposed for publication as an appendix to existing best practice guidelines by the BRE National Solar Centre<sup>1</sup>, it should be read in conjunction with BRE (2014) Biodiversity Guidance for Solar Developments (eds. G.E. Parker and L. Greene).

The guidance presented here has been developed with, and endorsed by, a number of leading UK solar farm developers and organisations concerned with agriculture and land management.

## Introduction

Field-scale arrays of ground-mounted PV modules, or “solar farms”, are a relatively recent development, seen in Britain only since 2011, although they have been deployed in Germany and other European countries since around 2005. In accordance with the “10 Commitments” of good practice established by the Solar Trade Association<sup>2</sup>, the majority of solar farm developers actively encourage multi-purpose land use, through continued agricultural activity or agri-environmental measures that support biodiversity, yielding both economic and ecological benefits.

It is commonly proposed in planning applications for solar farms that the land between and underneath the rows of PV modules should be available for grazing of small livestock. Larger farm animals such as horses and cattle are considered unsuitable since they have the weight and strength to dislodge standard mounting systems, while pigs or goats may cause damage to cabling, but sheep and free-ranging poultry have already been successfully employed to manage grassland in solar farms while demonstrating dual-purpose land use.

Opportunities for cutting hay or silage, or strip cropping of high-value vegetables or non-food crops such as lavender, are thought to be fairly limited and would need careful layout with regard to the proposed size of machinery and its required turning space. However, other productive options such as bee-keeping have already been demonstrated. In some cases, solar farms may actually enhance the agricultural value of land, where marginal or previously-developed land (e.g. an old airfield site) has been brought back into more productive grazing management. It is desirable that the terms of a solar farm agreement should include a grazing plan that ensures the continuation of access to the land by the farmer, ideally in a form that that enables the claiming of Basic Payment Scheme agricultural support (see page 2).



<sup>1</sup> BRE (2013) Planning guidance for the development of large scale ground mounted solar PV systems. [www.bre.co.uk/nsc](http://www.bre.co.uk/nsc)

<sup>2</sup> STA “Solar Farms: 10 Commitments” <http://www.solar-trade.org.uk/solarFarms.cfm>



## Conservation grazing for biodiversity

As suggested in the Biodiversity Guidance described above, low intensity grazing can provide a cost-effective way of managing grassland in solar farms while increasing its conservation value, as long as some structural diversity is maintained. A qualified ecologist could assist with the development of a conservation grazing regime that is suited to the site's characteristics and management objectives, for incorporation into the biodiversity management plan.

Avoiding grazing in either the spring or summer will favour early or late flowering species, respectively, allowing the development of nectar and seeds while benefiting invertebrates, ground nesting birds and small mammals. Hardy livestock breeds are better suited to such autumn and winter grazing, when the forage is less nutritious and the principal aim is to prevent vegetation from overshadowing the leading (lower) edges of the PV modules (typically about 800-900mm high). Other habitat enhancements may be confined to non-grazed field margins (if provision is made for electric or temporary fencing) as well as hedgerows and selected field corners.

## Agricultural grazing for maximum production

The developer, landowner and/or agricultural tenant/licensee may choose to graze livestock at higher stocking densities throughout the year over much of the solar farm, especially where the previous land use suggested higher yields or pasture quality. Between 4 and 8 sheep/hectare may be achievable (or 2-3 sheep/ha on newly-established pasture), similar to stocking rates on conventional grassland, i.e. between about March and November in the southwest and May to October in North-East England.

The most common practice is likely to be the use of solar farms as part of a grazing plan for fattening/finishing of young hill-bred 'store' lambs for sale to market. Store lambs are those newly-weaned animals that have not yet put on enough weight for slaughter, often sold by hill farmers in the Autumn for finishing in the lowlands. Some hardier breeds of sheep may be able to produce and rear lambs successfully under the shelter of solar farms, but there is little experience of this yet. Pasture management interventions such as 'topping' (mowing) may be required occasionally or in certain areas, in order to avoid grass getting into unsuitable condition for the sheep (e.g. too long, or starting to set seed).

Smaller solar parks can provide a light/shade environment for free-ranging poultry (this is now recognised by the RSPCA Freedom Foods certification scheme) – experience to date suggests there is little risk of roosting birds fouling the modules. Broiler (meat) chickens, laying hens and geese will all keep the grass down, and flocks may need to be rotated to allow recovery of vegetation. Stocking density of up to 2000 birds per hectare is allowed, so a 5 megawatt solar farm on 12 hectares would provide ranging for 24,000 birds.

## Solar farm design and layout

In most solar farms, the PV modules are mounted on metal frames anchored by driven or screw piles, causing minimal ground disturbance and occupying less than 1% of the land area. The rest of the infrastructure typically disturbs less than 5% of the ground, and some 25-40% of the ground surface is over-shaded by the modules or panel. Therefore 95% of a field utilised for solar farm development is still accessible for vegetation growth, and can support agricultural activity as well as wildlife, for a lifespan of typically 25 years.

As described above, the layout of rows of modules and the width of field margins should anticipate future maintenance costs, taking into account the size, reach and turning circle of machinery and equipment that might be used for 'topping' (mowing), collecting forage grass, spot-weeding (e.g. of 'injurious' weeds like ragwort and dock) and re-seeding. Again, in anticipation of reverting the field to its original use after 25 years, many agri-environmental measures may be better located around field margins and/or where specifically recommended by local ecologists. All European farmers are obliged to maintain land in "good agricultural and environmental condition" under the Common Agricultural Policy rules of 'cross compliance', so it is important to demonstrate sound stewardship of the land for the lifetime of a solar farm project, from initial design to eventual remediation.

The depth of buried cables, armouring of rising cables, and securing of loose wires on the backs of modules all need to be taken into consideration where agricultural machinery and livestock will be present. Cables need to be buried according to national regulations and local DNO requirements, deep enough to avoid the risk of being disturbed by farming practice – for example, disc harrowing and re-seeding may till the soil to a depth of typically 100-150 mm, or a maximum of 200 mm. British Standard BS 7671 ("Wiring Regulations") describes the principles of appropriate depth for buried cables, cable conduits and cable trench marking. Note also that stony land may present a risk of stone-throw where inappropriate grass management machinery is used (e.g. unguarded cylinder mowers).

## Eligibility for CAP support and greening measures

From 2015, under the Common Agricultural Policy, farmers will be applying for the new Basic Payment Scheme (BPS) of area-based farm support funding. It has been proposed that the presence of sheep grazing could be accepted as proof that the land is available for agriculture, and therefore eligible to receive BPS, but final details are still awaited from Defra at the time of writing. Farmers must have the land "at their disposal" in order to claim BPS, and solar farm agreements should be carefully drafted in order to demonstrate this (BPS cannot be claimed if the land is actually rented out). Ineligible land taken up by mountings and hard standing should be deducted from BPS claims, and in the year of construction larger areas may be temporarily ineligible if they are not available for agriculture.

Defra has not yet provided full details on BPS 'greening' measures, but some types of Ecological Focus Areas may be possibly located within solar farms, probably around the margins, including grazed buffer strips and ungrazed fallow land, both sown with wildflowers. Note that where the agreed biodiversity management plan excludes all forms of grazing, the land will become ineligible for BPS, and this may have further implications for the landowner, such as for inheritance tax.

## Long-term management, permanent grassland and SSSI designation

Since solar farms are likely to be in place typically for 25 years, the land could pass on to a succeeding generation of farmers or new owners, and the vegetation and habitat within the fenced area is expected to gradually change with time. According to Natural England, there is little additional risk that the flora and fauna would assume such quality and interest that the solar farm might be designated a SSSI (Site of Special Scientific Interest) compared with a similarly-managed open field. However, there could be a possible conflict with planning conditions to return the land to its original use at the end of the project, e.g. if this is specified as 'cropland' rather than more generically as 'for agricultural purposes'. If the pasture within a solar farm were considered to have become a permanent grassland, it may be subject to regulations requiring an Environmental Impact Assessment to restore the original land use, although restoration clauses in the original planning consent may take precedence here. It is proposed that temporary (arable) grassland should be established on the majority of the land area that lies between the rows of modules. This would be managed in 'improved' condition by periodic harrowing and re-seeding (e.g. every 5 years), typically using a combination disc harrow and seed drill.

Other measures to maintain the productivity of grassland, without the need for mechanised cultivations or total reseedling, could include: maintaining optimum soil fertility and pH to encourage productive grass species; seasonally variable stocking rates to prevent over/under-grazing with the aim of preventing grass from seeding and becoming unpalatable. Non-tillage techniques to optimise grass sward content might include the use of a sward/grass harrow and air-seeder to revive tired pastures. When applying soil conditioners (e.g. lime), fertilisers or other products, consideration should be taken to prevent damage to or soiling of the solar modules.

## Good practice in construction and neighbourliness

Consideration should also be given to best practice during construction and installation, and ensuring that the future agricultural management of the land (such as a change from arable cropping to lamb production) fits into the local rural economy. Site access should follow strictly the proposed traffic management plan, and careful attention to flood and mud management in accordance with the Flood Risk Assessment (e.g. controlling run-off by disrupting drainage along wheelings), will also ensure that the landowner remains on good terms with his/her neighbours.

Time of year should be taken into account for agricultural and biodiversity operations such as prior seeding of pasture grasses and wildflowers. Contractors should consider avoiding soil compaction and damage to land drains, e.g. by using low ground pressure tyres or tracked vehicles. Likewise, when excavating cable trenches, storing and replacing topsoil and subsoil separately and in the right order is important to avoid long-term unsightly impacts on soil and vegetation structure. Good practice at this stage will yield longer-term benefits in terms of productivity and optimal grazing conditions.

## Evidence base and suggested research needs

A number of preliminary studies on the quantity and quality of forage available in solar farms have suggested that overall production is very little different from open grassland under similar conditions. A more comprehensive and independent evidence base could be established through a programme of directed research, e.g. by consultants (such as ADAS) or interested university groups (e.g. Exeter University departments of geography and biosciences), perhaps in association with seed suppliers and other stakeholders. Productivity of grasses could be compared between partial shade beneath the solar modules and unshaded areas between the rows. Alternatively daily live weight gain could be compared between two groups of fattening lambs (both under the same husbandry regime) on similar blocks of land, with and without solar modules present.



Case Steiger Quadtrac used to deliver inverters and other heavy equipment to site under soft ground conditions (photo courtesy of British Solar Renewables)



Cable trenching, showing topsoil stripped and set to one side, with subsoil placed on the other side ready for reinstatement (photo courtesy of British Solar Renewables)

## Agricultural case studies

### Benbole Farm, Wadebridge, Cornwall

One of the first solar farms developed in Britain in 2011, this 1.74 megawatt installation on a four-hectare site is well screened by high hedges and grazed by a flock of more than 20 geese. A community scheme implemented by the solar farm developers enabled local residents to benefit from free domestic solar panels and other green energy projects.



### Eastacombe Farm, Holsworthy, Devon

This farm has been in the Petherick family for four generations, but they were struggling to survive with a small dairy herd. In 2011/12, a solar developer helped them convert eight hectares of the lower-grade part of their land into a 3.6 megawatt solar farm with sheep grazing, which has diversified the business, guaranteeing its future for the next generation of farmers.



### Higher Hill, Butleigh, Somerset

Angus Macdonald, a third-generation farmer, installed a five megawatt solar farm on his own land. Located near Glastonbury, the site has been grazed by sheep since its inception in 2011.



### Newlands Farm, Axminster, Devon

Devon sheep farmer Gilbert Churchill chose to supplement his agricultural enterprise by leasing 13 hectares of grazing land for a 4.2 megawatt solar PV development, which was completed in early 2013. According to Mr Churchill, the additional income stream is "a lifeline" that "will safeguard the farm's survival for the future".



### Trevemper Farm, Newquay, Cornwall

In 2011, the Trewithen Estate worked with a solar developer to build a 1.7 megawatt solar farm on 6 hectares of this south-facing block of land, which had good proximity to a grid connection. During the 25-year lease, the resident tenant farmer is still able to graze the land with sheep at his normal stocking density, and is also paid an annual fee to manage the pasture.



### Yeowood Solar Farm, North Somerset

Completed in 2012, this 1.3 megawatt installation on 4 hectares of land surrounds a poultry farm of 24,000 laying hens, which are free to roam the land between and underneath the rows of solar modules, as well as other fields. The Ford family, farm owners, also grow the energy crop miscanthus to heat their eco-friendly public swimming pool and office units.



### Wyld Meadow Farm, Bridport, Dorset

Farmers Clive and Jo Sage continue to graze their own-brand Poll Dorset sheep on this 4.8 megawatt solar farm, established on 11 hectares in 2012. The solar farm was designed to have very low visual impact locally, with an agreement to ensure livestock grazing throughout the project's lifetime.



### Wymeswold Solar Farm, Leicestershire

The author pictured in July 2014 at Britain's largest connected solar farm. At 33 megawatts, this development provides enough energy to power 8,500 homes. Built on a disused airfield in 2013, this extensive installation over 61 hectares (150 acres) received no objections during planning and is grazed by the landowner's sheep – just visible in the background.



**BRE National Solar Centre**

Foundation Building, Eden Project,  
Bodelva, St Blazey  
PL24 2SG

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Twitter [@natsolarcentre](https://twitter.com/natsolarcentre)

**BRE Trust**

The BRE Trust uses profits made by BRE Group to fund new research and education programmes, that will help it meet its goal of 'building a better world together'.

The BRE Trust is a registered charity in England & Wales:  
No. 1092193, and Scotland: No. SC039320.

**APPENDIX 3      NATURAL ENGLAND LETTER DATED 14 SEPTEMBER 2018**

Date: 14 September 2018  
Our ref: DAS/12986  
Your ref: N/A

38



Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

0300 060 3900

**BY EMAIL ONLY**

Dear Peter Timms

**Discretionary Advice Service (Charged Advice)**

DAS/12986

**Development proposal and location:** Little Crow Solar Array, Scunthorpe, DN15 0DE

Thank you for your consultation on the above dated 16 August 2018, which was received on the same date.

This advice is being provided as part of Natural England's Discretionary Advice Service. Clarkson and Woods on behalf of INRG Solar Ltd has asked Natural England to provide advice upon:

- Green infrastructure and/or priority habitat delivery
- The scope of the biological survey methodologies
- The scope of the ecological mitigation plan, biodiversity enhancement plan and construction management plan

This advice is provided in accordance with the Quotation and Agreement dated 29 August 2018.

The following advice is based upon the information within the documents:

1. Baseline Conditions Report: Extended Phase 1, Arable plants, great crested newts and water vole. Clarkson & Woods Ecological Consultants July 2018.
2. Interim Bat Survey Report. Clarkson & Woods Ecological Consultants August 2018.
3. Breeding Bird Surveys. Clarkson & Woods Ecological Consultants version 2 July 2018.
4. Wintering Bird Survey. Clarkson & Woods Ecological Consultants June 2018.
5. Draft Environmental Statement Chapter 7 Ecology and Nature Conservation. July 2018.

**Protected sites**

Natural England is satisfied that, on the basis of the information provided, it can be excluded that the proposed plan or project will have a significant effect on the Humber Estuary SAC/ SPA/ Ramsar, either individually or in combination with other plans or projects.

Furthermore, Natural England is satisfied that the proposed operations are not likely to damage any of the interest features of the Humber Estuary SSSI, Broughton Alder Wood SSSI or Broughton Far Wood SSSI.

Natural England is satisfied that the ecological survey methodologies and survey effort are appropriate to support the conclusions of the draft Environmental Statement. Natural England concurs with the conclusions of the draft Environmental Statement and welcomes the measures outlined to minimise the impact of the installation of the solar farm on the neighbouring woodland (to

be included in a Construction Environmental Management Plan).

### **Ancient woodland**

Natural England is satisfied that, on the basis of the information provided, that adequate measures will be put in place to protect the neighbouring ancient woodland, i.e. buffer zones and woodland planting. Therefore Natural England does not consider that the proposal will have a negative impact on the ancient woodland. Please see [link](#) to our standing advice on ancient woodland.

### **Protected species**

This proposal, as presented, has the potential to affect species protected under European or UK legislation, in particular, badger. Natural England has produced [Standing Advice](#) which is available on its website. Whilst this advice is primarily designed to assist local planning authorities better understand the information required when assessing the impact of developments upon protected species, it also contains a wealth of information to help applicants ensure that their applications comply with good practice guidelines and contribute to sustainable development. In particular I would draw your attention to the flow chart which gives guidance on the species that are likely to be present on the application site based upon readily identifiable habitat features. Please refer to this Standing Advice for further information on what information the authority may require in terms of survey and mitigation proposals.

Further information can also be obtained from [The Institute of Ecology and Environmental Management](#), [The Bat Conservation Trust](#) and [Biodiversity Planning Toolkit](#) for more guidance.

### **Biodiversity / priority habitat enhancements**

Natural England welcomes all of the proposed biodiversity enhancement measures that have been outlined in the Environmental Statement and considers that they are appropriate to the impact of the proposal. In particular, the inclusion of open grazed areas for breeding and wintering birds, increased amount of hedgerows and swale creation will maintain and potentially improve biodiversity on site. In addition, the use of acid grassland seed mixes would be further enhanced by the inclusion of floristic components to provide pollen and nectar. Furthermore, it might be worth exploring the potential to leave sandier areas to regenerate naturally as this can lead to an increase in species diversity. We also welcome the production of a Landscape and Ecological Management Plan (LEMP) as this will provide confidence that the enhancement measures outlined will continue to be managed post construction.

Natural England would like to highlight that a 3ha area of the proposal site is currently under Higher Tier Countryside Stewardship for the maintenance of target feature grassland and buffer strips. Natural England would like to explore the possibility of retaining this area of land under the current management agreement as it contains indicators of lowland acid grassland species, including broomrape, which is quite unusual in this area.



Figure 1. Location of current Higher Tier Countryside Stewardship Agreement



**Local wildlife sites**

As you are aware there are a number of local wildlife sites within the vicinity of the proposal site. Natural England does not hold locally specific information on local sites and recommends further information may be available from Greater Lincolnshire Nature Partnership or the Local Records Centre.

For clarification of any points in this letter, please contact Hannah Gooch at [Hannah.Gooch@naturalengland.org.uk](mailto:Hannah.Gooch@naturalengland.org.uk) or on 02082 258503.

This letter concludes Natural England's Advice within the Quotation and Agreement dated 29 August 2018.

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely

Hannah Gooch  
Yorkshire and Northern Lincolnshire Area Team  
Natural England

Cc [commercialservices@naturalengland.org.uk](mailto:commercialservices@naturalengland.org.uk)

## **Annex 1**

### **European Protected Species**

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's ['How to get a licence'](#) publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's [guidance](#) on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on [Natural England's website](#).

**APPENDIX 4 THE HORNSEA TWO OFFSHORE WIND FARM ORDER 2016**

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 STATUTORY INSTRUMENTS
 

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**2016 No. 844****INFRASTRUCTURE PLANNING****The Hornsea Two Offshore Wind Farm Order 2016**

*Made* - - - - *16th August 2016*

*Coming into force* - - *7th September 2016*

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An application under section 37 of the Planning Act 2008<sup>(a)</sup> (the “2008 Act”) has been made to the Secretary of State for an order granting development consent.

The application has been examined by a Panel, which has made a report to the Secretary of State under section 74(2) of the 2008 Act. After receiving the report, the Secretary of State requested further information from various persons.

The Secretary of State has considered the report and recommendation of the Panel, has taken into account the environmental information in accordance with regulation 3 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009<sup>(b)</sup> and has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

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(a) 2008 c.29. Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to, the Localism Act 2011 (c.20). Section 74(2) was amended by paragraph 29(2) of that Schedule. Section 104(2) was amended by paragraph 49 of that Schedule and section 58 of the Marine and Coastal Access Act 2009 (c.23). Section 114 was amended by paragraph 55 of Schedule 13 to the Localism Act 2011. Section 120 was amended by section 140 of, and paragraph 60 of Schedule 13 to, that Act.

(b) S.I. 2009/2263. Regulation 3 was amended by S.I. 2012/635 and 2012/787.

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

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

## PART 1

### Preliminary

#### **Citation and commencement**

- 1.**—(1) This Order may be cited as the Hornsea Two Offshore Wind Farm Order 2016.  
 (2) This Order comes into force on 7th September 2016.

#### **Interpretation**

**2.**—(1) In this Order—

“1961 Act” means the Land Compensation Act 1961(**a**);

“1965 Act” means the Compulsory Purchase Act 1965(**b**);

“1980 Act” means the Highways Act 1980(**c**);

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

“1989 Act” means the Electricity Act 1989(**e**);

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

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

“2003 Act” means the Communications Act 2003(**h**);

“2004 Act” means the Energy Act 2004(**i**);

“2008 Act” means the Planning Act 2008;

“2009 Act” means the Marine and Coastal Access Act 2009(**j**);

“ancillary works” means the ancillary works described in Part 2 of Schedule 1 (authorised project) and any other works authorised by this Order that are not development within the meaning of section 32 of the 2008 Act;

“authorised development” means the development described in Part 1 of Schedule 1 and any other development authorised by this Order that is development within the meaning of section 32 of the 2008 Act;

“authorised project” means the authorised development and the ancillary works;

“book of reference” means the document certified as the book of reference by the Secretary of State under article 40 (certification of plans, etc.);

“Breesea” means Breesea Limited(**k**) (company number 07883217);

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(a) 1961 c.33.

(b) 1965 c.56.

(c) 1980 c.66.

(d) 1981 c.66.

(e) 1989 c.29.

(f) 1990 c.8.

(g) 1991 c.22.

(h) 2003 c.21.

(i) 2004 c.20.

(j) 2009 c.23.

(k) The registered office of Breesea Limited is 5 Howick Place, London SW1P 1WG.

“commence” means commence any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised development other than operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions and remedial work in respect of any contamination or other adverse ground conditions; and “commencement” must be construed accordingly;

“compensation compound” means a construction working site forming part of the associated development and shown coloured green on the compensation compounds plan, the purpose of which is to compensate the Hornsea Project One undertaker in the event that the use by the Hornsea Project One undertaker of the Hornsea Project One construction compounds is restricted or prevented by the undertaker carrying out authorised project;

“compensation compound access” means an access forming part of the associated development and shown coloured pink on the compensation compounds plan, the purpose of which is to access a compensation compound;

“compensation compounds plan” means the plans certified as the compensation compounds plan by the Secretary of State under article 40;

“connection works” means Work Nos. 5A, 5B, 6A, 6B, 7A, 7B, 8A, 8B, 9A, 9B and 10 and any related associated development;

“deemed marine licence” means a marine licence set out in Schedule 8, 9, 10 or 11;

“EIA Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009;

“electrical circuit” means a number of electrical conductors necessary to transmit electricity between 2 points within the authorised development comprising—

- (a) in the case of HVAC transmission, 3 conductors which may be bundled as 1 cable or (onshore) take the form of 3 separate cables; and
- (b) in the case of HVDC transmission, 2 conductors which may be attached together or take the form of single cables,

and the electrical circuit may include 1 or more auxiliary cables (normally fibre-optic cables) for the purpose of control, monitoring, protection or general communications;

“electrical transmission station” means an onshore HVDC converter substation or HVAC substation required for connecting the electrical circuits to the National Grid;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 40;

“gravity base foundation” means—

- (a) a structure principally of concrete or steel (or both) that rests on the seabed due to its own weight and that of added ballast or to the weight of water above it and may include associated equipment including suction piles, J-tubes and access platforms; or
- (b) a structure principally of concrete or steel (or both) consisting of a platform supported on 2 pontoons to which the platform is connected by columns which may be connected by braces;

“highway” and “highway authority” have the same meaning as in the 1980 Act<sup>(a)</sup>;

“Hornsea Project One construction compounds” means the working sites to be used in connection with the construction of the works authorised by the Hornsea One Offshore Wind Farm Order 2014<sup>(b)</sup> and forming part of the associated development authorised by that Order;

“Hornsea Project One undertaker” means Heron Wind Limited<sup>(c)</sup> (company number 07640868) or any other person who has the benefit of the Hornsea One Offshore Wind Farm Order 2014 in respect of the works or operations authorised by that Order that are landward of MHWS;

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(a) “Highway” is defined in section 328(1). For “highway authority”, see section 1.

(b) S.I. 2014/3331, amended by S.I. 2015/1280 and 2016/471.

(c) The registered office of Heron Wind Limited is 5 Howick Place, London SW1P 1WG.



“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“in-principle monitoring plan” means the document certified as the in-principle monitoring plan by the Secretary of State under article 40;

“intra-array electrical circuits” means the electrical circuits referred to in paragraph (b) of the description of Work No. 1A and in paragraph (b) of the description of Work No. 1B;

“intertidal area” means the area between MHWS and MLWS;

“jacket foundation” means a lattice construction comprising tubular members and joints fixed to the seabed with piles (either driven/drilled piles or suction piles) which will include platforms and J-tubes and may include braced monopiles and a transition piece;

“land plans” means the plans certified as the land plans by the Secretary of State under article 40;

“LAT” means lowest astronomical tide;

“limits of deviation” means the limits of deviation for the Works shown on the works plans;

“local planning authority” means, in relation to any land or part of the authorised development, the district council or unitary authority for the area in which the land or part of the development is situated;

“main river” has the meaning given by the Water Resources Act 1991(a);

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace any of the authorised development; and any derivative of “maintain” must be construed accordingly;

“marine export cable area” means the area described as such whose co-ordinates are set out in Part 1 of Schedule 1 and listed in the offshore works plans;

“MCA” means the Maritime and Coastguard Agency;

“MHWS” (mean high water springs) means the highest level which spring tides reach on average over a period of time;

“MLWS” (mean low water springs) means the lowest level which spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation;

“mode of transmission” means whichever of the HVAC or HVDC technologies is chosen by the undertaker as the means of transmitting electricity by cable for the purposes of the authorised project;

“monopile foundation” means a foundation comprising a large diameter steel or concrete tube or pile driven vertically into the seabed, J-tubes and platforms and may include external structural devices such as bracing members or steel anchor wires and a transition piece;

“offshore accommodation platform” means a platform housing or incorporating temporary accommodation, landing ports for vessels and helicopters, standby electricity generation equipment, marking and lighting and other equipment facilities to assist in the co-ordination of marine activities related to the authorised development;

“offshore HVAC collector substation” means a structure serving as a collection point for the intra-array electrical circuits and containing equipment for the purpose of transforming the electricity generated at the wind turbine generators to a higher voltage; it may also include a helicopter platform;

“offshore HVDC converter substation” means a structure that contains equipment to convert HVAC electricity to HVDC electricity; it may also include a helicopter platform;

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(a) 1991 c.57. “Main river” is defined in section 113(1). The definition was amended by section 59(3) of the Water Act 2014 (c.21).

“offshore reactive compensation substation” means a structure housing electrical reactors for the purpose of limiting electrical losses in the course of HVAC transmission by providing reactive compensation; it may also include a helicopter platform;

“offshore works plans” means the part of the works plans described as the offshore works plans;

“onshore works plans” means the part of the works plans described as the onshore works plans;

“Optimus Wind” means Optimus Wind Limited<sup>(a)</sup> (company number 07883284);

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

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

“outline code of construction practice” means the document certified as the outline code of construction practice by the Secretary of State under article 40;

“outline ecological management plan” means the document certified as the outline ecological management plan by the Secretary of State under article 40;

“outline employment and skills plan” means the document certified as the outline employment and skills plan by the Secretary of State under article 40;

“outline landscape scheme and management plan” means the document certified as the outline landscape scheme and management plan by the Secretary of State under article 40;

“Project A works” means Work Nos. 1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A and 9A;

“Project B works” means Work Nos. 1B, 2B, 3B, 4B, 5B, 6B, 7B, 8B and 9B;

“Requirements” means a Requirement set out in Part 3 of Schedule 1; and a reference to a numbered Requirement is a reference to the Requirement set out in the paragraph of that Part with the same number;

“shared works” means Work No. 10;

“street” means a street within the meaning of section 48 of the 1991 Act<sup>(b)</sup> together with land on the verge of a street or between 2 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<sup>(c)</sup>;

“suction pile” means a large diameter steel cylinder that is fixed to the base of a foundation, partially penetrates the seabed and remains in place using its weight and hydrostatic pressure differential;

“trenchless technique” means a method of installation that allows ducts and cables to be installed under an obstruction without breaking open the ground and digging a trench (examples of such techniques include horizontal directional drilling, thrust boring, auger boring and pipe ramming);

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

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“undertaker” means, subject to article 35(8) (transfer of benefit of Order),—

- (a) for the purposes of constructing, maintaining and operating the Project A works and any associated development or ancillary works relating to those works, Optimus Wind;
- (b) for the purposes of constructing, maintaining and operating the Project B works and any associated development or ancillary works relating to those works, Breesea;

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<sup>(a)</sup> The registered office of Optimus Wind Limited is 5 Howick Place, London SW1P 1WG.

<sup>(b)</sup> Section 48 was amended by section 124(2) of the Local Transport Act 2008 (c.26).

<sup>(c)</sup> “Street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c.7).

(c) for the purposes of constructing, maintaining and operating the shared works and any associated development or ancillary works relating to those works, Optimus Wind and Breesea; and any restrictions, liabilities and obligations arising in relation to any shared works apply to the undertaker exercising the powers under this Order in relation to the shared works; and

(d) in any other case, Optimus Wind and Breesea;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water that is at the time in, on or over water;

“watercourse” includes any river, stream, ditch, drain, cut, culvert, dyke, sluice, sewer and passage through which water flows except a public sewer;

“wind farm area” means the area described as such whose co-ordinates are set out in Part 1 of Schedule 1;

“wind turbine generator” means a structure comprising any or all of a tower, rotor, blades, nacelle and ancillary electrical and other equipment or structures, which may include lighting and a helicopter platform, fixed to a foundation;

“Work” means a Work, or part of a Work, set out in Part 1 of Schedule 1; and a reference to a Work designated by a number, or a by a combination of a number and a letter (for example, “Work No. 1A”), is a reference to the Work so designated in that Part;

“works plans” means the plans certified as the works plans by the Secretary of State under article 40 comprising the offshore works plans, the intertidal works plans and the onshore works 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, except for the parameters referred to in Requirements 2 and 4 and Conditions 1 and 2 in Part 2 of each of the deemed marine licences; and distances between parts of a Work must be measured along that Work.

(4) References in this Order to points identified by letters, with or without numbers, must be construed as references to points so lettered on the works plans.

(5) In this Order—

- (a) all offshore co-ordinates are latitude and longitude degrees, minutes and seconds to 3 decimal places in WGS84 Datum; and
- (b) all onshore co-ordinates are Eastings and Northings in OSGB36 Datum, British National Grid Projection.

### **Disapplication of legislative provisions**

**3.—**(1) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project—

- (a) the Environmental Permitting (England and Wales) Regulations 2010<sup>(a)</sup>, to the extent that they require a permit for anything that would have required consent under section 109 of the Water Resources Act 1991 immediately before the repeal of that section;
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991<sup>(b)</sup> (byelaw-making powers of

<sup>(a)</sup> S.I. 2010/675. See amendments made by S.I. 2016/475.

<sup>(b)</sup> Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c.16), section 84(2) of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009, paragraph 49 of Schedule 2 to the Flood and Water Management Act 2010 (c.29) and paragraph 315 of Schedule 2 to S.I. 2013/755. Paragraph 6 was

the Appropriate Agency) that require consent or approval for the carrying out of the works;

- (c) section 23 of the Land Drainage Act 1991(a) (prohibition of obstructions, etc. in watercourses);
- (d) the provisions of any byelaws made under section 66 of the Land Drainage Act 1991 (powers to make byelaws) that require consent or approval for the carrying out of the works.

(2) The following do not apply to the authorised project—

- (a) section 25 of the River Humber Conservancy Act 1852(b) (penalties for improper deposit of hard materials in the river);
- (b) section 9(ii) of the Humber Conservancy Act 1899(c) (licences for execution of works);
- (c) section 6(2) of the Humber Conservancy Act 1905(d) (no erections in Humber below river lines or without licence above river lines).

### **Guarantees in respect of payment of compensation**

**4.—**(1) The undertaker must not begin to exercise the powers in articles 18 to 28 in relation to any land unless it has first put in place—

- (a) a guarantee in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or
- (b) an alternative form of security for that purpose,

that has been approved by the Secretary of State.

(2) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is enforceable against the guarantor or person giving the alternative form of security by any person to whom the compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(3) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 20 years after the date on which the relevant power is exercised.

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

**5.—**(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(e) (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 project and is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site), of the Control of Pollution Act 1974(f);

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amended by paragraph 26 of Schedule 15 to the Environment Act 1995 (c.25) and section 224 of, and paragraph 24 of Schedule 16 and Part 5 of Schedule 22 to, the Marine and Coastal Access Act 2009. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

- (a) 1991 c.59. Section 23 was amended by paragraph 192 of Schedule 22 to the Environment Act 1995, paragraph 32 of Schedule 2 to the Flood and Water Management Act 2010 and S.I. 2013/755. Section 66 was amended by paragraph 38 of Schedule 2 to the Flood and Water Management Act 2010 and by section 86(3) of the Water Act 2014.
- (b) 15 and 16 Vict. c. cxxx.
- (c) 62 and 63 Vict. c. cci.
- (d) 5 Edw. 7 c. clxxix.
- (e) 1990 c.43. Section 82(1) was amended by paragraph 6 of Schedule 17 to the Environment Act 1995. Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c.40) and paragraph 6 of Schedule 17 to the Environment Act 1995.
- (f) 1974 c.40. Section 61 was amended by Schedule 7 to the Building Act 1984 (c.55), paragraph 15 of Schedule 15 to the Environmental Protection Act 1990 and Schedule 24 to the Environment Act 1995.

- (b) is a consequence of the construction or maintenance of the authorised project and cannot reasonably be avoided; or
- (c) is a consequence of the use of the authorised project and cannot reasonably be avoided.

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

## PART 2

### Principal powers

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

**6.**—(1) Subject to the provisions of this Order and the Requirements, Optimus Wind is granted—

- (a) development consent for the Project A works and any associated development relating to those works; and
- (b) consent for the ancillary works relating to those works,

to be carried out within the Order limits.

(2) Subject to the provisions of this Order and the Requirements, Breesea is granted—

- (a) development consent for the Project B works and any associated development relating to those works; and
- (b) consent for the ancillary works relating to those works,

to be carried out within the Order limits.

(3) Subject to the provisions of this Order and the Requirements, Optimus Wind and Breesea are granted—

- (a) development consent for the shared works and any associated development relating to those works; and
- (b) consent for the ancillary works relating to those works,

to be carried out within the Order limits.

(4) Each Work must be constructed and maintained within the limits of deviation for that Work.

(5) In carrying out a Work, the undertaker may deviate from the situations shown on the works plans and described in Schedule 1 to the extent of the limits of deviation.

(6) The grant of development consent is subject to paragraphs 2(2) and (3) and 3(2) to (8) of Part 1 of Schedule 1.

#### **Maintenance of authorised project**

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

(2) No maintenance works, the likely effects of which on the environment must be assessed in accordance with the EIA Regulations and are not assessed in the environmental statement, may take place, unless otherwise approved by the MMO or the local planning authority.

(3) Where the MMO or local planning authority's approval is required under paragraph (2), consent may be given only where it has been demonstrated to the satisfaction of the MMO or the local planning authority that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### Operation of generating stations

**8.**—(1) Optimus Wind is authorised to operate the generating station comprised in the Project A works.

(2) Breesea is authorised to operate the generating station comprised in the Project B works.

(3) This article does not relieve Optimus Wind or Breesea of any requirement to obtain any permit or licence under any other legislation that may be required to authorise the operation of a generating station.

## PART 3

### Streets

#### Street works

**9.**—(1) The undertaker may, for the purposes of the authorised project, enter on so much of any of the streets set out in Schedule 2 (streets subject to street works) as is within the Order limits and may—

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

(2) In this article, “apparatus” has the same meaning as in Part 3 of the 1991 Act<sup>(a)</sup>.

#### Application of New Roads and Street Works Act 1991

**10.**—(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

- (a) the carrying out of works under article 9 (street works); and
- (b) the temporary stopping up, temporary alteration or temporary diversion of a street by the undertaker under article 11 (temporary stopping up of streets),

whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(2) The provisions of the 1991 Act<sup>(b)</sup> are—

- (a) subject to paragraph (3), section 54 (advance notice of certain works);
- (b) subject to paragraph (3), section 55 (notice of starting date of works);
- (c) section 57 (notice of emergency works);
- (d) section 59 (general duty of street authority to co-ordinate works);
- (e) section 60 (general duty of undertakers to co-operate);
- (f) section 68 (facilities to be afforded to street authority);
- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 76 (liability for cost of temporary traffic regulation);
- (i) section 77 (liability for cost of use of alternative route); and

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(a) “Apparatus” is defined in sections 89(3) and 105(1).

(b) Sections 54, 55, 57, 59, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c.18).

- (j) all provisions of that Act that apply for the purposes of the provisions referred to in subparagraphs (a) to (i).

(3) Sections 54 and 55 of the 1991 Act as applied by paragraph (1) have effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

### **Temporary stopping up of streets**

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

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

(2) Without limiting paragraph (1), the undertaker may use any street temporarily stopped up under the powers conferred by this article within the Order limits as a temporary working site.

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

(4) Without limiting paragraph (1), the undertaker may temporarily stop up, alter or divert the streets set out in column (2) of Schedule 3 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the works plans, in column (3) of that Schedule.

(5) The undertaker must not temporarily stop up, alter, divert or use as a temporary working site—

- (a) any street referred to in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority, which may attach reasonable conditions to the consent.

(6) 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 (determination of questions of disputed compensation).

(7) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (5)(b), the street authority is deemed to have given consent.

### **Access to works**

**12.**—(1) The undertaker may for the purposes of the authorised project—

- (a) form and lay out means of access, or improve existing means of access, in the locations set out in column (2) of Schedule 4 (access to works); and
- (b) with the approval of the local planning authority after consultation with the highway authority, form and lay out such other means of access, or improve existing means of access, at such locations within the Order limits, as the undertaker reasonably requires for the purposes of the authorised project.

(2) If the local planning authority fails to notify the undertaker of its decision within 28 days of receiving an application for approval under paragraph (1)(b), the local planning authority is deemed to have given approval.

### **Agreements with street authorities**

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

- (a) the construction of any new street authorised by this Order; or
- (b) the carrying out in the street of any of the works referred to in article 9(1) (street works).

(2) Such an agreement may, without limiting paragraph (1),—

- (a) provide for the street authority to carry out any function under this Order that 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.

### **Highway improvements**

**14.**—(1) The undertaker may carry out highway improvements to the plot marked 133 on the land plans.

(2) The highway improvements must be carried out in accordance with plans approved by the highway authority, such approval not to be unreasonably withheld.

(3) If the highway authority fails to notify the undertaker of its decision within 28 days of receiving plans for approval under paragraph (2), the highway authority is deemed to have given approval.

## **PART 4**

### **Supplemental powers**

#### **Discharge of water**

**15.**—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits and subject to receipt of consent under paragraph (3), make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) 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).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain without the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

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

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

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

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

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010.

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

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(a) 1991 c.56. Section 106 was amended by section 35(8)(a) of the Competition and Service (Utilities) Act 1992 (c.43) and sections 36(2) and 99 of the Water Act 2003 (c.37). There are other amendments to this section which are not relevant to this Order.



(9) In this article—

- (a) “public sewer or drain” means a sewer or drain that belongs to the Environment Agency, a harbour authority within the meaning of section 57 of the Harbours Act 1964<sup>(a)</sup> (interpretation), an internal drainage board, a local authority or a sewerage undertaker<sup>(b)</sup>; and
- (b) other expressions, excluding “watercourse”, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2010 have the same meaning as in those Regulations.

### **Protective work to buildings**

**16.**—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

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

(3) For the purpose of determining how the 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 that is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a 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 the 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), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 41 (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 the powers.

(8) Where—

- (a) protective works are carried out under this article to a building; and

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(a) 1964 c.40.

(b) “Sewerage undertaker” is defined in Schedule 1 to the Interpretation Act 1978 (c.30).

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

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

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

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

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

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

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

**17.—**(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits 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) No land may be entered, or equipment placed or left on or removed from the land, under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

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

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

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

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

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) If a highway authority or a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent—

- (a) in the case of a highway authority, under paragraph (4)(a); or

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<sup>(a)</sup> Section 152 was amended by S.I. 2009/1307.

(b) in the case of a street authority, under paragraph (4)(b), the authority is deemed to have given consent.

## PART 5

### Powers of acquisition, etc.

#### Compulsory acquisition of land

**18.**—(1) Optimus Wind may, with the consent of Breesea, such consent not to be unreasonably withheld, acquire compulsorily so much of the Order land as is required for the Project A works, the shared works or to facilitate, or is incidental to, the construction, operation and maintenance of those works.

(2) Breesea may, with the consent of Optimus Wind, such consent not to be unreasonably withheld, acquire compulsorily so much of the Order land as is required for the Project B works, the shared works or to facilitate, or is incidental to, the construction, operation and maintenance of those works.

(3) If the undertaker whose consent is required under paragraph (1) or (2) fails to notify the undertaker requesting consent of its decision within 28 days of receiving an application for consent, the first-mentioned undertaker is deemed to have given consent.

(4) This article is subject to—

- (a) article 19(3) (compulsory acquisition of rights); and
- (b) article 26(10) (temporary use of land for carrying out authorised project).

#### Compulsory acquisition of rights

**19.**—(1) Subject to paragraph (3), Optimus Wind may, with the consent of Breesea, such consent not to be unreasonably withheld, acquire compulsorily such rights or impose such restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land) by creating them as well as by acquiring rights already in existence.

(2) Subject to paragraph (3), Breesea may, with the consent of Optimus Wind, such consent not to be unreasonably withheld, acquire compulsorily such rights or impose such restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 18 by creating them as well as by acquiring rights already in existence.

(3) In the case of the Order land set out in column (1) of Schedule 5 (land in which new rights etc., may be acquired), the powers of compulsory acquisition conferred under paragraphs (1) and (2) and under article 18 are limited to the acquisition of such new rights or the imposition of such restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(4) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights, etc.)), where the undertaker acquires an existing right over land or imposes a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

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

(6) In any case where the acquisition of new rights or the imposition of restrictive covenants under paragraph (1) or (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(7) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (6) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(8) Any person who suffers loss as a result of the extinguishment or 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.

(9) If the undertaker whose consent is required under paragraph (1) or (2) fails to notify the undertaker requesting consent of its decision within 28 days of receiving an application for consent, the first-mentioned undertaker is deemed to have given consent.

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

**20.**—(1) After 15th August 2021—

- (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 1981 Act<sup>(a)</sup>, as applied by article 22 (application of Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 26 ceases at the end of 15th August 2021, but 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 taken, on or before that date.

### **Private rights**

**21.**—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under article 18 cease to have effect in so far as their continuance would be inconsistent with the exercise of the powers under article 18—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act<sup>(b)</sup> (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 19 cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

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(a) Section 4 is amended, from a date to be appointed, by sections 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c.22).

(b) Section 11(1) was amended by paragraph 14 of Schedule 4 to the Acquisition of Land Act 1981 and paragraph 12 of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1).

(5) This article does not apply in relation to any right to which section 138 of the 2008 Act<sup>(a)</sup> (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 28 (statutory undertakers) applies.

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

(a) any notice given by the undertaker before—

- (i) the completion of the acquisition of the land, or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
- (ii) the undertaker's appropriation of it,
- (iii) the undertaker's entry onto it, or
- (iv) the undertaker's taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; or

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

(7) If an agreement referred to in paragraph (6)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

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

(8) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

(9) Where—

(a) one undertaker exercises a power under article 18 or 19 in respect of land or rights; and

(b) the other undertaker subsequently exercises such a power in respect of the same land or rights,

any right so acquired by the undertaker referred to in sub-paragraph (a) does not cease to have effect in consequence of the exercise of the power referred to in sub-paragraph (b) unless the undertaker referred to in sub-paragraph (a) gives consent, such consent not to be unreasonably withheld.

### **Application of Compulsory Purchase (Vesting Declarations) Act 1981**

**22.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1), substitute—

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

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area where the land is situated.”.

(4) In that section, in subsection (2)—

(a) for “(1)(b)”, substitute “(1)”; and

(b) after “given”, insert “and published”.

(5) In that section, for subsections (5) and (6), substitute—

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<sup>(a)</sup> Section 138 was amended by section 23(4) of the Growth and Industry Act 2013 (c.27).

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

- (a) the person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) the person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds 1 month.”.

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

- (a) in subsection (1), after “publication”, insert “in a local newspaper circulating in the area in which the land is situated”; and
- (b) omit subsection (2).

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

(8) References to the 1965 Act in the 1981 Act must be construed as references to that Act as applied by section 125 of the 2008 Act<sup>(a)</sup> (application of compulsory acquisition provisions) to the compulsory acquisition of land under this Order.

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

**23.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of, or the airspace over, the land referred to in article 18 as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where under paragraph (1) the undertaker acquires any part of, or rights in, the subsoil of or the airspace over, land, the undertaker is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent article 24 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

### **Acquisition of part of certain properties**

**24.**—(1) This article applies instead of section 8(1) of the 1965 Act (other provisions as to divided land) (as applied by section 125 of the 2008 Act) where—

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

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

(3) If no such counter-notice is served within that period, the owner must sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner must sell only the land subject to the notice to treat must, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

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

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

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

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

the owner must sell the land subject to the notice to treat.

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

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

the notice to treat is deemed to be a notice to treat for that part.

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

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

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

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

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

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

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

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

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

**25.**—(1) The undertaker may—

- (a) enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised project; and
- (b) use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised project.

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

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

- (a) any subway or underground building; or

- (b) any cellar, vault, arch or other construction in, on or under a street that forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who—

- (a) 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
- (b) suffers loss as a result,

is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out authorised project**

**26.—**(1) Each undertaker may, from time to time, alone or in common with the other undertaker, in connection with the carrying out of the authorised project—

- (a) enter on and take temporary possession of—
  - (i) the Order land set out in column (2) of Part 1 of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised project specified in column (4) of that Schedule;
  - (ii) the Order land set out in column (2) of Part 2 of Schedule 7 for the purpose specified in relation to that land in column (3) of that Schedule;
  - (iii) any of the land referred to in article 18 and Schedule 5 in respect of which (other than in connection with the acquisition of rights only) no notice of entry has been served under section 11 of the 1965 Act and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct or carry out any works or operations specified in relation to that land in column (3) of Parts 1 and 2 of Schedule 7 or any other mitigation works or operations (including land drainage restoration works).

(2) The undertaker may for the purpose of obtaining access to construct the authorised project—

- (a) make temporary use, in common with other persons enjoying rights over that land, of access routes over the land set out in Part 3 of Schedule 7; and
- (b) carry out any necessary works to improve those access routes (and for that purpose only take temporary possession of the area in which the work is to be carried out for the duration of that work).

(3) The undertaker may for the purpose of obtaining access to the compensation compounds—

- (a) make temporary use, in common with other persons enjoying rights over that land, of access routes over the land set out in Part 4 of Schedule 7; and
- (b) carry out any necessary works to improve those access routes (and for that purpose only take temporary possession of the area in which the work is to be carried out for the duration of that work).

(4) Not less than 14 days before entering on and taking temporary possession of or using land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(5) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of 1 year beginning with—



- (a) in the case of land referred to in paragraph (1)(a)(i), the date of completion of the construction, installation or implementation of the part of the authorised project specified in relation to that land in column (4) of Part 1 of Schedule 7;
- (b) in the case of land referred to in paragraph (1)(a)(ii), the date on which the compensation compound ceases to be required;
- (c) in the case of land referred to in paragraph (1)(a)(iii), the date of completion of the construction, installation or implementation of the work for which temporary possession of this land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act.

(6) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article; or
- (b) restore land on which any works have been constructed under paragraph (1)(d).

(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 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 project, other than loss or damage for which compensation is payable under paragraph (7).

(10) The undertaker may not under this Order compulsorily acquire the land referred to in paragraphs (1)(a)(i) and (ii), (2)(a) or (3)(a); and the undertaker may not acquire rights in or impose restrictive covenants over any part of that land unless it is set out in column (1) of Schedule 5.

(11) Where the undertaker takes possession of or uses 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<sup>(a)</sup> (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.

(13) The powers in this article may be exercised by each undertaker in relation to the same land at the same time as the other undertaker or at different times, and may be exercised more than once.

### **Temporary use of land for maintaining authorised project**

**27.—**(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised project, each undertaker may, alone or in common with the other undertaker,—

- (a) enter on and take temporary possession of any land referred to in article 26(1)(a)(i) or (iii) if such possession is reasonably required for the purpose of maintaining the authorised project; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or

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<sup>(a)</sup> Section 13 was amended by section 139 of, and paragraph 28(2) of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c.15).

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

(3) Not less than 28 days before entering on and taking temporary possession of land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker 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 project for which possession of the land was taken.

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

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

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

(8) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) Section 13 of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act.

(11) In this article "maintenance period", in relation to any part of the authorised project, means—

- (a) the period of 5 years beginning with the date on which that part of the authorised project is first energised; and
- (b) any period falling between the date at which temporary possession is no longer permitted under article 26(5)(a) or (c) and the date on which that part of the authorised project is first energised.

(12) The powers in this article may be exercised by each undertaker in relation to the same land at the same time as the other undertaker or at different times, and may be exercised more than once.

### **Statutory undertakers**

**28.** Subject to Schedule 12 (protective provisions), the undertaker may—

- (a) exercise the powers conferred by articles 18 and 19 in relation to so much of any land referred to in those articles as belongs to statutory undertakers; and
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land referred to in those articles.

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

**29.—**(1) Where any apparatus of a public utility undertaker or a public communications provider is removed under article 28 (statutory undertakers), any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer, but where such a sewer is removed under article 28, any person who is—

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

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

(3) In this article—

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

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

## PART 6

### Operations

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

**30.**—(1) The undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(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 for any loss or damage arising from such activity.

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

(4) The undertaker may remove any hedgerows within the Order limits that may be required for the purposes of the carrying out of the authorised development.

(5) Regulation 6 of the Hedgerows Regulations 1997(b) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j)—

“(k) for carrying out development that has been authorised by a development consent pursuant to the Planning Act 2008.”.

(6) In this article, “hedgerow” has the same meaning as in the Hedgerows Regulations 1997.

#### **Trees subject to tree preservation orders**

**31.**—(1) The undertaker may lop any tree within or overhanging land within the Order limits that is subject to a tree preservation order made after 3rd November 2014.

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

- (a) the undertaker must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) of the 1990 Act (replacement of trees) does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

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(a) “Public utility undertaker” is defined in section 329.

(b) S.I. 1997/1160.

(4) 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.

## PART 7

### Miscellaneous and general

#### Operational land for purposes of 1990 Act

**32.** Development consent granted by this Order must 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).

#### Procedure in relation to approvals, etc. under requirements

**33.** Where an application is made to the local planning authority for any consent, agreement or approval required by a Requirement, the following provisions (so far as they relate to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission) apply in relation to the application as if the Requirement were a condition imposed on a grant of planning permission—

- (a) sections 78 and 79 of the 1990 Act<sup>(a)</sup> (right of appeal in relation to planning decisions);
- (b) any orders, rules or regulations which make provision in relation to appeals under section 78 of the 1990 Act,

insofar as those provisions are not inconsistent with the EIA Regulations and any orders, rules or regulations made under the 2008 Act.

#### Offshore works: abandonment or decay

**34.—(1)** Where the authorised development constructed seaward of MHWS or any part of it is abandoned or allowed to fall into decay, the Secretary of State may, following consultation with the undertaker, by notice in writing require the undertaker at its own expense—

- (a) to repair and restore the authorised development or any part of it;
- (b) to remove the authorised development or any part of it; and
- (c) to restore the site to a safe and appropriate condition within an area and to such an extent as may be specified in the notice.

(2) If the undertaker fails to comply in any respect with a notice served under this article within the period of 30 days beginning with the date of service of the notice—

- (a) the Secretary of State may take whatever steps the Secretary of State considers appropriate to achieve the result required by the notice;
- (b) any expenditure incurred by the Secretary of State in doing so is recoverable from the undertaker.

(3) Nothing in this article limits the Secretary of State's powers under Chapter 3 of Part 2 of the 2004 Act (decommissioning of offshore installations).

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(a) Section 78 was amended by section 43(2) of the Planning and Compulsory Purchase Act 2004 (c.5), paragraph 3(b) of Schedule 10 to the Planning Act 2008, section 123(3) of, and paragraph 11 of Schedule 12 to, the Localism Act 2011, paragraph 8 of Schedule 1 to the Growth and Infrastructure Act 2013, paragraph 12 of Schedule 4 to the Infrastructure Act 2015 and paragraph 21 of Schedule 12 to the Housing and Planning Act 2016. Section 79 was amended by section 18 of, and paragraph 19 of Schedule 7 to, the Planning and Compensation Act 1991 (c.34), paragraph 4 of Schedule 10 to the Planning Act 2008 and paragraph 23 of Schedule 12 to the Housing and Planning Act 2016.

### Transfer of benefit of Order

**35.**—(1) Except as otherwise provided in this Order, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) The undertaker may—

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

(3) The consent of the Secretary of State is required for a transfer or grant under paragraph (2), except for—

- (a) a transfer or grant of the benefit of any of the provisions (and any related statutory rights) relating to Work No. 1A or 1B from one undertaker to the other; or
- (b) a transfer or grant of any of the provisions (and any related statutory rights) relating to Work Nos. 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7A, 7B, 8A, 8B, 9A, 9B or 10 to a person who holds a licence under section 6 of the 1989 Act.

(4) Where the consent of the Secretary of State is required for a transfer or grant under paragraph (1), the Secretary of State must consult the MMO before giving consent if the proposed transfer or grant is relevant to the exercise of functions within the MMO’s jurisdiction.

(5) Where there is a transfer or grant under paragraph (2)—

- (a) the exercise by the transferee or, as the case may be, by the lessee of any benefit or right conferred by the transfer or grant (the “transferred benefit”) is subject to the same restrictions, liabilities and obligations as would apply under this Order if the benefit or right were exercised by the undertaker; and
- (b) the transferred benefit resides exclusively with the transferee or lessee, and any breach of a restriction or an obligation with respect to the transferred benefit is not be enforceable against the person making the transfer or grant, except for a breach occurring before the date of transfer.

(6) At least 5 days before a transfer or grant under paragraph (2) takes effect, the undertaker must give notice in writing—

- (a) to the Secretary of State; and
- (b) if the transfer or grant is relevant to the exercise of functions within the MMO’s or the local planning authority’s jurisdiction, to the MMO or the local planning authority (or to both).

(7) The notice must—

- (a) state—
  - (i) the name and contact details of the transferee or lessee;
  - (ii) the date on which the transfer or grant takes effect;
  - (iii) the provisions transferred or granted; and
  - (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (5)(a), apply to the transferee or lessee;
- (b) be accompanied by—
  - (i) where relevant, a plan showing the Works or areas to which the transfer or grant relates;
  - (ii) where the Secretary of State’s consent is needed for the transfer or grant, a copy of the consent; and

(iii) a copy of the document effecting the transfer or grant signed by the person making the transfer or grant and the transferee or lessee; and

(c) be signed by the person making the transfer or grant and the transferee or lessee.

(8) Where there is a transfer or grant under paragraph (2), references in this Order to the undertaker, except in paragraph (5), include references to the transferee or lessee.

### **Deemed marine licences under Marine and Coastal Access Act 2009**

**36.** The marine licences set out in Schedules 8 to 11 are deemed to have been issued under Part 4 of the 2009 Act (marine licensing) for the licensed activities set out in Part 1, and subject to the Conditions set out in Part 2, of each licence.

### **Saving for Trinity House**

**37.** Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

### **Crown rights**

**38.—**(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order compulsorily to acquire an interest in any land that is Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1)—

- (a) may be given unconditionally or subject to terms and conditions;
- (b) is deemed to have been given in writing where it is sent electronically.

### **Protective provisions**

**39.** Schedule 12 (protective provisions) has effect.

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

**40.—**(1) The undertaker must, as soon as practicable after this Order is made, submit to the Secretary of State copies of the documents listed in Schedule 13 (documents to be certified) for certification that they are true copies of the documents referred to in this Order.

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

### **Arbitration**

**41.** Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement,

to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

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

16th August 2016

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

## SCHEDULE 1 Articles 2 and 6

### Authorised project

#### PART 1

##### Authorised development

**1.** The authorised development includes—

- (a) the nationally significant infrastructure project (as defined in sections 14 and 15 of the 2008 Act) described in paragraph 2; and
- (b) the associated development (within the meaning of section 115(2) of the 2008 Act) described in paragraphs 3 and 4.

**2.—**(1) The nationally significant infrastructure project comprises up to 2 offshore wind generating stations with a combined gross electrical output capacity of up to 1,800 megawatts as follows—

*Work No. 1A* — An offshore wind generating station within the wind farm area comprising—

- (a) subject to sub-paragraph (2), up to 300 wind turbine generators fixed to the seabed;
- (b) a network of subsea intra-array electrical circuits connecting the structures comprised in *Work No. 1A*—
  - (i) with other such structures;
  - (ii) with any other structure located within the wind farm area; and
  - (iii) with the network of electrical circuits comprised in *Work Nos. 1B, 2A and 2B*;
- (c) subject to sub-paragraph (3), up to 2 offshore accommodation platforms fixed to the seabed which may be connected to one of the offshore HVAC collector substations or offshore HVDC converter substations within *Work No. 2A* by an unsupported steel bridge and up to 2 electrical circuits each connecting an accommodation platform to either an offshore HVAC collector substation or to a wind turbine generator in order to power the accommodation platform;

*Work No. 1B* — An offshore wind generating station within the wind farm area comprising—

- (a) subject to sub-paragraph (2), up to 300 wind turbine generators fixed to the seabed;
- (b) a network of subsea intra-array electrical circuits connecting the structures comprised in *Work No. 1B*—
  - (i) with other such structures;
  - (ii) with any other structure located within the wind farm area; and
  - (iii) with the network of electrical circuits comprised in *Work Nos. 1A, 2A and 2B*;
- (c) subject to sub-paragraph (3), up to 2 offshore accommodation platforms fixed to the seabed which may be connected to one of the offshore HVAC collector substations or offshore HVDC converter substations within *Work No. 2B* by an unsupported steel bridge and up to 2 electrical circuits each connecting an accommodation platform to

either an offshore HVAC collector substation or to a wind turbine generator in order to power the accommodation platform.

Co-ordinates for wind farm area (limits of deviation for Work Nos. 1A, 1B, 2A and 2B)—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 50' 7.210" N	1° 26' 59.953" E

(2) The combined total of wind turbine generators constructed within Work Nos. 1A and 1B must not exceed 300.

(3) The combined total of accommodation platforms constructed within Work Nos. 1A and 1B must not exceed 2.

**3.—**(1) The associated development includes the following Works—

*Work No. 2A* — Subject to sub-paragraph (2), up to 6 offshore HVAC collector substations and, in the event that the mode of transmission is HVDC, up to 2 offshore HVDC converter substations together with a network of electrical circuits connecting the structures within Work Nos. 2A and 2B;

*Work No. 2B* — Subject to sub-paragraph (2), up to 6 offshore HVAC collector substations and, in the event that the mode of transmission is HVDC, up to 2 offshore HVDC converter substations together with a network of electrical circuits connecting the structures within Work Nos. 2A and 2B;

*Work No. 3A* — Subject to sub-paragraph (3), in the event that the mode of transmission is HVAC, up to 2 offshore reactive compensation substations fixed to the seabed at latitude point 53° 37' 54.291" N and longitude point 0° 55' 59.731" E and at latitude point 53° 38' 9.295" N and longitude point 0° 55' 49.576" E subject to deviation within the limits of deviation for Work Nos. 3A and 3B;



*Work No. 3B* — Subject to sub-paragraph (3), in the event that the mode of transmission is HVAC, up to 2 offshore reactive compensation substations fixed to the seabed at latitude point 53° 37' 54.291" N and longitude point 0° 55' 59.731" E and at latitude point 53° 38' 9.295" N and longitude point 0° 55' 49.576" E subject to deviation within the limits of deviation for Work Nos. 3A and 3B;

Co-ordinates for limits of deviation for Work Nos. 3A and 3B—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	53° 38' 1.918" N	0° 55' 55.183" E
2	53° 38' 2.362" N	0° 55' 58.099" E
3	53° 38' 2.438" N	0° 56' 0.367" E
4	53° 38' 2.185" N	0° 56' 3.394" E
5	53° 38' 1.735" N	0° 56' 5.560" E
6	53° 38' 1.074" N	0° 56' 7.567" E
7	53° 37' 59.900" N	0° 56' 9.900" E
8	53° 37' 58.446" N	0° 56' 11.733" E
9	53° 37' 57.216" N	0° 56' 12.723" E
10	53° 37' 55.456" N	0° 56' 13.477" E
11	53° 37' 54.094" N	0° 56' 13.597" E
12	53° 37' 52.296" N	0° 56' 13.156" E
13	53° 37' 51.011" N	0° 56' 12.387" E
14	53° 37' 49.821" N	0° 56' 11.266" E
15	53° 37' 48.441" N	0° 56' 9.279" E
16	53° 37' 47.358" N	0° 56' 6.825" E
17	53° 37' 46.776" N	0° 56' 4.750" E
18	53° 37' 46.409" N	0° 56' 2.540" E
19	53° 37' 46.268" N	0° 56' 0.258" E
20	53° 37' 46.357" N	0° 55' 57.969" E
21	53° 37' 46.828" N	0° 55' 55.017" E
22	53° 37' 47.678" N	0° 55' 52.316" E
23	53° 37' 48.540" N	0° 55' 50.538" E
24	53° 37' 49.567" N	0° 55' 49.029" E
25	53° 37' 51.143" N	0° 55' 47.509" E
26	53° 37' 52.881" N	0° 55' 46.618" E
27	53° 37' 54.238" N	0° 55' 46.392" E
28	53° 37' 56.046" N	0° 55' 46.691" E
29	53° 37' 57.351" N	0° 55' 47.359" E
30	53° 37' 58.570" N	0° 55' 48.386" E
31	53° 38' 0.004" N	0° 55' 50.262" E
32	53° 38' 1.153" N	0° 55' 52.630" E
33	53° 38' 1.792" N	0° 55' 54.657" E
34	53° 38' 1.346" N	0° 55' 51.708" E
35	53° 38' 1.300" N	0° 55' 48.665" E
36	53° 38' 1.657" N	0° 55' 45.681" E
37	53° 38' 2.399" N	0° 55' 42.906" E
38	53° 38' 3.490" N	0° 55' 40.477" E
39	53° 38' 5.257" N	0° 55' 38.112" E
40	53° 38' 6.910" N	0° 55' 36.872" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
41	53° 38' 8.684" N	0° 55' 36.281" E
42	53° 38' 10.939" N	0° 55' 36.497" E
43	53° 38' 12.244" N	0° 55' 37.130" E
44	53° 38' 13.467" N	0° 55' 38.122" E
45	53° 38' 15.233" N	0° 55' 40.491" E
46	53° 38' 16.080" N	0° 55' 42.277" E
47	53° 38' 16.738" N	0° 55' 44.277" E
48	53° 38' 17.187" N	0° 55' 46.433" E
49	53° 38' 17.441" N	0° 55' 49.447" E
50	53° 38' 17.365" N	0° 55' 51.746" E
51	53° 38' 16.908" N	0° 55' 54.716" E
52	53° 38' 16.068" N	0° 55' 57.438" E
53	53° 38' 15.210" N	0° 55' 59.234" E
54	53° 38' 13.812" N	0° 56' 1.201" E
55	53° 38' 12.609" N	0° 56' 2.302" E
56	53° 38' 10.868" N	0° 56' 3.211" E
57	53° 38' 9.507" N	0° 56' 3.449" E
58	53° 38' 8.141" N	0° 56' 3.296" E
59	53° 38' 6.381" N	0° 56' 2.496" E
60	53° 38' 4.772" N	0° 56' 1.053" E
61	53° 38' 3.714" N	0° 55' 59.591" E
62	53° 38' 2.560" N	0° 55' 57.217" E

*Work No. 4A* — Subject to sub-paragraph (4), a marine connection to the shore within the marine export cable area, including cable and pipeline crossing works which—

- (a) if the mode of transmission is HVAC, consists of up to 8 subsea electrical circuits proceeding from the offshore HVAC collector substations comprised in Work No. 2A via and connecting with the offshore reactive compensation substations comprised in Work No. 3A; or
- (b) if the mode of transmission is HVDC, consists of up to 2 subsea electrical circuits proceeding from the offshore HVDC converter substations comprised in Work No. 2A,

and in either case terminating at Work No. 5A;

*Work No. 4B* — Subject to sub-paragraph (4), a marine connection to the shore within the marine export cable area, including cable and pipeline crossing works which—

- (a) if the mode of transmission is HVAC, consists of up to 8 subsea electrical circuits proceeding from the offshore HVAC collector substations comprised in Work No. 2B via and connecting with the offshore reactive compensation substation comprised in Work No. 3B; or
- (b) if the mode of transmission is HVDC, consists of up to 2 subsea electrical circuits proceeding from the offshore HVDC converter substations comprised in Work No. 2B,

and in either case terminating at Work No. 5B;

Principal co-ordinates for marine export cable area (limits of deviation for Work Nos. 4A and 4B) whose full co-ordinates are set out in the offshore works plans—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
3	54° 0' 15.768" N	1° 40' 21.864" E
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 46' 7.286" N	1° 38' 16.673" E
25	53° 46' 4.677" N	1° 37' 22.711" E
27	53° 44' 47.813" N	1° 28' 38.495" E
32	53° 44' 47.743" N	1° 27' 26.607" E
34	53° 44' 36.477" N	1° 25' 23.743" E
141	53° 42' 30.629" N	1° 15' 58.654" E
152	53° 42' 28.182" N	1° 14' 34.895" E
264	53° 39' 35.134" N	1° 6' 29.785" E
316	53° 38' 17.582" N	1° 2' 16.928" E
447	53° 36' 54.624" N	0° 51' 31.062" E
449	53° 36' 15.738" N	0° 48' 52.425" E
513	53° 35' 21.166" N	0° 43' 44.242" E
515	53° 31' 50.425" N	0° 40' 55.898" E
516	53° 31' 38.281" N	0° 40' 8.340" E
521	53° 28' 36.676" N	0° 20' 3.846" E
532	53° 31' 43.122" N	0° 12' 21.707" E
533	53° 30' 57.432" N	0° 5' 59.890" E
534	53° 31' 11.028" N	0° 5' 42.539" E
535	53° 30' 42.954" N	0° 5' 10.787" E
536	53° 30' 42.180" N	0° 5' 9.912" E
537	53° 30' 46.588" N	0° 4' 55.345" E
538	53° 30' 52.245" N	0° 4' 59.515" E
539	53° 31' 25.514" N	0° 5' 24.049" E
540	53° 31' 29.574" N	0° 5' 27.043" E
580	53° 32' 16.976" N	0° 12' 37.072" E
763	53° 29' 11.523" N	0° 20' 5.981" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1001	53° 31' 28.589" N	0° 35' 44.348" E
1002	53° 32' 0.855" N	0° 37' 42.781" E
1003	53° 32' 17.793" N	0° 39' 31.883" E
1004	53° 32' 35.749" N	0° 39' 45.737" E
1005	53° 33' 8.117" N	0° 39' 47.665" E
1006	53° 34' 28.861" N	0° 41' 27.396" E
1007	53° 35' 42.522" N	0° 42' 37.802" E
1010	53° 36' 25.571" N	0° 43' 54.129" E
1081	53° 37' 2.569" N	0° 47' 31.846" E
1083	53° 37' 30.986" N	0° 49' 14.023" E
1086	53° 37' 29.991" N	0° 51' 27.606" E
1087	53° 37' 36.904" N	0° 52' 22.841" E
1111	53° 38' 45.654" N	0° 57' 1.237" E
1143	53° 39' 16.652" N	1° 1' 1.016" E
1149	53° 39' 42.566" N	1° 1' 40.167" E
1155	53° 41' 20.037" N	1° 6' 45.836" E
1157	53° 42' 59.843" N	1° 14' 18.127" E
1164	53° 43' 0.151" N	1° 15' 37.960" E
1165	53° 44' 0.963" N	1° 20' 9.157" E
1166	53° 49' 6.492" N	1° 25' 51.682" E
1167	53° 50' 7.210" N	1° 26' 59.953" E

*Work No. 5A* — A foreshore connection consisting of an extension of the electrical circuits comprised in *Work No. 4A*, including cable crossing works, crossing under the existing sea wall using a trenchless technique and terminating at the electrical circuit transition joint bays (*Work No. 6A*);

*Work No. 5B* — A foreshore connection consisting of an extension of the electrical circuits comprised in *Work No. 4B*, including cable crossing works, crossing under the existing sea wall using a trenchless technique and terminating at the electrical circuit transition joint bays (*Work No. 6B*);

#### *Onshore*

*Work No. 6A* — Subject to sub-paragraph (5), up to 8 underground electrical circuit transition joint bays in the vicinity of Horseshoe Point in the parish of North Coates in the county of Lincolnshire, housing the connections between the offshore electrical circuits comprised in *Work No. 5A* and the onshore electrical circuits comprised in *Work No. 7A*;

*Work No. 6B* — Subject to sub-paragraph (5), up to 8 underground electrical circuit transition joint bays in the vicinity of Horseshoe Point in the parish of North Coates in the county of Lincolnshire, housing the connections between the offshore electrical circuits comprised in *Work No. 5B* and the onshore electrical circuits comprised in *Work No. 7B*;

*Work No. 7A* — Subject to sub-paragraph (6), a connection consisting of 2 underground transmission electrical circuits and associated electrical circuit ducts if the mode of transmission is HVDC and up to 8 underground transmission electrical circuits and associated electrical circuit ducts if the mode of transmission is HVAC, proceeding from *Work No. 6A* at co-ordinate—

Easting 537725, Northing 402577

to *Work No. 8A* at co-ordinate—

Easting 514946, Northing 419297; and

in the event that Work No. 7A is constructed before Work No. 7B, the electrical circuit ducts associated with the underground transmission electrical circuits comprised in Work No. 7B;

*Work No. 7B* — Subject to sub-paragraph (6), a connection consisting of 2 underground transmission electrical circuits and associated electrical circuit ducts if the mode of transmission is HVDC and up to 8 underground transmission electrical circuits and associated electrical circuit ducts if the mode of transmission is HVAC, proceeding from Work No. 6B at co-ordinate—

Easting 537725, Northing 402577

to Work No. 8B at co-ordinate—

Easting 514946, Northing 419297; and

in the event that Work No. 7B is constructed before Work No. 7A, the electrical circuit ducts associated with the underground transmission electrical circuits comprised in Work No. 7A;

*Work No. 8A* — Subject to sub-paragraph (7), up to 2 electrical transmission stations including up to 2 main buildings abutting an open yard (which may be partitioned with concrete or steel walls or fences containing switchgear, electrical reactors and other electrical equipment) and associated facilities on land adjoining the North Killingholme National Grid substation.

If the electrical circuits comprised in Work Nos. 4A, 5A and 7A are HVDC, the electrical transmission stations will include facilities to convert the current to HVAC;

*Work No. 8B* — Subject to sub-paragraph (7), up to 2 electrical transmission stations including up to 2 main buildings abutting an open yard (which may be partitioned with concrete or steel walls or fences containing switchgear, electrical reactors and other electrical equipment) and associated facilities on land adjoining the North Killingholme National Grid substation.

If the electrical circuits comprised in Work Nos. 4B, 5B and 7B are HVDC, the electrical transmission stations will include facilities to convert the current to HVAC;

*Work No. 9A* — Subject to sub-paragraph (8), a connection consisting of up to 2 underground electrical circuits between Work No. 8A and the North Killingholme National Grid substation, including a connection above ground and electrical engineering works within the National Grid substation buildings and compound;

*Work No. 9B* — Subject to sub-paragraph (8), a connection consisting of up to 2 underground electrical circuits between Work No. 8B and the North Killingholme National Grid substation, including a connection above ground and electrical engineering works within the National Grid substation buildings and compound;

*Work No. 10* — Improvements to the verge, highway and private access road running north from Chase Hill Road between the junction with Haven Road in the east and Eastfield Road in the west.

(2) The combined total of offshore HVAC collector substations constructed in whole or in part within Work Nos. 2A and 2B must not exceed 6, and the combined total of offshore HVDC converter substations constructed in whole or in part within Work Nos. 2A and 2B must not exceed 2.

(3) The combined total of offshore reactive compensation substations constructed in whole or in part within Work Nos. 3A and 3B must not exceed 2.

(4) The combined total of electrical circuits constructed in whole or in part within Work Nos. 4A and 4B must not exceed—

(a) 2, in the event that the mode of transmission is HVDC; and

(b) 8, in the event that the mode of transmission is HVAC.

(5) The combined total of underground electrical circuit transition joint bays constructed in whole or in part within Work Nos. 6A and 6B must not exceed 8.

(6) The combined total of electrical circuits constructed in whole or in part within Work Nos. 7A and 7B must not exceed—

- (a) 2, in the event that the mode of transmission is HVDC; and
- (b) 8, in the event that the mode of transmission is HVAC.

(7) The combined total of electrical transmission stations constructed in whole or in part within Work Nos. 8A and 8B must not exceed 2.

(8) The combined total of electrical circuits constructed in whole or in part within Work Nos. 9A and 9B must not exceed 2.

4. The associated development includes such further development as may be necessary or expedient in connection with each of the Works within the Order limits and is within the scope of the environmental impact assessment recorded in the environmental statement including—

- (a) scour protection around the foundations of the offshore structures;
- (b) dredging;
- (c) cable protection measures such as rock placement and the placement of concrete mattresses and frond mattresses;
- (d) the disposal of seabed sediments produced during construction drilling and seabed preparation for the installation of the foundations of the offshore structures or during seabed preparation for cable laying;
- (e) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (f) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (g) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (h) works for the benefit or protection of land affected by the authorised development;
- (i) working sites in connection with the construction of the authorised development;
- (j) compensation compounds;
- (k) works to secure means of access;
- (l) works to construct surface water drainage systems;
- (m) in connection with Work Nos. 8A and 8B, private roads and hardstanding for parking;
- (n) link or earthing boxes associated with Work Nos. 6A and 6B;
- (o) jointing pits (including link or earthing boxes) associated with Work Nos. 7A and 7B;
- (p) a temporary haul road and temporary access track, both alongside and used for the purpose of constructing Work Nos. 7A and 7B;
- (q) works to enable utility services to be run from Chase Hill Road to Work Nos. 8A and 8B; and
- (r) such other works and apparatus, plant and machinery of whatever nature as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development.

## PART 2

### Ancillary works

Works and operations within the Order limits comprising—

- (a) temporary anchorage of vessels; and
- (b) buoys, beacons, fenders and other navigational warning or ship impact protection works.

## PART 3

### Requirements

#### Time limits

1. The authorised development must be commenced on or before 6th September 2021.

#### Detailed design parameters

- 2.—(1) No wind turbine generator forming part of Work No. 1A or 1B may—
  - (a) be more than 151 metres from LAT to the turbine hub;
  - (b) exceed a height of 276 metres from LAT to the upper tip of the vertical blade;
  - (c) exceed a rotor diameter of 241.03 metres;
  - (d) be less than 34.97 metres from LAT to the lowest point of the rotating blade;
  - (e) be less than 810 metres from the nearest wind turbine generator in all directions.
- (2) In this Requirement, references to the location of a wind turbine generator are references to the centre point of the turbine.
- (3) No offshore accommodation platform forming part of Work No. 1A or 1B may—
  - (a) exceed 64 metres in height above LAT;
  - (b) have a platform that at its greatest extent exceeds 3,600 square metres in area or 60 metres in width.
- (4) No offshore HVAC collector substation forming part of Work No. 2A or 2B may—
  - (a) exceed 64 metres in height above LAT;
  - (b) have a platform that at its greatest extent exceeds 3,600 square metres in area or 60 metres in width.
- (5) No offshore HVDC converter substation forming part of Work No. 2A or 2B may—
  - (a) exceed 110 metres in height above LAT;
  - (b) have a platform that at its greatest extent exceeds 16,200 square metres in area or 180 metres in width.
- (6) No offshore reactive compensation substation comprised in Work No. 3A or 3B may—
  - (a) exceed 64 metres in height above LAT; or
  - (b) have a platform that at its greatest extent exceeds 3,600 square metres in area or 60 metres in width.
- (7) The diameter of the electrical cables comprising the electrical circuits must not exceed—
  - (a) within Work Nos. 1A and 1B, 170 millimetres;
  - (b) within Work Nos. 2A and 2B, 300 millimetres;
  - (c) within Work Nos. 4A, 4B, 5A and 5B—
    - (i) 190 millimetres, where the mode of transmission is HVDC; and
    - (ii) 300 millimetres, where the mode of transmission is HVAC.
- (8) The combined total length of the connections in the form of electrical circuits between the structures comprised in Work Nos. 1A and 1B must not exceed 685 kilometres.
- (9) The combined total length of the connections in the form of electrical circuits between the structures comprised in Work Nos. 2A and 2B must not exceed 300 kilometres.
- (10) The combined total length of the electrical circuits comprised in Work Nos. 4A, 4B, 5A and 5B seaward of MHWS must not exceed 1,200 kilometres.
- (11) The combined total area of cable protection for the electrical circuits comprising Work Nos. 1A and 1B must not exceed 1,246,700 square metres.

(12) The combined total area of cable protection for the electrical circuits comprising Work Nos. 2A and 2B must not exceed 546,000 square metres.

(13) The combined total area of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located outside the Humber Estuary Special Area of Conservation must not exceed 2,055,200 square metres.

(14) The combined total area of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located within the Humber Estuary Special Area of Conservation must not exceed 44,800 square metres.

(15) The combined total volume of cable protection for the electrical circuits comprising Work Nos. 1A and 1B must not exceed 712,400 cubic metres.

(16) The combined total volume of cable protection for the electrical circuits comprising Work Nos. 2A and 2B must not exceed 312,000 cubic metres.

(17) The combined total volume of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located outside the Humber Estuary Special Area of Conservation must not exceed 1,174,400 cubic metres.

(18) The combined total volume of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located within the Humber Estuary Special Area of Conservation must not exceed 25,600 cubic metres.

(19) The electrical circuits comprised in Work Nos. 1A, 1B, 2A, 2B, 4A and 4B must be installed by use of, or a combination of, ploughing, trenching, jetting, rock-cutting, dredging, surface laying with post-lay burial and, where ground conditions make burial impracticable, by surface laying.

(20) The electrical circuits comprised in Work Nos. 5A and 5B must be installed by use of, or a combination of, a trenchless technique, ploughing, trenching and jetting, with the exception that, where the electrical circuits comprised in Work Nos. 5A and 5B cross under the existing sea wall, they must be installed using a trenchless technique.

(21) The combined total area in which the underground electrical circuit transition joint bays comprised in Work Nos. 6A and 6B may be contained must not exceed 2,000 square metres, and no underground electrical circuit transition joint bay within that area may individually exceed 25 metres in length or 10 metres in width.

(22) The diameter of the cables within Work Nos. 7A, 7B, 9A and 9B must not exceed 180 millimetres.

(23) No main building forming part of Work No. 8A or 8B may—

(a) where the mode of transmission is HVDC, exceed—

- (i) 40 metres in height;
- (ii) 69.5 metres in width;
- (iii) 135 metres in length; or

(b) where the mode of transmission is HVAC, exceed—

- (i) 15 metres in height;
- (ii) 18.5 metres in width;
- (iii) 82.5 metres in length.

(24) The combined total area of the site of Work Nos. 8A and 8B must not exceed 35,672 square metres, excluding any area of land required for landscaping and mitigation.

(25) The electrical circuits comprised in Work Nos. 7A and 7B must be installed by use of a trenchless technique where crossing under a main river.

(26) The width of the corridor occupied by the connection comprised in Work Nos. 7A and 7B following completion of construction of those works must not exceed 30 metres, except where those works overlap with Work No. 5A, 5B, 6A or 6B in which case the width of the corridor occupied by the connection comprising Work Nos. 7A and 7B must not exceed 150 metres.



### Colour and lighting

3. Except as otherwise required by Trinity House under Condition 4 of each of the deemed marine licences, the undertaker must exhibit such lights, with such shape, colour and character as required by the Air Navigation Order 2009<sup>(a)</sup> or as otherwise directed by the Civil Aviation Authority or the Secretary of State for Defence.

### Foundation methods

4.—(1) The undertaker must in fixing to the seabed any structures comprised in Work Nos. 1A, 1B, 2A, 2B, 3A and 3B use one of the following methods—

- (a) monopile foundations;
- (b) jacket foundations supported by piles; or
- (c) gravity base foundations.

(2) The undertaker must not use the monopile foundation method or any other method that includes braced monopiles to fix to the seabed any offshore HVDC converter substation.

(3) The following parameters apply in respect of the foundation methods used to fix wind turbine generators to the seabed—

- (a) where monopile foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,963 square metres;
  - (ii) the diameter of each foundation must not exceed 10 metres;
- (b) where jacket foundations (driven/drilled piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 2,827 square metres;
  - (ii) the number of piles per jacket must not exceed 12;
  - (iii) the diameter of each pile must not exceed 6 metres;
- (c) where jacket foundations (suction piles) are used—
  - (i) the area occupied by the foundations and scour protection for each individual structure must not exceed 12,596 square metres;
  - (ii) the number of piles per jacket must not exceed 4;
  - (iii) the diameter of each pile must not exceed 21.1 metres;
- (d) where gravity base foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 7,543 square metres;
  - (ii) the seabed levelling diameter must not exceed 78 metres;
  - (iii) the cone diameter must not exceed 58 metres at its base.

(4) The following parameters apply in respect of the foundation methods used to fix offshore accommodation platforms to the seabed—

- (a) where monopile foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,963 square metres;
  - (ii) the diameter of each foundation must not exceed 10 metres;
- (b) where jacket foundations (driven/drilled piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,414 square metres;

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(a) S.I. 2009/3015.

- (ii) the number of piles must not exceed 8;
- (iii) the diameter of each pile must not exceed 3 metres;
- (c) where jacket foundations (suction piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
  - (ii) the number of piles per jacket must not exceed 4;
  - (iii) the diameter of each pile must not exceed 15 metres;
- (d) where gravity base foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
  - (ii) the seabed levelling diameter must not exceed 70 metres;
  - (iii) the cone diameter must not exceed 50 metres at its base.

(5) The following parameters apply in respect of the foundation methods used to fix offshore HVAC collector substations to the seabed—

- (a) where monopile foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,963 square metres;
  - (ii) the diameter of each foundation must not exceed 10 metres;
- (b) where jacket foundations (driven/drilled piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,924 square metres;
  - (ii) the number of piles per jacket must not exceed 8;
  - (iii) the diameter of each pile must not exceed 3.5 metres;
- (c) where jacket foundations (suction piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 12,723 square metres;
  - (ii) the number of piles per jacket must not exceed 8;
  - (iii) the diameter of each pile must not exceed 15 metres;
- (d) where gravity base foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
  - (ii) the seabed levelling diameter must not exceed 70 metres;
  - (iii) the cone diameter must not exceed 50 metres at its base.

(6) The following parameters apply in respect of the foundation methods used to fix offshore HVDC converter substations to the seabed—

- (a) where jacket foundations (driven/drilled piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 17,318 square metres;
  - (ii) the number of jacket foundations per topside must not exceed 4;
  - (iii) the number of piles per topside must not exceed 72;
  - (iv) the number of piles per jacket must not exceed 18;
  - (v) the diameter of each pile must not exceed 3.5 metres;
- (b) where jacket foundations (suction piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 50,894 square metres;
  - (ii) the number of jacket foundations per topside must not exceed 4;

- (iii) the number of piles per topside must not exceed 32;
  - (iv) the number of piles per jacket must not exceed 8;
  - (v) the diameter of each pile must not exceed 15 metres;
  - (c) where gravity base foundations are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 27,300 square metres;
    - (ii) the number of pontoons for each individual structure must not exceed 3;
    - (iii) the pontoons must not exceed 170 metres in length or 35 metres in width.
- (7) The following parameters apply in respect of the foundation methods used to fix the offshore reactive compensation substation to the seabed—
- (a) where monopile foundations are used—
    - (i) the area occupied by the foundations and the scour protection must not exceed 1,963 square metres;
    - (ii) the diameter of each foundation must not exceed 10 metres;
  - (b) where jacket foundations (driven/drilled piles) are used—
    - (i) the area occupied by the foundations and the scour protection must not exceed 1,414 square metres;
    - (ii) the number of piles per jacket must not exceed 8;
    - (iii) the diameter of each pile must not exceed 3 metres;
  - (c) where jacket foundations (suction piles) are used—
    - (i) the area occupied by the foundations and the scour protection must not exceed 6,362 square metres;
    - (ii) the number of piles per jacket must not exceed 4;
    - (iii) the diameter of each pile must not exceed 15 metres;
  - (d) where gravity base foundations are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
    - (ii) the seabed levelling diameter must not exceed 70 metres;
    - (iii) the cone diameter must not exceed 50 metres at its base.
- (8) The combined total volume of scour protection for the wind turbine generators and the offshore accommodation platforms forming part of the authorised development must not exceed 4,761,555 cubic metres.

### **Archaeology landward of mean low water springs**

**5.—**(1) No part of the authorised development landward of MLWS may be commenced within the area of a local planning authority until a written scheme for the investigation of areas of archaeological interest landward of MLWS has been submitted to and approved by the local planning authority.

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

(3) Any archaeological works or watching brief must be carried out—

- (a) in accordance with the approved scheme;
- (b) by a suitably qualified person or body approved by the local planning authority.

(4) Staged reports of the measures taken to evaluate, protect, record or preserve any significant archaeological remains that are found must be submitted to and approved by the local planning authority before the commencement of any works that would affect those remains.

### **Ecological management plan landward of mean low water springs**

6.—(1) No part of the authorised development landward of MLWS may be commenced within the area of a local planning authority until a ecological management plan relating to the land landward of MLWS based on the outline ecological management plan and reflecting the survey results and ecological mitigation measures included in the environmental statement has been submitted to and approved by the local planning authority in consultation with Natural England, the Environment Agency and, to the extent that the plan relates to the intertidal area, the MMO.

(2) The ecological management plan must include an implementation timetable and must be carried out as approved.

(3) The ecological management plan must be submitted for approval at least 4 months before the intended start of construction unless otherwise agreed by the local planning authority in consultation with Natural England.

### **Code of construction practice**

7.—(1) No part of the authorised development landward of MLWS may be commenced within the area of a local planning authority until a code of construction practice relating to the Works landward of MLWS based on the outline code of construction practice has been submitted to and approved by the local planning authority.

(2) Before giving approval in the case of a construction traffic management plan referred to in sub-paragraph (3)(e) and a travel plan referred to in sub-paragraph (3)(l), the local planning authority must consult the highway authority and Highways England.

(3) The code of construction practice must include—

- (a) an external lighting scheme for the construction phase;
- (b) construction noise and vibration monitoring and management measures;
- (c) air quality and dust monitoring and management measures during construction;
- (d) a site waste management plan detailing sustainable site waste management measures;
- (e) a construction traffic management plan;
- (f) measures to prevent and control spillage of oil, chemicals and other potentially harmful liquids;
- (g) details of the storage of materials during construction;
- (h) measures for the protection of surface and ground water during construction;
- (i) a communication plan;
- (j) a health and safety plan, including details of how health and safety risks are to be identified and managed during construction;
- (k) details of screening and fencing to be installed during construction; and
- (l) a travel plan for the construction workforce to include details of—
  - (i) expected means of travel to and from the construction sites;
  - (ii) numbers of construction staff, working hours and modal split;
  - (iii) details of the number of car parking spaces to be provided on sites and if appropriate a car park management plan;
  - (iv) specification of measures to encourage sustainable travel to and from the construction site for construction staff;
  - (v) responsibility and timescales for implementing proposed measures;
  - (vi) targets for vehicle trips and modal splits;
  - (vii) formal monitoring regime for those targets; and
  - (viii) details of mess or canteen facilities for staff.

(4) All construction works must be undertaken in accordance with the approved code.

### **Landscape scheme**

**8.**—(1) No part of the authorised development landward of MLWS may be commenced within the area of a local planning authority until a landscape scheme has been submitted to and approved by the local planning authority.

(2) The landscape scheme must include the provisions of the outline landscape scheme and management plan, subject to any variation approved by the local planning authority, and, in addition details of—

- (a) cultivation, importing of materials and other operations to ensure plant establishment;
- (b) proposed finished ground levels;
- (c) hard surfacing materials; and
- (d) minor structures, refuse or other storage units, signs and lighting.

### **Implementation and maintenance of landscaping**

**9.**—(1) Landscape works must be carried out in accordance with the relevant landscape scheme approved under Requirement 8.

(2) Any tree or shrub planted as part of an approved landscape scheme that within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the local planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless alternative timing or a different specimen is otherwise approved by the local planning authority.

### **Offshore decommissioning**

**10.** No part of the authorised development seaward of MLWS may be commenced until a decommissioning programme in compliance with any notice served on the undertaker by the Secretary of State under section 105(2) of the 2004 Act has been submitted to the Secretary of State for approval in relation to that part.

### **Highway accesses**

**11.**—(1) No permanent or temporary means of access to a highway to be used by vehicular traffic or any alteration to an existing means of access to a highway used by vehicular traffic may be commenced until details of the design and layout of such works have been submitted to and approved by the local planning authority in consultation with the highway authority.

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

### **Contaminated land and groundwater scheme**

**12.**—(1) No part of the authorised development within the area of a local planning authority may be commenced until a scheme to deal with the contamination of any land (including groundwater) within the Order limits that is likely to cause significant harm to persons or pollution of controlled waters or the environment has been submitted to, and approved by, the local planning authority in consultation with the Environment Agency and, to the extent that the plan relates to the intertidal area, the MMO.

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

(3) No remedial work constituting a material operation (as defined in section 155 of the 2008 Act) in respect of contamination of any land (including groundwater) within the Order limits may be carried out until the scheme has been approved.

(4) In carrying out the works for the authorised development, the undertaker must not conduct trenchless technique operations unless the scheme includes a hydrogeological risk assessment demonstrating that such operations are unlikely to cause an unacceptable risk to groundwater quality.

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

(6) In this Requirement, “controlled waters” has the meaning given in Part 3 of the Water Resources Act 1991(a).

### **Surface water drainage scheme**

**13.**—(1) No part of any electrical transmission station may be commenced until a detailed surface water drainage scheme based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the electrical transmission station has been submitted to and approved by the local planning authority, in consultation with the drainage board concerned within the meaning of section 23 of the Land Drainage Act 1991.

(2) Construction of the electrical transmission station must be carried out in accordance with the approved scheme.

### **Colour and detailed design approval: electrical transmission stations**

**14.**—(1) Unless otherwise agreed by the local planning authority, the electrical transmission stations must be coloured using one or more of the following colours—

- (a) bluebell (RAL Code 270 50 30);
- (b) lilac (RAL Code 270 60 25);
- (c) chalk blue (RAL Code 270 70 20);
- (d) Baltic blue (RAL Code 270 80 15);
- (e) white lilac (RAL Code 270 85 10);
- (f) blue white (RAL Code 270 90 05).

(2) Despite sub-paragraph (1), construction of Work No. 8A must not commence until details of the layout, scale and external appearance of that Work have been submitted to and approved by the local planning authority.

(3) Despite sub-paragraph (1), construction of Work No. 8B must not commence until details of the layout, scale and external appearance of that work have been submitted to and approved by the local planning authority.

(4) The construction of Work Nos. 8A and 8B must be carried out in accordance with the approved details.

### **Access road within plots 45 to 49**

**15.**—(1) The undertaker must not use the access road along the crest of the sea defences within the plots numbered 45 to 49 on the land plans during the construction of Work Nos. 4A, 4B, 5A, 5B, 6A and 6B.

(2) Except in an emergency, the access road along the sea defences within the plots numbered 45 to 49 on the land plans must not be used by the undertaker following the construction of Work Nos. 4A, 4B, 5A, 5B, 6A and 6B until a scheme for the protection of the sea defences from use of the access road by the undertaker during the operation and maintenance of the authorised development has been submitted to and approved by the Environment Agency, such approval not to be unreasonably withheld or delayed.

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(a) See section 104(1).

(3) If the Environment Agency fails to notify the undertaker of its decision on whether to give approval within 2 months of receiving the scheme for approval, the Environment Agency is deemed to have given approval.

(4) The use of the access road must be in accordance with the approved scheme.

### **Port traffic management plan**

**16.**—(1) No part of the authorised development seaward of MLWS (excluding ducting and related works which are an integral part of works landward of MLWS) may be commenced until—

- (a) a traffic management plan for the onshore port-related traffic to and from the selected base port or ports for construction or operation (or both) of that part of the authorised development has been submitted to and approved by the relevant planning authority in consultation with the relevant highway authority; or
- (b) the relevant planning authority has confirmed, after consultation with the relevant highway authority, that no traffic management plan is required for that part of the authorised development.

(2) All traffic management plans must be implemented as approved at all times specified within the relevant traffic management plan during the construction and operation of the authorised development.

(3) In this Requirement—

“relevant highway authority” means the highway authority in whose area the selected base port is located;

“relevant planning authority” means the local planning authority in whose area the selected base port is located;

“selected base port” means a port situated in England and/or Wales and used by management personnel for the construction or ongoing operational management of the authorised development (or both).

### **Employment and skills plan**

**17.**—(1) No part of the authorised development may be commenced until an employment and skills plan based on the outline employment and skills plan has been submitted to and approved by North Lincolnshire Council in consultation with North East Lincolnshire Council, East Lindsey District Council and the Humber Local Enterprise Partnership.

(2) The plan must include—

- (a) proposals for the provision of information to the Humber Local Enterprise Partnership on the employment and supply chain opportunities associated with the construction, operation and maintenance of the authorised development including details of the core qualifications and skillsets required to access those opportunities;
- (b) proposals for local advertising of employment and supply chain opportunities during the construction of the authorised development;
- (c) proposals for the undertaker to provide outreach employment presentations during the period of construction of the authorised development at appropriate times and locations; and
- (d) proposals for local advertising of employment and supply chain opportunities during the operation of the authorised development.

(3) The approved employment and skills plan must be implemented and maintained during the construction and operation of the authorised development.

(4) In this Requirement, “Humber Local Enterprise Partnership” means the local enterprise partnership established in June 2011 with the objective of promoting and developing the natural economic area surrounding the Humber estuary.

### **Offshore co-operation**

**18.**—(1) Before submitting the pre-construction plans and documentation required to be submitted to the MMO for approval under Condition 8 of each of the deemed marine licences, the undertaker in respect of the relevant licence must provide a copy of the plans and documentation to the other undertaker under this Order.

(2) The other undertaker must provide any comments on the plans and documentation to the first undertaker within 14 days of receipt.

(3) Each undertaker must participate in liaison meetings with the other undertaker as requested from time to time by the MMO in writing in advance; and the meetings must be chaired by the MMO and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence where it has an impact on the efficient operation of any other deemed marine licence.

### **Compensation compounds**

**19.**—(1) The undertaker may exercise the powers conferred by this Order in relation to the compensation compounds shown coloured green on the compensation compounds plan only where—

- (a) the undertaker exercises, or intends to exercise, the powers conferred by this Order in relation to the Order land shown hatched green on the compensation compounds plan; and
- (b) sub-paragraph (4) applies.

(2) The undertaker may exercise the powers conferred by this Order only in relation to the compensation compound access coloured pink and labelled 14-A1c on the compensation compounds plan only where the undertaker exercises, or intends to exercise, the powers conferred by this Order in relation to the compensation compound shown coloured green and labelled 14-C3 on the compensation compounds plan in accordance with sub-paragraph (1).

(3) Where the undertaker exercises the powers conferred by this Order in relation to—

- (a) the compensation compounds shown coloured green on the compensation compounds plan in accordance with sub-paragraph (1); or
- (b) the compensation compound access coloured pink and labelled 14-A1c on the compensation compounds plan in accordance with sub-paragraph (2),

those powers may be exercised only for the benefit of the Hornsea Project One undertaker in connection with the carrying out of works authorised by the Hornsea One Offshore Wind Farm Order 2014.

(4) This sub-paragraph applies where—

- (a) the carrying out of works authorised by this Order in the Order land shown hatched green on the compensation compounds plan would overlap temporally with the carrying out of works authorised by the Hornsea One Offshore Wind Farm Order 2014 in that land; or
- (b) works authorised by this Order in the Order land shown hatched green on the compensation compounds plan are carried out and completed before the works authorised by the Hornsea One Offshore Wind Farm Order 2014 in that land commence.

### **Onshore decommissioning plan**

**20.**—(1) Within 3 months of the cessation of commercial operation of the connection works, an onshore decommissioning plan must be submitted to the local planning authority for its approval.

(2) The decommissioning plan must be implemented as approved.



### **North Coates airfield**

**21.** No part of the authorised development may be commenced within half a mile of the perimeter of the North Coates airfield until a plan to secure its safe operation during the construction and operation of the authorised development has been submitted to and approved by the Secretary of State following consultation with the operator of North Coates airfield and the Civil Aviation Authority.

### **Control of noise during operational phase**

**22.—**(1) The combined rating level (L<sub>Ar,Tr</sub>) of the noise emitted during normal operation from the electrical transmission station, converter and associated plant, must not exceed 35 decibels at any residential property that has planning permission on 1st December 2014.

(2) The assessment must be carried out in accordance with BS 4142:2014 “Methods for rating and assessing industrial and commercial sound”(a).

### **Onshore co-operation**

**23.—**(1) Before submitting any plan or document required to be submitted for approval under the Requirements, the undertaker in respect of the works to which the plan or document relates must provide a copy of the plan or document to the other undertaker under this Order.

(2) The other undertaker must provide any comments on the plan or document to the first undertaker within 14 days of receipt.

(3) On submission of any plan or document referred to in sub-paragraph (1) for approval, the undertaker in respect of the works to which the plan or document relates must also submit any comments received from the other undertaker under sub-paragraph (2) or a statement confirming that no such comments were received.

(4) Each undertaker must participate in liaison meetings with the other undertaker as requested from time to time by the local planning authority in writing in advance; and the meetings must be chaired by the local planning authority and must consider such matters as are determined by the local planning authority relating to the efficient construction and operation of the Project A works and the shared works above MLWS where they have an impact on the efficient construction and operation of the Project B works and the shared works above MLWS (and vice versa).

### **Intertidal access management plan**

**24.—**(1) No part of the authorised development within the intertidal area may be commenced until an intertidal access management plan setting out details of the access routes to the intertidal area, the methods for accessing the intertidal area, the expected number of vehicles that will be accessing the intertidal area and the expected number of vehicle trips to the intertidal area required in relation to that part of the authorised development has been submitted to and approved by the local planning authority in consultation with Natural England.

(2) The undertaker must not exercise the power to maintain under article 7 (maintenance of authorised project) in the intertidal area until an intertidal access management plan setting out details of the access routes to the intertidal area, the methods for accessing the intertidal area, the expected number of vehicles that will be accessing the intertidal area and the expected number of vehicle trips to the intertidal area required for such maintenance activities has been submitted to and approved by the local planning authority in consultation with Natural England.

(3) If the local planning authority fails to notify the undertaker of its decision on whether to give approval within 2 months of receiving an intertidal access management plan for approval, the local planning authority is deemed to have given approval.

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(a) The document is available from: <http://shop.bsigroup.com>

(4) The intertidal access management plan must be implemented as approved, unless otherwise agreed by the local planning authority.

#### **Navigational safety at Saturn, Mimas and Tethys offshore platforms**

**25.**—(1) No construction of any wind turbine generator forming part of the authorised development may commence until the Secretary of State, having consulted with the operator, is satisfied that appropriate mitigation will be implemented and maintained for the life of the authorised development.

(2) In this Requirement—

“appropriate mitigation” means measures to mitigate any adverse impacts which the operation of the authorised development will have on the ability of the operator’s radar early warning system to ensure the safety of its Saturn, Mimas and Tethys offshore platforms during the life of the authorised development;

“operator” means ConocoPhillips (U.K.) Limited (company number 00524868) or successor operator of any of the Saturn, Mimas or Tethys offshore platforms;

“radar early warning system” means the radar early warning system used to monitor and track vessels proximate to the operator’s offshore facilities via radio and network links (which is comprised primarily of radars fitted on a number of operator’s offshore platforms and provides a multi-site, multi-sensor integrated marine surveillance system with logistic and emergency response co-ordination facilities).

(3) The undertaker must comply with all obligations contained within the appropriate mitigation for the life of the authorised development.

#### **Requirement for written approval**

**26.** Where the approval, agreement or confirmation of the Secretary of State, the local planning authority or another person is required under a Requirement, that approval, agreement or confirmation must be given in writing.

#### **Amendments to approved plans, etc.**

**27.**—(1) Where a Requirement requires the authorised development to be carried out in accordance with a plan, scheme, code or details approved by the local planning authority or any other person (the “approved plan”), the approved plan must be taken to include any amendments that may subsequently be approved by the local planning authority or other person.

(2) Any amendments to the approved plan must be in accordance with the principles and assessments set out in the environmental statement; and approval for such amendments may be given only where it has been demonstrated to the satisfaction of the local planning authority or other person that the amendments are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) Where the approved plan is required to be approved after consultation with another person, any amendments may be approved only after consultation with that person.

## SCHEDULE 2

Article 9

### Streets subject to street works

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Streets subject to street works</i>
District of East Lindsey	Permissive footpath along sea wall
District of East Lindsey	Sheep Marsh Lane
District of East Lindsey	Unnamed highway north of Sheep Marsh Lane

(1)	(2)
Area	Streets subject to street works
	providing access to Poplar Piggeries and area to the north
District of East Lindsey	Sea Lane
District of East Lindsey	Tetn/19/1 (public footpath)
District of East Lindsey	North Coates Road
District of East Lindsey	Tetn/343/1 (public footpath)
District of East Lindsey	Tetn/12/5 (public footpath)
District of East Lindsey	Tetn/13/5 (public footpath)
District of East Lindsey	Unnamed highway east of New Delights access
District of East Lindsey	Tetney Lock Road
District of East Lindsey	Humberston Road (A1031)
District of East Lindsey	Tetn/14/4 (public footpath)
District of East Lindsey	Holton Road
District of East Lindsey	HoLC/5/4 (public footpath)
District of East Lindsey	Station Road, Tetney
District of East Lindsey	HoLC/4/1 (public footpath)
District of East Lindsey	Louth Road (A16)
District of East Lindsey	High Street, North Thoresby (B1201)
District of East Lindsey	Station Road, North Thoresby (B1201)
District of East Lindsey	HoLC/10/1 (public footpath)
North East Lincolnshire	Brigsley FP84 (public footpath)
North East Lincolnshire	Brigsley FP83 (public footpath)
North East Lincolnshire	Waithe Lane
North East Lincolnshire	Brigsley BW75 (public bridleway)
North East Lincolnshire	Waltham Road, Brigsley (B1203)
North East Lincolnshire	Waltham Road, Barnoldby le Beck (C148)
North East Lincolnshire	Bradley FP95 (public footpath)
North East Lincolnshire	Bradley Road
North East Lincolnshire	Bradley BW93 (public bridleway)
North East Lincolnshire	Laceby FP95 (public footpath)
North East Lincolnshire	Laceby BW97 (public bridleway)
North East Lincolnshire	Laceby FP96 (public footpath)
North East Lincolnshire	Grimsby Road (A46)
North East Lincolnshire	Aylesby FP103 (public footpath)
North East Lincolnshire	Aylesby FP110 (public footpath)
North East Lincolnshire	Aylesby Road
North East Lincolnshire	Aylesby BW108 (public bridleway)
North East Lincolnshire	Beech Holt Lane
North East Lincolnshire	Nooking Lane
West Lindsey District	Wells Road
North East Lincolnshire	Riby Road (A1173)
North East Lincolnshire	Stallingborough FP26 (public footpath)
North East Lincolnshire	Stallingborough FP24 (public footpath)
North East Lincolnshire	Keelby Road
North East Lincolnshire	Habrough FP4 (public footpath)
North East Lincolnshire	Roxton Road south of A180 between Keelby and Immingham
North East Lincolnshire	A180(T)
North East Lincolnshire	Station Road, Habrough (B1210)

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Streets subject to street works</i>
North East Lincolnshire	Immingham Road (B1210)
North East Lincolnshire	Habrough FP8 (public footpath)
North East Lincolnshire	Habrough FP7 (public footpath)
North East Lincolnshire	Killingholme Road/ Habrough Road
North Lincolnshire Council	South Killingholme 94 (public footpath) FP/SKIL/94
North Lincolnshire Council	Habrough Road/Faulding Lane
North Lincolnshire Council	South Killingholme 87 (public footpath) FP/SKIL/87
North Lincolnshire Council	Habrough Road
North Lincolnshire Council	South Killingholme 88 (public footpath) FP/SKIL/88
North Lincolnshire Council	Proposed A160 upgrade/realignment (HA Improvement Scheme)
North Lincolnshire Council	Ulceby Road (A160)
North Lincolnshire Council	Ulceby Road access to houses
North Lincolnshire Council	Top Road
North Lincolnshire Council	Currently unconstructed road on route of proposed cable route (part of the A160 improvement works) north of the A160 and west of Top Road (area hatched between points 119 and 120 on the onshore works plan 24)
North Lincolnshire Council	South Killingholme 87 (public footpath) FP/SKIL/87
North Lincolnshire Council	South Killingholme 85 (public footpath) FP/SKIL/85
North Lincolnshire Council	Church Lane/ Nicholson Road
North Lincolnshire Council	Chase Hill Road
North Lincolnshire Council	Eastfield Road
North Lincolnshire Council	Brick Lane/Dean Street
North Lincolnshire Council	North Killingholme 86 (public footpath) FP/NKIL/86
North Lincolnshire Council	North Killingholme 79 (public footpath) FP/NKIL/79

### SCHEDULE 3

Article 11

#### Streets to be temporarily stopped up

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
District of East Lindsey	Permissive footpath	Between points F1 and F2 as shown in a dotted black line on sheet 1 of the onshore works plans
District of East Lindsey	Permissive footpath	Between points F3 and F4 as shown in a dotted black line on

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i> sheet 1 of the onshore works plans
District of East Lindsey	Unnamed highway north of Sheep Marsh Lane providing access to Poplar Piggeries and area to the north	Between points 1 and 2 as shown hatched on sheet 2 of the onshore works plans
District of East Lindsey	Unnamed highway north of Sheep Marsh Lane providing access to Poplar Piggeries and area to the north	Between points 3 and 4 as shown hatched on sheet 2 of the onshore works plans
District of East Lindsey	Unnamed highway north of Sheep Marsh Lane providing access to Poplar Piggeries and area to the north	Between points 5 and 6 as shown hatched on sheet 2 of the onshore works plans
District of East Lindsey	Sea Lane	Between points 7 and 8 as shown hatched on sheet 2 of the onshore works plans
District of East Lindsey	Footpath Tetn/19/1	Between points F5 and F6 as shown in a dotted black line on sheet 3 of the onshore works plans
District of East Lindsey	Footpath Tetn/19/1	Between points F7 and F8 as shown in a dotted black line on sheet 3 of the onshore works plans
District of East Lindsey	North Coates Road	Between points 9 and 10 as shown hatched on sheet 4 of the onshore works plans
District of East Lindsey	Footpath Tetn/13/5	Between points F9 and F10 as shown in a dotted black line on sheet 4 of the onshore works plans
District of East Lindsey	Unnamed highway east of New Delights access	Between points 11 and 12 as shown hatched on sheet 4 of the onshore works plans
District of East Lindsey	Unnamed highway east of New Delights access	Between points 13 and 14 as shown hatched on sheet 4 of the onshore works plans
District of East Lindsey	Unnamed highway east of New Delights access	Between points 15 and 16 as shown hatched on Sheet 4 of the onshore works plans
District of East Lindsey	Unnamed highway east of New Delights access	Between points 17 and 18 as shown hatched on sheet 5 of the onshore works plans
District of East Lindsey	Unnamed highway east of New Delights access	Between points 19 and 20 as shown hatched on sheet 5 of the onshore works plans
District of East Lindsey	Tetney Lock Road	Between points 21 and 22 as shown hatched on sheet 5 of the onshore works plans
District of East Lindsey	Tetney Lock Road	Between points 23 and 24 as shown hatched on sheet 5 of the onshore works plans
District of East Lindsey	Humberston Road	Between points 25 and 26 as shown hatched on sheet 5 of the onshore works plans

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
District of East Lindsey	Footpath Tetn/14/4	Between points F11 and F12 as shown in a dotted black line on sheet 6 of the onshore works plans
District of East Lindsey	Holton Road	Between points 27 and 28 as shown hatched on sheet 6 of the onshore works plans
District of East Lindsey	Holton Road	Between points 121 and 122 as shown hatched on sheet 6 of the onshore works plans
District of East Lindsey	Holton Road	Between points 123 and 124 as shown hatched on sheet 6 of the onshore works plans
District of East Lindsey	Footpath HoLC/5/4	Between points F13 and F14 as shown in a dotted black line on sheet 7 of the onshore works plans
District of East Lindsey	Footpath HoLC/5/4	Between points F14 and F15 as shown in a dotted black line on sheet 7 of the onshore works plans
District of East Lindsey	Station Road, Tetney	Between points 29 and 30 as shown hatched on sheet 7 of the onshore works plans
District of East Lindsey	Station Road, Tetney	Between points 31 and 32 as shown hatched on sheet 7 of the onshore works plans
District of East Lindsey	Station Road, Tetney	Between points 33 and 34 as shown hatched on sheet 7 of the onshore works plans
District of East Lindsey	Footpath HoLC/4/1	Between points F16 and F17 as shown in a dotted black line on sheet 7 of the onshore works plans
District of East Lindsey	Louth Road (A16)	Between points 35 and 36 as shown hatched on sheet 7 of the onshore works plans
District of East Lindsey	Louth Road (A16)	Between points 36 and 37 as shown hatched on sheet 7 of the onshore works plans
District of East Lindsey	Louth Road (A16)	Between points 38 and 39 as shown hatched on sheet 7 of the onshore works plans
District of East Lindsey	Footpath HoLC/10/1	Between points F18 and F19 as shown in a dotted black line on sheet 8 of the onshore works plans
North East Lincolnshire	Footpath FP84	Between points F18 and F21 as shown in a dotted black line on sheet 8 of the onshore works plans
North East Lincolnshire	Footpath FP83	Between points F20 and F20.1 as shown in a dotted black line on sheet 8 of the onshore works plans
North East Lincolnshire	Waithe Lane	Between points 40 and 41 as shown hatched on sheet 8 of the onshore works plans
North East Lincolnshire	Waithe Lane	Between points 127 and 128 as

(1) Area	(2) Street to be temporarily stopped up	(3) Extent of temporary stopping up
		shown hatched on sheet 9 of the onshore works plans
North East Lincolnshire	Waithe Lane	Between points 42 and 43 as shown hatched on sheet 9 of the onshore works plans
North East Lincolnshire	Bridleway BW75	Between points F22 and F23 as shown in a dotted black line on sheet 9 of the onshore works plans
North East Lincolnshire	Waltham Road (B1203)	Between points 44 and 45 as shown hatched on sheet 9 of the onshore works plans
North East Lincolnshire	Waltham Road (B1203)	Between points 46 and 47 as shown hatched on sheet 9 of the onshore works plans
North East Lincolnshire	Waltham Road (B1203)	Between points 48 and 49 as shown hatched on sheet 9 of the onshore works plans
North East Lincolnshire	Waltham Road (C148)	Between points 50 and 51 as shown hatched on sheet 10 of the onshore works plans
North East Lincolnshire	Bradley Road	Between points 52 and 53 as shown hatched on sheet 11 of the onshore works plans
North East Lincolnshire	Footpath FP95	Between points F24 and F25 as shown in a dotted black line on sheet 12 of the onshore works plans
North East Lincolnshire	Footpath FP95	Between points F26 and F27 as shown in a dotted black line on sheet 12 of the onshore works plans
North East Lincolnshire	Bradley Road	Between points 54 and 55 as shown hatched on sheet 12 of the onshore works plans
North East Lincolnshire	Bradley Road	Between points 56 and 57 as shown hatched on sheet 12 of the onshore works plans
North East Lincolnshire	Bridleway BW93	Between points F28 and F29 as shown in a dotted black line on sheet 12 of the onshore works plans
North East Lincolnshire	Footpath FP95	Between points F30 and F31 as shown in a dotted black line on sheet 13 of the onshore works plans
North East Lincolnshire	Bridleway BW97	Between points F32 and F33 as shown in a dotted black line on sheet 14 of the onshore works plans
North East Lincolnshire	Footpath FP96	Between points F34 and F35 as shown in a dotted black line on sheet 14 of the onshore works plans

(1) Area	(2) Street to be temporarily stopped up	(3) Extent of temporary stopping up plans
North East Lincolnshire	Grimsby Road (A46)	Between points 58 and 59 as shown hatched on sheet 14 of the onshore works plans
North East Lincolnshire	Grimsby Road (A46)	Between points 60 and 61 as shown hatched on sheet 14 of the onshore works plans
North East Lincolnshire	Grimsby Road (A46)	Between points 62 and 63 as shown hatched on sheet 14 of the onshore works plans
North East Lincolnshire	Grimsby Road (A46)	Between points 64 and 65 as shown hatched on sheet 14 of the onshore works plans
North East Lincolnshire	Grimsby Road (A46)	Between points 60 and 65 as shown hatched on sheet 14 of the onshore works plans
North East Lincolnshire	Grimsby Road (A46)	Between points 58 and 62 as shown hatched on sheet 14 of the onshore works plans
North East Lincolnshire	Footpath FP103	Between points F36 and F37 as shown in a dotted black line on sheet 15 of the onshore works plans
North East Lincolnshire	Footpath FP110	Between points F38 and F39 as shown in a dotted black line on sheet 15 of the onshore works plans
North East Lincolnshire	Aylesby Road	Between points 66 and 67 as shown hatched on sheet 15 of the onshore works plans
North East Lincolnshire	Bridleway BW108	Between points F40 and F41 as shown in a dotted black line on sheet 15 of the onshore works plans
North East Lincolnshire	Beech Holt Lane/Nooking Lane	Between points 68 and 69 as shown hatched on sheet 16 of the onshore works plans
West Lindsey District	Wells Road	Between points 70 and 71 as shown hatched on sheet 17 of the onshore works plans
North East Lincolnshire	Riby Road (A1173)	Between points 72 and 73 as shown hatched on sheet 18 of the onshore works plans
North East Lincolnshire	Riby Road (A1173)	Between points 74 and 75 as shown hatched on sheet 18 of the onshore works plans
North East Lincolnshire	Footpath FP26	Between points F42 and F43 as shown in a dotted black line on sheet 19 of the onshore works plans
North East Lincolnshire	Keelby Road	Between points 76 and 77 as shown hatched on sheet 19 of the



<i>(1)</i> Area	<i>(2)</i> Street to be temporarily stopped up	<i>(3)</i> Extent of temporary stopping up
		onshore works plans
North East Lincolnshire	Keelby Road	Between points 78 and 79 as shown hatched on sheet 19 of the onshore works plans
North East Lincolnshire	Roxton Road	Between points 80 and 81 as shown hatched on sheet 20 of the onshore works plans
North East Lincolnshire	Roxton Road	Between points 82 and 83 as shown hatched on sheet 20 of the onshore works plans
North East Lincolnshire	Station Road (B1210)	Between points 92 and 93 as shown hatched on sheet 22 of the onshore works plans
North East Lincolnshire	Immingham Road (B1210)	Between points 94 and 95 as shown hatched on sheet 23 of the onshore works plans
North East Lincolnshire	Immingham Road (B1210)	Between points 96 and 97 as shown hatched on sheet 23 of the onshore works plans
North East Lincolnshire	Footpath FP8	Between points F44 and F45 as shown in a dotted black line on sheet 23 of the onshore works plans
North East Lincolnshire	Footpath FP7	Between points F46 and F47 as shown in a dotted black line on sheet 23 of the onshore works plans
North East Lincolnshire	Killingholme Road/ Habrough Road	Between points 98 and 99 as shown hatched on sheet 23 of the onshore works plans
North Lincolnshire Council	Footpath 94	Between points F48 and F49 as shown in a dotted black line on sheet 24 of the onshore works plans
North Lincolnshire Council	Faulding Lane	Between points 100 and 101 as shown hatched on sheet 24 of the onshore works plans
North Lincolnshire Council	Footpath 87	Between points F50 and F51 as shown in a dotted black line on sheet 24 of the onshore works plans
North Lincolnshire Council	Footpath 88	Between points F52 and F53 as shown in a dotted black line on sheet 24 of the onshore works plans
North Lincolnshire Council	Habrough Road	Between points 102 and 103 as shown hatched on sheet 24 of the onshore works plans
North Lincolnshire Council	Ulceby Road (A160)	Between points 104 and 105 as shown hatched on sheet 24 of the onshore works plans
North Lincolnshire Council	On cable route – potential	Between points 119 and 120 as

<i>(1)</i> Area	<i>(2)</i> Street to be temporarily stopped up future road	<i>(3)</i> Extent of temporary stopping up
		shown hatched on sheet 24 of the onshore works plans
North Lincolnshire Council	Top Road	Between points 106 and 107 as shown hatched on sheet 25 of the onshore works plans
North Lincolnshire Council	Footpath 87	Between points F54 and F55 as shown in a dotted black line on sheet 25 of the onshore works plans
North Lincolnshire Council	Footpath 87	Between points F56 and F57 as shown in a dotted black line on sheet 25 of the onshore works plans
North Lincolnshire Council	Church Lane	Between points 108 and 109 as shown hatched on sheet 25 of the onshore works plans
North Lincolnshire Council	Church Lane	Between points 109 and 111 as shown hatched on sheet 25 of the onshore works plans
North Lincolnshire Council	Chase Hill Road	Between points 112 and 113 as shown hatched on sheet 26 of the onshore works plans
North Lincolnshire Council	Chase Hill Road	Between points 114 and 115 as shown hatched on sheet 26 of the onshore works plans
North Lincolnshire Council	Brick Lane	Between points 115 and 116 as shown hatched on sheet 26 and 27 of the onshore works plans
North Lincolnshire Council	Footpath 86	Between points F58 and F59 as shown in a dotted black line on sheet 27 of the onshore works plans
North Lincolnshire Council	Footpath 79	Between points F60 and F61 as shown in a dotted black line on sheet 27 of the onshore works plans
North Lincolnshire Council	Footpath 86	Between points F62 and F65 as shown in a dotted black line on sheet 27 of the onshore works plans
North Lincolnshire Council	Footpath 86	Between points F65 and F64 as shown in a dotted red line on sheet 27 of the onshore works plans
North Lincolnshire Council	Chase Hill Road	Between points 117 and 118 as shown hatched on sheet 27 of the onshore works plans

## SCHEDULE 4

Article 12

## Access to works

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of Access</i>
District of East Lindsey	Between point A1 (north side of Sheep Marsh Lane) shown on sheet 1 of the onshore works plans and Work Nos. 5A, 5B, 6A, 6B, 7A and 7B
District of East Lindsey	Between point A2 (unnamed highway north of Sheep Marsh Lane providing access to Poplar Piggeries) shown on sheet 2 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A3 (north side of North Coates Road) shown on sheet 3 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A4 (south side of North Coates Road) shown on sheet 4 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A5 (north side of unnamed highway east of New Delights access) shown on sheet 4 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A51 (north side of Tetney Lock Road east of New Delights access) shown on sheet 4 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A52 (north side of unnamed highway east of New Delights access) shown on sheet 4 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A53 (north side of unnamed highway east of New Delights access) shown on sheet 4 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A6 (north side of Tetney Lock Road west of Cow Marsh Lane) shown on sheet 5 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A7 (south side of unnamed highway east of New Delights access) shown on sheet 5 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A8 (north side of unnamed highway east of New Delights access) shown on sheet 5 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A9 (north side of Tetney Lock Road east of Humberston Road) shown on sheet 5 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A10 (west side of Holton Road) shown on sheet 6 of the onshore works plans and Work Nos. 7A and 7B

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of Access</i>
District of East Lindsey	Between point A11 (south side of Holton Road) shown on sheet 6 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A12 (north side of Station Road) shown on sheet 7 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A13 (north side of Station Road to the west of the dismantled railway line) shown on sheet 7 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A14 (north side of Station Road) shown on sheet 7 of the onshore works plans and Work Nos. 7A and 7B
District of East Lindsey	Between point A15 (west side of A16) shown on sheet 8 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A16 (west side of B1203, Waltham Road) shown on sheet 9 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A56 (east side of B1203, Waltham Road) shown on sheet 9 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A17 (south side of C148 Waltham Road) shown on sheet 10 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A18 (north side of C148 Waltham Road) shown on sheet 10 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A20 (west side of Bradley Road north of Waltham) shown on sheet 11 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A21 (west side of Bradley Road south of Netherwood Farm access point) shown on sheet 12 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A22 (west side of Bradley Road Netherwood Farm south access point) shown on sheet 12 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A23 (south-east side of A46 east of Laceby) shown on sheet 14 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A24 (north-west side of A46 east of Laceby) shown on sheet 14 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A25 (south-east side of Aylesby Road) shown on sheet 15 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A26 (north side of Beach Holt Lane/Nooking Lane west of Aylesby) shown on sheet 16 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A57 (north side of Nooking

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of Access</i>
	Lane west of Aylesby) shown on sheet 16 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A27 (south-east side of Wells Road) shown on sheet 17 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A28 (north-west side of Wells Road) shown on sheet 17 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A29 (east side of A1173) shown on sheet 18 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A30 (north-west side of A1173 at Stallingborough Grange Farm) shown on sheet 18 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A31 (south-east side of Keelby Road, north of Wood View) shown on sheet 19 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A32 (north-west side of Keelby Road north of Wood View) shown on sheet 19 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A33 (north-west side of Keelby Road north of Wood View) shown on sheet 19 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A34 (south-east side of Roxton Road south of railway) shown on sheet 20 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A35 (east side of Roxton Road north of railway) shown on sheet 20 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A36 (west side of Roxton Road north of railway) shown on sheet 20 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A39 (south-east side of B1210 Station Road south of A180) shown on sheet 22 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A40 (south side of B1210 Immingham Road) shown on sheet 23 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A41 (north side of B1210 Immingham Road) shown on sheet 23 of the onshore works plans and Work Nos. 7A and 7B
North East Lincolnshire	Between point A42 (east side of Killingholme Road/Habrough Road, opposite Hill Farm) shown on sheet 23 of the onshore works plans and Work Nos. 7A and 7B
North Lincolnshire	Between point A43 (north side of Faulding

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of Access</i>
North Lincolnshire	Lane) shown on sheet 24 of the onshore works plans and Work Nos. 7A and 7B
North Lincolnshire	Between point A54 (west side of Habrough Road south of A160) shown on sheet 24 of the onshore works plans and Work Nos. 7A and 7B
North Lincolnshire	Between point A55 (east side of Habrough Road) shown on sheet 24 of the onshore works plans and Work Nos. 7A and 7B
North Lincolnshire	Between point A44 (residential access road north of A160, west of A160/Habrough Road roundabout) shown on sheet 24 of the onshore works plans and Work Nos. 7A and 7B
North Lincolnshire	Between point A45 (north-east side of Top Road) shown on sheet 25 of the onshore works plans and Work Nos. 7A and 7B
North Lincolnshire	Between point A46 (south side of Church Lane) shown on sheet 25 of the onshore works plans and Work Nos. 7A and 7B
North Lincolnshire	Between point A47 (north side of Church Lane) shown on sheet 25 of the onshore works plans and Work Nos. 7A and 7B
North Lincolnshire	Between point A48 (south side of Chase Hill Road west of Eastfield Road) shown on sheet 26 of the onshore works plans and Work Nos. 7A and 7B
North Lincolnshire	Between point A49 (north side of Chase Hill Road west of Eastfield Road) shown on sheet 26 of the onshore works plans and Work Nos. 7A and 7B
North Lincolnshire	Between point A50 (Brick Lane, north side of Chase Hill Road) shown on sheet 26 of the onshore works plans and Work Nos. 7A and 7B

## SCHEDULE 5

Articles 19 and 26

### Land in which only new rights, etc. may be acquired

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights may be acquired</i>
1, 2, 3, 4, 19, 20, 21, 22, 23, 24, 26, 27, 28	To install, retain, maintain and operate apparatus (and to impose requirements for its protection) within an up to 320-metre corridor within the Order land and to obtain access for such purposes
5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 25, 29, 30, 31, 32	To ground and lay anchor for vessels within the Order land
509, 510	To install, retain, maintain and operate apparatus (and to impose requirements for its protection) within the Order land and to obtain

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights may be acquired</i>
33, 511	access for such purposes To install, maintain and use an access track and to obtain access for such purposes
35	To install, retain, maintain and operate transition jointing bays for the connection of offshore cable circuits to onshore cable circuits and apparatus (and to impose requirements for their protection) within an up to 150-metre corridor within the Order land and to obtain access for such purposes
37, 38, 39, 67, 68, 69, 79, 80, 81, 83, 84, 85, 86, 87, 88, 92, 96, 97, 98, 99, 107, 113, 119, 123, 131, 132, 134, 135, 139, 140, 141, 147, 148, 149, 150, 151, 152, 153, 155, 161, 168, 169, 173, 175, 180, 183, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 211, 215, 216, 217, 218, 219, 220, 221, 222, 223, 228, 232, 234, 248, 249, 250, 251, 252, 255, 256, 261, 262, 268, 275, 281, 282, 285, 289, 291, 293, 294, 295, 296, 297, 298, 299, 300, 307, 308, 309, 310, 311, 312, 313, 314, 317, 325, 327, 332, 333, 334, 338, 339, 342, 347, 352, 360, 361, 364, 365, 394, 403, 404, 411, 420, 421, 424, 426, 429, 430, 431, 432, 433, 434, 438, 439, 440, 445, 448, 449, 450, 451, 452, 453, 454, 459, 460, 461, 465, 466, 468, 471, 472, 476, 482, 486, 487, 488, 489, 490, 491, 492, 497, 499, 503	To install, retain, maintain and operate apparatus (and to impose requirements for its protection) within an up to 30-metre corridor within the Order land and to obtain access for such purposes
45, 46, 47, 48, 49	To install, maintain and use an access track and to obtain access for the purposes only of maintaining and operating the authorised project
273	To install, retain, maintain and operate apparatus (and to impose requirements for its protection) within an up to 30-metre corridor within the Order land and to obtain access for such purposes but not extending to breaking open the surface of the Order land
388, 437	To install, retain, maintain and operate apparatus (and to impose requirements for its protection) within an up to 30-metre corridor within the Order land
507, 519	To install, retain, maintain and operate apparatus (and to impose requirements for its protection) within the Order land and to install, maintain and use an access track and to obtain access for such purposes
512, 521	To install, retain, maintain and operate services (and to impose requirements for their protection) within the Order land and to install, maintain and use an access road and to obtain access for such purposes

## SCHEDULE 6

Article 19

### Modification of compensation and compulsory purchase enactments for creation of new rights, etc.

#### **Compensation enactments modified**

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

#### **Land Compensation Act 1973 modified**

2.—(1) Without limiting paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4,—

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

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5,—

- (a) for “part” in paragraphs (a) and (b), substitute “a right over or restrictive covenant affecting land consisting”;
- (b) for “severance”, substitute “right or restrictive covenant over or affecting the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for “part proposed”, substitute “right or restrictive covenant proposed”; and
- (d) for “part is”, substitute “right or restrictive covenant is”.

#### **Compulsory Purchase Act 1965 modified**

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, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land must be read (according to the requirements of the particular context) as referring to, or as including references to—

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

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(a) 1973 c.26.



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

4. For section 7 of the 1965 Act (measure of compensation in case of severance), substitute the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the restrictive covenant but also to the damage (if any) to be sustained thereby by the owner of the land in relation to other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (other provisions as to divided land), substitute the following section—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over, or a restrictive covenant affecting, land consisting of a house, building or manufactory or of a park or garden belonging to a house (the “relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the Upper Tribunal (the “tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that interest and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the Hornsea Two Offshore Wind Farm Order 2016 (the “Order”), in relation to that person, ceases to authorise the purchase of the right or the imposition of a restrictive covenant and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) must be determined by the tribunal.

(3) Where, in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1), the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (refusal to convey, failure to make title, etc.);
- (b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land that are expressed to be overridden by the deed, the right that is to be compulsorily acquired or the restrictive covenant that is to be imposed is vested absolutely in the acquiring authority.

7. 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 right or restrictive covenant, it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act(a) are modified correspondingly.

8. Section 20 of the 1965 Act(b) (tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 of the 1965 Act (interests omitted from purchase) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or to enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

## SCHEDULE 7

Article 26

### Land of which temporary possession may be taken

#### PART 1

##### Authorised project

(1) <i>Area</i>	(2) <i>Number of land shown on land plans</i>	(3) <i>Purpose for which temporary possession may be taken</i>	(4) <i>Relevant part of authorised project</i>
In the County of Lincolnshire, East Lindsey District	36	Worksite and access for the construction and carrying out of the authorised project	Work Nos. 5A, 5B, 6A, 6B, 7A and 7B
In the County of Lincolnshire, East Lindsey District	40, 41, 43, 44, 70, 71, 77, 93, 94, 100, 101, 102, 103, 104, 105, 106, 108, 109, 118, 124, 125, 126, 130, 137, 138, 154, 157, 158, 179, 184, 185	Worksite and access for the construction and carrying out of the authorised project	Work Nos. 7A and 7B

(a) Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15) and by paragraph 28 of Schedule 13 and Part 3 of Schedule 23 to that Act.

(b) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c.34) and paragraph 70 of Schedule 1 to S.I. 2009/1307.

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of authorised project</i>
In the County of Lincolnshire, East Lindsey District	34, 50, 53, 54, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 73, 74, 76, 78, 89, 90, 91, 110, 111, 112, 114, 115, 116, 117, 120, 121, 122, 127, 128, 129, 142, 143, 156, 159, 160, 162, 164, 165, 166, 167, 170, 171, 177, 178, 181, 182	Laying and use of temporary vehicular access track	Work Nos. 7A and 7B
In the County of Lincolnshire, East Lindsey District	172, 174, 176	Laying of temporary public footpaths and bridleways	Work Nos. 7A and 7B
In the County of North East Lincolnshire	213, 214, 224, 226, 229, 230, 245, 246, 247, 257, 258, 259, 277, 278, 280, 283, 284, 287, 288, 301, 302, 318, 319, 322, 324, 330, 331, 335, 336, 345, 346, 350, 351, 353, 356, 359, 362, 363, 372, 374, 392, 393, 395, 397, 401, 402, 405, 406, 407, 408, 412, 414, 419	Worksite and access for the construction and carrying out of the authorised project	Work Nos. 7A and 7B
In the County of North East Lincolnshire	209, 210, 212, 231, 239, 241, 242, 264, 265, 266, 267, 269, 270, 271, 272, 274, 315, 316, 320, 337, 340, 341, 343, 355, 368, 370, 371, 375, 376, 377, 379, 381, 416, 418	Laying and use of temporary vehicular access track	Work Nos. 7A and 7B
In the County of North East Lincolnshire	244, 290, 292, 326, 329	Laying of temporary public footpaths and bridleways	Work Nos. 7A and 7B
In the County of North Lincolnshire	422, 423, 425, 427, 435, 436, 441, 442, 443, 444, 446, 455, 456, 458, 462, 463, 467, 469, 470, 473, 474, 477, 478, 479, 483, 484, 493, 496, 498	Worksite and access for the construction and carrying out of the authorised project	Work Nos. 7A and 7B
In the County of North Lincolnshire	513, 514, 515, 520, 522	Laying and use of temporary vehicular access track	Work Nos. 8A, 8B, 9A, 9B and 10
In the County of	502, 504, 505	Worksite and access	Work Nos. 7A, 7B,

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of authorised project</i>
North Lincolnshire		for the construction and carrying out of the authorised project	8A, 8B, 9A and 9B
In the County of North Lincolnshire	508, 517, 518	Worksite and access for the construction and carrying out of the authorised project	Work Nos. 8A, 8B, 9A and 9B

## PART 2

### Compensation compounds

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
In the County of Lincolnshire, East Lindsey District	72, 95, 136, 186	Compensation compound in respect of worksite and access
In the County of Lincolnshire, East Lindsey District	73, 185	Compensation compound access in respect of vehicular access track to and from a compensation compound
In the County of North East Lincolnshire	225, 233, 235, 243, 260, 276, 279, 286, 321, 328, 344, 348, 349, 354, 373, 396, 398, 409, 410, 413	Compensation compound in respect of worksite and access
In the County of North East Lincolnshire	239, 241, 242, 263, 293, 294, 296, 297, 355, 399, 400	Compensation compound access in respect of vehicular access track to and from a compensation compound
In the County of North Lincolnshire	428, 447, 457, 464, 475, 485, 494, 495, 501	Compensation compound in respect of worksite and access

## PART 3

### Authorised project: access

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plans</i>
In the County of Lincolnshire, East Lindsey District	42, 51, 52, 55, 75, 82, 133, 144, 145, 146, 163
In the County of North East Lincolnshire	236, 237, 238, 240, 253, 254, 303, 304, 305, 306, 323, 357, 358, 366, 367, 369, 378, 380, 415, 417
In the County of North Lincolnshire	480, 481, 516

## PART 4

## Compensation compounds: access

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plans</i>
In the County of North East Lincolnshire	240

## SCHEDULE 8

Articles 2 and 36

## Marine Licence A1: Project A – Generation Assets

## PART 1

## Licensed activities

**Interpretation****1.—(1)** In this licence—

“2008 Act” means the Planning Act 2008;

“2009 Act” means the Marine and Coastal Access Act 2009;

“ancillary works” means the ancillary works described in clause 2 of Part 1 of this licence that are not development within the meaning of section 32 of the 2008 Act;

“Annex 1 habitat” means a habitat set out in Annex 1 to Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in clause 2(3) of Part 1 of this licence;

“authorised development” means the development described in Part 1 of Schedule 1 to the Order that is development within the meaning of section 32 of the 2008 Act;

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

“authorised scheme” means Work No. 1A described in clause 2 of Part 1 of this licence;

“commence” means the first carrying out of any part of the licensed activities, except for pre-construction surveys and monitoring; and “commencement” must be construed accordingly;

“Condition” means a condition set out in Part 2 of this licence;

“construction vessel” means any vessel involved in the course of or used for the construction and/or maintenance of the authorised project;

“debris” means items or equipment of a significant size left on the seabed being lost from survey or construction vessels or the structures comprised within the authorised scheme;

“EIA Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009;

“electrical circuit” means a number of electrical conductors necessary to transmit electricity between 2 points within the authorised project, comprising—

- (a) in the case of HVAC transmission, 3 conductors which may be bundled as 1 cable; and
- (b) in the case of HVDC transmission 2 conductors, which may be attached together or take the form of single cables,

and the electrical circuit may include 1 or more auxiliary cables (normally fibre-optic cables) for the purpose of control, monitoring, protection or general communications;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 40 of the Order;

“gravity base foundation” means—

- (a) a structure principally of concrete or steel (or both) that rests on the seabed due to its own weight and that of added ballast or to the weight of water above it and may include associated equipment including suction piles, J-tubes and access platforms; or
- (b) a structure principally of concrete or steel (or both) consisting of a platform supported on 2 pontoons to which the platform is connected by columns which may be connected by braces;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“in-principle monitoring plan” means the document certified as the in-principle monitoring plan by the Secretary of State under article 40 of the Order;

“intra-array electrical circuits” means the circuits described in clause 2(2)(b) of Part 1 of this licence;

“jacket foundation” means a lattice construction comprising tubular members and joints fixed to the seabed with piles (either driven/drilled piles or suction piles) which will include platforms and J-tubes and may include braced monopiles and a transition piece;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain”, unless otherwise provided for, includes inspect, repair, adjust, alter, remove, reconstruct and replace any of the authorised development; and any derivative of “maintain” must be construed accordingly;

“Marine Noise Registry” means the online database maintained by the Joint Nature Conservation Committee on behalf of the Department for Environment, Food and Rural Affairs that records the spatial and temporal distribution of impulsive noise-generating activities in United Kingdom seas in order that they can be analysed to determine whether they may potentially compromise the achievement of good environmental status;

“MCA” means the Maritime and Coastguard Agency;

“MHWS” (mean high water springs) means the highest level which spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation;

“monopile foundation” means a foundation comprising a large diameter steel or concrete tube or pile driven vertically into the seabed, J-tubes and platforms and may include external structural devices such as bracing members or steel anchor wires and a transition piece;

“notice to mariners” includes any notice to mariners which may be issued by Admiralty, Trinity House, Queen’s harbourmasters, government departments and harbour and pilotage authorities;

“offshore accommodation platform” means a platform housing or incorporating temporary accommodation, landing ports for vessels and helicopters, standby electricity generation equipment, marking and lighting and other equipment facilities to assist in the co-ordination of marine activities related to the authorised scheme;

“offshore HVAC collector substation” means a structure serving as a collection point for the intra-array electrical circuits and containing equipment for the purpose of transforming the

electricity generated at the wind turbine generators to a higher voltage; it may also include a helicopter platform;

“offshore HVDC converter substation” means a structure that contains equipment to convert HVAC electricity to HVDC electricity; it may also include a helicopter platform;

“Order” means the Hornsea Two Offshore Wind Farm Order 2016;

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

“suction pile” means a large diameter steel cylinder that is fixed to the base of the foundation, partially penetrates the seabed and remains in place using its weight and hydrostatic pressure differential;

“survey vessel” means a vessel licensed to carry out environmental or engineering surveys;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UK Hydrographic Office” means the Hydrographic Office of the Ministry of Defence or any replacement body or successor to its functions;

“undertaker” means Optimus Wind Limited (company number 07883284) or, to the extent that the benefit of the provisions of the Order and related statutory rights in relation to Work No. 1A and such associated development or ancillary works has been transferred under article 35 of the Order to another person, that other person;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water that is at the time in, on or over water;

“wind farm area” means the area within the limits of deviation for Work No. 1A whose co-ordinates are set out in Part 1 of Schedule 1 to the Order and shown on the works plans;

“wind turbine generator” means a structure comprising any or all of a tower, rotor, blades, nacelle and ancillary electrical and other equipment or structures, which may include lighting and a helicopter platform, fixed to a foundation;

“working day” means any day other than a Saturday, Sunday or public holiday in England and Wales;

“Work No. 1A” means an offshore wind generating station within the wind farm area and described as Work No. 1A in clause 2 of Part 1 of this licence;

“Work No. 1B” means an offshore wind generating station within the wind farm area and described as Work No. 1B in Part 1 of Schedule 1 to the Order;

“Work No. 2A” means up to 6 offshore HVAC collector substations and, in the event that the mode of transmission is HVDC, up to 2 offshore HVDC converter substations together with a network of electrical circuits connecting the structures within Work Nos. 2A and 2B;

“Work No. 2B” means up to 6 offshore HVAC collector substations and, in the event that the mode of transmission is HVDC, up to 2 offshore HVDC converter substations together with a network of electrical circuits connecting the structures within Work Nos. 2A and 2B;

“works plans” means the plans certified as the works plans by the Secretary of State under article 40 of the Order, comprising the offshore works plans, the intertidal works plans and the onshore works plans.

(2) A reference to any statute, order, regulation or similar instrument must be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are Greenwich Mean Time (GMT);
- (b) all co-ordinates are latitude and longitude degrees, minutes and seconds to 3 decimal places in WGS84 Datum.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence is—

- (a) Marine Management Organisation
  - Marine Licensing Team
  - Lancaster House
  - Hampshire Court
  - Newcastle-upon-Tyne NE4 7YH
  - Tel: 0300 123 1032
  - E-mail: [marine.consent@marinemangement.org.uk](mailto:marine.consent@marinemangement.org.uk)
- (b) Marine Management Organisation (referred to as the “MMO Coastal Office”)
  - Neville House
  - Central Riverside
  - Bell Street
  - North Shields
  - Tyne and Wear NE30 1LJ
  - Tel (24-hour answer phone): 0191 257 4520 or 0191 257 0159
  - E-mail: [northshields@marinemangement.org.uk](mailto:northshields@marinemangement.org.uk)
- (c) Trinity House
  - Tower Hill
  - London EC3N 4DH
  - Tel: 020 7481 6900
- (d) The United Kingdom Hydrographic Office
  - Admiralty Way
  - Taunton
  - Somerset TA1 2DN
  - Tel: 01823 337 900
- (e) Maritime and Coastguard Agency
  - Navigation Safety Branch
  - Bay 2/04
  - Spring Place
  - 105 Commercial Road
  - Southampton SO15 1EG
  - Tel: 023 8032 9191
- (f) Centre for Environment, Fisheries and Aquaculture Science
  - Pakefield Road
  - Lowestoft
  - Suffolk NR33 0HT
  - Tel: 01502 562 244
- (g) Natural England
  - Foss House
  - Kings Pool
  - 1-2 Peasholme Green
  - York YO1 7PX



Tel: 0300 060 1911

- (h) Historic Buildings and Monuments Commission for England (referred to as “Historic England”)

Eastgate Court

195-205 High Street

Guildford GU1 3EH

Tel: 01483 252 057.

### Details of licensed activities

2.—(1) This licence authorises the undertaker (and any agent or contractor acting on its behalf) to carry out the following licensable marine activities pursuant to section 66(1) of the 2009 Act, subject to the Conditions—

- (a) the deposit at sea of the substances and articles specified in paragraph (3);
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (e) the disposal at disposal site reference HU211 of up to 2,427,666 cubic metres comprising inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work No. 1A, provided that the combined total volume of inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work Nos. 1A and 1B disposed of at disposal site reference HU211 must not exceed 2,427,666 cubic metres;
- (f) the disposal at disposal site reference HU211 of up to 400,852 cubic metres comprising inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work No. 1A, provided that the combined total volume of inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work Nos. 1A and 1B disposed of at disposal site reference HU211 must not exceed 400,852 cubic metres; and
- (g) the removal of the substances and articles specified in paragraph (3).

(2) The activities are authorised in relation to the construction, maintenance and operation of—

*Work No. 1A* — An offshore wind generating station within the wind farm area comprising—

- (a) up to 300 wind turbine generators fixed to the seabed, provided that the combined total of wind turbine generators constructed in whole or in part within Work Nos. 1A and 1B must not exceed 300;
- (b) a network of subsea intra-array electrical circuits connecting the structures comprised in Work No. 1A—
  - (i) with other such structures;
  - (ii) with any other structure located within the wind farm area; and
  - (iii) with the network of electrical circuits comprised in Work Nos. 1B, 2A and 2B;
- (c) up to 2 offshore accommodation platforms fixed to the seabed which may be connected to one of the offshore HVAC collector substations or offshore HVDC converter substations within Work No. 2A by an unsupported steel bridge and up to 2 electrical circuits each connecting an accommodation platform to either an offshore HVAC collector substation or to a wind turbine generator in order to power the accommodation platform, provided that the combined total of offshore accommodation platforms constructed in whole or in part within Work Nos. 1A and 1B must not exceed 2.

Co-ordinates for wind farm area (limits of deviation for Work Nos. 1A, 1B, 2A and 2B)—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 50' 7.210" N	1° 26' 59.953" E

And in connection with Work No. 1A, further associated development as may be necessary or expedient in connection with the authorised scheme within the Order limits and is within the scope of the environmental impact assessment recorded in the environmental statement.

And in connection with Work No. 1A, ancillary works consisting of works and operations within the Order limits comprising temporary anchorage of vessels and buoys, beacons, fenders and other navigational warning or ship impact protection works.

(3) The substances or articles authorised for deposit at sea and removal are—

- (a) iron and steel;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic; and
- (f) material extracted from within the wind farm area during construction drilling and seabed preparation for foundation works.

(4) The grid co-ordinates for disposal site reference HU211 are—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 50' 7.210" N	1° 26' 59.953" E

(5) Section 72 of the 2009 Act applies to this licence, except that subsections (7) and (8) relating to the transfer of the licence apply only to a transfer not falling within article 35 of the Order.

### **Maintenance of authorised project**

3.—(1) The undertaker may at any time maintain the authorised project, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects on the environment require to be assessed in accordance with the EIA Regulations and are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Where the MMO's approval is required under paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### **Duration**

4. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 of the Energy Act 2004, including any modification to the programme under section 108(a), and the completion of the programme has been confirmed by the Secretary of State in writing.

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(a) Section 108 was amended by section 69(5) of the Energy Act 2008.

## PART 2

### Licence conditions

#### Design parameters

- 1.—(1) No wind turbine generator forming part of Work No. 1A may—
- (a) be more than 151 metres from LAT to the turbine hub;
  - (b) exceed a height of 276 metres from LAT to the upper tip of the vertical blade;
  - (c) exceed a rotor diameter of 241.03 metres;
  - (d) be less than 34.97 metres from LAT to the lowest point of the rotating blade;
  - (e) be less than 810 metres from the nearest wind turbine generator in all directions.
- (2) In this Condition, references to the location of a wind turbine generator are references to the centre point of the turbine.
- (3) No offshore accommodation platform forming part of Work No. 1A may—
- (a) exceed 64 metres in height above LAT;
  - (b) have a platform that at its greatest extent exceeds 3,600 square metres in area or 60 metres in width.
- (4) The diameter of the electrical cables comprising the electrical circuits within Work No. 1A must not exceed 170 millimetres.
- (5) The combined total length of the connections in the form of electrical circuits between the structures comprised in Work Nos. 1A and 1B must not exceed 685 kilometres.
- (6) The electrical circuits comprised in Work No. 1A must be installed by use of, or a combination of, ploughing, trenching, jetting, rock-cutting, dredging, surface laying with post-lay burial and, where ground conditions make burial impracticable, by surface laying.
- 2.—(1) The undertaker must in fixing to the seabed any structures comprised in Work No. 1A use one of the following methods—
- (a) monopile foundations;
  - (b) jacket foundations supported by piles; or
  - (c) gravity base foundations.
- (2) The following parameters apply in respect of the foundation methods used to fix wind turbine generators comprised in Work No. 1A to the seabed—
- (a) where monopile foundations are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,963 square metres;
    - (ii) the diameter of each foundation must not exceed 10 metres;
  - (b) where jacket foundations (driven/drilled piles) are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 2,827 square metres;
    - (ii) the number of piles per jacket must not exceed 12;
    - (iii) the diameter of each pile must not exceed 6 metres;
  - (c) where jacket foundations (suction piles) are used—
    - (i) the area occupied by the foundations and scour protection for each individual structure must not exceed 12,596 square metres;
    - (ii) the number of piles per jacket must not exceed 4;
    - (iii) the diameter of each pile must not exceed 21.1 metres;
  - (d) where gravity base foundations are used—

- (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 7,543 square metres;
- (ii) the seabed levelling diameter must not exceed 78 metres;
- (iii) the cone diameter must not exceed 58 metres at its base.

(3) The following parameters apply in respect of the foundation methods used to fix offshore accommodation platforms to the seabed—

- (a) where monopile foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,963 square metres;
  - (ii) the diameter of each foundation must not exceed 10 metres;
- (b) where jacket foundations (driven/drilled piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,414 square metres;
  - (ii) the number of piles must not exceed 8;
  - (iii) the diameter of each pile must not exceed 3 metres;
- (c) where jacket foundations (suction piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
  - (ii) the number of piles per jacket must not exceed 4;
  - (iii) the diameter of each pile must not exceed 15 metres;
- (d) where gravity base foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
  - (ii) the seabed levelling diameter must not exceed 70 metres;
  - (iii) the cone diameter must not exceed 50 metres at its base.

(4) The total volume of scour protection for the wind turbine generators and the offshore accommodation platforms forming part of Work No. 1A must not exceed 4,761,555 cubic metres, provided that the combined total volume of scour protection for the wind turbine generators and the offshore accommodation platforms forming part of Work Nos. 1A and 1B must not exceed 4,761,555 cubic metres.

### **Navigational practice, safety and emergency response**

**3.—**(1) No part of the authorised scheme seaward of MHWS may commence until the MMO, in consultation with the MCA, has given written approval for an emergency response co-operation plan which includes full details of the emergency co-operation plans for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations contained within MGN 371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”**(a)**.

(2) No part of the authorised scheme seaward of MHWS may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the development, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN 371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (including its annexes).

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**(a)** See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/441130/371.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441130/371.pdf).

(3) The emergency response co-operation plan must be implemented as approved, unless otherwise agreed in writing by the MMO, in consultation with the MCA.

### **Aids to navigation**

**4.—**(1) The undertaker must during the whole period from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning—

- (a) exhibit such lights, marks, sounds, signals and other aids to navigation and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct;
- (b) colour all structures in the authorised scheme as directed by Trinity House;
- (c) keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including—
  - (i) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
  - (ii) notice within 24 hours of any aids to navigation being established by the undertaker; and
  - (iii) notice within 5 working days of completion of construction of the authorised scheme;
- (d) submit reports to Trinity House detailing the working condition of aids to navigation quarterly, or as requested by Trinity House;
- (e) notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(2) Except as otherwise required by Trinity House under paragraph (1), the undertaker must colour all structures comprised in Work No. 1A yellow (colour code RAL 1023) from at least highest astronomical tide to a height as directed by Trinity House.

(3) Unless the MMO otherwise directs, the undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035).

### **Notifications and inspections**

**5.—**(1) The undertaker must ensure that—

- (a) a copy of this licence and any subsequent amendments or revisions to it are provided to—
  - (i) all agents and contractors notified to the MMO in accordance with the Conditions; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with the Conditions;
- (b) within 28 days of receipt of a copy of this licence, the persons referred to in subparagraph (a) provide a completed confirmation form to the MMO confirming their understanding of the terms of this licence.

(2) Only the persons and vessels notified to the MMO in accordance with Condition 11 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits are to be made.

(4) The documents referred to in paragraph (1)(a) must be available for inspection by an enforcement officer at the locations set out in paragraph (3) at any time.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Marine Licensing Team and the MMO Coastal Office in writing at least 5 working days before the commencement of the licensed activities or any part of them.

(7) The Kingfisher Information Service of Seafish must be informed by email of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk)—

- (a) at least 2 weeks before the construction of the authorised scheme or relevant part, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of the construction of the authorised scheme or relevant part.

Confirmation of notification must be provided to the MMO within 5 working days of notification to the Kingfisher Information Service of Seafish.

(8) The undertaker must ensure that a notice to mariners is issued at least 10 working days before the commencement of the licensed activities advising of the commencement of licensed activities within the wind farm area and the expected vessel routes from the local service ports to the location of the works comprised within the authorised scheme.

(9) The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and at least 5 days before any planned operation and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under Condition 8(2)(a). Copies of all notices must be provided to the MMO within 10 working days of issue.

(10) The undertaker must notify—

- (a) the UK Hydrographic Office of commencement (within 2 weeks), progress and completion (within 2 weeks) of the authorised scheme in order that all necessary amendments to nautical charts are made, and the undertaker must send a copy of such notifications to the MMO; and
- (b) the Defence Geographic Centre (at least 4 weeks before) of the commencement of the authorised scheme and of the progress and completion (within 2 weeks) of the authorised scheme, in order that all necessary amendments to aviation charts are made.

(11) In case of damage to, or destruction or decay of, the authorised scheme or any part of it seaward of MHWS, the undertaker must as soon as reasonably practicable, and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, Trinity House, MCA and the UK Hydrographic Office.

(12) In the event that the Marine Noise Registry has gone live before the commencement of impact pile driving—

- (a) the undertaker must submit details of the expected location, start and end dates of impact pile driving to the Marine Noise Registry before the commencement of the impact pile driving; and
- (b) the undertaker must notify the MMO of the successful submission of the details required under sub-paragraph (a) within 7 days of the submission.

(13) In the event that the Marine Noise Registry has gone live at the time of impact pile driving—

- (a) the undertaker must submit the exact locations and dates of impact pile driving to the Marine Noise Registry at 6-month intervals from the commencement of impact pile driving until the completion of impact pile driving. The final data must be submitted within 12 weeks of completion of impact pile driving; and

- (b) the undertaker must notify the MMO of the successful submission of the details required under sub-paragraph (a) within 7 days of the submission.

### **Chemicals, drilling and debris**

6.—(1) All chemicals used in the construction of the authorised scheme must be selected from the list of notified chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(a), unless otherwise agreed in writing by the MMO.

(2) The undertaker must ensure that any coatings or treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive or the Environment Agency Pollution Prevention Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment including bunding of 110% of the total volume of all reservoirs and containers.

(4) Where foundation drilling works are proposed, in the event that any system other than water based mud is proposed, the MMO's written approval in relation to the proposed disposal of any arisings must be obtained before the drilling commences, which disposal may also require a marine licence.

(5) The undertaker must ensure that, where practicable, any debris arising from the construction of the authorised scheme or temporary works placed seaward of MHWS is removed by a date no later than 28 days following the undertaker becoming aware of the debris after the completion of the authorised scheme (or by such later date as may be agreed in writing by the MMO). In the event that the debris cannot practicably be removed, the undertaker must notify the MMO, Trinity House and the MCA within 7 days of becoming aware that the debris cannot practicably be removed.

(6) At least 10 days before the commencement of the licensed activities, the undertaker must submit to the MMO an audit sheet covering all aspects of the construction of the authorised scheme, and no works may commence until the audit sheet content has been agreed with the MMO. The audit sheet must include details of—

- (a) loading facilities;
- (b) vessels;
- (c) equipment;
- (d) shipment routes;
- (e) working schedules; and
- (f) all components and materials to be used in the construction of the authorised scheme.

(7) The audit sheet must be maintained throughout the construction of the authorised scheme, and the MMO must be notified of any changes on a fortnightly basis.

(8) In the event that the undertaker becomes aware that any of the materials on the audit sheet cannot be accounted for, it must notify the MMO within 24 hours where possible, and in any event within 5 days of becoming aware using the dropped object procedure form. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar) if reasonable to do so. Local fishermen must be invited to send a representative to be present during the survey. The MMO may require any new obstructions associated with the authorised scheme to be removed from the seabed at the undertaker's expense if reasonable to do so.

(9) All debris arising from the operation and maintenance of the authorised scheme must be reported to the MMO using the dropped object procedure form within 24 hours where possible, and in any event within 5 days of the undertaker becoming aware of the incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar) if reasonable to do so and any new obstructions associated

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(a) S.I. 2002/1355, amended by S.I. 2011/982.



with the authorised scheme to be removed from the seabed at the undertaker's expense if reasonable to do so.

(10) The undertaker must inform the MMO of the location and quantities of inert material and dredged material disposed of each month under this licence, by submission of a disposal return by 31st January each year for disposals occurring during the months July to December inclusive of the preceding year, and by 31st July each year for disposals occurring during the months January to June inclusive of that year.

(11) The undertaker must ensure that only—

- (a) inert material of natural origin and drilling mud, produced during construction drilling and seabed preparation for foundation works comprised in Work No. 1A;
- (b) dredged material produced during seabed preparation for foundation works comprised in Work No. 1A; and
- (c) inert material of natural origin and dredged material produced during cable laying preparation works comprised in Work No. 1A;

is disposed of at disposal site reference HU211.

(12) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment. Concrete, cement mixing and washing areas must be contained to prevent run-off entering the water through the freeing ports.

(13) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(14) The undertaker must notify the MMO within 48 hours of the completion of the final authorised disposal at disposal site reference HU211.

### **Force majeure**

7. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit—

- (a) authorised deposits outside of the wind farm area or disposal site reference HU211; or
- (b) unauthorised deposits within or outside of the wind farm area or disposal site reference HU211,

because the safety of human life or of the vessel is threatened, full details of the circumstances of the deposit must be notified to the MMO within 48 hours.

### **Pre-construction plans and documentation**

8.—(1) The licensed activities may not commence until a plan setting out proposed details of the authorised scheme and including the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO following appropriate consultation with Trinity House and the MCA—

- (a) number, dimensions, specification, foundation types and depth for each wind turbine generator and offshore accommodation platform;
- (b) grid co-ordinates of the centre point of the proposed location for each wind turbine generator and offshore accommodation platform, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions;
- (c) proposed layout of all cables, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions; and
- (d) location and specification of all other aspects of the authorised scheme, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions.

(2) The licensed activities, or any phase of those activities, may not commence until a code of construction practice incorporating the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO—

- (a) a construction and monitoring programme, to include details of—
  - (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works; and
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with Conditions 13, 14 and 15. The pre-construction survey programme and all pre-construction survey methodologies must be submitted to the MMO for written approval by the MMO in consultation with the relevant statutory nature conservation body at least 4 months before the commencement of any survey works detailed within;
- (b) a construction method statement in accordance with the environmental statement, including details of—
  - (i) foundation installation, including any seabed preparation, drilling and disposal of arisings methods;
  - (ii) turbine installation, including any seabed preparation and scour protection;
  - (iii) installation of offshore accommodation platforms, including any seabed preparation and scour protection;
  - (iv) circuit installation, including any seabed preparation and circuit protection;
  - (v) contractors;
  - (vi) vessels; and
  - (vii) associated works;
- (c) a project environmental management and monitoring plan, to include details of—
  - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised scheme in relation to all activities carried out seaward of MHWS. The plan must include a mechanism for reporting oil, fuel and chemical spills to the MMO Marine Pollution Response Team;
  - (ii) a chemical risk analysis to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) a disposal plan detailing the locations, methods and timings of dredging and disposal, as well as disposal site monitoring requirements;
  - (iv) waste management and disposal arrangements;
  - (v) locations of any archaeological exclusion zones agreed as part of the written scheme of archaeological investigation approved under sub-paragraph (g); and
  - (vi) the appointment and responsibilities of a fisheries liaison officer and an environmental liaison officer;
- (d) a scour protection management and cable armouring plan providing details of the need, type, sources, quantity, location and installation methods for scour protection and cable armouring to be within the scope of the environmental impact assessment recorded in the environmental statement;
- (e) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol, the intention of which is to prevent injury and/or significant disturbance to marine mammals, following current best practice as advised by the statutory nature conservation bodies, which may include, but is not limited to—
  - (i) identification of a marine mammal mitigation zone (“MMMZ”);

- (ii) appointment of an appropriate number of suitably qualified marine mammal observers;
- (iii) methods for the detection of marine mammals within the MMMZ whether visually (by the marine mammal observers) or acoustically using passive acoustic monitoring equipment or other means of detection;
- (iv) a reporting methodology to enable efficient communication between the marine mammal observers and the person responsible for approving commencement of piling;
- (v) an appropriate soft start procedure whereby piling activities do not commence until an agreed time has elapsed and during which marine mammals have not been detected within the MMMZ;
- (vi) where appropriate, methods for the application of acoustic deterrent devices; and
- (vii) where appropriate, consideration of the use of noise reduction at source technologies;
- (f) a cable specification and installation plan, to include—
  - (i) technical specification of offshore electrical circuits, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice; and
  - (ii) a detailed cable laying plan, including geotechnical data, cable laying techniques and a cable burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA) to be taken to ensure existing and future safe navigation is not compromised;
- (g) a written scheme of archaeological investigation in relation to the wind farm area in accordance with industry good practice, to include—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for any further site investigation including any specifications for geophysical, geotechnical and diver- or remotely-operated vehicle investigations;
  - (iii) analysis and reporting of survey data to be submitted to the MMO within 4 months of survey completion;
  - (iv) delivery of any mitigation including, where necessary, archaeological exclusion zones;
  - (v) monitoring during and post-construction, including a conservation programme for finds;
  - (vi) archiving of archaeological material; and
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;
- (h) a plan for marine mammal monitoring setting out the circumstances in which marine mammal monitoring will be required and the monitoring to be carried out in such circumstances;
- (i) an offshore project maintenance plan to be submitted to the MMO at least 4 months before commencement of the operation of the licensed activities and to include provision for the review and resubmission of the plan every 3 years during the operational phase;
- (j) an aids to navigation management plan specifying how the undertaker will ensure compliance with Condition 4 from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning;
- (k) an ornithological monitoring plan setting out the circumstances in which ornithological monitoring will be required and the monitoring to be carried out in such circumstances.

(3) Before the submission of the pre-construction plans and documentation required by this Condition, the undertaker must provide a copy of the plans and documentation to the other undertakers under the Order.

(4) The undertaker must participate in liaison meetings with other undertakers under the Order as requested from time to time by the MMO in writing in advance. The meetings must be chaired by the MMO and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence where it has an impact on the efficient operation of any other deemed marine licence issued under the Order (including as varied or transferred).

(5) Before giving its approval under paragraph (2), the MMO must—

- (a) in relation to any programme, statement, plan or protocol submitted under sub-paragraphs (a) to (f), (h), (i) or (k), consult the relevant statutory nature conservation body;
- (b) in relation to a scheme submitted under sub-paragraph (g), consult Historic England; and
- (c) in relation to a plan submitted under sub-paragraph (j), consult Trinity House.

(6) In the event that driven or part-driven pile foundations are proposed to be used, the MMO must not approve the plan referred to in paragraph (1) or the code referred to in paragraph (2) unless the MMO is satisfied, after consulting such persons as the Secretary of State may specify in relation to the plan or the part of the code specified by the Secretary of State (in addition to the persons with whom consultation is otherwise required under this Condition), that either the plan or code (or both of them) provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2007 Regulations) of a relevant site, to the extent that marine mammals are a protected feature of that site.

(7) The mitigation referred to in paragraph (6) may include (without limitation)—

- (a) seasonal restrictions to piling;
- (b) scheduling of piling, having regard to previous, ongoing and future piling associated with other offshore developments, based on an updated assessment of cumulative impacts;
- (c) subject to the terms and conditions of this licence, changing the location of wind turbine generators;
- (d) the use of alternative foundation methodologies, such as jacket foundations (suction piles) or gravity base foundations;
- (e) the use of noise reduction at source technologies;
- (f) the use of other relevant technologies or methodologies that may emerge in the future.

(8) In paragraph (6), “relevant site” means—

- (a) a European offshore marine site;
- (b) a European site.

(9) For the purpose of paragraph (6)—

- (a) the Southern North Sea possible Special Area of Conservation must be treated as a European offshore marine site until—
  - (i) that Area (or any part of it) becomes a European offshore marine site or a European site; or
  - (ii) it is decided that no part of that Area should be a European offshore marine site or a European site; and
- (b) harbour porpoise must be treated as a protected feature of the Southern North Sea possible Special Area of Conservation.

(10) In this Condition—

“2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(a);

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(a) S.I. 2007/1842, amended by S.I. 2009/7, 2010/491 and 2012/1928.

“disturbance” must be construed in accordance with regulation 39(1)(b) of the 2007 Regulations;

“European offshore marine site” has the meaning given in regulation 15 of the 2007 Regulations;

“European site” has the meaning given in regulation 24 of the 2007 Regulations;

“Southern North Sea possible Special Area of Conservation” means the Southern North Sea possible Special Area of Conservation as set out in the JNCC 2016 Harbour Porpoise Possible Special Area of Conservation Consultation dated January 2016(a).

**9.** The undertaker must ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS form with a digital copy of the report within 6 months of completion of construction of the authorised scheme. The undertaker must notify the MMO that the OASIS report has been submitted to the National Record of the Historic Environment within 2 weeks of the submission.

**10.—(1)** Each programme, statement, plan, protocol or scheme required to be approved under Condition 8—

- (a) must be submitted for approval at least 4 months before the intended start of construction, except where otherwise stated or where an alternative date is agreed in writing by the MMO; and
- (b) must be accompanied by—
  - (i) a statement confirming that the undertaker has complied with Condition 8(3) in relation to the programme, statement, plan, protocol or scheme; and
  - (ii) any comments received by the undertaker from the other undertakers, or a statement from the undertaker confirming that no such comments were received.

(2) The undertaker must comply with the plans and documentation approved under Condition 8 in carrying out the licensed activities unless otherwise agreed in writing by the MMO.

(3) Before agreeing an alternative date under paragraph (1)(a) or a change to approved details under paragraph (2) relating to any document in respect of which consultation is required under Condition 8(5), the MMO must consult the relevant consultation body referred to in that Condition.

### **Reporting of engaged agents, contractors and vessels**

**11.—(1)** The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities at least 5 working days before the commencement of the licensed activities or any part of them; and
- (b) each week during the construction of the authorised scheme, a completed Hydrographic Note H102 listing the construction vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO and MMO Coastal Office in writing before the agent, contractor or vessel engages in the licensed activities.

(3) All agents, contractors and vessel operators comply with the Conditions.

### **Equipment and operation of vessels engaged in licensed activities**

**12.—(1)** All vessels employed to perform the licensed activities must be constructed and equipped to be capable of the proper performance of the activities in accordance with the Conditions and must comply with paragraphs (2) to (5).

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(a) See <http://jncc.defra.gov.uk/default.aspx?page=7059>.

- (2) All motor-powered vessels must be fitted with—
  - (a) an electronic positioning aid to provide navigational data;
  - (b) radar;
  - (c) an echo sounder; and
  - (d) multi-channel VHF.
- (3) All vessel names or identification must be clearly marked on the hull or superstructure of the vessel.
- (4) All communication on VHF working frequencies must be in English.
- (5) No vessel may engage in the licensed activities until all the equipment specified in paragraph (2) is fully operational.

### **Pre-construction monitoring and surveys**

**13.**—(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant conservation body of proposed pre-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format and content for a pre-construction baseline report; and—

- (a) the survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, so far as applicable, the pre-construction surveys must comprise, in outline—

- (a) a high-resolution swath bathymetric survey to include a 100% coverage and a side-scan sonar survey of the parts of the wind farm area in which it is proposed to carry out construction works and disposal activities under this licence;
- (b) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with Condition 8(2)(k);
- (c) a survey to determine the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance (including Annex 1 habitats) in the parts of the wind farm area in which it is proposed to carry out construction works under this licence; and
- (d) any marine mammal monitoring required by the plan for marine mammal monitoring submitted in accordance with Condition 8(2)(h).

(3) The undertaker must carry out the surveys agreed under paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

### **Construction monitoring**

**14.**—(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant statutory nature conservation body of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid

comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, so far as applicable, the construction monitoring must comprise, in outline—

- (a) unless the MMO agrees otherwise in writing, measurements of noise generated by the installation of the first 4 foundations of each discrete foundation type to be constructed under this licence where driven or part-driven pile foundations are used;
- (b) recording of any visual sightings or acoustic detection of marine mammals where required as part of the marine mammal mitigation protocol under Condition 8(2)(e); and
- (c) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with Condition 8(2)(k).

(3) The undertaker must carry out the surveys approved under paragraph (1), including any further noise monitoring required in writing by the MMO under paragraph (4), and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(4) The results of the initial noise measurements monitored in accordance with paragraph (2)(a) must be provided to the MMO within 6 weeks of the installation of the first 4 foundations of each discrete foundation type for the MMO to determine, following assessment of this report, whether any further noise monitoring is required.

(5) Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. A report must be submitted to the MMO and the MCA at the end of each year of the construction period.

### **Post-construction**

**15.—**(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant statutory nature conservation body of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals, so far as applicable, the post-construction surveys must comprise, in outline—

- (a) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with Condition 8(2)(k);
- (b) a high-resolution swath bathymetric survey of the following to assess any changes in bedform morphology—
  - (i) a representative sample area, as may be agreed in writing with the MMO, of the parts of the wind farm area within which construction works and disposal activities were carried out under this licence, and such further monitoring as may be required to ensure that the cables have been buried or protected; and
  - (ii) an area not to exceed 125% of the predicted scour area around a selection of turbines, such selection to be based on the desk-based assessment;
- (c) a survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance (including Annex 1 habitats) identified in the pre-construction survey in the parts of the wind farm area in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (d) any marine mammal monitoring required by the plan for marine mammal monitoring submitted in accordance with Condition 8(2)(h); and

- (e) vessel traffic monitoring by automatic identification system, for 28 days taking account seasonal variations in traffic patterns, for a maximum duration of 1 year post-construction. A report must be submitted to the MMO and the MCA at the end of the first year after construction is completed.

(3) The undertaker must carry out the surveys agreed under paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(4) Before carrying out the survey required under paragraph (2)(b), the undertaker must submit to the MMO for written approval a desk-based assessment (which takes account of all factors which influence scour) identifying the turbines with greatest potential for scour. The survey must be used to validate the desk-based assessment, and the significance of any differences between the predicted scour and recorded scour must be assessed in the survey report which must be submitted to the MMO. The need for further surveys must be agreed in writing with the MMO following submission of the first year of survey data.

### **Offshore decommissioning**

16.—(1) No decommissioning activities may commence until a plan for the carrying out of the activities has been submitted to and approved in writing by the MMO.

(2) The plan must be submitted for approval at least 4 months before the intended start of the decommissioning activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) The plan must be implemented as approved.

### **Amendments to approved plans, etc.**

17.—(1) Where any Condition requires the licensed activities to be carried out in accordance with any plan, programme, code, statement, protocol, scheme or details (the “plan”) approved by the MMO, the approved plan must be taken to include any amendment to the plan that may subsequently be approved in writing by the MMO.

(2) Any amendment to the plan must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that the amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

## **SCHEDULE 9**

Articles 2 and 36

### **Marine Licence A2: Project A – Transmission Assets**

#### **PART 1**

#### **Licensed activities**

#### **Interpretation**

1.—(1) In this licence—

“2008 Act” means the Planning Act 2008;

“2009 Act” means the Marine and Coastal Access Act 2009;



“ancillary works” means the ancillary works described in clause 2 of Part 1 of this licence that are not development within the meaning of section 32 of the 2008 Act;

“Annex 1 habitat” means a habitat set out in Annex 1 to Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in clause 2(3) of Part 1 of this licence;

“authorised development” means the development described in Part 1 of Schedule 1 to the Order that is development within the meaning of section 32 of the 2008 Act;

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

“authorised scheme” means Work Nos. 2A, 3A, 4A and 5A described in clause 2 of Part 1 of this licence;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any replacement body;

“commence” means the first carrying out of any part of the licensed activities, except for pre-construction surveys and monitoring; and “commencement” must be construed accordingly;

“Condition” means a condition set out in Part 2 of this licence;

“construction vessel” means any vessel involved in the course of or used for the construction and/or maintenance of the authorised project;

“debris” means items or equipment of a significant size left on the seabed being lost from survey or construction vessels or the structures comprised within the authorised scheme;

“EIA Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009;

“electrical circuit” means a number of electrical conductors necessary to transmit electricity between 2 points within the authorised project, comprising—

- (a) in the case of HVAC transmission, 3 conductors which may be bundled as 1 cable; and
- (b) in the case of HVDC transmission, 2 conductors, which may be attached together or take the form of single cables,

and the electrical circuit may include 1 or more auxiliary cables (normally fibre-optic cables) for the purpose of control, monitoring, protection or general communications;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 40 of the Order;

“gravity base foundation” means—

- (a) a structure principally of concrete or steel (or both) that rests on the seabed due to its own weight and that of added ballast or to the weight of water above it and may include associated equipment including suction piles, J-tubes and access platforms; or
- (b) a structure principally of concrete or steel (or both) consisting of a platform supported on 2 pontoons to which the platform is connected by columns which may be connected by braces;

“high tide” means the state of the tide when it reaches its highest level during a tidal cycle, as may be published from time to time on the UK Hydrographic Office Admiralty EasyTide Website or such other publication as may be approved by the MMO;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“in-principle monitoring plan” means the document certified as the in-principle monitoring plan by the Secretary of State under article 40 of the Order;

“intertidal area” means the area between MHWS and MLWS;

“intertidal works plans” means the part of the works plans described as the intertidal works plans;

“jacket foundation” means a lattice construction comprising tubular members and joints fixed to the seabed with piles (either driven/drilled piles or suction piles) which will include platforms and J-tubes and may include braced monopiles and a transition piece;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain”, unless otherwise provided for, includes inspect, repair, adjust, alter, remove, reconstruct and replace any of the authorised development; and any derivative of “maintain” must be construed accordingly;

“major storm event” means a greater than 1 in 10 year wave event within the offshore Order limits seaward of MHWS in terms of wave height, measured by reference to the height of waves recorded at the nearest wave buoy to the authorised scheme as agreed with the MMO and the WaveNet data published by Cefas, or such other means of measurement as may be agreed with the MMO;

“Marine Noise Registry” means the online database maintained by the Joint Nature Conservation Committee on behalf of the Department for Environment, Food and Rural Affairs that records the spatial and temporal distribution of impulsive noise-generating activities in UK seas in order that they can be analysed to determine whether they may potentially compromise the achievement of good environmental status;

“MCA” means the Maritime and Coastguard Agency;

“MHWS” (mean high water springs) means the highest level which spring tides reach on average over a period of time;

“MLWS” (mean low water springs) means the lowest level which spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation;

“monopile foundation” means a foundation comprising a large diameter steel or concrete tube or pile driven vertically into the seabed, J-tubes and platforms and may include external structural devices such as bracing members or steel anchor wires and a transition piece;

“notice to mariners” includes any notice to mariners which may be issued by Admiralty, Trinity House, Queen’s harbourmasters, government departments and harbour and pilotage authorities;

“offshore HVAC collector substation” means a structure serving as a collection point for the intra-array electrical circuits and containing equipment for the purpose of transforming the electricity generated at the wind turbine generators to a higher voltage; it may also include a helicopter platform;

“offshore HVDC converter substation” means a structure that contains equipment to convert HVAC electricity to HVDC electricity; it may also include a helicopter platform;

“offshore Order limits” means the limits shown on the offshore works plans and the intertidal works plans within which the authorised scheme may be carried out whose grid co-ordinates are set out in clause 2(2) of Part 1 of this licence;

“offshore reactive compensation substation” means a structure housing electrical reactors for the purpose of limiting electrical losses in the course of HVAC transmission by providing reactive compensation; it may also include a helicopter platform;

“offshore works plans” means the part of the works plans described as the offshore works plans;

“Order” means the Hornsea Two Offshore Wind Farm Order 2016;

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

“suction pile” means a large diameter steel cylinder that is fixed to the base of the foundation, partially penetrates the seabed and remains in place using its weight and hydrostatic pressure differential;

“survey vessel” means a vessel licensed to carry out environmental or engineering surveys;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UK Hydrographic Office” means the Hydrographic Office of the Ministry of Defence or any replacement body or successor to its functions;

“undertaker” means Optimus Wind Limited (company number 07883284) or, to the extent that the benefit of the provisions of the Order and related statutory rights in relation to Work Nos. 2A, 3A, 4A or 5A and such associated development or ancillary works has been transferred under article 35 of the Order to another person, that other person;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water that is at the time in, on or over water;

“wind turbine generator” means a structure comprising any or all of a tower, rotor, blades, nacelle and ancillary electrical and other equipment or structures, which may include lighting and a helicopter platform, fixed to a foundation;

“working day” means any day other than a Saturday, Sunday or public holiday in England and Wales;

“Work No. 2A” means the works described as Work No. 2A in clause 2 of Part 1 of this licence;

“Work No. 2B” means up to 6 offshore HVAC collector substations and, in the event that the mode of transmission is HVDC, up to 2 offshore HVDC converter substations together with a network of electrical circuits connecting the structures within Work Nos. 2A and 2B;

“Work No. 3A” means the works described as Work No. 3A in clause 2 of Part 1 of this licence;

“Work No. 3B” means up to 2 offshore reactive compensation substations fixed to the seabed in the event that the mode of transmission is HVAC;

“Work No. 4A” means the works described as Work No. 4A in clause 2 of Part 1 of this licence;

“Work No. 4B” means a marine connection to the shore, including cable and pipeline crossing works which—

(a) if the mode of transmission is HVAC, consists of up to 8 subsea electrical circuits proceeding from the offshore HVAC collector substations comprised in Work No. 2B via and connecting with the offshore reactive compensation substation comprised in Work No. 3B; or

(b) if the mode of transmission is HVDC, consists of up to 2 subsea electrical circuits proceeding from the offshore HVDC converter substations comprised in Work No. 2B,

and in either case terminating at Work No. 5B;

“Work No. 5A” means the works described as Work No. 5A in clause 2 of Part 1 of this licence;

“Work No. 5B” means a foreshore connection consisting of an extension of the electrical circuits comprised in Work No. 4B, including cable crossing works, crossing under the existing sea wall using a trenchless technique and terminating at the electrical circuit transition joint bays comprising Work No. 6B;

“Work No. 6A” means up to 8 underground electrical circuit transition joint bays in the vicinity of Horseshoe Point in the parish of North Coates in the county of Lincolnshire, housing the connections between the offshore electrical circuits comprised in Work No. 5A and the onshore electrical circuits;

“Work No. 6B” means up to 8 underground electrical circuit transition joint bays in the vicinity of Horseshoe Point in the parish of North Coates in the county of Lincolnshire, housing the connections between the offshore electrical circuits comprised in Work No. 5B and the onshore electrical circuits;

“works plans” means the plans certified as the works plans by the Secretary of State under article 40 of the Order, comprising the offshore works plans, the intertidal works plans and the onshore works plans.

(2) A reference to any statute, order, regulation or similar instrument must be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are Greenwich Mean Time (GMT);
- (b) all co-ordinates are latitude and longitude degrees, minutes and seconds to 3 decimal places in WGS84 Datum.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence is—

(a) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle-upon-Tyne NE4 7YH

Tel: 0300 123 1032

E-mail: [marine.consent@marinemangement.org.uk](mailto:marine.consent@marinemangement.org.uk)

(b) Marine Management Organisation (referred to as the “MMO Coastal Office”)

Neville House

Central Riverside

Bell Street

North Shields

Tyne and Wear NE30 1LJ

Tel (24-hour answer phone): 0191 257 4520 or 0191 257 0159

E-mail: [northshields@marinemangement.org.uk](mailto:northshields@marinemangement.org.uk)

(c) Trinity House

Tower Hill

London EC3N 4DH

Tel: 020 7481 6900

(d) The United Kingdom Hydrographic Office

Admiralty Way

Taunton

Somerset TA1 2DN

Tel: 01823 337 900

(e) Maritime and Coastguard Agency

Navigation Safety Branch

Bay 2/04

Spring Place

105 Commercial Road

Southampton SO15 1EG

Tel: 023 8032 9191

- (f) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road

Lowestoft

Suffolk NR33 0HT

Tel: 01502 562 244

- (g) Natural England

Foss House

Kings Pool

1-2 Peasholme Green

York YO1 7PX

Tel: 0300 060 1911

- (h) Historic Buildings and Monuments Commission for England (referred to as “Historic England”)

Eastgate Court

195-205 High Street

Guildford GU1 3EH

Tel: 01483 252 057

- (i) Environment Agency

Waterside House

Waterside North

Lincoln LN2 5HA

Tel: 03708 506 506.

### **Details of licensed activities**

2.—(1) This licence authorises the undertaker (and any agent or contractor acting on its behalf) to carry out the following licensable marine activities pursuant to section 66(1) of the 2009 Act, subject to the Conditions—

- (a) the deposit at sea of the substances and articles specified in paragraph (3);
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (e) the disposal at disposal site reference HU211 of up to 324,454 cubic metres comprising inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work No. 2A, provided that the combined total volume of inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work Nos. 2A and 2B disposed of at disposal site reference HU211 must not exceed 324,454 cubic metres;
- (f) the disposal at disposal site reference HU211 of up to 92,048 cubic metres comprising inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work Nos. 2A and 4A, provided that the combined total volume of inert material of natural origin and/or dredged material produced during cable

laying preparation works comprised in Work Nos. 2A, 2B, 4A and 4B disposed of at disposal site reference HU211 must not exceed 92,048 cubic metres;

- (g) the disposal at disposal site reference HU209 of up to 38,485 cubic metres comprising inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work No. 3A, provided that the combined total volume of inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work Nos. 3A and 3B disposed of at disposal site reference HU209 must not exceed 38,485 cubic metres;
- (h) the disposal at disposal site reference HU209 of up to 1,269,000 cubic metres comprising inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work No. 4A, provided that the combined total volume of inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work Nos. 4A and 4B disposed of at disposal site reference HU209 must not exceed 1,269,000 cubic metres;
- (i) the disposal at disposal site reference HU210 of up to 131,000 cubic metres comprising inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work No. 4A, provided that the combined total volume of inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work Nos. 4A and 4B disposed of at disposal site reference HU210 must not exceed 131,000 cubic metres; and
- (j) the removal of the substances and articles specified in paragraph (3).

(2) The activities are authorised in relation to the construction, maintenance and operation of—

*Work No. 2A* — Up to 6 offshore HVAC collector substations and, in the event that the mode of transmission is HVDC, up to 2 offshore HVDC converter substations together with a network of electrical circuits connecting the structures within Work Nos. 2A and 2B, provided that—

- (a) the combined total of offshore HVAC collector substations constructed in whole or in part within Work Nos. 2A and 2B must not exceed 6; and
- (b) the combined total of offshore HVDC converter substations constructed in whole or in part within Work Nos. 2A and 2B must not exceed 2.

Co-ordinates for wind farm area (limits of deviation for Work No. 2A)—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 50' 7.210" N	1° 26' 59.953" E

*Work No. 3A* — In the event that the mode of transmission is HVAC, up to 2 offshore reactive compensation substations fixed to the seabed at latitude point 53° 37' 54.291" N and longitude point 0° 55' 59.731" E and at latitude point 53° 38' 9.295" N and longitude point 0° 55' 49.576" E subject to deviation within the following limits of deviation, provided that the combined total of offshore reactive compensation substations constructed in whole or in part within Work Nos. 3A and 3B must not exceed 2—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	53° 38' 1.918" N	0° 55' 55.183" E
2	53° 38' 2.362" N	0° 55' 58.099" E
3	53° 38' 2.438" N	0° 56' 0.367" E
4	53° 38' 2.185" N	0° 56' 3.394" E
5	53° 38' 1.735" N	0° 56' 5.560" E
6	53° 38' 1.074" N	0° 56' 7.567" E
7	53° 37' 59.900" N	0° 56' 9.900" E
8	53° 37' 58.446" N	0° 56' 11.733" E
9	53° 37' 57.216" N	0° 56' 12.723" E
10	53° 37' 55.456" N	0° 56' 13.477" E
11	53° 37' 54.094" N	0° 56' 13.597" E
12	53° 37' 52.296" N	0° 56' 13.156" E
13	53° 37' 51.011" N	0° 56' 12.387" E
14	53° 37' 49.821" N	0° 56' 11.266" E
15	53° 37' 48.441" N	0° 56' 9.279" E
16	53° 37' 47.358" N	0° 56' 6.825" E
17	53° 37' 46.776" N	0° 56' 4.750" E
18	53° 37' 46.409" N	0° 56' 2.540" E
19	53° 37' 46.268" N	0° 56' 0.258" E
20	53° 37' 46.357" N	0° 55' 57.969" E
21	53° 37' 46.828" N	0° 55' 55.017" E
22	53° 37' 47.678" N	0° 55' 52.316" E
23	53° 37' 48.540" N	0° 55' 50.538" E
24	53° 37' 49.567" N	0° 55' 49.029" E
25	53° 37' 51.143" N	0° 55' 47.509" E
26	53° 37' 52.881" N	0° 55' 46.618" E
27	53° 37' 54.238" N	0° 55' 46.392" E
28	53° 37' 56.046" N	0° 55' 46.691" E
29	53° 37' 57.351" N	0° 55' 47.359" E
30	53° 37' 58.570" N	0° 55' 48.386" E
31	53° 38' 0.004" N	0° 55' 50.262" E
32	53° 38' 1.153" N	0° 55' 52.630" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
33	53° 38' 1.792" N	0° 55' 54.657" E
34	53° 38' 1.346" N	0° 55' 51.708" E
35	53° 38' 1.300" N	0° 55' 48.665" E
36	53° 38' 1.657" N	0° 55' 45.681" E
37	53° 38' 2.399" N	0° 55' 42.906" E
38	53° 38' 3.490" N	0° 55' 40.477" E
39	53° 38' 5.257" N	0° 55' 38.112" E
40	53° 38' 6.910" N	0° 55' 36.872" E
41	53° 38' 8.684" N	0° 55' 36.281" E
42	53° 38' 10.939" N	0° 55' 36.497" E
43	53° 38' 12.244" N	0° 55' 37.130" E
44	53° 38' 13.467" N	0° 55' 38.122" E
45	53° 38' 15.233" N	0° 55' 40.491" E
46	53° 38' 16.080" N	0° 55' 42.277" E
47	53° 38' 16.738" N	0° 55' 44.277" E
48	53° 38' 17.187" N	0° 55' 46.433" E
49	53° 38' 17.441" N	0° 55' 49.447" E
50	53° 38' 17.365" N	0° 55' 51.746" E
51	53° 38' 16.908" N	0° 55' 54.716" E
52	53° 38' 16.068" N	0° 55' 57.438" E
53	53° 38' 15.210" N	0° 55' 59.234" E
54	53° 38' 13.812" N	0° 56' 1.201" E
55	53° 38' 12.609" N	0° 56' 2.302" E
56	53° 38' 10.868" N	0° 56' 3.211" E
57	53° 38' 9.507" N	0° 56' 3.449" E
58	53° 38' 8.141" N	0° 56' 3.296" E
59	53° 38' 6.381" N	0° 56' 2.496" E
60	53° 38' 4.772" N	0° 56' 1.053" E
61	53° 38' 3.714" N	0° 55' 59.591" E
62	53° 38' 2.560" N	0° 55' 57.217" E

*Work No. 4A* — A marine connection to the shore, including cable and pipeline crossing works which—

(a) if the mode of transmission is HVAC, consists of up to 8 subsea electrical circuits proceeding from the offshore HVAC collector substations comprised in *Work No. 2A* via and connecting with the offshore reactive compensation substations comprised in *Work No. 3A*; or

(b) if the mode of transmission is HVDC, consists of up to 2 subsea electrical circuits proceeding from the offshore HVDC converter substations comprised in *Work No. 2A*,

and in either case terminating at *Work No. 5A*, provided that the combined total of electrical circuits constructed in whole or in part within *Work Nos. 4A* and *4B* must not exceed, in the event that the mode of transmission is HVDC, 2, and in the event that the mode of transmission is HVAC, 8.

Principal co-ordinates for marine export cable area (limits of deviation for *Work No. 4A*) whose full co-ordinates are set out in the offshore works plans—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E



<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 46' 7.286" N	1° 38' 16.673" E
25	53° 46' 4.677" N	1° 37' 22.711" E
27	53° 44' 47.813" N	1° 28' 38.495" E
32	53° 44' 47.743" N	1° 27' 26.607" E
34	53° 44' 36.477" N	1° 25' 23.743" E
141	53° 42' 30.629" N	1° 15' 58.654" E
152	53° 42' 28.182" N	1° 14' 34.895" E
264	53° 39' 35.134" N	1° 6' 29.785" E
316	53° 38' 17.582" N	1° 2' 16.928" E
447	53° 36' 54.624" N	0° 51' 31.062" E
449	53° 36' 15.738" N	0° 48' 52.425" E
513	53° 35' 21.166" N	0° 43' 44.242" E
515	53° 31' 50.425" N	0° 40' 55.898" E
516	53° 31' 38.281" N	0° 40' 8.340" E
521	53° 28' 36.676" N	0° 20' 3.846" E
532	53° 31' 43.122" N	0° 12' 21.707" E
533	53° 30' 57.432" N	0° 5' 59.890" E
534	53° 31' 11.028" N	0° 5' 42.539" E
535	53° 30' 42.954" N	0° 5' 10.787" E
536	53° 30' 42.180" N	0° 5' 9.912" E
537	53° 30' 46.588" N	0° 4' 55.345" E
538	53° 30' 52.245" N	0° 4' 59.515" E
539	53° 31' 25.514" N	0° 5' 24.049" E
540	53° 31' 29.574" N	0° 5' 27.043" E
580	53° 32' 16.976" N	0° 12' 37.072" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
763	53° 29' 11.523" N	0° 20' 5.981" E
1001	53° 31' 28.589" N	0° 35' 44.348" E
1002	53° 32' 0.855" N	0° 37' 42.781" E
1003	53° 32' 17.793" N	0° 39' 31.883" E
1004	53° 32' 35.749" N	0° 39' 45.737" E
1005	53° 33' 8.117" N	0° 39' 47.665" E
1006	53° 34' 28.861" N	0° 41' 27.396" E
1007	53° 35' 42.522" N	0° 42' 37.802" E
1010	53° 36' 25.571" N	0° 43' 54.129" E
1081	53° 37' 2.569" N	0° 47' 31.846" E
1083	53° 37' 30.986" N	0° 49' 14.023" E
1086	53° 37' 29.991" N	0° 51' 27.606" E
1087	53° 37' 36.904" N	0° 52' 22.841" E
1111	53° 38' 45.654" N	0° 57' 1.237" E
1143	53° 39' 16.652" N	1° 1' 1.016" E
1149	53° 39' 42.566" N	1° 1' 40.167" E
1155	53° 41' 20.037" N	1° 6' 45.836" E
1157	53° 42' 59.843" N	1° 14' 18.127" E
1164	53° 43' 0.151" N	1° 15' 37.960" E
1165	53° 44' 0.963" N	1° 20' 9.157" E
1166	53° 49' 6.492" N	1° 25' 51.682" E
1167	53° 50' 7.210" N	1° 26' 59.953" E

*Work No. 5A* — A foreshore connection consisting of an extension of the electrical circuits comprised in *Work No. 4A*, including cable crossing works, crossing under the existing sea wall using a trenchless technique and terminating at the electrical circuit transition joint bays (*Work No. 6A*).

And in connection with *Work Nos. 2A, 3A, 4A and 5A*, further associated development as may be necessary or expedient in connection with the authorised scheme within the Order limits and is within the scope of the environmental impact assessment recorded in the environmental statement.

And in connection with *Work Nos. 2A, 3A, 4A and 5A*, ancillary works consisting of works and operations within the Order limits comprising temporary anchorage of vessels and buoys, beacons, fenders and other navigational warning or ship impact protection works.

(3) The substances or articles authorised for deposit at sea and removal are—

- (a) iron and steel;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic; and
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works.

(4) The grid co-ordinates for disposal site reference HU211 are—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 50' 7.210" N	1° 26' 59.953" E

(5) The grid co-ordinates for disposal site reference HU209 are—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
A	53° 36' 40.490" N	0° 50' 41.571" E
B	53° 36' 54.624" N	0° 51' 31.062" E
C	53° 37' 22.048" N	0° 55' 08.301" E
D	53° 37' 38.643" N	0° 57' 17.843" E
E	53° 37' 56.680" N	0° 59' 39.524" E
F	53° 38' 15.917" N	1° 02' 08.601" E
G	53° 39' 35.134" N	1° 06' 29.785" E
H	53° 41' 22.549" N	1° 11' 30.804" E
I	53° 42' 14.598" N	1° 10' 44.250" E
J	53° 41' 19.717" N	1° 06' 44.682" E
K	53° 39' 41.954" N	1° 01' 38.714" E
L	53° 39' 16.652" N	1° 01' 01.016" E
M	53° 38' 45.654" N	0° 57' 01.237" E
N	53° 37' 36.904" N	0° 52' 22.841" E
O	53° 37' 29.991" N	0° 51' 27.606" E
P	53° 37' 30.124" N	0° 50' 57.716" E

(6) The grid co-ordinates for disposal site reference HU210 are—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
W	53° 43' 14.348" N	1° 19' 13.563" E
X	53° 43' 52.989" N	1° 22' 07.248" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
Y	53° 44' 22.957" N	1° 21' 47.484" E
Z	53° 43' 44.110" N	1° 18' 53.902" E

(7) Section 72 of the 2009 Act applies to this licence, except that subsections (7) and (8) relating to the transfer of the licence apply only to a transfer not falling within article 35 of the Order.

### **Maintenance of authorised project**

**3.**—(1) The undertaker may at any time maintain the authorised project, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects on the environment require to be assessed in accordance with the EIA Regulations and are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Where the MMO's approval is required under paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### **Duration**

**4.** This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 of the Energy Act 2004, including any modification to the programme under section 108, and the completion of the programme has been confirmed by the Secretary of State in writing.

## **PART 2**

### **Licence conditions**

#### **Design parameters**

- 1.**—(1) No offshore HVAC collector substation forming part of Work No. 2A may—
- (a) exceed 64 metres in height above LAT;
  - (b) have a platform that at its greatest extent exceeds 3,600 square metres in area or 60 metres in width.
- (2) No offshore HVDC converter substation forming part of Work No. 2A may—
- (a) exceed 110 metres in height above LAT;
  - (b) have a platform that at its greatest extent exceeds 16,200 square metres in area or 180 metres in width.
- (3) The offshore reactive compensation substation comprised in Work No. 3A must not—
- (a) exceed 64 metres in height above LAT; or
  - (b) have a platform that at its greatest extent exceeds 3,600 square metres in area or 60 metres in width.
- (4) The diameter of the electrical cables comprising the electrical circuits must not exceed—
- (a) within Work No. 2A, 300 millimetres;
  - (b) within Work Nos. 4A and 5A—
    - (i) 190 millimetres, where the mode of transmission is HVDC; and
    - (ii) 300 millimetres, where the mode of transmission is HVAC.

(5) The combined total length of the connections in the form of electrical circuits between the structures comprised in Work Nos. 2A and 2B must not exceed 300 kilometres.

(6) The combined total length of the electrical circuits comprised in Work Nos. 4A, 4B, 5A and 5B seaward of MHWS must not exceed 1,200 kilometres.

(7) The combined total area of cable protection for the electrical circuits comprising Work Nos. 2A and 2B must not exceed 546,000 square metres.

(8) The combined total area of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located outside the Humber Estuary Special Area of Conservation must not exceed 2,055,200 square metres.

(9) The combined total area of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located within the Humber Estuary Special Area of Conservation must not exceed 44,800 square metres.

(10) The combined total volume of cable protection for the electrical circuits comprising Work Nos. 2A and 2B must not exceed 312,000 cubic metres.

(11) The combined total volume of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located outside the Humber Estuary Special Area of Conservation must not exceed 1,174,400 cubic metres.

(12) The combined total volume of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located within the Humber Estuary Special Area of Conservation must not exceed 25,600 cubic metres.

(13) The electrical circuits comprised in Work Nos. 2A and 4A must be installed by use of, or a combination of, ploughing, trenching, jetting, rock-cutting, dredging, surface laying with post-lay burial, and where ground conditions make burial impracticable, by surface laying.

(14) The electrical circuits comprised in Work No. 5A must be installed by use of, or a combination of, ploughing, trenching and jetting, with the exception that, where the electrical circuits comprised in Work No. 5A cross under the existing sea wall, they must be installed using a trenchless technique.

2.—(1) The undertaker must in fixing to the seabed any structures comprised in Work Nos. 2A and 3A use one of the following methods—

- (a) monopile foundations;
- (b) jacket foundations supported by piles; or
- (c) gravity base foundations.

(2) The undertaker must not use the monopile foundation method or any other method that includes braced monopiles to fix to the seabed any offshore HVDC converter substation.

(3) The following parameters apply in respect of the foundation methods used to fix offshore HVAC collector substations to the seabed—

- (a) where monopile foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,963 square metres;
  - (ii) the diameter of each foundation must not exceed 10 metres;
- (b) where jacket foundations (driven/drilled piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,924 square metres;
  - (ii) the number of piles per jacket must not exceed 8;
  - (iii) the diameter of each pile must not exceed 3.5 metres;
- (c) where jacket foundations (suction piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 12,723 square metres;
  - (ii) the number of piles per jacket must not exceed 8;

- (iii) the diameter of each pile must not exceed 15 metres;
  - (d) where gravity base foundations are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
    - (ii) the seabed levelling diameter must not exceed 70 metres;
    - (iii) the cone diameter must not exceed 50 metres at its base.
- (4) The following parameters apply in respect of the foundation methods used to fix offshore HVDC converter substations to the seabed—
- (a) where jacket foundations (driven/drilled piles) are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 17,318 square metres;
    - (ii) the number of jacket foundations per topside must not exceed 4;
    - (iii) the number of piles per topside must not exceed 72;
    - (iv) the number of piles per jacket must not exceed 18;
    - (v) the diameter of each pile must not exceed 3.5 metres;
  - (b) where jacket foundations (suction piles) are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 50,894 square metres;
    - (ii) the number of jacket foundations per topside must not exceed 4;
    - (iii) the number of piles per topside must not exceed 32;
    - (iv) the number of piles per jacket must not exceed 8;
    - (v) the diameter of each pile must not exceed 15 metres;
  - (c) where gravity base foundations are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 27,300 square metres;
    - (ii) the number of pontoons for each individual structure must not exceed 3;
    - (iii) the pontoons must not exceed 170 metres in length or 35 metres in width.
- (5) The following parameters apply in respect of the foundation methods used to fix the offshore reactive compensation substation to the seabed—
- (a) where monopile foundations are used—
    - (i) the area occupied by the foundations and the scour protection must not exceed 1,963 square metres;
    - (ii) the diameter of each foundation must not exceed 10 metres;
  - (b) where jacket foundations (driven/drilled piles) are used—
    - (i) the area occupied by the foundations and the scour protection must not exceed 1,414 square metres;
    - (ii) the number of piles per jacket must not exceed 8;
    - (iii) the diameter of each pile must not exceed 3 metres;
  - (c) where jacket foundations (suction piles) are used—
    - (i) the area occupied by the foundations and the scour protection must not exceed 6,362 square metres;
    - (ii) the number of piles per jacket must not exceed 4;
    - (iii) the diameter of each pile must not exceed 15 metres;
  - (d) where gravity base foundations are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;

- (ii) the seabed levelling diameter must not exceed 70 metres;
- (iii) the cone diameter must not exceed 50 metres at its base.

### **Navigational practice, safety and emergency response**

3.—(1) No part of the authorised scheme seaward of MHWS may commence until the MMO, in consultation with the MCA, has given written approval for an emergency response co-operation plan which includes full details of the emergency co-operation plans for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations contained within MGN 371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”.

(2) No part of the authorised scheme seaward of MHWS may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the development, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN 371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (including its annexes).

(3) The emergency response co-operation plan must be implemented as approved, unless otherwise agreed in writing by the MMO, in consultation with the MCA.

### **Aids to navigation**

4.—(1) The undertaker must during the whole period from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning—

- (a) exhibit such lights, marks, sounds, signals and other aids to navigation and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct;
- (b) colour all structures in the authorised scheme as directed by Trinity House;
- (c) keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including—
  - (i) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
  - (ii) notice within 24 hours of any aids to navigation being established by the undertaker; and
  - (iii) notice within 5 working days of completion of construction of the authorised scheme;
- (d) submit reports to Trinity House detailing the working condition of aids to navigation quarterly, or as requested by Trinity House;
- (e) notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(2) Except as otherwise required by Trinity House under paragraph (1), the undertaker must colour all structures comprised in Work Nos. 2A and 3A yellow (colour code RAL 1023) from at least highest astronomical tide to a height as directed by Trinity House.

(3) Unless the MMO otherwise directs, the undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035).

### **Notifications and inspections**

5.—(1) The undertaker must ensure that—

- (a) a copy of this licence and any subsequent amendments or revisions to it are provided to—

- (i) all agents and contractors notified to the MMO in accordance with the Conditions; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with the Conditions;
- (b) within 28 days of receipt of a copy of this licence, the persons referred to in subparagraph (a) provide a completed confirmation form to the MMO confirming their understanding of the terms and conditions of this licence.
- (2) Only the persons and vessels notified to the MMO in accordance with Condition 11 are permitted to carry out the licensed activities.
- (3) Copies of this licence must also be available for inspection at the following locations—
- (a) the undertaker's registered address;
  - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit for the authorised deposits; and
  - (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits are to be made.
- (4) The documents referred to in paragraph (1)(a) must be available for inspection by an enforcement officer at the locations set out in paragraph (3) at any time.
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.
- (6) The undertaker must inform the MMO Marine Licensing Team and the MMO Coastal Office in writing at least 5 working days before the commencement of the licensed activities or any part of them.
- (7) The Kingfisher Information Service of Seafish must be informed by email of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk)—
- (a) at least 2 weeks before the construction of the authorised scheme or relevant part, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
  - (b) on completion of the construction of the authorised scheme or relevant part.
- Confirmation of notification must be provided to the MMO within 5 working days of notification to the Kingfisher Information Service of Seafish.
- (8) The undertaker must ensure that a notice to mariners is issued at least 10 working days before the commencement of the licensed activities advising of the commencement of licensed activities within the offshore Order limits and the expected vessel routes from the local service ports to the location of the works comprised within the authorised scheme.
- (9) The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and at least 5 days before any planned operation and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under Condition 8(2)(a). Copies of all notices must be provided to the MMO within 10 working days of issue.
- (10) The undertaker must notify—
- (a) the UK Hydrographic Office of commencement (within 2 weeks), progress and completion (within 2 weeks) of the authorised scheme in order that all necessary amendments to nautical charts are made, and the undertaker must send a copy of such notifications to the MMO; and
  - (b) the Defence Geographic Centre (at least 4 weeks before) of the commencement of the authorised scheme, and of the progress and completion (within 2 weeks) of the authorised scheme, in order that all necessary amendments to aviation charts are made.



(11) In case of damage to, or destruction or decay of, the authorised scheme or any part of it seaward of MHWS, the undertaker must as soon as reasonably practicable, and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, Trinity House, MCA and the UK Hydrographic Office.

(12) In the event that the Marine Noise Registry has gone live before the commencement of impact pile driving—

- (a) the undertaker must submit details of the expected location, start and end dates of impact pile driving to the Marine Noise Registry before the commencement of the impact pile driving; and
- (b) the undertaker must notify the MMO of the successful submission of the details required under sub-paragraph (a) within 7 days of the submission.

(13) In the event that the Marine Noise Registry has gone live at the time of impact pile driving—

- (a) the undertaker must submit the exact locations and dates of impact pile driving to the Marine Noise Registry at 6-month intervals from the commencement of impact pile driving until the completion of impact pile driving. The final data must be submitted within 12 weeks of completion of impact pile driving; and
- (b) the undertaker must notify the MMO of the successful submission of the details required under sub-paragraph (a) within 7 days of the submission.

### **Chemicals, drilling and debris**

6.—(1) All chemicals used in the construction of the authorised scheme must be selected from the list of notified chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002, unless otherwise agreed in writing by the MMO.

(2) The undertaker must ensure that any coatings or treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive or the Environment Agency Pollution Prevention Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment including bunding of 110% of the total volume of all reservoirs and containers.

(4) Where foundation drilling works are proposed, in the event that any system other than water based mud is proposed, the MMO's written approval in relation to the proposed disposal of any arisings must be obtained before the drilling commences, which disposal may also require a marine licence.

(5) The undertaker must ensure that, where practicable, any debris arising from the construction of the authorised scheme or temporary works placed seaward of MHWS is removed by a date no later than 28 days following the undertaker becoming aware of the debris after the completion of the authorised scheme (or by such later date as may be agreed in writing by the MMO). In the event that the debris cannot practicably be removed, the undertaker must notify the MMO, Trinity House and the MCA within 7 days of becoming aware that the debris cannot practicably be removed.

(6) At least 10 days before the commencement of the licensed activities, the undertaker must submit to the MMO an audit sheet covering all aspects of the construction of the authorised scheme, and no works may commence until the audit sheet content has been agreed with the MMO. The audit sheet must include details of—

- (a) loading facilities;
- (b) vessels;
- (c) equipment;
- (d) shipment routes;
- (e) working schedules; and
- (f) all components and materials to be used in the construction of the authorised scheme.

(7) The audit sheet must be maintained throughout the construction of the authorised scheme, and the MMO must be notified of any changes on a fortnightly basis.

(8) In the event that the undertaker becomes aware that any of the materials on the audit sheet cannot be accounted for, it must notify the MMO within 24 hours where possible, and in any event within 5 days of becoming aware using the dropped object procedure form. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar) if reasonable to do so. Local fishermen must be invited to send a representative to be present during the survey. The MMO may require any new obstructions associated with the authorised scheme to be removed from the seabed at the undertaker's expense if reasonable to do so.

(9) All debris arising from the operation and maintenance of the authorised scheme must be reported to the MMO using the dropped object procedure form within 24 hours where possible, and in any event within 5 days of the undertaker becoming aware of the incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar) if reasonable to do so and any new obstructions associated with the authorised scheme to be removed from the seabed at the undertaker's expense if reasonable to do so.

(10) The undertaker must inform the MMO of the location and quantities of inert material and dredged material disposed of each month under this licence at each of disposal site reference HU211, disposal site reference HU209 and disposal site reference HU210, by submission of a disposal return for each disposal area by 31st January each year for disposals occurring during the months July to December inclusive of the preceding year, and by 31st July each year for disposals occurring during the months January to June inclusive of that year.

(11) The undertaker must ensure that only—

- (a) inert material of natural origin and drilling mud, produced during construction drilling and seabed preparation for foundation works comprised in Work No. 2A;
- (b) dredged material produced during seabed preparation for foundation works comprised in Work No. 2A; and
- (c) inert material of natural origin and dredged material produced during cable laying preparation works comprised in Work No. 2A and Work No. 4A,

is disposed of at disposal site reference HU211.

(12) The undertaker must ensure that only—

- (a) inert material of natural origin and drilling mud, produced during construction drilling and seabed preparation for foundation works comprised in Work No. 3A;
- (b) dredged material produced during seabed preparation for foundation works comprised in Work No. 3A; and
- (c) inert material of natural origin and dredged material produced during cable laying preparation works comprised in Work No. 4A,

is disposed of at disposal site reference HU209.

(13) The undertaker must ensure that only inert material of natural origin and dredged material produced during cable laying preparation works comprised in Work No. 4A is disposed of at disposal site reference HU210.

(14) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete, cement mixing and washing areas must be contained to prevent run-off entering the water through the freeing ports.

(15) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(16) The undertaker must notify the MMO within 48 hours of the completion of the final authorised disposal at disposal site reference HU211.

(17) The undertaker must notify the MMO within 48 hours of the completion of the final authorised disposal at disposal site reference HU209.

(18) The undertaker must notify the MMO within 48 hours of the completion of the final authorised disposal at disposal site reference HU210.

### **Force majeure**

7. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit—

- (a) authorised deposits outside of the offshore Order limits or disposal site references HU209, HU210 or HU211; or
- (b) unauthorised deposits within or outside of the offshore Order limits or disposal site references HU209, HU210 or HU211,

because the safety of human life and/or of the vessel is threatened, full details of the circumstances of the deposit must be notified to the MMO within 48 hours.

### **Pre-construction plans and documentation**

8.—(1) The licensed activities may not commence until a plan setting out proposed details of the authorised scheme and including the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO following appropriate consultation with Trinity House and the MCA—

- (a) number, dimensions, specification, foundation types and depth for each offshore HVAC collector substation, offshore HVDC converter substation and offshore reactive compensation substation;
- (b) grid co-ordinates of the centre point of the proposed location for each offshore HVAC collector substation, offshore HVDC converter substation and offshore reactive compensation substation, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions;
- (c) proposed layout of all cables, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions; and
- (d) location and specification of all other aspects of the authorised scheme, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions.

(2) The licensed activities, or any phase of those activities, may not commence until a code of construction practice incorporating the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO—

- (a) a construction and monitoring programme, to include details of—
  - (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works; and
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with Conditions 13, 14 and 15. The pre-construction survey programme and all pre-construction survey methodologies must be submitted to the MMO for written approval by the MMO in consultation with the relevant statutory nature conservation body at least 4 months before the commencement of any survey works detailed within;
- (b) a construction method statement in accordance with the environmental statement, including details of—
  - (i) foundation installation, including any seabed preparation, drilling and disposal of arisings methods;

- (ii) installation of offshore HVAC collector substations, offshore HVDC converter substations and offshore reactive compensation substations, including any seabed preparation and scour protection;
  - (iii) circuit installation, including any seabed preparation and circuit protection;
  - (iv) contractors;
  - (v) vessels; and
  - (vi) associated works;
- (c) a project environmental management and monitoring plan, to include details of—
- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised scheme in relation to all activities carried out seaward of MHWS. The plan must include a mechanism for reporting oil, fuel and chemical spills to the MMO Marine Pollution Response Team;
  - (ii) a chemical risk analysis to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) a disposal plan detailing the locations, methods and timings of dredging and disposal, as well as disposal site monitoring requirements;
  - (iv) waste management and disposal arrangements;
  - (v) locations of any archaeological exclusion zones agreed as part of the written scheme of archaeological investigation approved under sub-paragraph (g);
  - (vi) any seasonal restrictions on construction works; and
  - (vii) the appointment and responsibilities of a fisheries liaison officer, an environmental liaison officer and an intertidal ecological clerk of works;
- (d) a scour protection management and cable armouring plan providing details of the need, type, sources, quantity, location and installation methods for scour protection and cable armouring to be within the scope of the environmental impact assessment recorded in the environmental statement;
- (e) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol, the intention of which is to prevent injury and/or significant disturbance to marine mammals, following current best practice as advised by the statutory nature conservation bodies, which may include, but is not limited to—
- (i) identification of a marine mammal mitigation zone (“MMMZ”);
  - (ii) appointment of an appropriate number of suitably qualified marine mammal observers;
  - (iii) methods for the detection of marine mammals within the MMMZ whether visually (by the marine mammal observers) or acoustically using passive acoustic monitoring equipment or other means of detection;
  - (iv) a reporting methodology to enable efficient communication between the marine mammal observers and the person responsible for approving commencement of piling;
  - (v) an appropriate soft start procedure whereby piling activities do not commence until an agreed time has elapsed and during which marine mammals have not been detected within the MMMZ;
  - (vi) where appropriate, methods for the application of acoustic deterrent devices; and
  - (vii) where appropriate, consideration of the use of noise reduction at source technologies;
- (f) a cable specification and installation plan, to include—
- (i) technical specification of offshore electrical circuits, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;

- (ii) a detailed cable laying plan, including geotechnical data, cable laying techniques and a cable burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA) to be taken to ensure existing and future safe navigation is not compromised;
- (iii) details of the steps to be taken, where the offshore electrical circuits across the intertidal area are buried using trenching or ploughing to ensure that the excavation and subsequent backfilling is carried out in such a way as to maintain the sediment profile so far as is reasonably practicable; and
- (iv) details of the steps to be taken, where the offshore electrical circuits across the intertidal area are installed using a trenchless technique;
- (g) a written scheme of archaeological investigation in relation to the offshore Order limits seaward of MHWS in accordance with industry good practice, to include—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for any further site investigation including any specifications for geophysical, geotechnical and diver- or remotely-operated vehicle investigations;
  - (iii) analysis and reporting of survey data to be submitted to the MMO within 4 months of survey completion;
  - (iv) delivery of any mitigation including, where necessary, archaeological exclusion zones;
  - (v) monitoring during and post-construction, including a conservation programme for finds;
  - (vi) archiving of archaeological material; and
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;
- (h) a proposed survey and reinstatement plan for Salicornia forming Annex 1 habitat in the parts of the offshore Order limits within which it is proposed to carry out construction works comprised in Work No. 5A, including the circumstances in which reinstatement will be required and the proposed methods of reinstatement;
- (i) an offshore project maintenance plan to be submitted to the MMO at least 4 months before commencement of the operation of the licensed activities and to include provision for the review and resubmission of the plan every 3 years during the operational phase;
- (j) an aids to navigation management plan specifying how the undertaker will ensure compliance with Condition 4 from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning.

(3) Before the submission of the pre-construction plans and documentation required by this Condition, the undertaker must provide a copy of the plans and documentation to the other undertakers under the Order.

(4) The undertaker must participate in liaison meetings with other undertakers under the Order as requested from time to time by the MMO in writing in advance. The meetings must be chaired by the MMO and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence where it has an impact on the efficient operation of any other deemed marine licence issued under the Order (including as varied or transferred).

(5) Before giving its approval under paragraph (2), the MMO must—

- (a) in relation to any programme or plan submitted under sub-paragraphs (a), (c), (d), (f), (h) or (i), consult the relevant statutory nature conservation body and the Environment Agency;
- (b) in relation to any statement or protocol submitted under sub-paragraphs (b) or (e), consult the relevant statutory nature conservation body;

- (c) in relation to a scheme submitted under sub-paragraph (g), consult Historic England; and
- (d) in relation to a plan submitted under sub-paragraph (j), consult Trinity House.

(6) In the event that driven or part-driven pile foundations are proposed to be used, the MMO must not approve the plan referred to in paragraph (1) or the code referred to in paragraph (2) unless the MMO is satisfied, after consulting such persons as the Secretary of State may specify in relation to the plan or the part of the code specified by the Secretary of State (in addition to the persons with whom consultation is otherwise required under this Condition), that either the plan or code (or both of them) provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2007 Regulations) of a relevant site, to the extent that marine mammals are a protected feature of that site.

(7) The mitigation referred to in paragraph (6) may include (without limitation)—

- (a) seasonal restrictions to piling;
- (b) scheduling of piling, having regard to previous, ongoing and future piling associated with other offshore developments, based on an updated assessment of cumulative impacts;
- (c) the use of alternative foundation methodologies, such as jacket foundations (suction piles) or gravity base foundations;
- (d) the use of noise reduction at source technologies;
- (e) the use of other relevant technologies or methodologies that may emerge in the future.

(8) In paragraph (6), “relevant site” means—

- (a) a European offshore marine site;
- (b) a European site.

(9) For the purpose of paragraph (6)—

- (a) the Southern North Sea possible Special Area of Conservation must be treated as a European offshore marine site until—
  - (i) that Area (or any part of it) becomes a European offshore marine site or a European site; or
  - (ii) it is decided that no part of that Area should be a European offshore marine site or a European site; and
- (b) harbour porpoise must be treated as a protected feature of the Southern North Sea possible Special Area of Conservation.

(10) In this Condition—

“2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007;

“disturbance” must be construed in accordance with regulation 39(1)(b) of the 2007 Regulations;

“European offshore marine site” has the meaning given in regulation 15 of the 2007 Regulations;

“European site” has the meaning given in regulation 24 of the 2007 Regulations;

“Southern North Sea possible Special Area of Conservation” means the Southern North Sea possible Special Area of Conservation as set out in the JNCC 2016 Harbour Porpoise Possible Special Area of Conservation Consultation dated January 2016.

**9.** The undertaker must ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS form with a digital copy of the report within 6 months of completion of construction of the authorised scheme. The undertaker must notify the MMO and, where the report relates to the intertidal area, Lincolnshire County Council that the OASIS report has been submitted to the National Record of the Historic Environment within 2 weeks of the submission.

**10.—**(1) Each programme, statement, plan, protocol or scheme required to be approved under Condition 8—

- (a) must be submitted for approval at least 4 months before the intended start of construction, except where otherwise stated or where an alternative date is agreed in writing by the MMO; and
- (b) must be accompanied by—
  - (i) a statement confirming that the undertaker has complied with Condition 8(3) in relation to the programme, statement, plan, protocol or scheme;
  - (ii) any comments received by the undertaker from the other undertakers, or a statement from the undertaker confirming that no such comments were received; and
  - (iii) details of any consultation that has been carried out with the undertakers with the benefit of all or part of the deemed marine licences under the Hornsea One Offshore Wind Farm Order 2014 and any comments received from those undertakers.

(2) The undertaker must comply with the plans and documentation approved under Condition 8 in carrying out the licensed activities unless otherwise agreed in writing by the MMO.

(3) Before agreeing an alternative date under paragraph (1)(a) or a change to approved details under paragraph (2) relating to any document in respect of which consultation is required under Condition 8, the MMO must consult the relevant consultation body referred to in that Condition.

### **Reporting of engaged agents, contractors and vessels**

**11.—**(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities at least 5 working days before the commencement of the licensed activities or any part of them; and
- (b) each week during the construction of the authorised scheme, a completed Hydrographic Note H102 listing the construction vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO and MMO Coastal Office in writing before the agent, contractor or vessel engages in the licensed activities.

(3) All agents, contractors and vessel operators must comply with the Conditions.

### **Equipment and operation of vessels engaged in licensed activities**

**12.—**(1) All vessels employed to perform the licensed activities must be constructed and equipped to be capable of the proper performance of the activities in accordance with the Conditions and must comply with paragraphs (2) to (5).

(2) All motor-powered vessels must be fitted with—

- (a) an electronic positioning aid to provide navigational data;
- (b) radar;
- (c) an echo sounder; and
- (d) multi-channel VHF.

(3) All vessel names or identification must be clearly marked on the hull or superstructure of the vessel.

(4) All communication on VHF working frequencies must be in English.

(5) No vessel may engage in the licensed activities until all the equipment specified in paragraph (2) is fully operational.

### **Pre-construction monitoring and surveys**

**13.—**(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant statutory nature conservation body and, in respect of the surveys required under paragraph (2)(b) and (c), in consultation with the

Environment Agency, of proposed pre-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format and content for a pre-construction baseline report; and—

- (a) the survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, so far as applicable, the pre-construction surveys must comprise, in outline—

- (a) a survey to determine the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance (including Annex 1 habitats) in the parts of the offshore Order limits in which it is proposed to carry out construction works under this licence;
- (b) a phase 1 survey of the intertidal area within which it is proposed to carry out construction works;
- (c) a high-resolution swath bathymetric survey to include a 100% coverage and a side-scan sonar survey of the parts of the offshore Order limits within which it is proposed to carry out construction works and disposal activities under this licence; and
- (d) a grab survey and particle size analysis in the parts of the offshore Order limits within which it is proposed to carry out dredging and disposal activities relating to Work Nos. 3A and 4A under this licence within a period not greater than 12 months before the dredging and disposal activities to determine the extent of suitable herring spawning habitat within those areas.

(3) The undertaker must carry out the surveys agreed under paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

### **Construction monitoring**

**14.—**(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant statutory nature conservation body of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, so far as applicable, the construction monitoring must comprise, in outline—

- (a) unless the MMO agrees otherwise in writing, measurements of noise generated by the installation of the first 4 foundations of each discrete foundation type comprised in Work No. 2A to be constructed under this licence where driven or part-driven pile foundations are used;
- (b) recording of any visual sightings or acoustic detection of marine mammals where required as part of the marine mammal mitigation protocol under Condition 8(2)(e); and
- (c) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with Condition 8(2)(k).



(3) The undertaker must carry out the surveys approved under paragraph (1), including any further noise monitoring required in writing by the MMO under paragraph (4), and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(4) The results of the initial noise measurements monitored in accordance with paragraph (2)(a) must be provided to the MMO within 6 weeks of the installation of the first 4 foundations of each discrete foundation type for the MMO to determine, following assessment of this report, whether any further noise monitoring is required.

(5) Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. A report must be submitted to the MMO and the MCA at the end of each year of the construction period.

### **Post-construction**

**15.—**(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant statutory nature conservation body and, in respect of the surveys required under paragraph (2)(a), (b) and (c), in consultation with the Environment Agency, of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals, so far as applicable, the post-construction surveys must comprise, in outline—

- (a) a survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance (including Annex 1 habitats) identified in the pre-construction survey in the parts of the offshore Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) a high-resolution swath bathymetric survey to be undertaken no sooner than 6 months following completion of construction works and disposal activities to include a 100% coverage of the parts of the offshore Order limits with a water depth no greater than 12 metres (referenced to Chart Datum) within which construction works and disposal activities were carried out under this licence to assess any changes in bedform morphology and such further monitoring as may be required to ensure that the cables have been buried or protected and sediment is able to move over any installed cable protection. The need for further surveys must be agreed in writing with the MMO following submission of the first year of survey data;
- (c) a high-resolution bathymetric survey of a representative sample area, as may be agreed in writing with the MMO, of the parts of the offshore Order limits with a water depth no greater than 12 metres (referenced to Chart Datum) within which construction works and disposal activities were carried out under this licence following the first major storm event the timing of which must be agreed with the MMO in consultation with Natural England and the Environment Agency;
- (d) a grab survey and particle size analysis in the parts of the offshore Order limits within which dredging and disposal activities relating to Work Nos. 3A and 4A were carried out under this licence within 12 months of the completion of the dredging and disposal activities to determine the extent of suitable herring spawning ground habitat within those areas; and
- (e) vessel traffic monitoring by automatic identification system, for 28 days taking account seasonal variations in traffic patterns, for a maximum duration of 1 year post-

construction. A report must be submitted to the MMO and the MCA at the end of the first year after construction is completed.

(3) The undertaker must carry out the surveys agreed under paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

### **Offshore decommissioning**

**16.—**(1) No decommissioning activities may commence until a plan for the carrying out of the activities has been submitted to and approved in writing by the MMO and, where the plan relates to the decommissioning of Work No. 4A or 5A, the MMO must consult the Environment Agency before giving its approval.

(2) The plan must be submitted for approval at least 4 months before the intended start of the decommissioning activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) The plan must be implemented as approved.

### **Amendments to approved plans, etc.**

**17.—**(1) Where any Condition requires the licensed activities to be carried out in accordance with any plan, programme, code, statement, protocol scheme or details (the “plan”) approved by the MMO, the approved plan must be taken to include any amendment to the plan that may subsequently be approved in writing by the MMO.

(2) Any amendment to the plan must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### **Restrictions in intertidal area and Humber Estuary Special Area of Conservation**

**18.—**(1) The cable protection to be used within the Humber Estuary Special Area of Conservation must be frond mattresses, unless otherwise agreed in writing with the MMO.

(2) No cable protection may be used within the intertidal area of the Humber Estuary Special Area of Conservation.

(3) The undertaker must not construct or install the licensed activities comprised in Work No. 4A or 5A in the intertidal area during the overwintering period unless otherwise agreed in writing with the MMO, in consultation with Natural England.

(4) The undertaker must not construct or install the licensed activities comprised in Work Nos. 4A and 5A in the intertidal area within 500 metres seaward of the seawall during the period of time commencing 2 hours before a high tide predicted to be greater than 6.5 metres Chart Datum and ending 2 hours after a high tide predicted to be greater than 6.5 metres Chart Datum between 1st April and 31st May (inclusive) and 1st August to 30th September (inclusive), unless provided for in the construction and monitoring programme submitted and approved under Condition 8(2)(a) or the construction method statement submitted and approved under Condition 8(2)(b) or unless otherwise agreed in writing by the MMO, in consultation with Natural England.

(5) The undertaker must not carry out inspections in the intertidal area during the overwintering period to the extent that the inspections require to be carried out—

- (a) more than once per overwintering period;
- (b) over more than 2 consecutive days by people on foot; or
- (c) by more than 5 people on foot at any one time,

unless otherwise agreed in writing with the MMO, in consultation with Natural England or unless provided for in the offshore project maintenance plan submitted and approved under Condition 8(2)(i).

(6) Where this Condition provides that the MMO may agree to an alternative to what is otherwise provided under this Condition—

- (a) any alternative must be in accordance with the principles and assessments set out in the environmental statement; and
- (b) agreement to any alternative may be given only where it has been demonstrated to the satisfaction of the MMO that the alternative is unlikely to give rise to any materially new or materially different effects from those assessed in the environmental statement.

(7) In this Condition, “overwintering period” means the period between 1st October and 31st March (inclusive).

## SCHEDULE 10

Articles 2 and 36

### Marine Licence B1: Project B – Generation Assets

#### PART 1

##### Licensed activities

#### Interpretation

1.—(1) In this licence—

“2008 Act” means the Planning Act 2008;

“2009 Act” means the Marine and Coastal Access Act 2009;

“ancillary works” means the ancillary works described in clause 2 of Part 1 of this licence that are not development within the meaning of section 32 of the 2008 Act;

“Annex 1 habitat” means a habitat set out in Annex 1 to Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in clause 2(3) of Part 1 of this licence;

“authorised development” means the development described in Part 1 of Schedule 1 to the Order that is development within the meaning of section 32 of the 2008 Act;

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

“authorised scheme” means Work No. 1B described in clause 2 of Part 1 of this licence;

“commence” means the first carrying out of any part of the licensed activities, except for pre-construction surveys and monitoring; and “commencement” must be construed accordingly;

“Condition” means a condition set out in Part 2 of this licence;

“construction vessel” means any vessel involved in the course of or used for the construction and/or maintenance of the authorised project;

“debris” means items or equipment of a significant size left on the seabed being lost from survey or construction vessels or the structures comprised within the authorised scheme;

“EIA Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009;

“electrical circuit” means a number of electrical conductors necessary to transmit electricity between 2 points within the authorised project, comprising—

- (a) in the case of HVAC transmission, 3 conductors which may be bundled as 1 cable; and
- (b) in the case of HVDC transmission, 2 conductors, which may be attached together or take the form of single cables,

and the electrical circuit may include 1 or more auxiliary cables (normally fibre-optic cables) for the purpose of control, monitoring, protection or general communications;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 40 of the Order;

“gravity base foundation” means—

- (a) a structure principally of concrete or steel (or both) that rests on the seabed due to its own weight and that of added ballast or to the weight of water above it and may include associated equipment including suction piles, J-tubes and access platforms; or
- (b) a structure principally of concrete or steel (or both) consisting of a platform supported on 2 pontoons to which the platform is connected by columns which may be connected by braces;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“in-principle monitoring plan” means the document certified as the in-principle monitoring plan by the Secretary of State under article 40 of the Order;

“intra-array electrical circuits” means the circuits described in clause 2(2)(b) of Part 1 of this licence;

“jacket foundation” means a lattice construction comprising tubular members and joints fixed to the seabed with piles (either driven/drilled piles or suction piles) which will include platforms and J-tubes and may include braced monopiles and a transition piece;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain”, unless otherwise provided for, includes inspect, repair, adjust, alter, remove, reconstruct and replace any of the authorised development; and any derivative of “maintain” must be construed accordingly;

“Marine Noise Registry” means the online database maintained by the Joint Nature Conservation Committee on behalf of the Department for Environment, Food and Rural Affairs that records the spatial and temporal distribution of impulsive noise-generating activities in United Kingdom seas in order that they can be analysed to determine whether they may potentially compromise the achievement of good environmental status;

“MCA” means the Maritime and Coastguard Agency;

“MHWS” (mean high water springs) means the highest level which spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation;

“monopile foundation” means a foundation comprising a large diameter steel or concrete tube or pile driven vertically into the seabed, J-tubes and platforms and may include external structural devices such as bracing members or steel anchor wires and a transition piece;

“notice to mariners” includes any notice to mariners which may be issued by Admiralty, Trinity House, Queen’s harbourmasters, government departments and harbour and pilotage authorities;

“offshore accommodation platform” means a platform housing or incorporating temporary accommodation, landing ports for vessels and helicopters, standby electricity generation equipment, marking and lighting and other equipment facilities to assist in the co-ordination of marine activities related to the authorised scheme;

“offshore HVAC collector substation” means a structure serving as a collection point for the intra-array electrical circuits and containing equipment for the purpose of transforming the electricity generated at the wind turbine generators to a higher voltage; it may also include a helicopter platform;

“offshore HVDC converter substation” means a structure that contains equipment to convert HVAC electricity to HVDC electricity; it may also include a helicopter platform;

“Order” means the Hornsea Two Offshore Wind Farm Order 2016;

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

“suction pile” means a large diameter steel cylinder that is fixed to the base of the foundation, partially penetrates the seabed and remains in place using its weight and hydrostatic pressure differential;

“survey vessel” means a vessel licensed to carry out environmental or engineering surveys;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UK Hydrographic Office” means the Hydrographic Office of the Ministry of Defence or any replacement body or successor to its functions;

“undertaker” means Breesea Limited (company number 07883217) or, to the extent that the benefit of the provisions of the Order and related statutory rights in relation to Work No. 1B and such associated development or ancillary works has been transferred under article 35 of the Order to another person, that other person;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water that is at the time in, on or over water;

“wind farm area” means the area within the limits of deviation for Work No. 1B whose co-ordinates are set out in Part 1 of Schedule 1 to the Order and shown on the works plans;

“wind turbine generator” means a structure comprising any or all of a tower, rotor, blades, nacelle and ancillary electrical and other equipment or structures, which may include lighting and a helicopter platform, fixed to a foundation;

“working day” means any day other than a Saturday, Sunday or public holiday in England and Wales;

“Work No. 1A” means an offshore wind generating station within the wind farm area and described as Work No. 1A in Part 1 of Schedule 1 to the Order;

“Work No. 1B” means an offshore wind generating station within the wind farm area and described as Work No. 1B in clause 2 of Part 1 of this licence;

“Work No. 2A” means up to 6 offshore HVAC collector substations and, in the event that the mode of transmission is HVDC, up to 2 offshore HVDC converter substations together with a network of electrical circuits connecting the structures within Work Nos. 2A and 2B;

“Work No. 2B” means up to 6 offshore HVAC collector substations and, in the event that the mode of transmission is HVDC, up to 2 offshore HVDC converter substations together with a network of electrical circuits connecting the structures within Work Nos. 2A and 2B;

“works plans” means the plans certified as the works plans by the Secretary of State under article 40 of the Order, comprising the offshore works plans, the intertidal works plans and the onshore works plans.

(2) A reference to any statute, order, regulation or similar instrument must be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are Greenwich Mean Time (GMT);
- (b) all co-ordinates are latitude and longitude degrees, minutes and seconds to 3 decimal places in WGS84 Datum.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence is—

(a) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle-upon-Tyne NE4 7YH

Tel: 0300 123 1032

E-mail: [marine.consent@marinemangement.org.uk](mailto:marine.consent@marinemangement.org.uk)

(b) Marine Management Organisation (referred to as the “MMO Coastal Office”)

Neville House

Central Riverside

Bell Street

North Shields

Tyne and Wear NE30 1LJ

Tel (24-hour answer phone): 0191 257 4520 or 0191 257 0159

E-mail: [northshields@marinemangement.org.uk](mailto:northshields@marinemangement.org.uk)

(c) Trinity House

Tower Hill

London EC3N 4DH

Tel: 020 7481 6900

(d) The United Kingdom Hydrographic Office

Admiralty Way

Taunton

Somerset TA1 2DN

Tel: 01823 337 900

(e) Maritime and Coastguard Agency

Navigation Safety Branch

Bay 2/04

Spring Place

105 Commercial Road

Southampton SO15 1EG

Tel: 023 8032 9191

(f) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road

Lowestoft

Suffolk NR33 0HT

Tel: 01502 562 244

(g) Natural England

Foss House

Kings Pool  
 1-2 Peasholme Green  
 York YO1 7PX  
 Tel: 0300 060 1911

- (h) Historic Buildings and Monuments Commission for England (referred to as “Historic England”)

Eastgate Court  
 195-205 High Street  
 Guildford GU1 3EH  
 Tel: 01483 252 057.

### Details of licensed activities

2.—(1) This licence authorises the undertaker (and any agent or contractor acting on its behalf) to carry out the following licensable marine activities pursuant to section 66(1) of the 2009 Act, subject to the Conditions—

- (a) the deposit at sea of the substances and articles specified in paragraph (3);
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (e) the disposal at disposal site reference HU211 of up to 2,427,666 cubic metres comprising inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work No. 1B, provided that the combined total volume of inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work Nos. 1A and 1B disposed of at disposal site reference HU211 must not exceed 2,427,666 cubic metres;
- (f) the disposal at disposal site reference HU211 of up to 400,852 cubic metres comprising inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work No. 1B, provided that the combined total volume of inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work Nos. 1A and 1B disposed of at disposal site reference HU211 must not exceed 400,852 cubic metres; and
- (g) the removal of the substances and articles specified in paragraph (3).

(2) The activities are authorised in relation to the construction, maintenance and operation of—

*Work No. 1B* — An offshore wind generating station within the wind farm area comprising—

- (a) up to 300 wind turbine generators fixed to the seabed, provided that the combined total of wind turbine generators constructed in whole or in part within Work Nos. 1A and 1B must not exceed 300;
- (b) a network of subsea intra-array electrical circuits connecting the structures comprised in Work No. 1B—
  - (i) with other such structures;
  - (ii) with any other structure located within the wind farm area; and
  - (iii) with the network of electrical circuits comprised in Work Nos. 1A, 2A and 2B;
- (c) up to 2 offshore accommodation platforms fixed to the seabed which may be connected to one of the offshore HVAC collector substations or offshore HVDC converter substations within Work No. 2B by an unsupported steel bridge and up to 2 electrical circuits each

connecting an accommodation platform to either an offshore HVAC collector substation or to a wind turbine generator in order to power the accommodation platform, provided that the combined total of offshore accommodation platforms constructed in whole or in part within Work Nos. 1A and 1B must not exceed 2.

Co-ordinates for wind farm area (limits of deviation for Work Nos. 1A, 1B, 2A and 2B)—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 50' 7.210" N	1° 26' 59.953" E

And in connection with Work No. 1B, further associated development as may be necessary or expedient in connection with the authorised scheme within the Order limits and is within the scope of the environmental impact assessment recorded in the environmental statement.

And in connection with Work No. 1B, ancillary works consisting of works and operations within the Order limits comprising temporary anchorage of vessels and buoys, beacons, fenders and other navigational warning or ship impact protection works.

(3) The substances or articles authorised for deposit at sea and removal are—

- (a) iron and steel;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic; and
- (f) material extracted from within the wind farm area during construction drilling and seabed preparation for foundation works.



(4) The grid co-ordinates for disposal site reference HU211 are—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
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15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 50' 7.210" N	1° 26' 59.953" E

(5) Section 72 of the 2009 Act applies to this licence, except that subsections (7) and (8) relating to the transfer of the licence apply only to a transfer not falling within article 35 of the Order.

### **Maintenance of authorised project**

**3.**—(1) The undertaker may at any time maintain the authorised project, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects on the environment require to be assessed in accordance with the EIA Regulations and are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Where the MMO's approval is required under paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### **Duration**

**4.** This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 of the Energy Act 2004, including any modification to the programme under section 108, and the completion of the programme has been confirmed by the Secretary of State in writing.

## PART 2

### Licence conditions

#### Design parameters

- 1.—(1) No wind turbine generator forming part of Work No. 1B may—
- (a) be more than 151 metres from LAT to the turbine hub;
  - (b) exceed a height of 276 metres from LAT to the upper tip of the vertical blade;
  - (c) exceed a rotor diameter of 241.03 metres;
  - (d) be less than 34.97 metres from LAT to the lowest point of the rotating blade;
  - (e) be less than 810 metres from the nearest wind turbine generator in all directions.
- (2) In this Condition, references to the location of a wind turbine generator are references to the centre point of the turbine.
- (3) No offshore accommodation platform forming part of Work No. 1B may—
- (a) exceed 64 metres in height above LAT;
  - (b) have a platform that at its greatest extent exceeds 3,600 square metres in area or 60 metres in width.
- (4) The diameter of the electrical cables comprising the electrical circuits within Work No. 1B must not exceed 170 millimetres.
- (5) The combined total length of the connections in the form of electrical circuits between the structures comprised in Work Nos. 1A and 1B must not exceed 685 kilometres.
- (6) The electrical circuits comprised in Work No. 1B must be installed by use of, or a combination of, ploughing, trenching, jetting, rock-cutting, dredging, surface laying with post-lay burial, and where ground conditions make burial impracticable, by surface laying.
- 2.—(1) The undertaker must in fixing to the seabed any structures comprised in Work No. 1B use one of the following methods—
- (a) monopile foundations;
  - (b) jacket foundations supported by piles; or
  - (c) gravity base foundations.
- (2) The following parameters apply in respect of the foundation methods used to fix wind turbine generators comprised in Work No. 1B to the seabed—
- (a) where monopile foundations are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,963 square metres;
    - (ii) the diameter of each foundation must not exceed 10 metres;
  - (b) where jacket foundations (driven/drilled piles) are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 2,827 square metres;
    - (ii) the number of piles per jacket must not exceed 12;
    - (iii) the diameter of each pile must not exceed 6 metres;
  - (c) where jacket foundations (suction piles) are used—
    - (i) the area occupied by the foundations and scour protection for each individual structure must not exceed 12,596 square metres;
    - (ii) the number of piles per jacket must not exceed 4;
    - (iii) the diameter of each pile must not exceed 21.1 metres;
  - (d) where gravity base foundations are used—

- (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 7,543 square metres;
- (ii) the seabed levelling diameter must not exceed 78 metres;
- (iii) the cone diameter must not exceed 58 metres at its base.

(3) The following parameters apply in respect of the foundation methods used to fix offshore accommodation platforms to the seabed—

- (a) where monopile foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,963 square metres;
  - (ii) the diameter of each foundation must not exceed 10 metres;
- (b) where jacket foundations (driven/drilled piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,414 square metres;
  - (ii) the number of piles must not exceed 8;
  - (iii) the diameter of each pile must not exceed 3 metres;
- (c) where jacket foundations (suction piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
  - (ii) the number of piles per jacket must not exceed 4;
  - (iii) the diameter of each pile must not exceed 15 metres;
- (d) where gravity base foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
  - (ii) the seabed levelling diameter must not exceed 70 metres;
  - (iii) the cone diameter must not exceed 50 metres at its base.

(4) The total volume of scour protection for the wind turbine generators and the offshore accommodation platforms forming part of Work No. 1B must not exceed 4,761,555 cubic metres, provided that the combined total volume of scour protection for the wind turbine generators and the offshore accommodation platforms forming part of Work Nos. 1A and 1B must not exceed 4,761,555 cubic metres.

### **Navigational practice, safety and emergency response**

**3.—**(1) No part of the authorised scheme seaward of MHWS may commence until the MMO, in consultation with the MCA, has given written approval for an emergency response co-operation plan which includes full details of the emergency co-operation plans for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with the MCA recommendations contained within MGN 371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”.

(2) No part of the authorised scheme seaward of MHWS may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the development, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN 371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (including its annexes).

(3) The emergency response co-operation plan must be implemented as approved, unless otherwise agreed in writing by the MMO, in consultation with the MCA.

### **Aids to navigation**

4.—(1) The undertaker must during the whole period from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning—

- (a) exhibit such lights, marks, sounds, signals and other aids to navigation and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct;
- (b) colour all structures in the authorised scheme as directed by Trinity House;
- (c) keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including—
  - (i) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
  - (ii) notice within 24 hours of any aids to navigation being established by the undertaker; and
  - (iii) notice within 5 working days of completion of construction of the authorised scheme;
- (d) submit reports to Trinity House detailing the working condition of aids to navigation quarterly, or as requested by Trinity House;
- (e) notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(2) Except as otherwise required by Trinity House under paragraph (1), the undertaker must colour all structures comprised in Work No. 1B yellow (colour code RAL 1023) from at least highest astronomical tide to a height as directed by Trinity House.

(3) Unless the MMO otherwise directs, the undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035).

### **Notifications and inspections**

5.—(1) The undertaker must ensure that—

- (a) a copy of this licence and any subsequent amendments or revisions to it are provided to—
  - (i) all agents and contractors notified to the MMO in accordance with the Conditions; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with the Conditions;
- (b) within 28 days of receipt of a copy of this licence, the persons referred to in subparagraph (a) provide a completed confirmation form to the MMO confirming their understanding of the terms and conditions of this licence.

(2) Only the persons and vessels notified to the MMO in accordance with Condition 11 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits are to be made.

(4) The documents referred to in paragraph (1)(a) must be available for inspection by an enforcement officer at the locations set out in paragraph (3) at any time.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that

the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Marine Licensing Team and the MMO Coastal Office in writing at least 5 working days before the commencement of the licensed activities or any part of them.

(7) The Kingfisher Information Service of Seafish must be informed by email of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk)—

- (a) at least 2 weeks before the construction of the authorised scheme or relevant part, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of the construction of the authorised scheme or relevant part.

Confirmation of notification must be provided to the MMO within 5 working days of notification to the Kingfisher Information Service of Seafish.

(8) The undertaker must ensure that a notice to mariners is issued at least 10 working days before the commencement of the licensed activities advising of the commencement of licensed activities within the wind farm area and the expected vessel routes from the local service ports to the location of the works comprised within the authorised scheme.

(9) The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and at least 5 days before any planned operation and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under Condition 8(2)(a). Copies of all notices must be provided to the MMO within 10 working days of issue.

(10) The undertaker must notify—

- (a) the UK Hydrographic Office of commencement (within 2 weeks), progress and completion (within 2 weeks) of the authorised scheme in order that all necessary amendments to nautical charts are made, and the undertaker must send a copy of such notifications to the MMO; and
- (b) the Defence Geographic Centre (at least 4 weeks before) of the commencement of the authorised scheme and of the progress and completion (within 2 weeks) of the authorised scheme, in order that all necessary amendments to aviation charts are made.

(11) In case of damage to, or destruction or decay of, the authorised scheme or any part of it seaward of MHWS, the undertaker must as soon as reasonably practicable, and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, Trinity House, MCA and the UK Hydrographic Office.

(12) In the event that the Marine Noise Registry has gone live before the commencement of impact pile driving—

- (a) the undertaker must submit details of the expected location, start and end dates of impact pile driving to the Marine Noise Registry before the commencement of the impact pile driving; and
- (b) the undertaker must notify the MMO of the successful submission of the details required under sub-paragraph (a) within 7 days of the submission.

(13) In the event that the Marine Noise Registry has gone live at the time of impact pile driving—

- (a) the undertaker must submit the exact locations and dates of impact pile driving to the Marine Noise Registry at 6-month intervals from the commencement of impact pile driving until the completion of impact pile driving. The final data must be submitted within 12 weeks of completion of impact pile driving; and
- (b) the undertaker must notify the MMO of the successful submission of the details required under sub-paragraph (a) within 7 days of the submission.

### Chemicals, drilling and debris

6.—(1) All chemicals used in the construction of the authorised scheme must be selected from the list of notified chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002, unless otherwise agreed in writing by the MMO.

(2) The undertaker must ensure that any coatings or treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive or the Environment Agency Pollution Prevention Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment including bunding of 110% of the total volume of all reservoirs and containers.

(4) Where foundation drilling works are proposed, in the event that any system other than water based mud is proposed, the MMO's written approval in relation to the proposed disposal of any arisings must be obtained before the drilling commences, which disposal may also require a marine licence.

(5) The undertaker must ensure that, where practicable, any debris arising from the construction of the authorised scheme or temporary works placed seaward of MHWS is removed by a date no later than 28 days following the undertaker becoming aware of the debris after the completion of the authorised scheme (or by such later date as may be agreed in writing by the MMO). In the event that the debris cannot practicably be removed, the undertaker must notify the MMO, Trinity House and the MCA within 7 days of becoming aware that the debris cannot practicably be removed.

(6) At least 10 days before the commencement of the licensed activities, the undertaker must submit to the MMO an audit sheet covering all aspects of the construction of the authorised scheme, and no works may commence until the audit sheet content has been agreed with the MMO. The audit sheet must include details of—

- (a) loading facilities;
- (b) vessels;
- (c) equipment;
- (d) shipment routes;
- (e) working schedules; and
- (f) all components and materials to be used in the construction of the authorised scheme.

(7) The audit sheet must be maintained throughout the construction of the authorised scheme, and the MMO must be notified of any changes on a fortnightly basis.

(8) In the event that the undertaker becomes aware that any of the materials on the audit sheet cannot be accounted for, it must notify the MMO within 24 hours where possible, and in any event within 5 days of becoming aware using the dropped object procedure form. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar) if reasonable to do so. Local fishermen must be invited to send a representative to be present during the survey. The MMO may require any new obstructions associated with the authorised scheme to be removed from the seabed at the undertaker's expense if reasonable to do so.

(9) All debris arising from the operation and maintenance of the authorised scheme must be reported to the MMO using the dropped object procedure form within 24 hours where possible, and in any event within 5 days of the undertaker becoming aware of the incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar) if reasonable to do so and any new obstructions associated with the authorised scheme to be removed from the seabed at the undertaker's expense if reasonable to do so.

(10) The undertaker must inform the MMO of the location and quantities of inert material and dredged material disposed of each month under this licence, by submission of a disposal return by 31st January each year for disposals occurring during the months July to December inclusive of

the preceding year, and by 31st July each year for disposals occurring during the months January to June inclusive of that year.

(11) The undertaker must ensure that only—

- (a) inert material of natural origin and drilling mud, produced during construction drilling and seabed preparation for foundation works comprised in Work No. 1B;
- (b) dredged material produced during seabed preparation for foundation works comprised in Work No. 1B; and
- (c) inert material of natural origin and dredged material produced during cable laying preparation works comprised in Work No. 1B;

is disposed of at disposal site reference HU211.

(12) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment. Concrete, cement mixing and washing areas must be contained to prevent run-off entering the water through the freeing ports.

(13) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(14) The undertaker must notify the MMO within 48 hours of the completion of the final authorised disposal at disposal site reference HU211.

### **Force majeure**

7. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit—

- (a) authorised deposits outside of the wind farm area or disposal site reference HU211; or
- (b) unauthorised deposits within or outside of the wind farm area or disposal site reference HU211,

because the safety of human life and/or of the vessel is threatened, full details of the circumstances of the deposit must be notified to the MMO within 48 hours.

### **Pre-construction plans and documentation**

8.—(1) The licensed activities may not commence until a plan setting out proposed details of the authorised scheme and including the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO following appropriate consultation with Trinity House and the MCA—

- (a) number, dimensions, specification, foundation types and depth for each wind turbine generator and offshore accommodation platform;
- (b) grid co-ordinates of the centre point of the proposed location for each wind turbine generator and offshore accommodation platform, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions;
- (c) proposed layout of all cables, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions; and
- (d) location and specification of all other aspects of the authorised scheme, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions.

(2) The licensed activities, or any phase of those activities, may not commence until a code of construction practice incorporating the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO—

- (a) a construction and monitoring programme, to include details of—
  - (i) the proposed construction start date;

- (ii) proposed timings for mobilisation of plant, delivery of materials and installation works; and
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with Conditions 13, 14 and 15. The pre-construction survey programme and all pre-construction survey methodologies must be submitted to the MMO for written approval by the MMO in consultation with the relevant statutory nature conservation body at least 4 months before the commencement of any survey works detailed within;
- (b) a construction method statement in accordance with the environmental statement, including details of—
- (i) foundation installation, including any seabed preparation, drilling and disposal of arisings methods;
  - (ii) turbine installation, including any seabed preparation and scour protection;
  - (iii) installation of offshore accommodation platforms, including any seabed preparation and scour protection;
  - (iv) circuit installation, including any seabed preparation and circuit protection;
  - (v) contractors;
  - (vi) vessels; and
  - (vii) associated works;
- (c) a project environmental management and monitoring plan, to include details of—
- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised scheme in relation to all activities carried out seaward of MHWS. The plan must include a mechanism for reporting oil, fuel and chemical spills to the MMO Marine Pollution Response Team;
  - (ii) a chemical risk analysis to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) a disposal plan detailing the locations, methods and timings of dredging and disposal, as well as disposal site monitoring requirements;
  - (iv) waste management and disposal arrangements;
  - (v) locations of any archaeological exclusion zones agreed as part of the written scheme of archaeological investigation approved under sub-paragraph (g); and
  - (vi) the appointment and responsibilities of a fisheries liaison officer and an environmental liaison officer;
- (d) a scour protection management and cable armouring plan providing details of the need, type, sources, quantity, location and installation methods for scour protection and cable armouring to be within the scope of the environmental impact assessment recorded in the environmental statement;
- (e) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol, the intention of which is to prevent injury and/or significant disturbance to marine mammals, following current best practice as advised by the statutory nature conservation bodies, which may include, but is not limited to—
- (i) identification of a marine mammal mitigation zone (“MMMZ”);
  - (ii) appointment of an appropriate number of suitably qualified marine mammal observers;
  - (iii) methods for the detection of marine mammals within the MMMZ whether visually (by the marine mammal observers) or acoustically using passive acoustic monitoring equipment or other means of detection;



- (iv) a reporting methodology to enable efficient communication between the marine mammal observers and the person responsible for approving commencement of piling;
- (v) an appropriate soft start procedure whereby piling activities do not commence until an agreed time has elapsed and during which marine mammals have not been detected within the MMMZ;
- (vi) where appropriate, methods for the application of acoustic deterrent devices; and
- (vii) where appropriate, consideration of the use of noise reduction at source technologies;
- (f) a cable specification and installation plan, to include—
  - (i) technical specification of offshore electrical circuits, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice; and
  - (ii) a detailed cable laying plan, including geotechnical data, cable laying techniques and a cable burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA) to be taken to ensure existing and future safe navigation is not compromised;
- (g) a written scheme of archaeological investigation in relation to the wind farm area in accordance with industry good practice, to include—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for any further site investigation including any specifications for geophysical, geotechnical and diver- or remotely-operated vehicle investigations;
  - (iii) analysis and reporting of survey data to be submitted to the MMO within 4 months of survey completion;
  - (iv) delivery of any mitigation including, where necessary, archaeological exclusion zones;
  - (v) monitoring during and post-construction, including a conservation programme for finds;
  - (vi) archiving of archaeological material; and
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;
- (h) a plan for marine mammal monitoring setting out the circumstances in which marine mammal monitoring will be required and the monitoring to be carried out in such circumstances;
- (i) an offshore project maintenance plan to be submitted to the MMO at least 4 months before commencement of the operation of the licensed activities and to include provision for the review and resubmission of the plan every 3 years during the operational phase;
- (j) an aids to navigation management plan specifying how the undertaker will ensure compliance with Condition 4 from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning;
- (k) an ornithological monitoring plan setting out the circumstances in which ornithological monitoring will be required and the monitoring to be carried out in such circumstances.

(3) Before the submission of the pre-construction plans and documentation required by this Condition, the undertaker must provide a copy of the plans and documentation to the other undertakers under the Order.

(4) The undertaker must participate in liaison meetings with other undertakers under the Order as requested from time to time by the MMO in writing in advance. The meetings must be chaired by the MMO and must consider such matters as are determined by the MMO relating to the

efficient operation of a deemed marine licence where it has an impact on the efficient operation of any other deemed marine licence issued under the Order (including as varied or transferred).

(5) Before giving its approval under paragraph (2), the MMO must—

- (a) in relation to any programme, statement, plan or protocol submitted under sub-paragraphs (a) to (f), (h), (i) or (k), consult the relevant statutory nature conservation body;
- (b) in relation to a scheme submitted under sub-paragraph (g), consult Historic England; and
- (c) in relation to a plan submitted under sub-paragraph (j), consult Trinity House.

(6) In the event that driven or part-driven pile foundations are proposed to be used, the MMO must not approve the plan referred to in paragraph (1) or the code referred to in paragraph (2) unless the MMO is satisfied, after consulting such persons as the Secretary of State may specify in relation to the plan or the part of the code specified by the Secretary of State (in addition to the persons with whom consultation is otherwise required under this Condition), that either the plan or code (or both of them) provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2007 Regulations) of a relevant site, to the extent that marine mammals are a protected feature of that site.

(7) The mitigation referred to in paragraph (6) may include (without limitation)—

- (a) seasonal restrictions to piling;
- (b) scheduling of piling, having regard to previous, ongoing and future piling associated with other offshore developments, based on an updated assessment of cumulative impacts;
- (c) subject to the terms and conditions of this licence, changing the location of wind turbine generators;
- (d) the use of alternative foundation methodologies, such as jacket foundations (suction piles) or gravity base foundations;
- (e) the use of noise reduction at source technologies;
- (f) the use of other relevant technologies or methodologies that may emerge in the future.

(8) In paragraph (6), “relevant site” means—

- (a) a European offshore marine site;
- (b) a European site.

(9) For the purpose of paragraph (6)—

- (a) the Southern North Sea possible Special Area of Conservation must be treated as a European offshore marine site until—
  - (i) that Area (or any part of it) becomes a European offshore marine site or a European site; or
  - (ii) it is decided that no part of that Area should be a European offshore marine site or a European site; and
- (b) harbour porpoise must be treated as a protected feature of the Southern North Sea possible Special Area of Conservation.

(10) In this Condition—

“2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007;

“disturbance” must be construed in accordance with regulation 39(1)(b) of the 2007 Regulations;

“European offshore marine site” has the meaning given in regulation 15 of the 2007 Regulations;

“European site” has the meaning given in regulation 24 of the 2007 Regulations;

“Southern North Sea possible Special Area of Conservation” means the Southern North Sea possible Special Area of Conservation as set out in the JNCC 2016 Harbour Porpoise Possible Special Area of Conservation Consultation dated January 2016.

**9.** The undertaker must ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS form with a digital copy of the report within 6 months of completion of construction of the authorised scheme. The undertaker must notify the MMO that the OASIS report has been submitted to the National Record of the Historic Environment within 2 weeks of the submission.

**10.—(1)** Each programme, statement, plan, protocol or scheme required to be approved under Condition 8—

- (a) must be submitted for approval at least 4 months before the intended start of construction, except where otherwise stated or where an alternative date is agreed in writing by the MMO; and
- (b) must be accompanied by—
  - (i) a statement confirming that the undertaker has complied with Condition 8(3) in relation to the programme, statement, plan, protocol or scheme; and
  - (ii) any comments received by the undertaker from the other undertakers, or a statement from the undertaker confirming that no such comments were received.

(2) The undertaker must comply with the plans and documentation approved under Condition 8 in carrying out the licensed activities unless otherwise agreed in writing by the MMO.

(3) Before agreeing an alternative date under paragraph (1)(a) or a change to approved details under paragraph (2) relating to any document in respect of which consultation is required under Condition 8, the MMO must consult the relevant consultation body referred to in that Condition.

### **Reporting of engaged agents, contractors and vessels**

**11.—(1)** The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities at least 5 working days before the commencement of the licensed activities or any part of them; and
- (b) each week during the construction of the authorised scheme, a completed Hydrographic Note H102 listing the construction vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO and MMO Coastal Office in writing before the agent, contractor or vessel engages in the licensed activities.

(3) All agents, contractors and vessel operators must comply with the Conditions.

### **Equipment and operation of vessels engaged in licensed activities**

**12.—(1)** All vessels employed to perform the licensed activities must be constructed and equipped to be capable of the proper performance of such activities in accordance with the Conditions and must comply with paragraphs (2) to (5).

(2) All motor-powered vessels must be fitted with—

- (a) an electronic positioning aid to provide navigational data;
- (b) radar;
- (c) an echo sounder; and
- (d) multi-channel VHF.

(3) All vessel names or identification must be clearly marked on the hull or superstructure of the vessel.

(4) All communication on VHF working frequencies must be in English.

(5) No vessel may engage in the licensed activities until all the equipment specified in paragraph (2) is fully operational.

### **Pre-construction monitoring and surveys**

13.—(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant conservation body of proposed pre-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format and content for a pre-construction baseline report; and—

- (a) the survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, so far as applicable, the pre-construction surveys must comprise, in outline—

- (a) a high-resolution swath bathymetric survey to include a 100% coverage and a side-scan sonar survey of the parts of the wind farm area in which it is proposed to carry out construction works and disposal activities under this licence;
- (b) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with Condition 8(2)(k);
- (c) a survey to determine the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance (including Annex 1 habitats) in the parts of the wind farm area in which it is proposed to carry out construction works under this licence; and
- (d) any marine mammal monitoring required by the plan for marine mammal monitoring submitted in accordance with Condition 8(2)(h).

(3) The undertaker must carry out the surveys agreed under paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

### **Construction monitoring**

14.—(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant statutory nature conservation body of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, so far as applicable, the construction monitoring must comprise, in outline—

- (a) unless the MMO agrees otherwise in writing, measurements of noise generated by the installation of the first 4 foundations of each discrete foundation type to be constructed under this licence where driven or part-driven pile foundations are used;
- (b) recording of any visual sightings or acoustic detection of marine mammals where required as part of the marine mammal mitigation protocol under Condition 8(2)(e); and
- (c) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with Condition 8(2)(k).

(3) The undertaker must carry out the surveys approved under paragraph (1), including any further noise monitoring required in writing by the MMO under paragraph (4), and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(4) The results of the initial noise measurements monitored in accordance with paragraph (2)(a) must be provided to the MMO within 6 weeks of the installation of the first 4 foundations of each discrete foundation type for the MMO to determine, following assessment of this report, whether any further noise monitoring is required.

(5) Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. A report must be submitted to the MMO and the MCA at the end of each year of the construction period.

### **Post-construction**

**15.**—(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant statutory nature conservation body of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals, so far as applicable, the post-construction surveys must comprise, in outline—

- (a) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with Condition 8(2)(k);
- (b) a high-resolution swath bathymetric survey of the following to assess any changes in bedform morphology—
  - (i) a representative sample area, as may be agreed in writing with the MMO, of the parts of the wind farm area within which construction works and disposal activities were carried out under this licence, and such further monitoring as may be required to ensure that the cables have been buried or protected; and
  - (ii) an area not to exceed 125% of the predicted scour area around a selection of turbines, such selection to be based on the desk-based assessment;
- (c) a survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance (including Annex 1 habitats) identified in the pre-construction survey in the parts of the wind farm area in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (d) any marine mammal monitoring required by the plan for marine mammal monitoring submitted in accordance with Condition 8(2)(h); and
- (e) vessel traffic monitoring by automatic identification system, for 28 days taking account seasonal variations in traffic patterns, for a maximum duration of 1 year post-construction. A report must be submitted to the MMO and the MCA at the end of the first year after construction is completed.

(3) The undertaker must carry out the surveys agreed under paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(4) Before carrying out the survey required under paragraph (2)(b), the undertaker must submit to the MMO for written approval a desk-based assessment (which takes account of all factors which influence scour) identifying the turbines with greatest potential for scour. The survey must

be used to validate the desk-based assessment, and the significance of any differences between the predicted scour and recorded scour must be assessed in the survey report which must be submitted to the MMO. The need for further surveys must be agreed in writing with the MMO following submission of the first year of survey data.

### **Offshore decommissioning**

**16.**—(1) No decommissioning activities may commence until a plan for the carrying out of the activities has been submitted to and approved in writing by the MMO.

(2) The plan must be submitted for approval at least 4 months before the intended start of the decommissioning activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) The plan must be implemented as approved.

### **Amendments to approved plans, etc.**

**17.**—(1) Where any Condition requires the licensed activities to be carried out in accordance with any plan, programme, code, statement, protocol scheme or details (the “plan”) approved by the MMO, the approved plan must be taken to include any amendment to the plan that may subsequently be approved in writing by the MMO.

(2) Any amendment to the plan must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

## SCHEDULE 11

Articles 2 and 36

### Marine Licence B2: Project B – Transmission Assets

#### PART 1

#### Licensed activities

#### **Interpretation**

**1.**—(1) In this licence—

“2008 Act” means the Planning Act 2008;

“2009 Act” means the Marine and Coastal Access Act 2009;

“ancillary works” means the ancillary works described in clause 2 of Part 1 of this licence that are not development within the meaning of section 32 of the 2008 Act;

“Annex 1 habitat” means a habitat set out in Annex 1 to Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and of wild fauna and flora;

“authorised deposits” means the substances and articles specified in clause 2(3) of Part 1 of this licence;

“authorised development” means development described in Part 1 of Schedule 1 to the Order that is development within the meaning of section 32 of the 2008 Act;

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

“authorised scheme” means Work Nos. 2B, 3B, 4B and 5B described in clause 2 of Part 1 of this licence;

“Cefas” means the Centre for Environment, Fisheries and Aquaculture Science or any replacement body;

“commence” means the first carrying out of any part of the licensed activities, except for pre-construction surveys and monitoring; and “commencement” must be construed accordingly;

“Condition” means a condition set out in Part 2 of this licence;

“construction vessel” means any vessel involved in the course of or used for the construction and/or maintenance of the authorised project;

“debris” means items or equipment of a significant size left on the seabed being lost from survey or construction vessels or the structures comprised within the authorised scheme;

“EIA Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009;

“electrical circuit” means a number of electrical conductors necessary to transmit electricity between 2 points within the authorised project, comprising—

- (a) in the case of HVAC transmission, 3 conductors which may be bundled as 1 cable; and
  - (b) in the case of HVDC transmission 2 conductors, which may be attached together or take the form of single cables,
- and the electrical circuit may include 1 or more auxiliary cables (normally fibre-optic cables) for the purpose of control, monitoring, protection or general communications;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State under article 40 of the Order;

“gravity base foundation” means—

- (a) a structure principally of concrete or steel (or both) that rests on the seabed due either to its own weight and that of added ballast or to the weight of water above it and may include associated equipment including suction piles, J-tubes and access platforms; or
- (b) a structure principally of concrete and/or steel consisting of a platform supported on 2 pontoons to which the platform is connected by columns which may be connected by braces;

“high tide” means the state of the tide when it reaches its highest level during a tidal cycle, as may be published from time to time on the UK Hydrographic Office Admiralty EasyTide Website or such other publication as may be approved by the MMO;

“HVAC” means high voltage alternating current;

“HVDC” means high voltage direct current;

“in-principle monitoring plan” means the document certified as the in-principle monitoring plan by the Secretary of State under article 40 of the Order;

“intertidal area” means the area between MHWS and MLWS;

“intertidal works plans” means the part of the works plans described as the intertidal works plans;

“jacket foundation” means a lattice construction comprising tubular members and joints fixed to the seabed with piles (either driven/drilled piles or suction piles) which will include platforms and J-tubes and may include braced monopiles and a transition piece;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO;

“LAT” means lowest astronomical tide;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain”, unless otherwise provided for, includes inspect, repair, adjust, alter, remove, reconstruct and replace any of the authorised development; and any derivative of “maintain” must be construed accordingly;

“major storm event” means a greater than 1 in 10 year wave event within the offshore Order limits seaward of MHWS in terms of wave height, measured by reference to the height of waves recorded at the nearest wave buoy to the authorised scheme as agreed with the MMO, and the WaveNet data published by Cefas, or such other means of measurement as may be agreed with the MMO;

“Marine Noise Registry” means the online database maintained by the Joint Nature Conservation Committee on behalf of the Department of Environment, Food and Rural Affairs that records the spatial and temporal distribution of impulsive noise-generating activities in United Kingdom seas in order that they can be analysed to determine whether they may potentially compromise the achievement of good environmental status;

“MCA” means the Maritime and Coastguard Agency;

“MHWS” (mean high water springs) means the highest level which spring tides reach on average over a period of time;

“MLWS” (mean low water springs) means the lowest level which spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation;

“monopile foundation” means a foundation comprising a large diameter steel or concrete tube or pile driven vertically into the seabed, J-tubes and platforms and may include external structural devices such as bracing members or steel anchor wires and a transition piece;

“notice to mariners” includes any notice to mariners which may be issued by Admiralty, Trinity House, Queen’s harbourmasters, government departments and harbour and pilotage authorities;

“offshore HVAC collector substation” means a structure serving as a collection point for the intra-array electrical circuits and containing equipment for the purpose of transforming the electricity generated at the wind turbine generators to a higher voltage; it may also include a helicopter platform;

“offshore HVDC converter substation” means a structure that contains equipment to convert HVAC electricity to HVDC electricity; it may also include a helicopter platform;

“offshore Order limits” means the limits shown on the offshore works plans and the intertidal works plans within which the authorised scheme may be carried out whose grid co-ordinates are set out in clause 2(2) of Part 1 of this licence;

“offshore reactive compensation substation” means a structure housing electrical reactors for the purpose of limiting electrical losses in the course of HVAC transmission by providing reactive compensation; it may also include a helicopter platform;

“offshore works plans” means the part of the works plans described as the offshore works plans;

“Order” means the Hornsea Two Offshore Wind Farm Order 2016;

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

“suction pile” means a large diameter steel cylinder that is fixed to the base of the foundation, partially penetrates the seabed and remains in place using its weight and hydrostatic pressure differential;

“survey vessel” means a vessel licensed to carry out environmental or engineering surveys;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“UK Hydrographic Office” means the Hydrographic Office of the Ministry of Defence or any replacement body or successor to its functions;

“undertaker” means Breesea Limited (company number 07883217) or, to the extent that the benefit of the provisions of the Order and related statutory rights in relation to Work No. 2B,



3B, 4B or 5B and such associated development or ancillary works has been transferred under article 35 of the Order to another person, that other person;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water that is at the time in, on or over water;

“wind turbine generator” means a structure comprising any or all of a tower, rotor, blades, nacelle and ancillary electrical and other equipment or structures, which may include lighting and a helicopter platform, fixed to a foundation;

“working day” means any day other than a Saturday, Sunday or public holiday in England and Wales;

“Work No. 2A” means up to 6 offshore HVAC collector substations and, in the event that the mode of transmission is HVDC, up to 2 offshore HVDC converter substations together with a network of electrical circuits connecting the structures within Work Nos. 2A and 2B;

“Work No. 2B” means the works described as Work No. 2B in clause 2 of Part 1 of this licence;

“Work No. 3A” means up to 2 offshore reactive compensation substations fixed to the seabed in the event that the mode of transmission is HVAC;

“Work No. 3B” means the works described as Work No. 3B in clause 2 of Part 1 of this licence;

“Work No. 4A” means a marine connection to the shore, including cable and pipeline crossing works which—

- (a) if the mode of transmission is HVAC, consists of up to 8 subsea electrical circuits proceeding from the offshore HVAC collector substations comprised in Work No. 2A via and connecting with the offshore reactive compensation substation comprised in Work No. 3A; or
- (b) if the mode of transmission is HVDC, consists of up to 2 subsea electrical circuits proceeding from the offshore HVDC converter substations comprised in Work No. 2A, and in either case terminating at Work No. 5A;

“Work No. 4B” means the works described as Work No. 4B in clause 2 of Part 1 of this licence;

“Work No. 5A” means a foreshore connection consisting of an extension of the electrical circuits comprised in Work No. 4A, including cable crossing works, crossing under the existing sea wall using a trenchless technique and terminating at the electrical circuit transition joint bays comprising Work No. 6A;

“Work No. 5B” means the works described as Work No. 5B in clause 2 of Part 1 of this licence;

“Work No. 6A” means up to 8 underground electrical circuit transition joint bays in the vicinity of Horseshoe Point in the parish of North Coates in the county of Lincolnshire, housing the connections between the offshore electrical circuits comprised in Work No. 5A and the onshore electrical circuits;

“Work No. 6B” means up to 8 underground electrical circuit transition joint bays in the vicinity of Horseshoe Point in the parish of North Coates in the county of Lincolnshire, housing the connections between the offshore electrical circuits comprised in Work No. 5B and the onshore electrical circuits;

“works plans” means the plans certified as the works plans by the Secretary of State under article 40 of the Order, comprising the offshore works plans, the intertidal works plans and the onshore works plans.

(2) A reference to any statute, order, regulation or similar instrument must be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are Greenwich Mean Time (GMT);
- (b) all co-ordinates are latitude and longitude degrees, minutes and seconds to 3 decimal places in WGS84 Datum.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence is—

(a) Marine Management Organisation

Marine Licensing Team

Lancaster House

Hampshire Court

Newcastle-upon-Tyne NE4 7YH

Tel: 0300 123 1032

E-mail: [marine.consent@marinemangement.org.uk](mailto:marine.consent@marinemangement.org.uk)

(b) Marine Management Organisation (referred to as the “MMO Coastal Office”)

Neville House

Central Riverside

Bell Street

North Shields

Tyne and Wear NE30 1LJ

Tel (24-hour answer phone): 0191 257 4520 or 0191 257 0159

E-mail: [northshields@marinemangement.org.uk](mailto:northshields@marinemangement.org.uk)

(c) Trinity House

Tower Hill

London EC3N 4DH

Tel: 020 7481 6900

(d) The United Kingdom Hydrographic Office

Admiralty Way

Taunton

Somerset TA1 2DN

Tel: 01823 337 900

(e) Maritime and Coastguard Agency

Navigation Safety Branch

Bay 2/04

Spring Place

105 Commercial Road

Southampton SO15 1EG

Tel: 023 8032 9191

(f) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road

Lowestoft

Suffolk NR33 0HT

Tel: 01502 562 244

(g) Natural England

Foss House

Kings Pool  
 1-2 Peasholme Green  
 York YO1 7PX  
 Tel: 0300 060 1911

- (h) Historic Buildings and Monuments Commission for England (referred to as “Historic England”)

Eastgate Court  
 195-205 High Street  
 Guildford GU1 3EH  
 Tel: 01483 252 057

- (i) Environment Agency

Waterside House  
 Waterside North  
 Lincoln LN2 5HA  
 Tel: 03708 506 506.

### **Details of licensed activities**

**2.—**(1) This licence authorises the undertaker (and any agent or contractor acting on its behalf) to carry out the following licensable marine activities pursuant to section 66(1) of the 2009 Act, subject to the Conditions—

- (a) the deposit at sea of the substances and articles specified in paragraph (3);
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) dredging for the purposes of seabed preparation for foundation works and/or electrical circuit works;
- (d) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (e) the disposal at disposal site reference HU211 of up to 324,454 cubic metres comprising inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work No. 2B, provided that the combined total volume of inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work Nos. 2A and 2B disposed of at disposal site reference HU211 must not exceed 324,454 cubic metres;
- (f) the disposal at disposal site reference HU211 of up to 92,048 cubic metres comprising inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work Nos. 2B and 4B, provided that the combined total volume of inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work Nos. 2A, 2B, 4A and 4B disposed of at disposal site reference HU211 must not exceed 92,048 cubic metres;
- (g) the disposal at disposal site reference HU209 of up to 38,485 cubic metres comprising inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work No. 3B, provided that the combined total volume of inert material of natural origin produced during construction drilling and seabed preparation for foundation works and/or dredged material produced during seabed preparation for foundation works comprised in Work Nos. 3A and 3B disposed of at disposal site reference HU209 must not exceed 38,485 cubic metres;

- (h) the disposal at disposal site reference HU209 of up to 1,269,000 cubic metres comprising inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work No. 4B, provided that the combined total volume of inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work Nos. 4A and 4B disposed of at disposal site reference HU209 must not exceed 1,269,000 cubic metres;
- (i) the disposal at disposal site reference HU210 of up to 131,000 cubic metres comprising inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work No. 4B, provided that the combined total volume of inert material of natural origin and/or dredged material produced during cable laying preparation works comprised in Work Nos. 4A and 4B disposed of at disposal site reference HU210 must not exceed 131,000 cubic metres; and
- (j) the removal of the substances and articles specified in paragraph (3).

(2) The activities are authorised in relation to the construction, maintenance and operation of—

*Work No. 2B* — Up to 6 offshore HVAC collector substations and, in the event that the mode of transmission is HVDC, up to 2 offshore HVDC converter substations together with a network of electrical circuits connecting the structures within Work Nos. 2A and 2B, provided that—

- (a) the combined total of offshore HVAC collector substations constructed in whole or in part within Work Nos. 2A and 2B must not exceed 6; and
- (b) the combined total of offshore HVDC converter substations constructed in whole or in part within Work Nos. 2A and 2B must not exceed 2.

Co-ordinates for wind farm area (limits of deviation for Work No. 2B)—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 50' 7.210" N	1° 26' 59.953" E

*Work No. 3B* — In the event that the mode of transmission is HVAC, up to 2 offshore reactive compensation substations fixed to the seabed at latitude point 53° 37' 54.291" N and longitude point 0° 55' 59.731" E and at latitude point 53° 38' 9.295" N and longitude point 0° 55' 49.576" E subject to deviation within the following limits of deviation, provided that the combined total of offshore reactive compensation substations constructed in whole or in part within Work Nos. 3A and 3B must not exceed 2—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	53° 38' 1.918" N	0° 55' 55.183" E
2	53° 38' 2.362" N	0° 55' 58.099" E
3	53° 38' 2.438" N	0° 56' 0.367" E
4	53° 38' 2.185" N	0° 56' 3.394" E
5	53° 38' 1.735" N	0° 56' 5.560" E
6	53° 38' 1.074" N	0° 56' 7.567" E
7	53° 37' 59.900" N	0° 56' 9.900" E
8	53° 37' 58.446" N	0° 56' 11.733" E
9	53° 37' 57.216" N	0° 56' 12.723" E
10	53° 37' 55.456" N	0° 56' 13.477" E
11	53° 37' 54.094" N	0° 56' 13.597" E
12	53° 37' 52.296" N	0° 56' 13.156" E
13	53° 37' 51.011" N	0° 56' 12.387" E
14	53° 37' 49.821" N	0° 56' 11.266" E
15	53° 37' 48.441" N	0° 56' 9.279" E
16	53° 37' 47.358" N	0° 56' 6.825" E
17	53° 37' 46.776" N	0° 56' 4.750" E
18	53° 37' 46.409" N	0° 56' 2.540" E
19	53° 37' 46.268" N	0° 56' 0.258" E
20	53° 37' 46.357" N	0° 55' 57.969" E
21	53° 37' 46.828" N	0° 55' 55.017" E
22	53° 37' 47.678" N	0° 55' 52.316" E
23	53° 37' 48.540" N	0° 55' 50.538" E
24	53° 37' 49.567" N	0° 55' 49.029" E
25	53° 37' 51.143" N	0° 55' 47.509" E
26	53° 37' 52.881" N	0° 55' 46.618" E
27	53° 37' 54.238" N	0° 55' 46.392" E
28	53° 37' 56.046" N	0° 55' 46.691" E
29	53° 37' 57.351" N	0° 55' 47.359" E
30	53° 37' 58.570" N	0° 55' 48.386" E
31	53° 38' 0.004" N	0° 55' 50.262" E
32	53° 38' 1.153" N	0° 55' 52.630" E
33	53° 38' 1.792" N	0° 55' 54.657" E
34	53° 38' 1.346" N	0° 55' 51.708" E
35	53° 38' 1.300" N	0° 55' 48.665" E
36	53° 38' 1.657" N	0° 55' 45.681" E
37	53° 38' 2.399" N	0° 55' 42.906" E
38	53° 38' 3.490" N	0° 55' 40.477" E
39	53° 38' 5.257" N	0° 55' 38.112" E
40	53° 38' 6.910" N	0° 55' 36.872" E
41	53° 38' 8.684" N	0° 55' 36.281" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
42	53° 38' 10.939" N	0° 55' 36.497" E
43	53° 38' 12.244" N	0° 55' 37.130" E
44	53° 38' 13.467" N	0° 55' 38.122" E
45	53° 38' 15.233" N	0° 55' 40.491" E
46	53° 38' 16.080" N	0° 55' 42.277" E
47	53° 38' 16.738" N	0° 55' 44.277" E
48	53° 38' 17.187" N	0° 55' 46.433" E
49	53° 38' 17.441" N	0° 55' 49.447" E
50	53° 38' 17.365" N	0° 55' 51.746" E
51	53° 38' 16.908" N	0° 55' 54.716" E
52	53° 38' 16.068" N	0° 55' 57.438" E
53	53° 38' 15.210" N	0° 55' 59.234" E
54	53° 38' 13.812" N	0° 56' 1.201" E
55	53° 38' 12.609" N	0° 56' 2.302" E
56	53° 38' 10.868" N	0° 56' 3.211" E
57	53° 38' 9.507" N	0° 56' 3.449" E
58	53° 38' 8.141" N	0° 56' 3.296" E
59	53° 38' 6.381" N	0° 56' 2.496" E
60	53° 38' 4.772" N	0° 56' 1.053" E
61	53° 38' 3.714" N	0° 55' 59.591" E
62	53° 38' 2.560" N	0° 55' 57.217" E

*Work No. 4B* — A marine connection to the shore, including cable and pipeline crossing works which—

- (a) if the mode of transmission is HVAC, consists of up to 8 subsea electrical circuits proceeding from the offshore HVAC collector substations comprised in *Work No. 2B* via and connecting with the offshore reactive compensation substations comprised in *Work No. 3B*; or
- (b) if the mode of transmission is HVDC, consists of up to 2 subsea electrical circuits proceeding from the offshore HVDC converter substations comprised in *Work No. 2B*,

and in either case terminating at *Work No. 5B*, provided that the combined total of electrical circuits constructed in whole or in part within *Work Nos. 4A* and *4B* must not exceed, in the event that the mode of transmission is HVDC, 2, and in the event that the mode of transmission is HVAC, 8.

Principal co-ordinates for marine export cable area (limits of deviation for *Work No. 4B*) whose full co-ordinates are set out in the offshore works plans—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 46' 7.286" N	1° 38' 16.673" E
25	53° 46' 4.677" N	1° 37' 22.711" E
27	53° 44' 47.813" N	1° 28' 38.495" E
32	53° 44' 47.743" N	1° 27' 26.607" E
34	53° 44' 36.477" N	1° 25' 23.743" E
141	53° 42' 30.629" N	1° 15' 58.654" E
152	53° 42' 28.182" N	1° 14' 34.895" E
264	53° 39' 35.134" N	1° 6' 29.785" E
316	53° 38' 17.582" N	1° 2' 16.928" E
447	53° 36' 54.624" N	0° 51' 31.062" E
449	53° 36' 15.738" N	0° 48' 52.425" E
513	53° 35' 21.166" N	0° 43' 44.242" E
515	53° 31' 50.425" N	0° 40' 55.898" E
516	53° 31' 38.281" N	0° 40' 8.340" E
521	53° 28' 36.676" N	0° 20' 3.846" E
532	53° 31' 43.122" N	0° 12' 21.707" E
533	53° 30' 57.432" N	0° 5' 59.890" E
534	53° 31' 11.028" N	0° 5' 42.539" E
535	53° 30' 42.954" N	0° 5' 10.787" E
536	53° 30' 42.180" N	0° 5' 9.912" E
537	53° 30' 46.588" N	0° 4' 55.345" E
538	53° 30' 52.245" N	0° 4' 59.515" E
539	53° 31' 25.514" N	0° 5' 24.049" E
540	53° 31' 29.574" N	0° 5' 27.043" E
580	53° 32' 16.976" N	0° 12' 37.072" E
763	53° 29' 11.523" N	0° 20' 5.981" E
1001	53° 31' 28.589" N	0° 35' 44.348" E
1002	53° 32' 0.855" N	0° 37' 42.781" E
1003	53° 32' 17.793" N	0° 39' 31.883" E
1004	53° 32' 35.749" N	0° 39' 45.737" E
1005	53° 33' 8.117" N	0° 39' 47.665" E
1006	53° 34' 28.861" N	0° 41' 27.396" E
1007	53° 35' 42.522" N	0° 42' 37.802" E
1010	53° 36' 25.571" N	0° 43' 54.129" E

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1081	53° 37' 2.569" N	0° 47' 31.846" E
1083	53° 37' 30.986" N	0° 49' 14.023" E
1086	53° 37' 29.991" N	0° 51' 27.606" E
1087	53° 37' 36.904" N	0° 52' 22.841" E
1111	53° 38' 45.654" N	0° 57' 1.237" E
1143	53° 39' 16.652" N	1° 1' 1.016" E
1149	53° 39' 42.566" N	1° 1' 40.167" E
1155	53° 41' 20.037" N	1° 6' 45.836" E
1157	53° 42' 59.843" N	1° 14' 18.127" E
1164	53° 43' 0.151" N	1° 15' 37.960" E
1165	53° 44' 0.963" N	1° 20' 9.157" E
1166	53° 49' 6.492" N	1° 25' 51.682" E
1167	53° 50' 7.210" N	1° 26' 59.953" E

*Work No. 5B* — A foreshore connection consisting of an extension of the electrical circuits comprised in *Work No. 4B*, including cable crossing works, crossing under the existing sea wall using a trenchless technique and terminating at the electrical circuit transition joint bays (*Work No. 6B*).

And in connection with *Work Nos. 2B, 3B, 4B and 5B*, further associated development as may be necessary or expedient in connection with the authorised scheme within the Order limits and is within the scope of the environmental impact assessment recorded in the environmental statement.

And in connection with *Work Nos. 2B, 3B, 4B and 5B*, ancillary works consisting of works and operations within the Order limits comprising temporary anchorage of vessels and buoys, beacons, fenders and other navigational warning or ship impact protection works.

(3) The substances or articles authorised for deposit at sea and removal are—

- (a) iron and steel;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic; and
- (f) material extracted from within the offshore Order limits during construction drilling and seabed preparation for foundation works and cable sandwave preparation works.

(4) The grid co-ordinates for disposal site reference HU211 are—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
1	54° 0' 31.626" N	1° 26' 19.993" E
2	54° 0' 18.479" N	1° 38' 37.320" E
3	54° 0' 15.768" N	1° 40' 21.864" E
4	53° 59' 36.924" N	2° 3' 45.936" E
5	53° 57' 24.509" N	2° 6' 6.700" E
6	53° 57' 12.481" N	2° 4' 32.376" E
7	53° 56' 46.586" N	2° 5' 4.031" E
8	53° 56' 16.303" N	2° 1' 15.269" E
9	53° 55' 22.663" N	2° 2' 14.219" E
10	53° 55' 2.525" N	1° 59' 45.776" E
11	53° 55' 35.429" N	1° 59' 20.944" E
12	53° 55' 8.162" N	1° 56' 10.619" E



<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
13	53° 55' 23.329" N	1° 55' 20.262" E
14	53° 55' 37.592" N	1° 53' 38.108" E
15	53° 55' 31.318" N	1° 52' 54.282" E
16	53° 56' 22.870" N	1° 51' 57.409" E
17	53° 55' 46.445" N	1° 47' 47.796" E
18	53° 58' 42.179" N	1° 44' 31.880" E
19	53° 58' 17.828" N	1° 41' 46.795" E
20	53° 56' 29.670" N	1° 43' 45.592" E
21	53° 56' 3.228" N	1° 41' 0.143" E
22	53° 55' 9.293" N	1° 39' 52.024" E
23	53° 50' 5.118" N	1° 38' 58.430" E
24	53° 50' 7.210" N	1° 26' 59.953" E

(5) The grid co-ordinates for disposal site reference HU209 are—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
A	53° 36' 40.490" N	0° 50' 41.571" E
B	53° 36' 54.624" N	0° 51' 31.062" E
C	53° 37' 22.048" N	0° 55' 08.301" E
D	53° 37' 38.643" N	0° 57' 17.843" E
E	53° 37' 56.680" N	0° 59' 39.524" E
F	53° 38' 15.917" N	1° 02' 08.601" E
G	53° 39' 35.134" N	1° 06' 29.785" E
H	53° 41' 22.549" N	1° 11' 30.804" E
I	53° 42' 14.598" N	1° 10' 44.250" E
J	53° 41' 19.717" N	1° 06' 44.682" E
K	53° 39' 41.954" N	1° 01' 38.714" E
L	53° 39' 16.652" N	1° 01' 01.016" E
M	53° 38' 45.654" N	0° 57' 01.237" E
N	53° 37' 36.904" N	0° 52' 22.841" E
O	53° 37' 29.991" N	0° 51' 27.606" E
P	53° 37' 30.124" N	0° 50' 57.716" E

(6) The grid co-ordinates for disposal site reference HU210 are—

<i>Point</i>	<i>Latitude</i>	<i>Longitude</i>
W	53° 43' 14.348" N	1° 19' 13.563" E
X	53° 43' 52.989" N	1° 22' 07.248" E
Y	53° 44' 22.957" N	1° 21' 47.484" E
Z	53° 43' 44.110" N	1° 18' 53.902" E

(7) Section 72 of the 2009 Act applies to this licence, except that subsections (7) and (8) relating to the transfer of the licence apply only to a transfer not falling within article 35 of the Order.

#### **Maintenance of authorised project**

3.—(1) The undertaker may at any time maintain the authorised project, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) No maintenance works whose likely effects on the environment require to be assessed in accordance with the EIA Regulations and are not assessed in the environmental statement may be carried out, unless otherwise approved by the MMO.

(3) Where the MMO's approval is required under paragraph (2), approval may be given only where it has been demonstrated to the satisfaction of the MMO that the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### **Duration**

4. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 of the Energy Act 2004, including any modification to the programme under section 108, and the completion of the programme has been confirmed by the Secretary of State in writing.

## **PART 2**

### **Licence conditions**

#### **Design parameters**

- 1.—(1) No offshore HVAC collector substation forming part of Work No. 2B may—
  - (a) exceed 64 metres in height above LAT;
  - (b) have a platform that at its greatest extent exceeds 3,600 square metres or 60 metres in width.
- (2) No offshore HVDC converter substation forming part of Work No. 2B may—
  - (a) exceed 110 metres in height above LAT;
  - (b) have a platform that at its greatest extent exceeds 16,200 square metres in area or 180 metres in width.
- (3) The offshore reactive compensation substation comprised in Work No. 3B must not—
  - (a) exceed 64 metres in height above LAT; or
  - (b) have a platform that at its greatest extent exceeds 3,600 square metres or 60 metres in width.
- (4) The diameter of the electrical cables comprising the electrical circuits must not exceed the following limitations—
  - (a) within Work No. 2B, 300 millimetres;
  - (b) within Work Nos. 4B and 5B—
    - (i) 190 millimetres, where the mode of transmission is HVDC; and
    - (ii) 300 millimetres, where the mode of transmission is HVAC.
- (5) The combined total length of the connections in the form of electrical circuits between the structures comprised in Work Nos. 2A and 2B must not exceed 300 kilometres.
- (6) The combined total length of the electrical circuits comprised in Work Nos. 4A, 4B, 5A and 5B seaward of MHWS must not exceed 1,200 kilometres.
- (7) The combined total area of cable protection for the electrical circuits comprising Work Nos. 2A and 2B must not exceed 546,000 square metres.
- (8) The combined total area of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located outside the Humber Estuary Special Area of Conservation must not exceed 2,055,200 square metres.

(9) The combined total area of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located within the Humber Estuary Special Area of Conservation must not exceed 44,800 square metres.

(10) The combined total volume of cable protection for the electrical circuits comprising Work Nos. 2A and 2B must not exceed 312,000 cubic metres.

(11) The combined total volume of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located outside the Humber Estuary Special Area of Conservation must not exceed 1,174,400 cubic metres.

(12) The combined total volume of cable protection for the electrical circuits comprising Work Nos. 4A and 4B located within the Humber Estuary Special Area of Conservation must not exceed 25,600 cubic metres.

(13) The electrical circuits comprised in Work Nos. 2B and 4B must be installed by use of, or a combination of, ploughing, trenching, jetting, rock-cutting, dredging, surface laying with post-lay burial, and where ground conditions make burial impracticable, by surface laying.

(14) The electrical circuits comprised in Work No. 5B must be installed by use of, or a combination of, ploughing, trenching and jetting, with the exception that, where the electrical circuits comprised in Work No. 5B cross under the existing sea wall, they must be installed using a trenchless technique.

**2.—**(1) The undertaker must in fixing to the seabed any structures comprised in Work Nos. 2B and 3B use one of the following methods—

- (a) monopile foundations;
- (b) jacket foundations supported by piles; or
- (c) gravity base foundations.

(2) The undertaker must not use the monopile foundation method or any other method which includes braced monopiles to fix to the seabed any offshore HVDC converter substation.

(3) The following parameters apply in respect of the foundation methods used to fix offshore HVAC collector substations to the seabed—

- (a) where monopile foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,963 square metres;
  - (ii) the diameter of each foundation must not exceed 10 metres;
- (b) where jacket foundations (driven/drilled piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 1,924 square metres;
  - (ii) the number of piles per jacket must not exceed 8;
  - (iii) the diameter of each pile must not exceed 3.5 metres;
- (c) where jacket foundations (suction piles) are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 12,723 square metres;
  - (ii) the number of piles per jacket must not exceed 8;
  - (iii) the diameter of each pile must not exceed 15 metres;
- (d) where gravity base foundations are used—
  - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
  - (ii) the seabed levelling diameter must not exceed 70 metres;
  - (iii) the cone diameter must not exceed 50 metres at its base.

(4) The following parameters apply in respect of the foundation methods used to fix offshore HVDC converter substations to the seabed—

- (a) where jacket foundations (driven/drilled piles) are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 17,318 square metres;
    - (ii) the number of jacket foundations per topside must not exceed 4;
    - (iii) the number of piles per topside must not exceed 72;
    - (iv) the number of piles per jacket must not exceed 18;
    - (v) the diameter of each pile must not exceed 3.5 metres;
  - (b) where jacket foundations (suction piles) are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 50,894 square metres;
    - (ii) the number of jacket foundations per topside must not exceed 4;
    - (iii) the number of piles per topside must not exceed 32;
    - (iv) the number of piles per jacket must not exceed 8;
    - (v) the diameter of each pile must not exceed 15 metres;
  - (c) where gravity base foundations are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 27,300 square metres;
    - (ii) the number of pontoons for each individual structure must not exceed 3;
    - (iii) the pontoons must not exceed 170 metres in length or 35 metres in width.
- (5) The following parameters apply in respect of the foundation methods used to fix the offshore reactive compensation substation to the seabed—
- (a) where monopile foundations are used—
    - (i) the area occupied by the foundations and the scour protection must not exceed 1,963 square metres;
    - (ii) the diameter of each foundation must not exceed 10 metres;
  - (b) where jacket foundations (driven/drilled piles) are used—
    - (i) the area occupied by the foundations and the scour protection must not exceed 1,414 square metres;
    - (ii) the number of piles per jacket must not exceed 8;
    - (iii) the diameter of each pile must not exceed 3 metres;
  - (c) where jacket foundations (suction piles) are used—
    - (i) the area occupied by the foundations and the scour protection must not exceed 6,362 square metres;
    - (ii) the number of piles per jacket must not exceed 4;
    - (iii) the diameter of each pile must not exceed 15 metres;
  - (d) where gravity base foundations are used—
    - (i) the area occupied by the foundations and the scour protection for each individual structure must not exceed 6,362 square metres;
    - (ii) the seabed levelling diameter must not exceed 70 metres;
    - (iii) the cone diameter must not exceed 50 metres at its base.

### **Navigational practice, safety and emergency response**

3.—(1) No part of the authorised scheme seaward of MHWS may commence until the MMO, in consultation with the MCA, has given written approval for an emergency response co-operation plan which includes full details of the emergency co-operation plans for the construction, operation and decommissioning phases of that part of the authorised scheme in accordance with

the MCA recommendations contained within MGN 371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues”.

(2) No part of the authorised scheme seaward of MHWS may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the development, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN 371 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” (including its annexes).

(3) The emergency response co-operation plan must be implemented as approved, unless otherwise agreed in writing by the MMO, in consultation with the MCA.

### **Aids to navigation**

4.—(1) The undertaker must during the whole period from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning—

- (a) exhibit such lights, marks, sounds, signals and other aids to navigation and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct;
- (b) colour all structures in the authorised scheme as directed by Trinity House;
- (c) keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including—
  - (i) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
  - (ii) notice within 24 hours of any aids to navigation being established by the undertaker; and
  - (iii) notice within 5 working days of completion of construction of the authorised scheme;
- (d) submit reports to Trinity House detailing the working condition of aids to navigation quarterly, or as requested by Trinity House;
- (e) notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(2) Except as otherwise required by Trinity House under paragraph (1), the undertaker must colour all structures comprised in Work Nos. 2B and 3B yellow (colour code RAL 1023) from at least highest astronomical tide to a height as directed by Trinity House.

(3) Unless the MMO otherwise directs, the undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035).

### **Notifications and inspections**

5.—(1) The undertaker must ensure that—

- (a) a copy of this licence and any subsequent amendments or revisions to it are provided to—
  - (i) all agents and contractors notified to the MMO in accordance with the Conditions; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with the Conditions;
- (b) within 28 days of receipt of a copy of this licence, the persons referred to in subparagraph (a) provide a completed confirmation form to the MMO confirming their understanding of the terms and conditions of this licence.

(2) Only the persons and vessels notified to the MMO in accordance with Condition 11 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits are to be made.

(4) The documents referred to in paragraph (1)(a) must be available for inspection by an enforcement officer at the locations set out in paragraph (3) at any time.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Marine Licensing Team and the MMO Coastal Office in writing at least 5 working days before the commencement of the licensed activities or any part of them.

(7) The Kingfisher Information Service of Seafish must be informed by email of details of the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk)—

- (a) at least 2 weeks before the construction of the authorised scheme or relevant part, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) on completion of the construction of the authorised scheme or relevant part.

Confirmation of notification must be provided to the MMO within 5 working days of notification to the Kingfisher Information Service of Seafish.

(8) The undertaker must ensure that a notice to mariners is issued at least 10 working days before the commencement of the licensed activities advising of the commencement of licensed activities within the offshore Order limits and the expected vessel routes from the local service ports to the location of the works comprised within the authorised scheme.

(9) The undertaker must ensure that the notices to mariners are updated and reissued at weekly intervals during construction activities and at least 5 days before any planned operation and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under Condition 8(2)(a). Copies of all notices must be provided to the MMO within 10 working days of issue.

(10) The undertaker must notify—

- (a) the UK Hydrographic Office of commencement (within 2 weeks), progress and completion (within 2 weeks) of the authorised scheme in order that all necessary amendments to nautical charts are made, and the undertaker must send a copy of such notifications to the MMO; and
- (b) the Defence Geographic Centre (at least 4 weeks before) of the commencement of the authorised scheme and of the progress and completion (within 2 weeks) of the authorised scheme, in order that all necessary amendments to aviation charts are made.

(11) In case of damage to, or destruction or decay of, the authorised scheme or any part of it seaward of MHWS, the undertaker must as soon as reasonably practicable, and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify the MMO, Trinity House, MCA and the UK Hydrographic Office.

(12) In the event that the Marine Noise Registry has gone live before the commencement of impact pile driving—

- (a) the undertaker must submit details of the expected location, start and end dates of impact pile driving to the Marine Noise Registry before the commencement of the impact pile driving; and

- (b) the undertaker must notify the MMO of the successful submission of the details required under sub-paragraph (a) within 7 days of the submission.

(13) In the event that the Marine Noise Registry has gone live at the time of impact pile driving—

- (a) the undertaker must submit the exact locations and dates of impact pile driving to the Marine Noise Registry at 6-month intervals from the commencement of impact pile driving until the completion of impact pile driving. The final data must be submitted within 12 weeks of completion of impact pile driving; and
- (b) the undertaker must notify the MMO of the successful submission of the details required under sub-paragraph (a) within 7 days of the submission.

### **Chemicals, drilling and debris**

6.—(1) All chemicals used in the construction of the authorised scheme must be selected from the list of notified chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002, unless otherwise agreed in writing by the MMO.

(2) The undertaker must ensure that any coatings or treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive or the Environment Agency Pollution Prevention Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment including bunding of 110% of the total volume of all reservoirs and containers.

(4) Where foundation drilling works are proposed, in the event that any system other than water based mud is proposed, the MMO's written approval in relation to the proposed disposal of any arisings must be obtained before the drilling commences, which disposal may also require a marine licence.

(5) The undertaker must ensure that, where practicable, any debris arising from the construction of the authorised scheme or temporary works placed seaward of MHWS is removed by a date no later than 28 days following the undertaker becoming aware of the debris after the completion of the authorised scheme (or by such later date as may be agreed in writing by the MMO). In the event that the debris cannot practicably be removed, the undertaker must notify the MMO, Trinity House and the MCA within 7 days of becoming aware that the debris cannot practicably be removed.

(6) At least 10 days before the commencement of the licensed activities, the undertaker must submit to the MMO an audit sheet covering all aspects of the construction of the authorised scheme, and no works may commence until the audit sheet content has been agreed with the MMO. The audit sheet must include details of—

- (a) loading facilities;
- (b) vessels;
- (c) equipment;
- (d) shipment routes;
- (e) working schedules; and
- (f) all components and materials to be used in the construction of the authorised scheme.

(7) The audit sheet must be maintained throughout the construction of the authorised scheme, and the MMO must be notified of any changes on a fortnightly basis.

(8) In the event that the undertaker becomes aware that any of the materials on the audit sheet cannot be accounted for, it must notify the MMO within 24 hours where possible, and in any event within 5 days of becoming aware using the dropped object procedure form. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar) if reasonable to do so. Local fishermen must be invited to send a representative to be present during the survey. The MMO may require any new

obstructions associated with the authorised scheme to be removed from the seabed at the undertaker's expense if reasonable to do so.

(9) All debris arising from the operation and maintenance of the authorised scheme must be reported to the MMO using the dropped object procedure form within 24 hours where possible, and in any event within 5 days of the undertaker becoming aware of the incident. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side-scan sonar) if reasonable to do so and any new obstructions associated with the authorised scheme to be removed from the seabed at the undertaker's expense if reasonable to do so.

(10) The undertaker must inform the MMO of the location and quantities of inert material and dredged material disposed of each month under this licence at each of disposal site reference HU211, disposal site reference HU209 and disposal site reference HU210, by submission of a disposal return for each disposal area by 31st January each year for disposals occurring during the months July to December inclusive of the preceding year, and by 31st July each year for disposals occurring during the months January to June inclusive of that year.

(11) The undertaker must ensure that only—

- (a) inert material of natural origin and drilling mud, produced during construction drilling and seabed preparation for foundation works comprised in Work No. 2B;
- (b) dredged material produced during seabed preparation for foundation works comprised in Work No. 2B; and
- (c) inert material of natural origin and dredged material produced during cable laying preparation works comprised in Work Nos. 2B and 4B,

is disposed of at disposal site reference HU211.

(12) The undertaker must ensure that only—

- (a) inert material of natural origin and drilling mud, produced during construction drilling and seabed preparation for foundation works comprised in Work No. 3B;
- (b) dredged material produced during seabed preparation for foundation works comprised in Work No. 3B; and
- (c) inert material of natural origin and dredged material produced during cable laying preparation works comprised in Work No. 4B,

is disposed of at disposal site reference HU209.

(13) The undertaker must ensure that only inert material of natural origin and dredged material produced during cable laying preparation works comprised in Work No. 4B is disposed of at disposal site reference HU210.

(14) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment. Concrete, cement mixing and washing areas must be contained to prevent run-off entering the water through the freeing ports.

(15) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(16) The undertaker must notify the MMO within 48 hours of the completion of the final authorised disposal at disposal site reference HU211.

(17) The undertaker must notify the MMO within 48 hours of the completion of the final authorised disposal at disposal site reference HU209.

(18) The undertaker must notify the MMO within 48 hours of the completion of the final authorised disposal at disposal site reference HU210.

### **Force majeure**

7. If, due to stress of weather or any other cause, the master of a vessel determines that it is necessary to deposit—



- (a) authorised deposits outside of the offshore Order limits or disposal site references HU209, HU210 or HU211; or
- (b) unauthorised deposits within or outside of the offshore Order limits or disposal site references HU209, HU210 or HU211,

because the safety of human life and/or of the vessel is threatened, full details of the circumstances of the deposit must be notified to the MMO within 48 hours.

### **Pre-construction plans and documentation**

**8.—(1)** The licensed activities may not commence until a plan setting out proposed details of the authorised scheme and including the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO following appropriate consultation with Trinity House and the MCA—

- (a) number, dimensions, specification, foundation types and depth for each offshore HVAC collector substation, offshore HVDC converter substation and offshore reactive compensation substation;
- (b) grid co-ordinates of the centre point of the proposed location for each offshore HVAC collector substation, offshore HVDC converter substation and offshore reactive compensation substation, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions;
- (c) proposed layout of all cables, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions; and
- (d) location and specification of all other aspects of the authorised scheme, subject to any micro-siting required due to anthropological constraints, environmental constraints or difficult ground conditions.

**(2)** The licensed activities, or any phase of those activities, may not commence until a code of construction practice incorporating the following (insofar as relevant to that activity or phase of activity) has been submitted to and approved in writing by the MMO—

- (a) a construction and monitoring programme, to include details of—
  - (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant, delivery of materials and installation works; and
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction monitoring and related reporting in accordance with Conditions 13, 14 and 15. The pre-construction survey programme and all pre-construction survey methodologies must be submitted to the MMO for written approval by the MMO in consultation with the relevant statutory nature conservation body at least 4 months before the commencement of any survey works detailed within;
- (b) a construction method statement in accordance with the environmental statement, including details of—
  - (i) foundation installation, including any seabed preparation, drilling and disposal of arisings methods;
  - (ii) installation of offshore HVAC collector substations, offshore HVDC converter substations and offshore reactive compensation substations, including any seabed preparation and scour protection;
  - (iii) circuit installation, including any seabed preparation and circuit protection;
  - (iv) contractors;
  - (v) vessels; and
  - (vi) associated works;
- (c) a project environmental management and monitoring plan, to include details of—

- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents during construction and operation of the authorised scheme in relation to all activities carried out seaward of MHWS. The plan must include a mechanism for reporting oil, fuel and chemical spills to the MMO Marine Pollution Response Team;
  - (ii) a chemical risk analysis to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) a disposal plan detailing the locations, methods and timings of dredging and disposal, as well as disposal site monitoring requirements;
  - (iv) waste management and disposal arrangements;
  - (v) locations of any archaeological exclusion zones agreed as part of the written scheme of archaeological investigation approved under sub-paragraph (g);
  - (vi) any seasonal restrictions on construction works; and
  - (vii) the appointment and responsibilities of a fisheries liaison officer, an environmental liaison officer and an intertidal ecological clerk of works;
- (d) a scour protection management and cable armouring plan providing details of the need, type, sources, quantity, location and installation methods for scour protection and cable armouring to be within the scope of the environmental impact assessment recorded in the environmental statement;
- (e) in the event that driven or part-driven pile foundations are proposed to be used, a marine mammal mitigation protocol, the intention of which is to prevent injury and/or significant disturbance to marine mammals, following current best practice as advised by the statutory nature conservation bodies, which may include, but is not limited to—
- (i) identification of a marine mammal mitigation zone (“MMMZ”);
  - (ii) appointment of an appropriate number of suitably qualified marine mammal observers;
  - (iii) methods for the detection of marine mammals within the MMMZ whether visually (by the marine mammal observers) or acoustically using passive acoustic monitoring equipment or other means of detection;
  - (iv) a reporting methodology to enable efficient communication between the marine mammal observers and the person responsible for approving commencement of piling;
  - (v) an appropriate soft start procedure whereby piling activities do not commence until an agreed time has elapsed and during which marine mammals have not been detected within the MMMZ;
  - (vi) where appropriate, methods for the application of acoustic deterrent devices; and
  - (vii) where appropriate, consideration of the use of noise reduction at source technologies;
- (f) a cable specification and installation plan, to include—
- (i) technical specification of offshore electrical circuits, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a detailed cable laying plan, including geotechnical data, cable laying techniques and a cable burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA) to be taken to ensure existing and future safe navigation is not compromised;
  - (iii) details of the steps to be taken, where the offshore electrical circuits across the intertidal area are buried using trenching or ploughing to ensure that the excavation

and subsequent backfilling is carried out in such a way as to maintain the sediment profile so far as is reasonably practicable; and

- (iv) details of the steps to be taken, where the offshore electrical circuits across the intertidal area are installed using a trenchless technique;
- (g) a written scheme of archaeological investigation in relation to the offshore Order limits seaward of MHWS in accordance with industry good practice to include—
  - (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for any further site investigation including any specifications for geophysical, geotechnical and diver- or remotely-operated vehicle investigations;
  - (iii) analysis and reporting of survey data to be submitted to the MMO within 4 months of survey completion;
  - (iv) delivery of any mitigation including, where necessary, archaeological exclusion zones;
  - (v) monitoring during and post-construction, including a conservation programme for finds;
  - (vi) archiving of archaeological material; and
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme;
- (h) a proposed survey and reinstatement plan for Salicornia forming Annex 1 habitat in the parts of the offshore Order limits within which it is proposed to carry out construction works comprised in Work No. 5B, including the circumstances in which reinstatement will be required and the proposed methods of reinstatement;
- (i) an offshore project maintenance plan to be submitted to the MMO at least 4 months before commencement of the operation of the licensed activities and to include provision for the review and resubmission of the plan every 3 years during the operational phase;
- (j) an aids to navigation management plan specifying how the undertaker will ensure compliance with Condition 4 from the start of construction of the authorised scheme seaward of MHWS to the completion of decommissioning.

(3) Before the submission of the pre-construction plans and documentation required by this Condition, the undertaker must provide a copy of the plans and documentation to the other undertakers under the Order.

(4) The undertaker must participate in liaison meetings with other undertakers under the Order as requested from time to time by the MMO in writing in advance. The meetings must be chaired by the MMO and must consider such matters as are determined by the MMO relating to the efficient operation of a deemed marine licence where it has an impact on the efficient operation of any other deemed marine licence issued under the Order (including as varied or transferred).

(5) Before giving its approval under paragraph (2), the MMO must—

- (a) in relation to any programme or plan submitted under sub-paragraphs (a), (c), (d), (f), (h) or (i), consult the relevant statutory nature conservation body and the Environment Agency;
- (b) in relation to any statement or protocol submitted under sub-paragraphs (b) or (e), consult the relevant statutory nature conservation body;
- (c) in relation to a scheme submitted under sub-paragraph (g), consult Historic England; and
- (d) in relation to a plan submitted under sub-paragraph (j), consult Trinity House.

(6) In the event that driven or part-driven pile foundations are proposed to be used, the MMO must not approve the plan referred to in paragraph (1) or the code referred to in paragraph (2) unless the MMO is satisfied, after consulting such persons as the Secretary of State may specify in relation to the plan or the part of the code specified by the Secretary of State (in addition to the persons with whom consultation is otherwise required under this Condition), that either the plan or code (or both of them) provide such mitigation as is necessary to avoid adversely affecting the

integrity (within the meaning of the 2007 Regulations) of a relevant site, to the extent that marine mammals are a protected feature of that site.

- (7) The mitigation referred to in paragraph (6) may include (without limitation)—
- (a) seasonal restrictions to piling;
  - (b) scheduling of piling, having regard to previous, ongoing and future piling associated with other offshore developments, based on an updated assessment of cumulative impacts;
  - (c) the use of alternative foundation methodologies, such as jacket foundations (suction piles) or gravity base foundations;
  - (d) the use of noise reduction at source technologies;
  - (e) the use of other relevant technologies or methodologies that may emerge in the future.
- (8) In paragraph (6), “relevant site” means—
- (a) a European offshore marine site;
  - (b) a European site.
- (9) For the purpose of paragraph (6)—
- (a) the Southern North Sea possible Special Area of Conservation must be treated as a European offshore marine site until—
    - (i) that Area (or any part of it) becomes a European offshore marine site or a European site; or
    - (ii) it is decided that no part of that Area should be a European offshore marine site or a European site; and
  - (b) harbour porpoise must be treated as a protected feature of the Southern North Sea possible Special Area of Conservation.
- (10) In this Condition—
- “2007 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007;
- “disturbance” must be construed in accordance with regulation 39(1)(b) of the 2007 Regulations;
- “European offshore marine site” has the meaning given in regulation 15 of the 2007 Regulations;
- “European site” has the meaning given in regulation 24 of the 2007 Regulations;
- “Southern North Sea possible Special Area of Conservation” means the Southern North Sea possible Special Area of Conservation as set out in the JNCC 2016 Harbour Porpoise Possible Special Area of Conservation Consultation dated January 2016.

**9.** The undertaker must ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS form with a digital copy of the report within 6 months of completion of construction of the authorised scheme. The undertaker must notify the MMO and, where the report relates to the intertidal area, Lincolnshire County Council that the OASIS report has been submitted to the National Record of the Historic Environment within 2 weeks of the submission.

**10.—(1)** Each programme, statement, plan, protocol or scheme required to be approved under Condition 8—

- (a) must be submitted for approval at least 4 months before the intended start of construction, except where otherwise stated or where an alternative date is agreed in writing by the MMO; and
- (b) must be accompanied by—
  - (i) a statement confirming that the undertaker has complied with Condition 8(3) in relation to the programme, statement, plan, protocol or scheme;

- (ii) any comments received by the undertaker from the other undertakers, or a statement from the undertaker confirming that no such comments were received; and
- (iii) details of any consultation that has been carried out with the undertakers with the benefit of all or part of the deemed marine licences under the Hornsea One Offshore Wind Farm Order 2014 and any comments received from those undertakers.

(2) The undertaker must comply with the plans and documentation approved under Condition 8 in carrying out the licensed activities unless otherwise agreed in writing by the MMO.

(3) Before agreeing an alternative date under paragraph (1)(a) or a change to approved details under paragraph (2) relating to any document in respect of which consultation is required under Condition 8, the MMO must consult the relevant consultation body referred to in that Condition.

### **Reporting of engaged agents, contractors and vessels**

**11.**—(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities at least 5 working days before the commencement of the licensed activities or any part of them; and
- (b) each week during the construction of the authorised scheme, a completed Hydrographic Note H102 listing the construction vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO and MMO Coastal Office in writing before the agent, contractor or vessel engages in the licensed activities.

(3) All agents, contractors and vessel operators must comply with the Conditions.

### **Equipment and operation of vessels engaged in licensed activities**

**12.**—(1) All vessels employed to perform the licensed activities must be constructed and equipped to be capable of the proper performance of the activities in accordance with the Conditions and must comply with paragraphs (2) to (5).

(2) All motor-powered vessels must be fitted with—

- (a) an electronic positioning aid to provide navigational data;
- (b) radar;
- (c) an echo sounder; and
- (d) multi-channel VHF.

(3) All vessel names or identification must be clearly marked on the hull or superstructure of the vessel.

(4) All communication on VHF working frequencies must be in English.

(5) No vessel may engage in the licensed activities until all the equipment specified in paragraph (2) is fully operational.

### **Pre-construction monitoring and surveys**

**13.**—(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant statutory nature conservation body and, in respect of the surveys required under paragraph (2)(b) and (c), in consultation with the Environment Agency, of proposed pre-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format and content for a pre-construction baseline report; and—

- (a) the survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction

position and/or will enable the validation or otherwise of key predictions in the environmental statement; and

- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, so far as applicable, the pre-construction surveys must comprise, in outline—

- (a) a survey to determine the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance (including Annex 1 habitats) in the parts of the offshore Order limits in which it is proposed to carry out construction works under this licence;
- (b) a phase 1 survey of the intertidal area within which it is proposed to carry out construction works;
- (c) a high-resolution swath bathymetric survey to include a 100% coverage and a side-scan sonar survey of the parts of the offshore Order limits within which it is proposed to carry out construction works and disposal activities under this licence; and
- (d) a grab survey and particle size analysis in the parts of the offshore Order limits within which it is proposed to carry out dredging and disposal activities relating to Work Nos. 3B and 4B under this licence within a period not greater than 12 months before the dredging and disposal activities to determine the extent of suitable herring spawning habitat within those areas.

(3) The undertaker must carry out the surveys agreed under paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation body.

### **Construction monitoring**

**14.—**(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant statutory nature conservation body of any proposed construction monitoring, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt from the undertaker of specific proposals pursuant to this Condition, so far as applicable, the construction monitoring must comprise, in outline—

- (a) unless the MMO agrees otherwise in writing, measurements of noise generated by the installation of the first 4 foundations of each discrete foundation type comprised in Work No. 2B to be constructed under this licence where driven or part-driven pile foundations are used;
- (b) recording of any visual sightings or acoustic detection of marine mammals where required as part of the marine mammal mitigation protocol under Condition 8(2)(e); and
- (c) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with Condition 8(2)(k).

(3) The undertaker must carry out the surveys approved under paragraph (1), including any further noise monitoring required in writing by the MMO under paragraph (4), and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

(4) The results of the initial noise measurements monitored in accordance with paragraph (2)(a) must be provided to the MMO within 6 weeks of the installation of the first 4 foundations of each discrete foundation type, for the MMO to determine, following assessment of this report, whether any further noise monitoring is required.

(5) Construction monitoring must include vessel traffic monitoring by automatic identification system for the duration of the construction period. A report must be submitted to the MMO and the MCA at the end of each year of the construction period.

### **Post-construction**

**15.—**(1) The undertaker must, in discharging Condition 8(2)(a), submit details for written approval by the MMO in consultation with the relevant statutory nature conservation body and, in respect of the surveys required under paragraph (2)(a), (b) and (c), in consultation with the Environment Agency, of proposed post-construction surveys, including methodologies (including appropriate buffers, where relevant) and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must be in general accordance with the principles set out in the in-principle monitoring plan and must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) Subject to receipt of specific proposals, so far as applicable, the post-construction surveys must comprise, in outline—

- (a) a survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance (including Annex 1 habitats) identified in the pre-construction survey in the parts of the offshore Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) a high-resolution swath bathymetric survey to be undertaken no sooner than 6 months following completion of construction works and disposal activities to include a 100% coverage of the parts of the offshore Order limits with a water depth no greater than 12 metres (referenced to Chart Datum) within which construction works and disposal activities were carried out under this licence to assess any changes in bedform morphology and such further monitoring as may be required to ensure that the cables have been buried or protected and sediment is able to move over any installed cable protection. The need for further surveys must be agreed in writing with the MMO following submission of the first year of survey data;
- (c) a high-resolution bathymetric survey of a representative sample area, as may be agreed in writing with the MMO, of the parts of the offshore Order limits with a water depth no greater than 12 metres (referenced to Chart Datum) within which construction works and disposal activities were carried out under this licence following the first major storm event the timing of which must be agreed with the MMO in consultation with Natural England and the Environment Agency;
- (d) a grab survey and particle size analysis in the parts of the offshore Order limits within which dredging and disposal activities relating to Work Nos. 3B and 4B were carried out under this licence within 12 months of the completion of the dredging and disposal activities to determine the extent of suitable herring spawning ground habitat within those areas; and
- (e) vessel traffic monitoring by automatic identification system, for 28 days taking account seasonal variations in traffic patterns, for a maximum duration of 1 year post-construction. A report must be submitted to the MMO and the MCA at the end of the first year after construction is completed.

(3) The undertaker must carry out the surveys agreed under paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

### **Offshore decommissioning**

**16.—**(1) No decommissioning activities may commence until a plan for the carrying out of the activities has been submitted to and approved in writing by the MMO and, where the plan relates to the decommissioning of Work No. 4B or 5B, the MMO must consult the Environment Agency before giving its approval.

(2) The plan must be submitted for approval at least 4 months before the intended start of the decommissioning activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(3) The plan must be implemented as approved.

### **Amendments to approved plans, etc.**

**17.—**(1) Where any Condition requires the licensed activities to be carried out in accordance with any plan, programme, code, statement, protocol scheme or details (the “plan”) approved by the MMO, the approved plan must be taken to include any amendment to the plan that may subsequently be approved in writing by the MMO.

(2) Any amendment to the plan must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that amendment is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### **Restrictions in intertidal area and Humber Estuary Special Area of Conservation**

**18.—**(1) The cable protection to be used within the Humber Estuary Special Area of Conservation must be frond matting, unless otherwise agreed in writing with the MMO.

(2) No cable protection may be used within the intertidal area of the Humber Estuary Special Area of Conservation.

(3) The undertaker must not construct or install the licensed activities comprised in Work No. 4B or 5B in the intertidal area during the overwintering period unless otherwise agreed in writing with the MMO, in consultation with Natural England.

(4) The undertaker must not construct or install the licensed activities comprised in Work Nos. 4B and 5B in the intertidal area within 500 metres seaward of the seawall during the period of time commencing 2 hours before a high tide predicted to be greater than 6.5 metres Chart Datum and ending 2 hours after a high tide predicted to be greater than 6.5 metres Chart Datum between 1st April and 31st May (inclusive) and 1st August to 30th September (inclusive), unless provided for in the construction and monitoring programme submitted and approved under Condition 8(2)(a) or the construction method statement submitted and approved under Condition 8(2)(b) or unless otherwise agreed in writing by the MMO, in consultation with Natural England.

(5) The undertaker must not carry out inspections in the intertidal area during the overwintering period to the extent that such inspections require to be carried out—

- (a) more than once per overwintering period;
- (b) over more than 2 consecutive days by people on foot; or
- (c) by more than 5 people on foot at any one time,

unless otherwise agreed in writing with the MMO, in consultation with Natural England or unless provided for in the offshore project maintenance plan submitted and approved under Condition 8(2)(i).

(6) Where this Condition provides that the MMO may agree to an alternative to what is otherwise provided under this Condition—

- (a) any alternative must be in accordance with the principles and assessments set out in the environmental statement; and



- (b) agreement to any alternative may be given only where it has been demonstrated to the satisfaction of the MMO that the alternative is unlikely to give rise to any materially new or materially different effects from those assessed in the environmental statement.

(7) In this Condition, “overwintering period” means the period between 1st October and 31st March (inclusive).

## SCHEDULE 12

Article 39

### Protective provisions

#### PART 1

##### Protection for Environment Agency and drainage authorities

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

2. In this Part—

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

“drainage authority” means—

(a) in relation to an ordinary watercourse, the drainage board concerned within the meaning of section 23 of the Land Drainage Act 1991; and

(b) in relation to a main river or any sea defence work, the Environment Agency;

“drainage work” means any watercourse other than the River Humber and includes any land that provides or is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence, sea defence or tidal monitoring;

“ordinary watercourse” has the meaning given in the Land Drainage Act 1991(a);

“plans” includes sections, drawings, specifications and method statements;

“relevant undertaker” means—

(a) in relation to specified work that is Project A works or associated development or ancillary works relating to Project A works, Optimus Wind;

(b) in relation to specified work that is Project B works or associated development or ancillary works relating to Project B works, Breesea; and

(c) in relation to specified work that is shared works or associated development or ancillary works relating to shared works, Optimus Wind and Breesea;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

(a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;

(b) affect the flow, purity, or quality of water in any watercourse; or

(c) affect the conservation, distribution or use of water resources.

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(a) See section 72(1).

**3.—**(1) Before beginning to construct any specified work, the relevant undertaker must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may within 28 days of the submission of the plans reasonably require.

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

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

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

(4) The drainage authority must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

**4.** Without limiting paragraph 3, the requirements which the drainage authority may make under that paragraph include conditions requiring the relevant undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

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

by reason of any specified work.

**5.—**(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 4, must be constructed—

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

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

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

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

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

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

(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the relevant undertaker, the relevant

undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice, and any expenditure incurred by it in so doing is recoverable from the relevant undertaker.

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

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

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

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the relevant undertaker, the relevant undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the relevant undertaker.

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

(5) This paragraph does not apply to—

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

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

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

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

**9.—**(1) Without limiting the other provisions of this Part, the relevant undertaker must indemnify the drainage authority in respect of all claims, demands, proceedings, costs, damages,

expenses or loss that may be made or taken against, recovered from or incurred by, the drainage authority by reason of—

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any raising or lowering of the water table in land adjoining the authorised development or any sewers, drains and watercourses; or
- (c) any flooding or increased flooding of any such land; and
- (d) where the drainage authority is the Environment Agency, inadequate water quality in any watercourse or other surface waters or in any groundwater,

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

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

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

**11.** Any dispute between the relevant undertaker and the drainage authority under this Part, if the parties agree, must be determined by arbitration under article 41 (arbitration), but otherwise must be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Business, Energy and Industrial Strategy acting jointly on a reference to them by the relevant undertaker or the drainage authority, after notice in writing by one to the other.

## PART 2

### Protection for Network Rail Infrastructure Limited, etc.

**1.** The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 15, any other person on whom rights or obligations are conferred by that paragraph.

**2.** In this Part—

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

“engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of the powers in section 8 of the Railways Act 1993(a);

“Network Rail” means—

- (a) Network Rail Infrastructure Limited (company number 2904587); and
- (b) any associated company of Network Rail Infrastructure Limited that holds property for railway purposes,

and for the purpose of paragraph (b) “associated company” means any company that is (within the meaning of section 1159 of the Companies Act 2006(b)) the holding company of Network

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(a) 1993 c.43. Section 8 was amended by paragraph 4 of Schedule 17 and Part 4 of Schedule 31 to the Transport Act 2000 (c.38), paragraphs 3 and 5 of Schedule 2 to the Railways and Transport Safety Act 2003 (c.20), paragraph 3 of Schedule 1 and Part 1 of Schedule 13 to the Railways Act 2005 (c.14) and Part 1 of Schedule 1 to S.I. 2015/1682.

(b) 2006 c.46.

Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993(a)) or station lease;

“railway property” means—

- (a) any railway belonging to Network Rail;
- (b) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (c) any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment;

“relevant undertaker” means—

- (a) in relation to specified work that is Project A works or associated development or ancillary works relating to Project A works, Optimus Wind;
- (b) in relation to specified work that is Project B works or associated development or ancillary works relating to Project B works, Breesea; and
- (c) in relation to specified work that is shared works or associated development or ancillary works relating to shared works, Optimus Wind and Breesea;

“specified work” means so much of any of the authorised development as is situated on, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

**3.—**(1) Where under this Part Network Rail is required to give its consent, agreement or approval in respect of any matter, that consent, agreement or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the relevant undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

**4.—**(1) The undertaker must not exercise the powers conferred by article 17 (authority to survey and investigate land) or section 11(3) of the 1965 Act (powers of entry) in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 (extinguishment of rights of statutory undertakers: preliminary notices) or 272 (extinguishment of rights of electronic code communications operators: preliminary notices) of the 1990 Act(b) or article 28 (statutory undertakers) in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

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(a) “Access agreement” is defined in section 83. The definition was amended by section 230 of the Transport Act 2000.

(b) Section 272 was amended by paragraph 103 of Schedule 17 to the Communications Act 2003.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over any railway property except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, its consent must not be unreasonably withheld but may be given subject to reasonable conditions.

**5.—**(1) The relevant undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval 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 or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if, by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail, the engineer has not intimated disapproval of those plans and the grounds of disapproval—

- (a) the relevant undertaker may serve on the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date on which the engineer receives written notice from the relevant undertaker; and
- (b) if by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as supplied.

(3) If, by the end of the period of 28 days beginning with the date on which written notice was served on the engineer under sub-paragraph (2), Network Rail gives notice to the relevant undertaker that Network Rail desires itself to construct any part of a specified work that in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail, then, if the relevant undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the relevant undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the relevant undertaker.

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) that in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using them (including any relocation, de-commissioning or removal of works, apparatus or equipment necessitated by a specified work or the comfort and safety of passengers who may be affected by the specified work), and—

- (a) such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the relevant undertaker, if Network Rail so desires, at the expense of the relevant undertaker in either case, with all reasonable dispatch; and
- (b) the relevant undertaker must not commence the construction of the specified work until the engineer has notified the relevant undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

**6.—**(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(4) must, when commenced, be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic on it and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the relevant undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail

all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part imposes—

- (a) any liability on the relevant undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents; or
- (b) any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the relevant undertaker or its servants, contractors or agents.

**7.** The relevant undertaker must—

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

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

**9.—(1)** If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail.

(2) If Network Rail gives to the relevant undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the relevant undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs that may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(3) If during the construction of a specified work by the relevant undertaker, Network Rail gives notice to the relevant undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail, then, if the relevant undertaker decides that part of the specified work is to be constructed,—

- (a) Network Rail may assume construction of that part of the specified work; and
- (b) the relevant undertaker must, notwithstanding any approval of a specified work under paragraph 5(1), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss that it may suffer by reason of the execution by Network Rail of that part of the specified work.

(4) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 10(a) provide such details of the formula by which those sums have been calculated as the relevant undertaker may reasonably require.

(5) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing the saving must be set off against any sum payable by the relevant undertaker to Network Rail under this paragraph.

**10.** The relevant undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the relevant undertaker as provided by paragraph 5(3) or in constructing any protective works under the provisions of paragraph 5(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

- (b) in respect of the approval by the engineer of plans submitted by the relevant undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, guards and other persons whom it may be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions that may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services that may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified work, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**11.—(1) In this paragraph—**

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail’s apparatus generated by the operation of the authorised development, where such interference is of a level that adversely affects the safe operation of Network Rail’s apparatus;

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) that are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that the EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the authorised development giving rise to EMI (unless the relevant undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the relevant undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the relevant undertaker’s compliance with sub-paragraph (3)—

- (a) the relevant undertaker must consult Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus that may be at risk of EMI, and thereafter must continue to consult Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the relevant undertaker all information in the possession of Network Rail reasonably requested by the relevant undertaker in respect of Network Rail’s apparatus identified pursuant to paragraph (a); and
- (c) Network Rail must allow the relevant undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to paragraph (a).

(5) In any case where it is established that EMI can reasonably be prevented only by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution selected are in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 5(1) has effect subject to this sub-paragraph.

(6) If, at any time before the commencement of commercial operation of the authorised development and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised development causes EMI, then the relevant undertaker must immediately on receipt of notification by Network Rail of such EMI either in writing or



communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) immediately cease to use (or procure the cessation of use of) the relevant undertaker's apparatus causing the EMI until all measures necessary have been taken to remedy the EMI by way of modification to the source of the EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the relevant undertaker must afford reasonable facilities to Network Rail for access to the relevant undertaker's apparatus in the investigation of the EMI;
- (b) Network Rail must afford reasonable facilities to the relevant undertaker for access to Network Rail's apparatus in the investigation of the EMI; and
- (c) Network Rail must make available to the relevant undertaker any additional material information in its possession reasonably requested by the relevant undertaker in respect of Network Rail's apparatus or the EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the relevant undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the relevant undertaker in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(a), any modifications to Network Rail's apparatus under this paragraph are deemed to be protective works referred to in that sub-paragraph.

(11) In relation to any dispute arising under this paragraph, the reference in article 41 (arbitration) to an arbitrator to be agreed must be read as a reference to an arbitrator being a member of the Institution of Engineering and Technology to be agreed.

**12.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the relevant undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the relevant undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**13.** The relevant undertaker—

- (a) must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail; and
- (b) must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**14.** Any additional expenses that Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the relevant undertaker, be repaid by the relevant undertaker to Network Rail.

**15.—(1)** The relevant undertaker—

- (a) must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part that may be occasioned to or reasonably incurred by Network Rail by reason of—
  - (i) the construction, maintenance or failure of a specified work; or
  - (ii) any act or omission of the relevant undertaker or of any person in its employ or of its contractors or others whilst engaged on a specified work; and
- (b) indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission.

(2) The fact that any act or thing may have been done by Network Rail on behalf of the relevant undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the supervision of the engineer does not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the relevant undertaker from any liability under sub-paragraph (1).

(3) Network Rail must give the relevant undertaker reasonable notice of any such claim or demand, and no settlement or compromise of such a claim or demand may be made without the prior consent of the relevant undertaker.

(4) The sums payable by the relevant undertaker under sub-paragraph (1) must include a sum equivalent to the relevant costs.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (4) that relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph (4) to pay Network Rail the relevant costs may, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (5).

(7) In this paragraph—

“relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any act or omission as mentioned in sub-paragraph (1);

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**16.** Network Rail must, on receipt of a request from the relevant undertaker, from time to time provide the relevant undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the relevant undertaker is or will become liable under this Part (including the amount of the relevant costs mentioned in paragraph 15) and with such information as may reasonably enable the relevant undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part (including any claim relating to the relevant costs).

**17.** In the assessment of any sums payable to Network Rail under this Part, no account must be taken of any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the relevant undertaker under this Part or increasing the sums so payable.

**18.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993.

**19.** The undertaker must give written notice to Network Rail where any application is proposed to be made by the undertaker for the Secretary of State’s consent under article 35 (transfer of benefit of Order) and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;

- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**20.** The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 40 (certification of plans, etc.), provide a set of those plans to Network Rail in the form of a computer disc with read-only memory.

## PART 3

### Protection for operators of electronic communications code networks

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

**2.** In this Part—

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

“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(b);

“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;

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

“relevant undertaker” means—

- (a) in relation to authorised development that is Project A works or associated development or ancillary works relating to Project A works, Optimus Wind;
- (b) in relation to authorised development that is Project B works or associated development or ancillary works relating to Project B works, Breesea; and
- (c) in relation to authorised development that is shared works or associated development or ancillary works relating to shared works, Optimus Wind and Breesea.

**3.** Paragraph 23 of Schedule 2 to the Telecommunications Act 1984(c) (which provides a procedure for certain cases where works involve the alteration of electronic communications apparatus) applies in relation to the exercise of the powers of article 28 (statutory undertakers).

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

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(a) Paragraph 1(3A) was added to the code (Schedule 2 to the Telecommunications Act 1984) by paragraph 4 of Schedule 3 to the Communications Act 2003.  
 (b) “The electronic communications code” is defined in section 106(1).  
 (c) 1984 c.12.

- (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 relevant undertaker must—

- (c) bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply;
- (d) make reasonable compensation to an operator for loss sustained by it; and
- (e) indemnify an operator against claims, demands, proceedings, costs, damages and expenses that may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

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

(3) The operator must give the undertaker reasonable notice of any claim or demand, and no settlement or compromise of the claim or demand may be made without the consent of the undertaker which, if it withholds consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 41 (arbitration).

5. This Part does not apply to any apparatus in respect of which the relations between the undertaker and an operator are regulated by Part 3 of the 1991 Act.

## PART 4

### Protection for utility undertakers

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

2. In this Part—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus”—

- (a) in the case of a utility undertaker within paragraph (a) of the definition of that term, means electric lines or electrical plant (as defined in the 1989 Act<sup>(a)</sup>) belonging to or maintained by the utility undertaker;
- (b) in the case of a utility undertaker within paragraph (b) of the definition of that term, means any mains, pipes or other apparatus belonging to or maintained by the utility undertaker for the purposes of gas supply;
- (c) in the case of a utility undertaker within paragraph (c) of the definition of that term, means—
  - (i) mains, pipes or other apparatus belonging to, or maintained by, the utility undertaker for the purposes of water supply; and
  - (ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991<sup>(b)</sup>;

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(a) See section 64. The definition of “electrical plant” was amended by paragraph 38(3) of Schedule 6 to the Utilities Act 2000 (c.27).

(b) Section 51A was inserted by section 92(1) of the Water Act 2003.

(d) in the case of a utility undertaker within paragraph (d) of the definition of that term—

(i) means—

(aa) any drain or works vested in the sewerage undertaker under the Water Industry Act 1991; and

(bb) any sewer that is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act<sup>(a)</sup> or an agreement to adopt made under section 104 of that Act; and

(ii) 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 that 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 on land;

“relevant undertaker” means—

(a) in relation to works that are Project A works or associated development or ancillary works relating to Project A works, Optimus Wind;

(b) in relation to works that are Project B works or associated development or ancillary works relating to Project B works, Breesea; and

(c) in relation to works that are shared works or associated development or ancillary works relating to shared works, Optimus Wind and Breesea;

“utility undertaker” means—

(a) a licence holder within the meaning of Part 1 of the 1989 Act;

(b) a gas transporter within the meaning of Part 1 of the Gas Act 1986<sup>(b)</sup>;

(c) a water undertaker<sup>(c)</sup>; and

(d) a sewerage undertaker,

for the area of the authorised development and, in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained; but does not include—

(e) Anglian Water Services Limited (company number 02366656);

(f) Centrica plc (company number 03033654);

(g) VPI Immingham LLP (registered number OC300980);

(h) C.GEN Killingholme Limited (company number 06422434); or

(i) the Hornsea One companies (as defined in Part 12).

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

**4.—(1)** Despite any provision in this Order or anything shown on the land plans the undertaker must not acquire any apparatus other than by agreement.

(2) The undertaker must not in the exercise of the powers in this Order acquire any right over, or occupy or use, all or any part of the electricity sub-station within the land shown numbered plot 510 on the land plans without the consent of the utility undertaker responsible for its operation.

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(a) Section 102(4) was amended by section 96 of the Water Act 2003. Section 104 was amended by section 96 of, and Part 3 of Schedule 9 to, the Water Act 2003 and by section 42(3) of the Flood and Water Management Act 2010.

(b) 1986 c.44. “Gas transporter” is defined in section 7. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45) and was further amended by section 76 of the Utilities Act 2000.

(c) “Water undertaker” is defined in Schedule 1 to the Interpretation Act 1978.

(3) Consent for the purpose of sub-paragraph (2) must not be unreasonably withheld but may be granted subject to reasonable conditions.

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

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the relevant undertaker requires the removal of any apparatus placed in that land, it must give to the utility undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed; and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the relevant undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the relevant undertaker and for the subsequent maintenance of that apparatus.

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

(4) Any alternative apparatus to be constructed in land of the relevant undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the relevant undertaker or in default of agreement settled by arbitration in accordance with article 41.

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 41, and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the relevant undertaker to be removed under this Part.

(6) Despite anything in sub-paragraph (5), if the relevant undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work to which this subparagraph applies, that work, instead of being executed by the utility undertaker, must be executed by the relevant undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Sub-paragraph (6) applies to any part of any work necessary in connection with the construction of alternative apparatus, or the removal of apparatus required to be removed, as will take place in any land of the relevant undertaker.

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

**6.—**(1) Where, in accordance with this Part, the relevant undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the relevant undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted on such terms and conditions as may be agreed between the relevant undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 41.

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

- (a) give effect to all reasonable requirements of the relevant undertaker for ensuring the safety and efficient operation of the electricity generating station and for securing any subsequent alterations or adaptations of the alternative apparatus that may be required to prevent interference with any proposed works of the relevant undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the relevant undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and right enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the relevant undertaker to that utility undertaker as appears to the arbitrator to be reasonable, having regard to all the circumstances of the particular case.

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

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

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

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

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

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

8. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the relevant undertaker must provide such alternative means of access to such apparatus as will enable the utility undertaker to maintain or use the apparatus no less effectively than was possible before the obstruction.

9.—(1) Subject to the following provisions of this paragraph, the relevant undertaker must pay to a utility undertaker the reasonable expenses incurred by the utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus that may be required in consequence of the execution of any works referred to in paragraph 5(2).

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

(3) If in accordance with this Part—

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

and the placing of apparatus of that type or capacity or those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the relevant undertaker or, in default of agreement, is not determined by arbitration in accordance with article 41 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 that apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as 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, apart from this sub-paragraph, would be payable to a utility 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 utility 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.

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

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

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

(2) Nothing in sub-paragraph (1) imposes any liability on the relevant undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the relevant undertaker reasonable notice of any claim or demand, and no settlement or compromise may be made without the consent of the relevant undertaker, which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.



## PART 5

### Protection for Associated British Ports

**1.** The provisions of this Part have effect for the protection of A. B. Ports unless otherwise agreed in writing between the undertaker and A. B. Ports

**2.** In this Part—

“A. B. Ports” means Associated British Ports;

“accumulation” means any accumulation of silt or other material that constitutes an impediment to navigation;

“construction” includes execution and placing, maintenance, extension, enlargement, alteration, replacement, relaying, and removal (including the removal of the electrical circuits comprised in Work Nos. 6A and 6B); and “construct” and “constructed” must be construed accordingly;

“erosion” means any erosion of the bed or banks of the River Humber or of any jetty or other structure of whatever nature;

“plans” includes sections, descriptions, drawings and specifications;

“relevant undertaker” means—

- (a) in relation to specified works that is Project A works or associated development or ancillary works relating to Project A works, Optimus Wind;
- (b) in relation to specified works that is Project B works or associated development or ancillary works relating to Project B works, Breesea; and
- (c) in relation to specified works that is shared works or associated development or ancillary works relating to shared works, Optimus Wind and Breesea;

“specified works” means so much of Work Nos. 6A and 6B and any associated development or ancillary works as are within A. B. Ports’ jurisdiction.

**3.** The undertaker must not under the powers of this Order acquire land or acquire new rights over land held by A. B. Ports for the purpose of its statutory undertaking without the consent of A. B. Ports, which consent must not be unreasonably withheld but may be given subject to reasonable conditions.

**4.—(1)** Before commencing the construction of the specified works, the relevant undertaker must furnish to A. B. Ports for its approval, which it must not unreasonably withhold, plans of the specified works showing the general mode of construction, depth and method of trenching and possible cable protection; and the specified works—

- (a) must not be constructed otherwise than in accordance with the plans approved by A. B. Ports; and
- (b) must be executed to the reasonable satisfaction of A. B. Ports.

**(2)** When submitting plans in respect of the specified works to the Secretary of State pursuant to article 40 (certification of plans, etc.), the relevant undertaker must—

- (a) send a copy of those plans to A. B. Ports; and
- (b) on receipt of approval of plans or of any conditions or restrictions imposed by the Secretary of State, send a copy to A. B. Ports.

**(3)** If A. B. Ports fails to express its disapproval of any plans within 56 days after they have been furnished to it under sub-paragraph (1), it is deemed to have approved them.

**5.** The relevant undertaker must give to A. B. Ports—

- (a) not less than 14 days’ written notice of its intention to commence the construction of the specified works; and
- (b) not more than 14 days after completion of the construction, written notice of such completion.

**6.** The relevant undertaker must at all reasonable times during construction of the specified works and afterwards allow A. B. Ports, its servants and agents, access to the specified works and all reasonable facilities for inspection of the specified works.

**7.—(1)** After the purpose of any temporary works has been accomplished, the relevant undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from A. B. Ports requiring the relevant undertaker so to do, remove any such temporary works or any materials relating to them that may have been placed below the level of high water by or on behalf of the relevant undertaker.

(2) If the relevant undertaker fails to do so within a reasonable period after receiving such notice, A. B. Ports may remove them and may recover the reasonable costs of doing so from the relevant undertaker.

**8.—(1)** If during the construction of the specified works it is agreed, or in the absence of agreement it is proved to the satisfaction of an arbitrator appointed under article 41 (arbitration), that any accumulation or erosion has been caused wholly or partly by the construction of the specified works or exercise of powers under this Order, the relevant undertaker, if so requested by A. B. Ports acting reasonably, must remedy the accumulation or erosion to the extent attributable to the construction or exercise of powers.

(2) If the relevant undertaker refuses or fails to do so, A. B. Ports may itself cause the work to be done and may recover the reasonable cost of doing so from the relevant undertaker.

**9.** The relevant undertaker must pay to A. B. Ports the reasonable costs of such alterations to the marking and lighting of the navigational channel of the river as may be necessary during or in consequence of the construction of the specified works.

**10.—(1)** Without limiting the other provisions of this Part, the relevant undertaker must indemnify A. B. Ports in respect of all losses, costs, charges, damages and expenses however caused (including a reasonable and proper proportion of the overhead charges of A. B. Ports) that may reasonably be incurred by or occasioned to A. B. Ports by reason of or arising from or in connection with—

- (a) the perusal of plans and the inspection of the specified works by A. B. Ports or its duly authorised representative;
- (b) the construction or failure of the specified works or the undertaking by A. B. Ports of works or measures to prevent or remedy danger or impediment to navigation or damage to any property of A. B. Ports arising from such construction or failure; or
- (c) any act or omission of the relevant undertaker or its servants or agents whilst engaged in the construction of any of the specified works.

(2) Without limiting sub-paragraph (1), the relevant undertaker must indemnify A. B. Ports in respect of all claims and demands arising out of, or in connection with, such construction, or failure or act or omission as is mentioned in that sub-paragraph.

(3) Nothing in this paragraph imposes any liability on the relevant undertaker to the extent that any losses, costs, charges, damages, expenses, claims or demands referred to in sub-paragraph (1) or (2) are attributable to negligence on the part of A. B. Ports or of any person in its employ or of its contractors or agents.

(4) A. B. Ports must give to the relevant undertaker notice in writing of any claim or demand for which the relevant undertaker may be liable under this paragraph, and no settlement or compromise of any such claim or demand may be made without the consent in writing of the relevant undertaker.

**11.** The fact that any work or thing has been executed or done with the consent of A. B. Ports and in accordance with any conditions or restrictions prescribed by A. B. Ports or in accordance with any plans approved or deemed to be approved by A. B. Ports or to its satisfaction or in accordance with any directions or award of any arbitrator or in accordance with any plans approved by the Secretary of State and any conditions or restrictions imposed by the Secretary of State does not relieve the relevant undertaker from any liability under this Part.

**12.** With the exception of any duty owed by A. B. Ports to the relevant undertaker expressly provided for in this Part, nothing in this Order must be construed as imposing on A. B. Ports, either directly or indirectly, any form of duty or liability to which A. B. Ports would not otherwise be subject which is enforceable by proceedings before any court.

**13.** Nothing in this Order affects prejudicially any statutory or other rights, powers or privileges vested in, or enjoyed by, A. B. Ports at the commencement of this Order or any title of A. B. Ports in, to or over any lands or foreshore held or acquired by it.

## PART 6

### Protection for Anglian Water Services Limited

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

**2.** In this Part—

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

“Anglian Water” means Anglian Water Services Limited (company number 02366656);

“apparatus” means—

- (a) any works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;
- (b) any drain or works vested in Anglian Water under the Water Industry Act 1991; and
- (c) any sewer that 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 or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any sewer, drain, or works (within the meaning of section 219 of that Act) and any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

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

“plan” includes section, drawing, specification and method statement;

“relevant undertaker” means—

- (a) in relation to works that are Project A works or associated development or ancillary works relating to Project A works, Optimus Wind;
- (b) in relation to works that are Project B works or associated development or ancillary works relating to Project B works, Breesea; and
- (c) in relation to works that are shared works or associated development or ancillary works relating to shared works, Optimus Wind and Breesea.

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

**4.**—(1) The relevant undertaker must not—

- (a) execute any works that interfere with, build over or are near to any apparatus within the Order land;
- (b) execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus; or

- (c) where the apparatus is laid in a trench, execute any filling around the apparatus within the standard protection strips, which are the strips of land falling the following distances to either side of the medial line of any apparatus—
- (i) 2.25 metres, where the diameter of the pipe is less than 150 millimetres;
  - (ii) 3 metres, where the diameter of the pipe is 150 millimetres or more but less than 450 millimetres;
  - (iii) 4.5 metres, where the diameter of the pipe is 450 millimetres or more but less than 750 millimetres; and
  - (iv) 6 metres, where the diameter of the pipe is 750 millimetres or more,

unless the relevant undertaker has submitted to Anglian Water, not less than 28 days before starting the execution of any works, a plan and description of the works to be executed.

(2) The works must be executed only in accordance with the plan 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 Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it; and an officer of Anglian Water is entitled to watch and inspect the execution of the works.

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

(4) Nothing in this paragraph precludes the relevant 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 and description instead of the plan and description previously submitted, and once the relevant undertaker has done so the provisions of this paragraph apply to and in respect of the new plan and description.

(5) The relevant undertaker is not required to comply with sub-paragraph (1) in a case of emergency, but in that case it must give to Anglian Water notice as soon as is reasonably practicable and a plan and description of the 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) It is reasonable for Anglian Water to require that the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or the filling around the apparatus (where the apparatus is laid in a trench) be executed by Anglian Water.

(7) Anglian Water must execute any requirement made under sub-paragraph (6) in a timely manner.

**5.** The alteration, extension, removal or relocation of any apparatus must not be implemented until—

- (a) any requirement for any permits under the Environmental Permitting (England and Wales) Regulations 2010 or other legislation and any other associated consents are obtained, and any approval or agreement required from Anglian Water on alternative outfall locations as a result of such relocation are obtained, such approvals or agreements from Anglian Water not to be unreasonably withheld or delayed; and
- (b) the relevant undertaker has given to Anglian Water written notice of its requirement to alter, extend, remove or relocate apparatus together with a plan and description of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed, and such works to be executed only in accordance with the plan and description submitted and in accordance with such reasonable requirements as may be made by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it.

**6.** If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the relevant undertaker, Anglian Water must, on receipt of a written notice to that effect from the relevant undertaker, as soon as reasonably possible use its best endeavours to

obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

**7.** Any alternative apparatus to be constructed in land of the relevant undertaker under this Part must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the relevant undertaker or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

**8.—(1)** Where, in exercise of the powers conferred by this Order,—

- (a) the relevant undertaker acquires any interest in any land in which apparatus is placed; and
- (b) the apparatus is to be relocated, extended, removed or altered in any way,

no alteration or extension may take place until Anglian Water has established, to its reasonable satisfaction, contingency arrangements in order to conduct its functions for the duration of the works to relocate, extend, remove or alter the apparatus.

(2) Anglian Water must use reasonable endeavours to establish contingency arrangements in a timely manner.

**9.** Despite any provision in this Order or anything shown on any plan, the relevant undertaker must not acquire any apparatus otherwise than by agreement; and before extinguishing any existing rights for Anglian Water to use, keep, inspect, renew and maintain its apparatus in the Order land, the relevant undertaker must, with the agreement of Anglian Water, create a new right to use, keep, inspect, renew and maintain the apparatus that is reasonably convenient for Anglian Water, such agreement not to be unreasonably withheld or delayed, and to be subject to arbitration under article 41.

**10.** If, in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the relevant undertaker must provide such alternative means of access to the apparatus as will enable Anglian Water to maintain or use the apparatus no less effectively than was possible before the obstruction.

**11.** If, in consequence of the exercise of the powers conferred by this Order, previously unmapped sewers, lateral drains or other apparatus are identified by the relevant undertaker, notification of the location of such assets must be given to Anglian Water as soon as reasonably practicable and, if identified by Anglian Water as being within its responsibility, must be afforded the same protection as other Anglian Water assets.

**12.** If, for any reason or in consequence of the construction of any of the works referred to in paragraphs 4 to 9 and 11, 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 Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the relevant undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good any damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs properly and reasonably incurred by Anglian Water,

by reason or in consequence of the damage or interruption.

**13.** The relevant undertaker must pay to Anglian Water the reasonable expenses incurred by Anglian Water in executing the works reasonably required under paragraph 4(6) and paragraph 5 and in complying with a written notice under paragraph 6.

**14.** Nothing in paragraph 12 imposes any liability on the relevant undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Anglian Water, its officer, servants, contractors or agents.

15. Any difference or dispute arising between the undertaker and Anglian Water under this Part must, unless otherwise agreed in writing between the undertaker and Anglian Water, be determined by arbitration in accordance with article 41.

## PART 7

### Protection for Centrica plc

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

2. In this Part—

“access road” means the road providing access to Centrica’s power station from Chase Hill Road;

“apparatus” means Centrica’s pipelines, cables, structures, or other electrical, gas or telecommunication infrastructure owned, occupied or maintained by Centrica for the purposes of its undertaking;

“Centrica” means Centrica plc (company number 03033654) and all of its subsidiaries and group companies including but not limited to Centrica KPS Limited (company number 05006144), Centrica Storage Limited (company number 03294124) and Centrica Energy Limited (company number 02877398) or any successor company in title and function;

“relevant undertaker” means—

- (a) in relation to works which are Project A works or associated development or ancillary works relating to Project A works, Optimus Wind;
- (b) in relation to works which are Project B works or associated development or ancillary works relating to Project B works, Breesea; and
- (c) in relation to works which are shared works or associated development or ancillary works relating to shared works, Optimus Wind and Breesea.

3. Before extinguishing any existing rights for Centrica to place, install, keep, inspect, renew and maintain its apparatus on, over or in the Order land or to cross the Order land to access its apparatus, the relevant undertaker, with the agreement of Centrica, must create a new right, which is consistent with the existing right being extinguished, to place, install, keep, inspect, renew and maintain the apparatus in the same location or a new right of access that is reasonably convenient for Centrica, such agreement not to be unreasonably withheld or delayed.

4.—(1) Except where paragraph 5 applies, no works may commence within 10 metres of apparatus or on, to or within 10 metres in any direction of the access road until a construction method statement to protect the apparatus or the access road as the case may be has been prepared by the relevant undertaker and submitted to and agreed with Centrica (provided that Centrica must not unreasonably withhold or delay such agreement).

(2) The construction method statement must include provisions in respect of—

- (a) the location and methods of reinforcement of crossing points over the apparatus and restrictions on building and altering the ground level over the apparatus elsewhere;
- (b) a mechanism for the enforcement of the relevant undertaker’s use of designated crossing points over the apparatus and the agreed reinforcement methods; and
- (c) adoption of a prior notification and consent regime which would require the relevant undertaker to—
  - (i) seek Centrica’s consent to the carrying out of the proposed development within the vicinity of the apparatus or on or to the access road, such consent not to be unreasonably withheld, and comply with any reasonable conditions attached by Centrica to its consent; and

- (ii) notify Centrica of its intention to carry out any development within the vicinity of the apparatus or on or to the access road, such notification to be provided at least 48 hours before any such development occurs; and

the authorised development must be carried out in accordance with the approved construction method statement.

**5.—**(1) If the relevant undertaker acquires or overrides any interest in any land in which apparatus is laid, the apparatus must not be removed under this Part and any right of Centrica to maintain the apparatus in that land must not be extinguished until alternative apparatus has been constructed at the relevant undertaker's expense and is in operation to the reasonable satisfaction of Centrica in accordance with sub-paragraphs (2) to (5).

(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 relevant undertaker requires the removal of apparatus in that land, it must give to Centrica 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed; and in that case (or if, in consequence of the exercise of any of the powers conferred by this Order, Centrica reasonably needs to remove the apparatus) the relevant undertaker must, subject to sub-paragraph (3), afford to Centrica to its satisfaction (taking into account paragraph 6(1)) the necessary facilities and rights for—

- (a) the construction of an alternative apparatus in other land of the relevant undertaker or Centrica; and
- (b) subsequently the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the relevant undertaker or Centrica, or the relevant undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, Centrica must, on receipt of a written notice to that effect from the relevant undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed, except that this obligation does not extend to the requirement for Centrica to seek compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of the relevant undertaker or Centrica under this Part must be constructed in such manner and in such line or situation as may be agreed between Centrica and the relevant undertaker.

(5) Centrica must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to Centrica of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to, at the cost of the relevant undertaker, construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the relevant undertaker to be removed under this Part.

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

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

**7.** If for any reason or in consequence of the construction or operation of the authorised development 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 Centrica or to the access road, the relevant undertaker must bear and pay the cost reasonably incurred by Centrica in making good any damage by reason or in consequence of any such damage, provided that the maximum liability of the relevant undertaker or the maximum liability of the relevant undertakers (in aggregate) is limited to £50,000,000 per claim or series of claims arising from 1 event.

**8.** The relevant undertaker must use its best endeavours to co-ordinate the execution and operation of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Centrica’s undertaking, and Centrica must use its best endeavours to co-operate with the relevant undertaker for that purpose.

**9.** Despite any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker must not acquire any apparatus, override any easement or other interest of Centrica, acquire any land or other interest of Centrica or create any new rights over any land or other interest of Centrica otherwise than by agreement of Centrica, which agreement must not be unreasonably withheld.

**10.** Any dispute arising between the undertaker and Centrica under this Part must be determined by arbitration as provided in article 41 (arbitration).

## PART 8

### Protection for VPI Immingham LLP

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

**2.** In this Part—

“pipeline” means the gas pipeline crossing the Order land owned and operated by VPI used at various times for the passage of gas and all ancillary apparatus including such works and apparatus properly appurtenant to the pipeline as are specified by section 65(2) of the Pipelines Act 1962(a);

“relevant undertaker” means—

- (a) in relation to works which are Project A works or associated development or ancillary works relating to Project A works, Optimus Wind;
- (b) in relation to works which are Project B works or associated development or ancillary works relating to Project B works, Breesea; and
- (c) in relation to works which are shared works or associated development or ancillary works relating to shared works, Optimus Wind and Breesea;

“VPI” means VPI Immingham LLP (registered number OC300980).

**3.** Before commencing any part of the authorised development or the operation of the authorised development that would have an effect on the operation and maintenance of the pipeline and access to it, the relevant undertaker must submit to VPI plans and sections of the proposed works and such further particulars as VPI may, within 28 days from the day on which plans and sections are submitted under this paragraph, reasonably require.

**4.** No works comprising any part of the authorised development or the operation of the authorised development that would have an effect in full or in part on the operation, maintenance, repair, replacement and abandonment of the pipeline and access to it may be commenced until

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(a) 1962 c.58. Section 65(2) was amended by paragraph 6 of Schedule 2 to the Energy Act 2011 (c.16) and S.I. 2000/1937 and 2011/2305.



plans and sections in respect of the works submitted under paragraph 3 have been approved by VPI.

**5.** Any approval of VPI required under paragraph 4 must not be unreasonably withheld or delayed but may be given subject to such reasonable requirements as VPI may require to be made for—

- (a) the continuing safety and operational viability of the pipeline; and
- (b) the requirement for VPI to have uninterrupted and unimpeded access to the pipeline at all times.

**6.—(1)** Subject to sub-paragraphs (2) and (3), if, by reason or in consequence of the construction of any of the works referred to in paragraph 3, any damage is caused to any apparatus or property of VPI, or there is any interruption in any service provided, or in the supply of any goods, by VPI, the relevant undertaker must—

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

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

(2) Nothing in sub-paragraph (1) imposes any liability on the relevant undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of VPI, its officers, servants, contractors or agents.

(3) VPI must give the relevant undertaker reasonable notice of any claim or demand, and no settlement or compromise may be made without the consent of the relevant undertaker, which, if it withholds consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

**7.** Any dispute arising between the undertaker and VPI under this Part must be determined by arbitration as provided in article 41 (arbitration).

## PART 9

### Protection for Phillips 66 Limited

**1.** The provisions of this Part have effect for the protection of P66 unless otherwise agreed in writing between the undertaker and P66.

**2.** In this Part—

“P66” means Phillips 66 Limited (company number 529086);

“pipeline” means the crude oil pipeline owned and operated by P66 used at various times for the passage of multi-purpose hydrocarbon fuels and all ancillary apparatus including such works and apparatus properly appurtenant to the pipeline as are specified by section 65(2) of the Pipe-lines Act 1962;

“relevant undertaker” means—

- (a) in relation to works which are Project A works or associated development or ancillary works relating to Project A works, Optimus Wind;
- (b) in relation to works which are Project B works or associated development or ancillary works relating to Project B works, Breesea; and
- (c) in relation to works which are shared works or associated development or ancillary works relating to shared works, Optimus Wind and Breesea.

**3.** Before commencing any part of the authorised development or the operation of the authorised development that would have an effect on the operation and maintenance of the pipeline and access to it, the relevant undertaker must submit to P66 plans and sections of the proposed works

and such further particulars as P66 may, within 28 days from the day on which plans and sections are submitted under this paragraph, reasonably require.

4. No works comprising any part of the authorised development or the operation of the authorised development that would have an effect in full or in part on the operation, maintenance, repair, replacement and abandonment of the pipeline and access to it may be commenced until plans and sections in respect of the works submitted under paragraph 3 have been approved by P66.

5. Any approval of P66 required under paragraph 4 must not be unreasonably withheld or delayed but may be given subject to such reasonable requirements as P66 may require to be made for—

- (a) the continuing safety and operational viability of the pipeline; and
- (b) the requirement for P66 to have uninterrupted and unimpeded access to the pipeline at all times.

6.—(1) Subject to sub-paragraphs (2) and (3), if, by reason or in consequence of the construction of any of the works referred to in paragraph 3, any damage is caused to any apparatus or property of P66, or there is any interruption in any service provided, or in the supply of any goods, by P66, the relevant undertaker must—

- (a) bear and pay the cost reasonably incurred by P66 in making good such damage or restoring the supply; and
- (b) make reasonable compensation to P66 for any other expenses, loss, damages, penalty or costs incurred by P66,

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

(2) Nothing in sub-paragraph (1) imposes any liability on the relevant undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of P66, its officers, servants, contractors or agents.

(3) P66 must give the relevant undertaker reasonable notice of any claim or demand, and no settlement or compromise may be made without the consent of the relevant undertaker, which, if it withholds consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

7. Any dispute arising between the undertaker and P66 under this Part must be determined by arbitration as provided in article 41(arbitration).

## PART 10

### Protection for ConocoPhillips (U.K.) Limited

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

2. In this Part—

“ConocoPhillips” means ConocoPhillips (U.K.) Limited (company number 00524868);

“pipeline” means the condensate pipeline running from the ConocoPhillips Theddlethorpe Gas Terminal to the Humber Oil Refinery, operated by ConocoPhillips on behalf of the pipeline owners and all ancillary apparatus including such works and apparatus properly appurtenant to the pipeline as are specified by section 65(2) of the Pipe-lines Act 1962;

“relevant undertaker” means—

- (a) in relation to works which are Project A works or associated development or ancillary works relating to Project A works, Optimus Wind;
- (b) in relation to works which are Project B works or associated development or ancillary works relating to Project B works, Breesea; and

- (c) in relation to works which are shared works or associated development or ancillary works relating to shared works, Optimus Wind and Breesea.

**3.** Not less than 28 days before commencing any part of the authorised development or the operation of the authorised development that is near to and would or may have an effect on the operation and maintenance of the pipeline and access to it, the relevant undertaker must submit to ConocoPhillips plans and sections of the proposed works and such further particulars as ConocoPhillips may, within 28 days from the day on which plans and sections are submitted under this paragraph, reasonably require.

**4.** No works comprising any part of the authorised development or the operation of the authorised undertaking which would have an effect in full or in part on the operation, maintenance, repair, replacement and abandonment of the pipeline and access to it may be commenced until plans and sections in respect of the works submitted under paragraph 3 have been approved by ConocoPhillips.

**5.** Any approval of ConocoPhillips required under paragraph 4 must not be unreasonably withheld or delayed but may be given subject to such reasonable requirements as ConocoPhillips may require to be made for—

- (a) the continuing safety and operational viability of the pipeline; and
- (b) the requirement for ConocoPhillips to have uninterrupted and unimpeded access to the pipeline at all times.

**6.—(1)** Subject to sub-paragraphs (2) and (3), if, by reason or in consequence of the construction of any of the works referred to in paragraph 3, any damage is caused to any apparatus or property of ConocoPhillips, or there is any interruption in any service provided, or in the supply of any goods, by ConocoPhillips, the relevant undertaker must—

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

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

(2) Nothing in sub-paragraph (1) imposes any liability on the relevant undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of ConocoPhillips, its officers, servants, contractors or agents.

(3) ConocoPhillips must give the relevant undertaker reasonable notice of any claim or demand, and no settlement or compromise may be made without the consent of the relevant undertaker, which, if it withholds consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

**7.** Any dispute arising between the undertaker and ConocoPhillips under this Part must be determined by arbitration as provided in article 41 (arbitration).

## PART 11

### Protection for C.GEN Killingholme Limited

**1.** The provisions of this Part apply to govern the relationship between the undertaker and C.GEN unless otherwise agreed in writing between the undertaker and C.GEN.

**2.** In this Part—

“approving party” means the party from whom an approval should be, has been or should have been obtained under this Part, being—

- (a) in the case of specified works by C.GEN, Optimus Wind and Breesea, to the extent that they continue to have powers under this Order in respect of any part of the Order land shown numbered 503, 505, 506, 507 or 509 on the land plans, and any party who has

powers under this Order in respect of that Order land by virtue of article 35 (transfer of benefit of Order); and

(b) in the case of specified works by the undertaker, C.GEN;

“C.GEN” means C.GEN Killingholme Limited (company number 06422434);

“C.GEN relevant land” means the area of land shown coloured yellow on the Plan;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“crossing zones” means those areas of land shown coloured green on the Plan;

“dominant land” means the Order land shown numbered 500 and 506 on the land plans;

“drainage ditch” means the ditch shown by a black line marked “Drain” on the Plan;

“grid connection land” means the C.GEN relevant land, the thermal buffer zone and the crossing zones;

“Hornsea Project Substation Site” means the site shown outlined in pink on the Plan;

“Plan” means the plan certified as the C.GEN protective provisions plan by the Secretary of State under article 40 (certification of plans, etc.);

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the grid connection land;

“promoting party” means the party who is seeking, has sought or should have sought an approval under this Part, being—

(a) the undertaker, in the case of specified works by the undertaker; and

(b) C.GEN, in the case of specified works by C.GEN;

“servient land” means any pond, ponds or any watercourse on land under the ownership of C.GEN as at the date of this Order;

“specified works” means so much of any works or operations by the undertaker or C.GEN as is in, on, under or over the grid connection land;

“thermal buffer zone” means the area of land shown coloured red on the Plan.

**3.** The undertaker must not under the powers of this Order acquire—

(a) new rights over the C.GEN relevant land; or

(b) new rights over the thermal buffer zone, except for the purposes of access and maintenance; or

(c) new rights over crossing zones,

without the consent of C.GEN, such consent not to be unreasonably withheld or delayed but which may be given subject to reasonable conditions.

**4.—(1)** The promoting party must give to the approving party not less than 28 days’ written notice of its intention to commence the construction of any specified works and at the same time must submit plans for the specified works to the approving party.

(2) Not more than 14 days after completion of the construction of the specified works, the promoting party must give the approving party written notice of such completion.

**5.—(1)** Following receipt of the notification of the intention to commence the construction of the specified works under paragraph 4(1), the approving party must within 14 days give notice in writing to the promoting party that (acting reasonably)—

(a) it approves the plans; or

(b) it does not approve the plans and provide reasons for this.

(2) Where the approving party confirms that it does not approve the plans for the specified works, then both parties must, acting reasonably, enter into negotiations to seek to agree the plans.

(3) If following the expiry of 14 days from the date of notification under sub-paragraph (1)(b) no agreement has been reached, the matter must be determined in accordance with paragraph 22.

**6.—**(1) Any specified works must be constructed—

(a) without unreasonable delay in accordance with the plans approved or settled under this Part; and

(b) to the reasonable satisfaction of the approving party.

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

(3) Subject to sub-paragraph (4), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (2) is served on the promoting party, the promoting party has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the approving party may execute the works specified in the notice and any expenditure incurred by it in so doing is recoverable from the promoting party.

(4) In the event of any dispute as to whether sub-paragraph (2) is properly applicable to any works in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the approving party must not except in an emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined.

**7.** The promoting party must at all reasonable times during construction of the specified works and thereafter allow the approving party, its servants and agents, access to the works and all reasonable facilities for inspection of the works.

**8.—**(1) After the purpose of any temporary works has been accomplished, the promoting party must with all reasonable dispatch, or after a reasonable period of notice in writing from the approving party requiring the promoting party to do so, remove the temporary works or any materials relating to them which may have been placed in, on, under or over the grid connection land by or on behalf of the promoting party.

(2) If the promoting party fails to do so within a reasonable period after receiving notice under sub-paragraph (1), the approving party may remove them and may recover the reasonable costs of doing so from the promoting party.

**9.—**(1) If any damage to the grid connection land or any apparatus of any approving party on the grid connection land or any interference or obstruction is caused by the carrying out of, or in consequence of the construction of specified works, the promoting party must, notwithstanding any approval, make good the damage to the reasonable satisfaction of the approving party and must pay to the approving party all reasonable expenses to which the approving party may be put and compensation for any loss which it may sustain by reason of the damage, interference or obstruction in accordance with paragraph 10.

(2) If the promoting party refuses or fails to do so, the approving party may cause the work to be done and may recover the reasonable cost of doing so from the promoting party.

**10.—**(1) Without limiting the other provisions of this Part, the promoting party is responsible for, and must make good to the approving party, all losses, costs, charges, damages and expenses however caused (including a reasonable and proper proportion of the overhead charges of the approving party) that may reasonably be incurred by or occasioned to the approving party by reason of or arising from or in connection with—

- (a) the perusal of plans and the inspection of the specified works by the approving party or its duly authorised representative;
- (b) the construction or failure of the specified works, or the undertaking by the approving party of works or measures to prevent or remedy damage to any property of the approving party arising from such construction or failure;
- (c) any act or omission of the promoting party or its servants or agents whilst engaged in the construction of any of the specified works.

(2) The approving party must give to the promoting party notice in writing of any claim or demand for which the promoting party may be liable under this paragraph, and no settlement or compromise of any such claim or demand may be made without the consent in writing of the promoting party.

(3) Nothing in this paragraph imposes any liability on the promoting party to the extent that any losses, costs, charges, damages, expenses, claims or demands referred to in sub-paragraph (1) are attributable to negligence on the part of the approving party or of any person in its employ or of its contractors or agents.

**11.** The fact that any work or thing has been executed or done with the consent of the approving party and in accordance with any conditions or restrictions prescribed by the approving party or in accordance with any plans approved by the approving party or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the promoting party from any liability under this Part.

**12.** Any consent or approval of an approving party required under this Part—

- (a) must not be unreasonably withheld or delayed; and
- (b) may be given subject to reasonable conditions.

**13.** Any consent or approval of an approving party required under this Part is deemed to have been given if it is neither given nor refused within 28 days beginning with the date on which the application for consent or approval was submitted to the approving party.

**14.** Without limiting paragraph 12, it is not be reasonable for an approving party to withhold or delay any consent or approval under this Part in relation to specified works in, on, under, or over the grid connection land solely on the basis of thermal interaction between the circuit and any adjacent circuit, whether existing or proposed, where it has been demonstrated that there will be no material thermal interaction, which is deemed to have been demonstrated where the separation between the circuits is 6 metres or more (from the centre line of each circuit).

**15.** Without limiting paragraph 12, and in addition to the circumstances described in paragraph 14, it is not reasonable for the approving party to withhold or delay any consent or approval under this Part in relation to specified works in, on, under, or over the crossing zones solely on the basis of thermal interaction where the plans of the specified works submitted under paragraph 4 demonstrate that all reasonable steps have been taken to minimise thermal interaction between the circuit and any other circuit, whether existing or proposed.

**16.** With the exception of any duty owed by the approving party to the promoting party expressly provided for in the foregoing provisions of this Part, nothing in this Order must be construed as imposing on the approving party, either directly or indirectly, any form of duty or liability to which the approving party would not otherwise be subject which is enforceable by proceedings before any court.

**17.** Except as this Part provides, nothing in this Order affects prejudicially any statutory or other rights, powers or privileges vested in, or enjoyed by, the approving party at the commencement of this Order or any title of the approving party in, to or over any lands held or acquired by it.

**18.** In the event that the promoting party requires to alter the course of, modify, or remove any part of the drainage ditch the alteration, modification or removal works must be approved in writing by the approving party before the works are carried out, and such approval may not be unreasonably withheld or delayed but may be given subject to reasonable conditions.

**19.** The undertaker must ensure that the rate or volume of water discharged from the dominant land onto, over, across or through the servient land will not result in a significant increase in the exercise of the rights of the easement enjoyed by the dominant land on, over, across and through the servient land other than with the prior written approval of C.GEN.

**20.** The undertaker must not exercise the powers conferred by article 18 (compulsory acquisition of land) or article 19 (compulsory acquisition of rights) in respect of the Order land shown numbered 510 on the land plans to extinguish any rights that C.GEN has to connect into the North Killingholme National Grid substation.

**21.** The provisions of this Part enure for the benefit of the undertaker, C.GEN and any statutory successor of either that is licensed under section 6 of the 1989 Act and is in occupation or use of the Hornsea Project Substation Site, the grid connection land or any part of it pursuant to its undertaking.

**22.** Any dispute or difference arising between Optimus Wind, Breesea or any other party having powers under this Order in respect of the Order land shown numbered 503, 505, 506, 507 or 509 on the land plans by virtue of article 35 (transfer of benefit of Order) on the one hand (the “undertaker”) and C.GEN on the other as to their respective rights, duties and obligations under this Part or as to any matters arising out of it or in connection with the subject matter of this Part must be determined by a single arbitrator whose appointment is to be agreed on between the undertaker and C.GEN or, where agreement cannot be reached within 14 days, who is to be appointed on the application of either party (after notice in writing to the other party) by the President or Deputy President of the Royal Institute of Chartered Arbitrators.

## PART 12

### Protection for Hornsea One companies

**1.** The provisions of this Part apply for the protection of the Hornsea One companies unless otherwise agreed in writing between the undertaker and the Hornsea One companies.

**2.** In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by any Hornsea One company or its successor in title, including any offshore transmission owner, within the Hornsea One Order land;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“Hornsea One” means the wind farms to be constructed pursuant to the Hornsea One Order including, whether pursuant to the Hornsea One Order or otherwise, all elements of the connection of the wind farms to the National Grid at North Killingholme substation;

“Hornsea One company” means an undertaker with the benefit of all or part of the Hornsea One Order for the time being, being the holder of a licence under section 6 of the 1989 Act; and “Hornsea One companies” means all such undertakers;

“Hornsea One disposal areas” means disposal site reference HU209 and HU210 whose co-ordinates are specified in the deemed marine licence in Schedule 11 to the Hornsea One Order;

“Hornsea One Order” means the Hornsea One Offshore Wind Farm Order 2014;

“Hornsea One Order land” means the land within the Order limits defined in the Hornsea One Order together with the land edged red on plan HOW01095\_4 submitted to support planning application reference PA/2015/0398 submitted to North Lincolnshire Council;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging

proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Hornsea One Order land;

“proposed Hornsea One circuit route” means the proposed route for any electrical circuit to serve Hornsea One as shown on plans produced to the undertaker by the relevant Hornsea One company pursuant to paragraph 16;

“relevant Hornsea One company” means the Hornsea One company whose undertaking includes the part of Hornsea One or the part of the Hornsea One Order land affected by the particular proposals of the undertaker;

“specified works” means so much of any works or operations authorised by this Order (or authorised by any planning permission or marine licence intended to operate in conjunction with this Order) as is—

- (a) in, on, under, over or within 500 metres of a proposed Hornsea One circuit route or existing installed electrical circuit (seaward of MHWS);
- (b) in, on, under, over or within 25 metres of a proposed Hornsea One circuit route or existing installed electrical circuit (landward of MHWS); or
- (c) in, on, under, over or within 1,000 metres of other apparatus installed or to be installed as part of Hornsea One.

**3.** The consent of a Hornsea One company under this Part is not required where the Hornsea One Order has expired without the authorised development having been commenced pursuant to requirement 1 of Part 3 of Schedule 1 to the Hornsea One Order or the project has been abandoned.

**4.** Where conditions are included in any consent granted by a Hornsea One company pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by the relevant Hornsea One company.

**5.** It is reasonable for the relevant Hornsea One company to require as a condition of granting consent under this Part that the undertaker enter into a cable proximity agreement on reasonable terms reflecting industry good practice if the undertaker proposes to install an electrical circuit at any point closer than 500 metres to the centre line of any electrical circuit installed to serve Hornsea One or is to cross a proposed Hornsea One circuit route.

**6.** The undertaker must not under the powers of this Order—

- (a) acquire any of the Hornsea One Order land or acquire new or existing rights or interfere with existing rights or impose restrictive covenants or acquire any rights of temporary use over or in relation to the Hornsea One Order land without the consent of the relevant Hornsea One company, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions;
- (b) carry out any specified works without the consent of the relevant Hornsea One company, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

**7.—(1)** Subject to obtaining consent pursuant to paragraph 6(b) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to the relevant Hornsea One company and must submit such further particulars available to it that the relevant Hornsea One company may reasonably require.

(2) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by the relevant Hornsea One company.

(3) Any approval of the relevant Hornsea One company required under this paragraph may be made subject to such reasonable conditions as it may make for the protection of the Hornsea One Order Land, the apparatus and apparatus for Hornsea One not yet installed.



(4) If any part of the specified works is constructed otherwise than in accordance with the requirements of this Part, the relevant Hornsea One company may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part.

**8.** The undertaker must give to the relevant Hornsea One company not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 28 days after completion of their construction, must give the relevant Hornsea One company written notice of the completion.

**9.** The undertaker must at all reasonable times during construction of the specified works and thereafter allow the relevant Hornsea One company and its servants and agents access to the works and all reasonable facilities for inspection of the works.

**10.** After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from the relevant Hornsea One company requiring the undertaker so to do, remove the temporary works or any materials relating to them that may have been placed by or on behalf of the undertaker—

- (a) in, on, under, over, or within 500 metres of a proposed Hornsea One circuit route or existing installed electrical circuit (seaward of MHWS); or
- (b) in, on, under, over, or within 25 metres of a proposed Hornsea One circuit route or existing installed electrical circuit (landward of MHWS).

**11.** With the exception of any duty owed by the relevant Hornsea One company to the undertaker expressly provided for in the foregoing provisions of this Part, nothing in this Order must be construed as imposing on the relevant Hornsea One company, either directly or indirectly, any form of duty or liability to which the relevant Hornsea One company would not otherwise be subject which is enforceable by proceedings before any court.

**12.** The undertaker must consult the relevant Hornsea One company in relation to any draft disposal plan which proposes to deposit material within the Hornsea One disposal areas and must make such amendments as are reasonably requested by the relevant Hornsea One company before submission to the MMO for approval.

**13.** Subject to complying with all relevant health and safety considerations, the undertaker must permit representatives of the relevant Hornsea One company on any vessel carrying out dredging or disposal activities related to the Hornsea One disposal areas to monitor and verify the dredging and disposal carried out in terms of location, method, timing, quantity, nature of materials and other relevant matters.

**14.** The undertaker must give reasonable notice in writing to the relevant Hornsea One company of the intended departure of all vessels referred to in paragraph 13 together with written information concerning the proposed dredging and disposal activities and must comply with all reasonable requests from the relevant Hornsea One company to enable the verification referred to in that paragraph to be carried out effectively and efficiently.

**15.** The undertaker must provide to the relevant Hornsea One company a copy of each disposal return required to be submitted to the MMO pursuant to the approved disposal plan under this Order relevant to the Hornsea One disposal areas, such returns to include, without limitation, the actual volumes of materials disposed of, the disposal locations, the approved monitoring plan and the results of monitoring conducted.

**16.** To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order request up-to-date written confirmation from the relevant Hornsea One company of the precise route of any existing installed apparatus and any proposed Hornsea One circuit route or other apparatus to be installed by the relevant Hornsea One company.

**17.** The undertaker and the Hornsea One companies must each act in good faith and use reasonable endeavours to co-operate with, and provide assistance to, each other as may be required to give effect to the provisions of this Part.

18. Any dispute arising between the undertaker and the relevant Hornsea One company under this Part must be determined by arbitration under article 41 (arbitration).

## SCHEDULE 13

Article 40

### Documents to be certified

1. The land plans listed below—

<i>PINS Document No.</i>	<i>Description of Plan</i>	<i>Report No.</i>	<i>Version</i>
4.1	Land plans: key plan	UK06-060700-DRW-0001	2
4.1	Land plans: offshore plans – page 1	UK06-060700-DRW-0001	2
4.1	Land plans: offshore plans – page 2	UK06-060700-DRW-0001	1
4.1	Land plans: offshore plans – page 3	UK06-060700-DRW-0001	1
4.1	Land plans: intertidal plans – page 1	UK06-060700-DRW-0001	1
4.1	Land plans: intertidal plans – page 2	UK06-060700-DRW-0001	1
4.1	Land plans: intertidal plans – page 3	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 4	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 5	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 6	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 7	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 8	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 9	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 10	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 11	UK06-060700-DRW-0001	2
4.1	Land plans: onshore plans – page 12	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 13	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 14	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 15	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 16	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 17	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 18	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 19	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 20	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 21	UK06-060700-DRW-0001	2
4.1	Land plans: onshore plans – page 22	UK06-060700-DRW-0001	2
4.1	Land plans: onshore plans – page 23	UK06-060700-DRW-0001	2
4.1	Land plans: onshore plans – page 24	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 25	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 26	UK06-060700-DRW-0001	1
4.1	Land plans: onshore plans – page 27	UK06-060700-DRW-0001	2
4.1	Land plans: inset plans – page 1	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 2	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 3	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 4	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 5	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 6	UK06-060700-DRW-0001	1

<i>PINS Document No.</i>	<i>Description of Plan</i>	<i>Report No.</i>	<i>Version</i>
4.1	Land plans: inset plans – page 7	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 8	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 9	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 10	UK06-060700-DRW-0001	1
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4.1	Land plans: inset plans – page 12	UK06-060700-DRW-0001	1
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4.1	Land plans: inset plans – page 14	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 15	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 16	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 17	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 18	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 19	UK06-060700-DRW-0001	1
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4.1	Land plans: inset plans – page 23	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 24	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 25	UK06-060700-DRW-0001	1
4.1	Land plans: inset plans – page 26	UK06-060700-DRW-0001	1

2. The offshore works plans listed below—

<i>PINS Document No.</i>	<i>Description of Plan</i>	<i>Report No.</i>	<i>Version</i>
5.1	Works plans: master index sheets	UK06-060700-DRW-0003	3
5.1	Offshore works plans: map index sheet	UK06-060700-DRW-0002	3
5.1	Offshore works plans – sheet 1	UK06-060700-DRW-0002	3
5.1	Offshore works plans – sheet 2	UK06-060700-DRW-0002	3
5.1	Offshore works plans – sheet 3	UK06-060700-DRW-0002	2
5.1	Offshore works plans – sheet 4	UK06-060700-DRW-0002	2
5.1	List of co-ordinates for offshore works and disposal areas – pages i to xi	UK06-060700-DRW-0002	2

3. The intertidal works plans listed below—

<i>PINS Document No.</i>	<i>Description of Plan</i>	<i>Report No.</i>	<i>Version</i>
5.3	Works plans: master index sheets	UK06-060700-DRW-0003	3
5.3	Intertidal works plans: map index sheet	UK06-060700-DRW-0004	1
5.3	Intertidal works plans – sheet 1	UK06-060700-DRW-0004	1
5.3	Intertidal works plans – sheet 2	UK06-060700-DRW-0004	1
5.3	Intertidal works plans – sheet 3	UK06-060700-DRW-0004	1
5.3	Intertidal works plans – sheet 4	UK06-060700-DRW-0004	1
5.3	List of co-ordinates for intertidal works	UK06-060700-DRW-0004	1

## 4. The onshore works plans listed below—

<i>PINS Document No.</i>	<i>Description of Plan</i>	<i>Report No.</i>	<i>Version</i>
5.2	Works plans: master index sheets	UK06-060700-DRW-0003	3
5.2	Onshore works plans: map index sheet	UK06-060700-DRW-0003	2
5.2	Onshore works plans – sheet 1	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 2	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 3	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 4	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 5	UK06-060700-DRW-0003	1
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5.2	Onshore works plans – sheet 8	UK06-060700-DRW-0003	1
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5.2	Onshore works plans – sheet 12	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 13	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 14	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 15	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 16	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 17	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 18	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 19	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 20	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 21	UK06-060700-DRW-0003	2
5.2	Onshore works plans – sheet 22	UK06-060700-DRW-0003	2
5.2	Onshore works plans – sheet 23	UK06-060700-DRW-0003	2
5.2	Onshore works plans – sheet 24	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 25	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 26	UK06-060700-DRW-0003	1
5.2	Onshore works plans – sheet 27	UK06-060700-DRW-0003	2
5.2	List of co-ordinates for onshore works – pages i to iv	UK06-060700-DRW-0003	2

## 5. The compensation compounds plan listed below—

<i>PINS Document No.</i>	<i>Description of Plan</i>	<i>Report No.</i>	<i>Version</i>
7.4.5.6	Compensation compounds plan – sheet 1	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 2	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 3	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 4	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 5	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 6	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 7	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 8	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 9	UK06-050709-DRW-0001	1

<i>PINS Document No.</i>	<i>Description of Plan</i>	<i>Report No.</i>	<i>Version</i>
7.4.5.6	Compensation compounds plan – sheet 10	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 11	UK06-050709-DRW-0001	2
7.4.5.6	Compensation compounds plan – sheet 12	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 13	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 14	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 15	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 16	UK06-050709-DRW-0001	1
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7.4.5.6	Compensation compounds plan – sheet 20	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 21	UK06-050709-DRW-0001	2
7.4.5.6	Compensation compounds plan – sheet 22	UK06-050709-DRW-0001	2
7.4.5.6	Compensation compounds plan – sheet 23	UK06-050709-DRW-0001	2
7.4.5.6	Compensation compounds plan – sheet 24	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 25	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 26	UK06-050709-DRW-0001	1
7.4.5.6	Compensation compounds plan – sheet 27	UK06-050709-DRW-0001	1

- 6.** The environmental statement that accompanied the application.
- 7.** The book of reference dated December 2015 (version 4).
- 8.** The outline code of construction practice dated December 2015 (version 2).
- 9.** The outline ecological management plan dated November 2015 (version 2).
- 10.** The outline landscape scheme and management plan dated January 2015.
- 11.** The outline employment and skills plan dated November 2015.
- 12.** The in-principle monitoring plan dated November 2015 (version 2).
- 13.** The C.GEN protective provisions plan submitted on 24th September 2015 (referred to as the “Hornsea Protective Provisions Plan”).

14. Plan HOW01095\_4 submitted to North Lincolnshire Council to support planning application reference PA/2015/0398 (referred to in paragraph 2 of Part 12 of Schedule 12).

### **EXPLANATORY NOTE**

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

This Order grants development consent for, and authorises the construction, operation and maintenance of up to 2 offshore wind farms with a combined capacity of up to 1,800 megawatts in the North Sea approximately 89 kilometres off the coast of Yorkshire together with associated development. This Order imposes requirements in connection with the development and authorises the compulsory purchase of land (including rights in land) and the right to use land and to override easements and other rights.

This Order also grants deemed marine licences under Part 4 of the Marine and Coastal Access Act 2009 in connection with the wind farms. The marine licences impose conditions in connection with the deposits and works for which they grant consent.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 40 (certification of plans, etc.) may be inspected free of charge at the offices of Dong Energy at 5 Howick Place, London SW1P 1WG.

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<http://www.legislation.gov.uk/id/uksi/2016/844>





**APPENDIX 5 THE NORFOLK VANGUARD OFFSHORE WIND FARM ORDER 2020**

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S T A T U T O R Y   I N S T R U M E N T S

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**2020 No. 706**

**INFRASTRUCTURE PLANNING**

**The Norfolk Vanguard Offshore Wind Farm Order 2020**

*Made*   -   -   -   -   -   *1st July 2020*

*Coming into force*   -   -   *22nd July 2020*

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An application has been made to the Secretary of State for an order under section 37 of the Planning Act 2008 (“the 2008 Act”)(a) for an order granting development consent.

The application was examined by the Examining Authority appointed by the Secretary of State pursuant to section 61(b) and 65(c) of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of that Act and with the Infrastructure Planning (Examination Procedure) Rules 2010(d). The Examining Authority has submitted a report to the Secretary of State under section 74(2)(e) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 3 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009(f) and, as a national policy statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2)(g) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order giving effect to the proposals comprised in the application on terms that 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 open space comprised within the Order land, when burdened with the new rights authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before such acquisition, to the 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)(h) of the 2008 Act applies;

The Secretary of State in exercise of the powers conferred by sections 114, 115, 120(i), and 149A of the 2008 Act the Secretary of State makes the following Order—

## PART 1

### Preliminary

#### Citation and commencement

1. This Order may be cited as the Norfolk Vanguard Offshore Wind Farm Order 2020 and comes into force on 22nd July 2020.

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- (a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
  - (b) Section 61 was amended by section 128(2) and Schedule 13, paragraph 18 to the Localism Act 2011 and by section 26 of the Infrastructure Act 2015 (c. 7). Section 65 was amended by Schedule 13 paragraph 22(2) and Schedule 25, paragraph 1 to the Localism Act 2011 and by section 27(1) of the Infrastructure Act 2015.
  - (c) Section 65 was amended by Schedule 13 paragraph 22(2) and Schedule 25, paragraph 1 to the Localism Act 2011 and by section 27(1) of the Infrastructure Act 2015.
  - (d) S.I. 2010/103, amended by S.I. 2012/635.
  - (e) Section 74 was amended by sections 128(2) and 237 and by Schedule 13, paragraph 29 and Schedule 25, paragraph 1, to the Localism Act 2011.
  - (f) S.I. 2009/2263. Regulation 3 was amended by S.I. 2012/635 and S.I. 2012/787. S.I. 2009/2263 was revoked by S.I. 2017/572, but continues to apply to this application for development consent by virtue of transitional provisions contained in regulation 37(2) of that instrument.
  - (g) Section 104 was amended by section 58(5) of the Marine and Coastal Access Act 2009 (c. 23) and by section 128(2) of the and Schedule 13, paragraphs 1 and 49(1) to (6) of the Localism Act 2011.
  - (h) Section 132 was amended by section 24(3) of the Growth and Infrastructure Act 2013 (c. 27).
  - (i) Sections 114, 115 and 120 were amended by sections 128(2) and 140 and Schedule 13, paragraphs 1, 55(1), (2) and 60(1) and (3) of the Localism Act 2011. Relevant amendments were made to section 115 by section 160(1) to (6) of the Housing and Planning Act 2016 (c. 22).

## Interpretation

### 2.—(1) In this Order—

- “the 1961 Act” means the Land Compensation Act 1961(a);
- “the 1965 Act” means the Compulsory Purchase Act 1965(b);
- “the 1980 Act” means the Highways Act 1980(c);
- “the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(d);
- “the 1989 Act” means the Electricity Act 1989(e);
- “the 1990 Act” means the Town and Country Planning Act 1990(f);
- “the 1991 Act” means the New Roads and Street Works Act 1991(g);
- “the 2003 Act” means the Communications Act 2003(h);
- “the 2004 Act” means the Energy Act 2004(i);
- “the 2008 Act” means the Planning Act 2008(j);
- “the 2009 Act” means the Marine and Coastal Access Act 2009(k);
- “the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016(l);
- “access to works plan” means the plan certified as the access to works plan by the Secretary of State for the purposes of this Order under article 37 (certification of plans etc);
- “accommodation platform” means a fixed structure providing offshore accommodation for personnel;
- “ancillary works” means the ancillary works described in Part 2 of Schedule 1 (ancillary works) and any other works authorised by this Order and which are not development within the meaning of section 32 of the 2008 Act;
- “authorised development” means the development and associated development described in Part 1 of 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;
- “authorised project” means the authorised development and the ancillary works authorised by this Order;
- “book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;
- “business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(m);
- “building” includes any structure or erection or any part of a building, structure or erection;
- “cable” means any onshore or offshore cable and in respect of any onshore cable includes direct lay cables and/or cables pulled through cable ducts;
- “cable ducts” means conduits for the installation of cables and/or fibre optic cables;
- “carriageway” has the same meaning as in the 1980 Act;

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- (a) 1961 c. 33.  
 (b) 1965 c. 56.  
 (c) 1980 c. 66.  
 (d) 1981 c. 66.  
 (e) 1989 c. 29.  
 (f) 1990 c. 8.  
 (g) 1991 c. 22.  
 (h) 2003 c. 21.  
 (i) 2004 c. 20.  
 (j) 2008 c. 29.  
 (k) 2009 c. 23.  
 (l) S.I. 2016/1154.  
 (m) 1971 c. 80.

“commence” means, (a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licences, save for pre-construction surveys and monitoring approved under the deemed marine licences or, (b) in respect of any other works comprised in the authorised project, the first carrying out of any material operation (as defined in section 155 of the 2008 Act) forming part of the authorised project other than operations consisting of site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, temporary hard standing, the temporary display of site notices or advertisements and the words “commencement” and “commenced” must be construed accordingly;

“deemed marine licences” means the marine licences set out in Schedules 9, 10, 11 and 12;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“design and access statement” means the document certified as the design and access statement by the Secretary of State for the purposes of this Order under article 37;

“Development Principles” means the document certified as the Development Principles by the Secretary of State for the purposes of this Order under article 37;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State for the purposes of this Order under article 37;

“draught height” means the distance between the lowest point of the rotating blade of a wind turbine generator and MHWS;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order under article 37;

“gravity base system” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“highway” and “highway authority” have the same meaning as in section 1 and section 328(1) of the 1980 Act(a);

“horizontal directional drilling” means a trenchless technique for installing an underground duct between two points without the need to excavate vertical shafts;

“important hedgerows plan” means the document certified as the important hedgerows plan by the Secretary of State for the purposes of this Order under article 37;

“in principle Norfolk Vanguard Southern North Sea Special Area of Conservation site integrity plan” means the document certified as the in principle Norfolk Vanguard Southern North Sea Special Area of Conservation site integrity plan by the Secretary of State for the purposes of this Order under article 37;

“interface cables” means buried onshore cables and fibre optic cables which connect the onshore project substation to the National Grid substation;

“jacket foundation” means a steel jacket/lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

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(a) Relevant amendments are as follows: section 1 was amended by sections 8 and 102 and Schedules 4, paragraph 1 and Schedule 17 of the Local Government Act 1985 (c. 51), by section 21 of the 1991 Act and by section 1(6) and Schedule 1, paragraphs 1 to 4 of the Infrastructure Act 2015 (c. 7).

“jointing pit” means an excavation formed to enable the jointing of high voltage power cables and fibre optic cables;

“jointing works” means a process by which two or more cables or fibre optic cables are connected to each other by means of cable joints within a jointing pit;

“landfall” means the location at which the offshore cables and fibre optic cables come ashore;

“land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order under article 37;

“LIDAR” means light detection and ranging;

“limits of deviation” means the limits of deviation referred to in article 4 (limits of deviation) for the overhead line modification works comprised in Work No. 11A;

“HAT” means highest astronomical tide;

“maintain” includes inspect, upkeep, repair, adjust, and alter, and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in Part 2 of Schedule 1 (ancillary works), any cable, any component part of any wind turbine generator, offshore electrical substation, accommodation platform, meteorological mast, and the onshore transmission works described in Part 1 of Schedule 1 (authorised development) not including the removal, reconstruction or replacement of foundations and buildings associated with the onshore project substation), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” or means the highest level which spring tides reach on average over a period of time;

“mean low water springs” or “MLWS” or means the lowest level which spring tides reach on average over a period of time;

“measurement buoy” means any floating device used for measurement purposes, including LIDAR buoys and wave buoys;

“meteorological mast” means a mast housing equipment to measure wind speed and other wind characteristics, including a topside housing electrical, communication and associated equipment and marking and lighting;

“MMO” means the Marine Management Organisation;

“mobilisation area” means an area associated with the onshore transmission works including hard standings, lay down and storage areas for construction materials and equipment, areas for spoil, areas for vehicular parking, bunded storage areas, areas for welfare facilities including offices and canteen and washroom facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

“National Grid” means National Grid Electricity Transmission PLC;

“National Grid substation extension” means the extension to the existing 400kV National Grid substation at Necton to provide a connection point to the 400kV grid network, including switchgear, circuit breakers and extension to existing busbar structures;

“Norfolk Boreas offshore wind farm” means the proposed offshore wind farm located off the Norfolk coast;

“Hornsea Three Offshore Wind Farm Development Consent Order” means any order made by the Secretary of State under section 114 (grant or refusal of development consent) of the 2008 Act for the Hornsea Three offshore wind farm following the application of 14 May 2018;

“Norfolk Boreas Development Consent Order” means an order made by the Secretary of State under section 114 (grant or refusal of development consent) of the 2008 Act for the Norfolk Boreas offshore wind farm following the application of 11 June 2019;

“Norfolk Vanguard East” means the eastern area located in the offshore Order limits within which wind turbine generators will be situated;



“Norfolk Vanguard West” means the western area located in the offshore Order limits within which wind turbine generators will be situated;

“offshore cable crossings” means the crossing of existing sub-sea cables or pipelines or other existing offshore infrastructure by the array, interconnecting and/or export cables and fibre optic cables authorised by this Order together with physical protection measures including concrete mattresses, rock placement or other protection methods;

“offshore electrical platform” means a platform attached to the seabed by means of a foundation, with one or more decks, whether open or fully clad, accommodating electrical power transformers, switchgear, instrumentation, protection and control systems, and other associated equipment and facilities to enable the transmission of electronic communications and for electricity to be collected at, and exported from, the platform;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State for the purposes of this Order under article 37;

“offshore works” means Work Nos. 1 to 4B and any ancillary works in connection with those works;

“onshore decommissioning plan” means a plan to decommission Work No. 4B to Work No. 12 which includes a programme within which any works of decommissioning must be undertaken;

“onshore project substation” means a facility containing electrical equipment including (but not limited to) power transformers, switchgear, welfare facilities, access, fencing and other associated equipment, structures or buildings;

“onshore transmission works” means Work Nos. 4C to 12 and any related further associated development in connection with those works and ancillary works described in Schedule 1 part 1 and Schedule 1 part 2 respectively;

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

“Order limits” means the limits shown on the works plan within which the authorised project may be carried out, whose grid coordinates seaward of MHWS are set out in paragraph 2 of Part 1 of Schedule 1 (authorised development) of this Order;

“outline access management plan” means the document certified as the outline access management plan by the Secretary of State for the purposes of this Order under article 37;

“outline code of construction practice” means the document certified as the outline code of construction practice by the Secretary of State for the purposes of this Order under article 37;

“outline operational drainage plan” means the document certified as the outline operational drainage plan by the Secretary of State for the purposes of this Order under article 37;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State for the purposes of this Order under article 37;

“outline landscape and ecological management strategy” means the document certified as the outline landscape and ecological management strategy by the Secretary of State for the purposes of this Order under article 37;

“outline marine traffic monitoring strategy” means the document certified as the outline marine traffic monitoring strategy by the Secretary of State for the purposes of this Order under article 37;

“outline Norfolk Vanguard Haisborough, Hammond and Winterton Special Area of Conservation site integrity plan” means the document certified as the outline Norfolk Vanguard Haisborough, Hammond and Winterton Special Area of Conservation site integrity plan by the Secretary of State for the purposes of this Order under article 37;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order under article 37;

“outline project environmental management plan” means the document certified as the outline project environmental management plan by the Secretary of State for the purposes of this Order under article 37;

“outline scour protection and cable protection plan” means the document certified as the outline scour protection and cable protection plan the Secretary of State for the purposes of this Order under article 37;

“outline skills and employment strategy” means the document certified as the outline skills and employment strategy by the Secretary of State for the purposes of this Order under article 37;

“outline traffic management plan” means the document certified as the outline traffic management plan by the Secretary of State for the purposes of this Order under article 37;

“outline travel plan” means the document certified as the outline travel plan by the Secretary of State for the purposes of this Order under article 37;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order under article 37;

“outline written scheme of investigation (onshore)” means the document certified as the outline written scheme of investigation (onshore) by the Secretary of State for the purposes of this Order under article 37;

“overhead line modification” means alteration and repositioning of the overhead line, including removal of part of the overhead line, in respect of the existing Walpole to Norwich Main 400kV overhead line between pylons 4VV123 and 4VV127 on land north east of Necton, Norfolk to allow connection into the National Grid substation extension including connecting into the National Grid sealing end compound;

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

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“relevant drainage authorities” means the drainage board for the area of land to which the relevant provision of this Order applies within the meaning of section 23 of the Land Drainage Act 1991(b);

“relevant planning authority” means the district planning authority for the area in which the land to which the relevant provision of this Order applies is situated;

“requirements” means, or a reference to a numbered requirement is to, those matters set out in Part 3 of Schedule 1 (requirements) to this Order;

“scour protection” means measures to prevent loss of seabed sediment around any marine structure placed in or on the seabed by use of protective aprons, mattresses with or without frond devices, or rock and gravel placement;

“single offshore phase” means carrying out all offshore works as a single construction operation;

“single onshore phase” means a single duct laying operation followed by a one separate operation to pull the cables through the ducts and one separate operation to construct the onshore project substation;

“statutory nature conservation body” means an organisation charged by government with advising on nature conservation matters;

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(a) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

(b) 1991 c. 59. Section 23 was amended by the Environment Act 1995 (c. 29), Schedule 22, paragraph 192 and the Flood and Water Management Act 2010 (c. 29), Schedule 2, paragraph 32.

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 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(a);

“suction caisson” means a large diameter steel cylindrical shell which penetrates the seabed assisted by a hydrostatic pressure differential for fixity of foundations;

“temporary stopping up of public rights of way plan” means the plan certified as the temporary stopping up of public rights of way plan by the Secretary of State for the purposes of this Order under article 37;

“transition jointing pit” means an excavation formed to enable the jointing of the offshore export cables and fibre optic cables comprised in Work No. 4B to the onshore transmission works;

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

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“trenchless installation techniques” means techniques for installing an underground duct between two points, without excavating and back-filling a trench;

“two offshore phases” means carrying out the offshore works as two separate construction operations;

“two onshore phases” means a single duct laying operation followed by two separate operations to pull the cables through the ducts and two separate operations to construct the onshore project substation;

“undertaker” means Norfolk Vanguard Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

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

“wind turbine generator” means a structure comprising a tower, rotor with up to three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include (but is not limited to) corrosion protection systems, helicopter landing facilities and other associated equipment, fixed to a foundation; and

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order under article 37;

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over the land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate, save in respect of the parameters referred to in paragraph 1(c) and paragraph 1(e) (disposal volumes in connection with Work Nos. 1 to 4B) in Part 1, Schedule 1 (authorised development), requirements 2 to 11 and requirement 16 in Part 3, Schedule 1 (requirements) and conditions 1 to 8 in Part 4, Schedules 9 and 10 of the deemed marine licences for the generation assets and conditions 1 to 3 in Part 4, Schedules 11 and 12 of the deemed marine licences for the transmission assets.

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(a) “street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

(4) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(5) Unless otherwise stated, references in this Order to points identified by letters are to be construed as references to the points so lettered on the works plan.

(6) The expression “includes” is to be construed without limitation unless the contrary intention appears.

## PART 2

### Principal Powers

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

**3.**—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted—

- (a) Development consent for the authorised development; and
- (b) Consent for the ancillary works,

to be carried out within the Order limits.

(2) Subject to the requirements and conditions in the deemed marine licences, Work Nos. 1 to 4B must be constructed anywhere within the Order limits seaward of MHWS and Work Nos. 4C to 12 must be constructed anywhere within the Order limits landward of MHWS.

#### **Limits of deviation**

**4.** In carrying out the overhead line modification as part of Work No.11A for which it is granted development consent by article 3(1) (development consent etc. granted by the Order) the undertaker may—

- (a) deviate vertically from the levels of the existing 400kV overhead line from Walpole to Norwich Main to be modified as part of Work No.11A—
  - (i) to any extent not exceeding 4 metres upwards; or
  - (ii) to any extent downwards as may be found to be necessary or convenient.
- (b) deviate laterally from the lines or situations of the existing 400kV overhead line from Walpole to Norwich Main to be modified as part of Work No.11A to any extent not exceeding 25 metres either side of the existing overhead line as shown by the limits of deviation relating to that work on the works plan.

#### **Power to construct and maintain authorised project**

**5.**—(1) The undertaker may at any time construct and maintain the authorised project, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain a licence under Part 4 of the 2009 Act (marine licensing) for offshore works not covered by the deemed marine licences.

#### **Benefit of the Order**

**6.**—(1) Subject to this article, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Subject to paragraphs (4), (5) and (6), the undertaker may with the written 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 (excluding the deemed marine licences referred to in paragraph (3) below) and such related statutory rights as may be agreed between the undertaker and the transferee;
- (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 (excluding the deemed marine licences referred to in paragraph (3) below) and such related statutory rights as may be so agreed.

(3) Subject to paragraph (5), the undertaker may with the written consent of the Secretary of State—

- (a) where an agreement has been made in accordance with paragraph (2)(a), transfer to the transferee the whole of any of the deemed marine licences and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) where an agreement has been made in accordance with paragraph (2)(b), grant to the lessee, for the duration of the period mentioned in paragraph (2)(b), the whole of any of the deemed marine licences and such related statutory rights as may be so agreed.

(4) The undertaker must consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application.

(5) The Secretary of State shall consult the MMO before giving consent to the transfer or grant to another person of the whole of the benefit of the provisions of the deemed marine licences.

(6) The Secretary of State shall consult National Grid before giving consent to the transfer or grant to a person of any or all of the benefit of the provisions of this Order (excluding the deemed marine licences referred to in paragraph (2) above).

(7) Where paragraph (11) applies no consent of the Secretary of State is required under paragraph (1) or paragraph (2).

(8) Where an agreement has been made in accordance with paragraph (2) or (3) references in this Order to the undertaker, except in paragraph (9), (10), or (13), include references to the transferee or lessee.

(9) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) or (3) are subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(10) Where an agreement has been made in accordance with paragraph (2) or (3)—

- (a) the benefit (“the transferred benefit”) includes any rights that are conferred, and any obligations that are imposed by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit resides exclusively with the transferee or, as the case may be, the lessee and the transferred benefit is not enforceable against the undertaker save in the case of a deemed marine licence transferred or granted in respect of any breach of an obligation by the undertaker which occurs prior to such transfer or grant or which occurs as a result of any activity carried out by the undertaker on behalf of the transferee.
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) or (3) 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.

(11) The consent of the Secretary of State is required for the exercise of powers under paragraph (2) or (3) except where—

- (a) the transferee or lessee is a person who holds a transmission licence under section 6 of the 1989 Act; or
- (b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
  - (i) no such claims have been made,
  - (ii) any such claim has been made and has been compromised or withdrawn,
  - (iii) compensation has been paid in final settlement of any such claim,

- (iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or
- (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable; or

(12) The provisions of article 9 (street works), article 11 (temporary stopping up of streets), article 18 (compulsory acquisition of land), article 20 (compulsory acquisition of rights), article 26 (temporary use of land for carrying out the authorised project) and article 27 (temporary use of land for maintaining the authorised project) have effect only for the benefit of the named undertaker and a person who is a transferee or lessee and is also—

- (a) in respect of Works Nos. 4C to 12 a person who holds a licence under the Electricity Act 1989; or
- (b) in respect of functions under article 9 (street works) relating to a street, a street authority.

(13) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the MMO and the relevant planning authority, and if such transfer or grant relates to works or utilisation of powers within 15 metres measured in any direction of apparatus of Cadent Gas Limited, to Cadent Gas Limited, and if such transfer or grant relates to works or utilisation of powers within 15 metres measured in any direction of apparatus of National Grid to National Grid.

(14) A notice required under paragraphs (4) and (13) must—

- (a) state—
  - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
  - (ii) subject to paragraph (15), the date on which the transfer will take effect;
  - (iii) the provisions to be transferred or granted; and
  - (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (9), will apply to the person exercising the powers transferred or granted; and
  - (v) except where paragraph (11)(a) or 11(b) applies, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.
- (b) be accompanied by—
  - (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
  - (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

(15) The date specified under paragraph (14)(a)(ii) must not be earlier than the expiry of 14 days from the date of the receipt of the notice.

(16) The notice given under paragraph (13) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

### **Application and modification of legislative provisions**

**7.—**(1) Regulation 6 of the Hedgerows Regulations 1997<sup>(a)</sup> is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following—

“(k) or for carrying out or the maintenance of development which has been authorised by an order granting development consent pursuant to the Planning Act 2008”.

(2) The provisions of the Neighbourhood Planning Act 2017<sup>(b)</sup> insofar as they relate to temporary possession of land under articles 26 (temporary use of land for carrying out the

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(a) S.I. 1997/1160.

(b) 2017 c. 20.

authorised project) and 27 (temporary use of land for maintaining the authorised project) of this Order do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project.

(3) The following provisions do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project—

- (a) the Environmental Permitting (England and Wales) Regulations 2010(a), to the extent that they require a permit for anything that would have required consent made under section 109 of the Water Resources Act 1991 immediately before the repeal of that section;
- (b) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 of the Water Resources Act 1991(b) that require consent or approval for the carrying out of works;
- (c) section 23 of the Land Drainage Act 1991(c) (prohibition of obstructions etc. in watercourses); and
- (d) the provisions of any byelaws made under section 66 of the Land Drainage Act 1991 (powers to make byelaws) that require consent or approval for the carrying out of works.

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

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

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(e); or
  - (ii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in compliance with requirement 27 (control of noise during operational phase); or
  - (ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

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(a) S.I. 2010/675. See amendments made by S.I. 2016/475.

(b) Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84(2) of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009, paragraph 49 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and paragraph 315 of Schedule 2 to S.I. 2013/755. Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995(c. 25) and section 224 of, and paragraph 24 of Schedule 16 and Part 5 of Schedule 22 to, the Marine and Coastal Access Act 2009. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

(c) 1991 c. 59.

(d) 1990 c. 43. Relevant amendments are as follows: section 82 was amended by section 107 and Schedule 17 paragraph 6 of the Environment Act 1995 (c. 25) and section 5(2) of the Noise and Statutory Nuisance Act 1993 (c. 40), and section 79 was amended by sections 101 and 102 of the Clean Neighbourhoods and Environment Act 2005 (c. 16), by section 2 of the Noise and Statutory Nuisance Act 1993 and by section 120 and Schedule 22 paragraph 89 of the Environment Act 2005.

(e) 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c. 25. There are other amendments to the 1974 Act which are not relevant to the Order.

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for purposes of or in connection with the construction or maintenance of the authorised project.

## PART 3

### Streets

#### Street works

**9.**—(1) The undertaker may, for the purposes of the authorised project, enter on so much of any of the streets specified in Schedule 2 (streets subject to street works) as is within the Order limits and may—

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

(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) In this article “apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act.

#### Public rights of way

**10.** The undertaker may, in connection with the carrying out of the authorised project, temporarily stop up each of the public rights of way specified in columns (2) of Schedule 3 (public rights of way to be temporarily stopped up) to the extent specified in column (3), by reference to the letters shown on the temporary stopping up of public rights of way plan.

#### Temporary stopping up of streets

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

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

(2) Without limiting paragraph (1), the undertaker may, during and for the purposes of carrying out the authorised project, use any street temporarily stopped up, diverted or altered under the powers conferred by this article within the Order limits as a temporary working site.

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

(4) Without limiting paragraph (1), the undertaker may temporarily stop up, divert or alter the streets specified in column 1 of Schedule 4 (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the streets to be temporarily stopped up plan, in column (3) of that schedule.

(5) The undertaker must not temporarily stop up, divert, alter or use as a temporary working site—



- (a) any street referred to in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority, which may attach reasonable conditions to the consent.

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

(7) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (5)(b) that street authority is deemed to have granted consent.

### **Access to works**

**12.—**(1) The undertaker may, for the purposes of the authorised project—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 5 (access to works); and
- (b) with the approval of the relevant planning authority after consultation with the highway authority in accordance with requirement 22 (highway accesses), form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised project.

(2) If the relevant planning authority fails to notify the undertaker of its decision within 28 days of receiving an application for approval under paragraph (1)(b) that relevant planning authority is deemed to have granted approval.

### **Agreements with street authorities**

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

- (a) any temporary stopping up, alteration or diversion of a street authorised by this Order; or
- (b) the carrying out in the street of any of the works referred to in article 9(1) (street works).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

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

**14.—**(1) The provisions of the 1991 Act mentioned in paragraph (2) that apply in relation to the carrying out of street works under that Act and any regulations made or code of practice issued or approved under those provisions apply (with all necessary modifications) in relation to—

- (a) the carrying out of works under article 9 (street works); and
- (b) the temporary stopping up, temporary alteration or temporary diversion of a street by the undertaker under article 11 (temporary stopping up of streets)

whether or not the carrying out of the works or the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(2) The provisions of the 1991 Act<sup>(a)</sup> are—

- (a) subject to paragraph (3), section 55 (notice of starting date of works);

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<sup>(a)</sup> Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004 (c. 18).

- (b) section 57 (notice of emergency works);
- (c) section 60 (general duty of undertakers to co-operate);
- (d) section 68 (facilities to be afforded to street authority);
- (e) section 69 (works likely to affect other apparatus in the street);
- (f) section 76 (liability for cost of temporary traffic regulation);
- (g) section 77 (liability for cost of use of alternative route); and
- (h) all provisions of that Act that apply for the purposes of the provisions referred to in subparagraphs (a) to (g).

(3) Sections 55 of the 1991 Act as applied by paragraph (2) has effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

## PART 4

### Supplemental Powers

#### Discharge of water and works to watercourses

**15.—**(1) Subject to paragraphs (3) and (4) below the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

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

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

(4) The undertaker must not carry out any works to any public sewer or drain pursuant to article paragraph (1) except—

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

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

(6) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by regulation 12 of the 2016 Regulations.

(7) Subject to paragraph (8) below, the undertaker may in connection with the carrying out or maintenance of the authorised project, alter the bed or banks of, and construct works in, under, over or within any watercourse and may divert, alter, interrupt or obstruct the flow of any watercourse within the Order limits.

(8) The undertaker must not:

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(a) 1991 c. 56. Section 106 was amended by sections 43(2) and 35(8)(a) and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c. 43) and sections 99(2), (4), (5)(a), (5)(b), (5)(c) and 36(2) of the Water Act 2003 (c. 37) and section 32, Schedule 3, paragraph 16(1) of the Flood and Water Management Act 2010 c. 29.

- (a) undertake any works within 8 metres of, any watercourse forming part of a river, or within 16 metres of a tidally influenced main river without the consent of the Environment Agency, which must not be unreasonably withheld but may be subject to reasonable conditions; and
- (b) undertake any works to any ordinary watercourse without the consent of the relevant drainage authorities or Norfolk County Council as the case may be, which must not be unreasonably withheld but may be subject to reasonable conditions.

(9) In this article—

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

(10) If a person who receives an application for consent or approval fails to notify the undertaker of a decision within the relevant period specified in Part 7 of Schedule 16 that person is deemed to have granted consent or given approval, as the case may be.

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

**16.**—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised project and—

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

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner or occupier of the land.

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

- (a) must, if so required on 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 forming a railway without the consent of Network Rail Infrastructure Limited; or
- (b) in land held by or in right of the Crown without the consent of the Crown.

(5) No trial holes may be made under this article—

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

but such consent must not be unreasonably withheld.

(6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such

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(a) See section 72(1).

compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (5)(a) in the case of a highway authority; or
- (b) under paragraph (5)(b) in the case of a street authority;

that authority is deemed to have granted consent.

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

### **Removal of human remains**

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

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

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

- (a) publishing a notice once in each of 2 successive weeks in a newspaper circulating in the area of the authorised project; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

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

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

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

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

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

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

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

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice, but the person who gave the notice fails to remove the remains within a further period of 56 days; or

(c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or

(d) it is determined that the remains to which any such notice relates cannot be identified, subject to paragraph (10), the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

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

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

(a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and

(b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

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

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

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

## PART 5

### Powers of Acquisition

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

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

(2) This article is subject to paragraph (2) of article 20 (compulsory acquisition of rights) and article 26 (temporary use of land for carrying out the authorised project).

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

**19.**—(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 (determination of questions of disputed compensation) of the 1965 Act; and

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(a) 1857 c. 81

- (b) no declaration may be executed under section 4 (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 22 (application of the Compulsory Purchase (Vesting Declarations) Act 1981)(a).

(2) The authority conferred by article 26 (temporary use of land for carrying out the authorised project) ceases at the end of the period referred to in paragraph (1), except that 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.

### **Compulsory acquisition of rights**

**20.**—(1) The undertaker may acquire compulsorily such rights or impose restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this article, article 21 (private rights) and article 29 (statutory undertakers), in the case of the Order land specified in column (1) of Schedule 6 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act, as substituted by paragraph 5 of Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires an existing right over land or restrictive covenant under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 7 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of restrictive covenants.

(5) In any case where the acquisition of new rights under paragraphs (1) and (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

### **Private rights**

**21.**—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition under article 18 are suspended and unenforceable or, where so notified by the undertaker to the person with the benefit of such private rights or restrictive covenants, extinguished in so far as in either case their continuance would be inconsistent with the acquisition—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry)

whichever is the earliest.

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(a) 1981 c. 66. Sections 2, 6 and 11 were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). There are other amendments to the 1981 Act which are not relevant to this Order.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 20 (compulsory acquisition of rights) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation)..

(5) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 29 (statutory undertakers) applies.

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

- (a) any notice given by the undertaker before—
  - (i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
  - (ii) the undertaker's appropriation of the land,
  - (iii) the undertaker's entry onto the land, or
  - (iv) the undertaker's taking temporary possession of the land

that any or all of those paragraphs do not apply to any right specified in the notice; or

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

(7) If an agreement referred to in paragraph (6)(b)—

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

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

(8) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

### **Application of the 1981 Act**

**22.—**(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, has effect with the following modifications.

(3) Section 5 (earliest date for execution of declaration) is omitted.

(4) Section 5A (time limit for general vesting declaration) is omitted<sup>(a)</sup>.

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(a) Section 5A to the 1981 Act was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22)

- (5) In section 5B (extension of time limit during challenge)(a)—
- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)”; and
  - (b) for “the three year period mentioned in section 4” substitute “the five year period mentioned in article 19 (time limit for exercise of authority to acquire land compulsorily) of the Norfolk Vanguard Offshore Wind Farm Order 2020”.
- (6) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” are omitted.
- (7) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(b), omit paragraph 1(2).
- (8) References to the 1965 Act in the 1981 Act must be construed as references to that Act as applied by section 125 of the 2008 Act (as modified by article 23 (application of Part 1 of the Act 1965 Act) to the compulsory acquisition of land under this Order.

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

**23.**—(1) Part 1 of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

- (2) In section 4A(1) (extension of time limit during challenge)(c)—
- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)”; and
  - (b) for “the three year period specified in section 4” substitute “the five year period mentioned in article 19 (time limit for exercise of authority to acquire land compulsorily) of the Norfolk Vanguard Offshore Wind Farm Order 2020”.
- (3) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 19 (time limit for exercise of authority to acquire land compulsorily) of the Norfolk Vanguard Offshore Wind Farm Order 2020”
- (4) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)(d)—
- (a) omit paragraphs 1(2) and 14(2); and
  - (b) at the end insert—

## **“PART 4**

### **INTERPRETATION**

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 26 (temporary use of land for carrying out the authorised project) or article 27 (temporary use of land for maintaining the authorised project) of the Norfolk Vanguard Wind Farm Order 2020.”

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

**24.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil or airspace of the land referred to in paragraph (1) of article 18 (compulsory acquisition of land) or

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(a) Inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).  
 (b) Inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).  
 (c) Inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).  
 (d) Inserted by schedule 17(1) paragraph 3 to the Housing and Planning Act 2016 (c. 22).



article 20 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil or airspace of land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

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

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

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

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

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

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

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing of cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out the authorised project**

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

- (a) enter on and take temporary possession of—
  - (i) the land specified in columns (1) and (2) of Schedule 8 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
  - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), running tracks, security fencing, bridges, structures and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised project; and
- (e) construct any works, or use the land, as specified in relation to that land in column 3 of Schedule 8, or any mitigation works.

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

(3) The undertaker must not remain in possession of any land under this article for longer than reasonably necessary and in any event must not, without the agreement of the owners of the land, remain in possession of any land under this article after the end of the period of one year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (4) of Schedule 8, unless the undertaker has, before the end of that period,

served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, the undertaker must before giving up possession of land of which temporary possession has been taken under this article, remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace any building, structure, drain or electric line removed under this article;
- (b) remove any drainage works installed by the undertaker under this article; or
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 2 (streets subject to street works).

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

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

(7) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (5).

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

- (a) acquiring new rights or imposing restrictive covenants over any part of that land under article 20 (compulsory acquisition of rights) to the extent that such land is listed in column (1) of Schedule 6 (land in which only new rights etc., may be acquired); or
- (b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 24 (acquisition of subsoil or airspace only).

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

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

### **Temporary use of land for maintaining authorised project**

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

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised project; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker is not required to comply with Paragraph (3) in a case of emergency and if an emergency exists they must—

- (a) give to the owners and occupiers of the land in question notice of its intended entry or (as the case may be) of its having entered onto the land as soon as is reasonably practicable; and
- (b) comply with Paragraph (1) so far as is reasonably possible in the circumstances.

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

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

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

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

(9) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, other than loss or damage for which compensation is payable under paragraph (7).

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

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

(12) In this article "the maintenance period", in relation to any part of the authorised project, means the period of 5 years beginning with the date on which the authorised project first exports electricity to the national electricity transmission network.

### **Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession**

**28.**—(1) This article applies to any Order land of which the undertaker takes temporary possession under article 26 (temporary use of land for carrying out the authorised project).

(2) Subject to paragraph (3), all private rights or restrictive covenants in relation to apparatus belonging to National Grid removed from any land to which this article applies will remain intact from the date on which the undertaker gives up temporary possession of that land.

(3) If the undertaker, in agreement with National Grid, gives notice before the date that the undertaker gives up temporary possession of the land that any or all of the private rights or restrictive covenants in relation to apparatus belonging to National Grid removed from the land to which this article applies will be extinguished, such rights will be extinguished.

(4) Any extinguishment of rights by paragraph (3) does not give rise to any cause of action relating to the presence on or in the land of any foundations and the undertaker is not required to remove foundations when giving up temporary possession).

### **Statutory undertakers**

**29.** Subject to the provisions of Schedule 16 (protective provisions) the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plan within the limits of the land to be acquired and described in the book of reference; and
- (b) extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

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

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

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 29, any person who is—

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

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

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

(4) In this paragraph—

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

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

## **PART 6**

### **Operations**

#### **Operation of generating station**

**31.**—(1) The undertaker is hereby authorised to operate the generating station comprised in the authorised project.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

#### **Deemed marine licences under the 2009 Act**

**32.** The marine licences set out in Schedules 9, 10, 11 and 12 are deemed to have been granted to the undertaker under Part 4 (marine licensing) of the 2009 Act for the licensed marine activities set out in Part 3, and subject to the conditions set out in Part 4, of each licence.

## PART 7

### Miscellaneous and General

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

**33.**—(1) This article applies to—

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

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

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

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

#### **Operational land for purposes of the 1990 Act**

**34.** Development consent granted by this Order is 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).

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

**35.**—(1) Subject to article 36 (trees subject to tree preservation orders), the undertaker may fell or lop or cut back any roots of any tree or shrub near any part of the authorised project, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

(4) The undertaker may, for the purposes of the authorised project—

- (a) remove any hedgerows within the Order limits and specified in Schedule 13, Part 3 (removal of hedgerows) and those hedgerows that, after assessment, are not classed as important hedgerows specified in Schedule 13, Part 1 (removal of potentially important hedgerows); and
- (b) remove the important hedgerows as are within the Order limits and specified in Schedule 13, Part 1 (removal of potentially important hedgerows) and Part 2 (removal of important hedgerows).

(5) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997(a).

### **Trees subject to tree preservation orders**

**36.**—(1) Subject to paragraph (2), the undertaker must not fell or lop or cut back the roots of any tree within or overhanging land which is the subject of a tree preservation order.

(2) The undertaker may fell or lop any tree within or overhanging land within the Order limits subject to a tree preservation order which was made after 28 February 2017 or cut back its roots, if it reasonably believes it to be necessary to do so in order to prevent the tree from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project.

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

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

(4) The authority given by paragraph (2) constitutes a deemed consent under the relevant tree preservation order.

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

### **Certification of plans etc**

**37.**—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the following for certification that they are true copies of the documents referred to in this Order—

- (a) the environmental statement (document reference 6.1);
- (b) the land plan (document reference 2.2);
- (c) the works plan (document reference 2.4);
- (d) the access to works plan (document reference 2.5);
- (e) the temporary stopping up of public rights of way plan (document reference 2.6);
- (f) the streets to temporarily stopped up plan (document reference 2.7);
- (g) the important hedgerows plan (document reference 2.11);
- (h) the book of reference (4.3);
- (i) the outline code of construction practice (8.1);
- (j) the design and access statement (8.3);
- (k) the outline written scheme of investigation (onshore) (8.5);
- (l) the outline written scheme of investigation (offshore) (8.6);
- (m) the outline landscape and ecological management strategy (8.7);
- (n) the outline traffic management plan (8.8);
- (o) the outline travel plan (8.9);
- (p) the outline access management plan (8.10);
- (q) the outline offshore operations and maintenance plan (8.11);
- (r) the offshore in principle monitoring plan (8.12);

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(a) S.I. 1997/1160.

- (s) the draft marine mammal mitigation protocol (8.13);
- (t) the outline project environmental management plan (document reference 8.14);
- (u) the outline scour protection and cable protection plan (document reference 8.16);
- (v) the in principle Norfolk Vanguard Southern North Sea Special Area of Conservation site integrity plan (8.17);
- (w) the outline marine traffic monitoring strategy (8.18);
- (x) the outline fisheries liaison and co-existence plan (8.19);
- (y) the outline Norfolk Vanguard Haisborough, Hammond, and Winterton Special Area of Conservation site integrity plan(8.20);
- (z) the outline operational drainage plan (8.21);
- (aa) the outline skills and employment strategy (8.22);and

(2) the Development Principles (8.23).A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) Where a plan or document certified under paragraph (1)—

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies that provision by a number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order as made

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

### **Arbitration**

**38.**—(1) Subject to article 41 (saving provisions for Trinity House), any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration in accordance with the rules at Schedule 14 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) Any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration.

### **Procedure in relation to certain approvals etc**

**39.**—(1) Where an application is made to or request is made of the relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any agreement or approval required or contemplated by any of the provisions of the Order, such agreement or approval must, if given, be given in writing and may not be unreasonably withheld.

(2) Schedule 15 (procedure for discharge of requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements 13, 14, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33 and 34 in Part 3 of Schedule 1 (requirements).

### **Abatement of works abandoned or decayed**

**40.** Where Work No. 1(a) to (e) or Work No. 2 or any part of those works is abandoned or allowed to fall into decay the Secretary of State may, following consultation with the undertaker, issue a written notice requiring the undertaker at its own expense to repair and restore or remove Work No. 1(a) to (e) or Work No. 2 or any relevant part of those works, without prejudice to any

notice served under section 105(2) of the 2004 Act<sup>(a)</sup>. The notice may also require the restoration of the site of the relevant part(s) of Work No. 1(a) to (e) or Work No. 2 to a safe and proper condition within an area and to such an extent as may be specified in the notice.

### **Saving provisions for Trinity House**

**41.** Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

### **Crown rights**

**42.**—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

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

### **Protective provisions**

**43.** Schedule 16 (protective provisions) has effect.

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

1st July 2020

*Gareth Leigh*  
Head of Energy Infrastructure Planning  
Department for Business, Energy and Industrial Strategy

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(a) Section 105(2) was substituted by section 69(3) of the Energy Act 2008 (c. 32).



## SCHEDULES

### SCHEDULE 1

Article 2

#### Authorised Project

#### PART 1

#### Authorised Development

1. A nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act which is located in the North Sea approximately 47km from the Norfolk coast, comprising—

#### Offshore

##### Work No. 1

- (a) an offshore wind turbine generating station with an electrical export capacity of up to 1,800 MW at the point of connection to the offshore electrical platform(s) referred to at Work No. 2 comprising up to 158 wind turbine generators each fixed to the seabed by one of the following foundation types: monopile (piled or suction caisson), jacket (piled or suction caisson), or gravity base fitted with rotating blades and situated within the area shown on the works plan and further comprising (b) to (e) below;
- (b) up to two accommodation platforms fixed to the seabed within the area shown on the works plan by one of the following foundation types: jacket (piled or suction caisson) or gravity base;
- (c) up to two meteorological masts fixed to the seabed within the area shown on the works plan by one of the following foundation types: monopile (piled or suction caisson), jacket (piled or suction caisson) or gravity base;
- (d) up to two LIDAR measurement buoys fixed to the seabed within the area shown on the works plan by one of the following foundation types: monopile (piled) or floating, and up to two wave measurement buoys fixed to the seabed within the area shown on the works plan by one foundation type (floating); and
- (e) a network of subsea array cables and fibre optic cables within the area shown on the works plan between the wind turbine generators, and between the wind turbine generators and Work No.2 including one or more offshore cable crossings;

and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising—

Work No. 2 – up to two offshore electrical platforms fixed to the seabed within the area shown on the works plan by one of the following foundation types: jacket (piled or suction caisson) or gravity base;

Work No. 3 – a network of subsea cables and fibre optic cables within the area shown on the works plans comprising Work No.2 for the transmission of electricity and electronic communications between the offshore electrical platforms and including one or more offshore cable crossings;

Work No. 4A – up to four subsea export cables and fibre optic cables between Work No. 2 and Work No. 4B consisting of subsea cables and fibre optic cables along routes within the Order limits seaward of MLWS including one or more offshore cable crossings;

### **Intertidal area**

Work No. 4B – up to four subsea export cables and fibre optic cables between Work No. 4A and Work No. 4C consisting of subsea cables and fibre optic cables along routes within the Order limits between MLWS and MHWS at Happisburgh South, North Norfolk;

### **In the county of Norfolk, district of North Norfolk**

Work No. 4C – the onshore transmission works at the landfall consisting of up to two transition jointing pits and up to four cables to be laid in ducts underground and associated fibre optic cables laid within cable ducts underground from MHWS at Work No. 4B to Work No. 5;

Work No. 5 – onshore transmission works consisting of up to four cables to be laid in ducts and up to four additional cable ducts for the Norfolk Boreas offshore wind farm laid underground and associated fibre optic cables laid underground within cable ducts from Work No. 4C to Work No. 6;

### **In the county of Norfolk, district of Broadland**

Work No. 6 – onshore transmission works consisting of up to four cables to be laid in ducts and up to four additional cable ducts for the Norfolk Boreas offshore wind farm laid underground and associated fibre optic cables laid underground within cable ducts from Work No. 5 to Work No. 7;

### **In the county of Norfolk, district of Breckland**

Work No. 7 – onshore transmission works consisting of up to four cables to be laid in ducts and up to four additional cable ducts for the Norfolk Boreas offshore wind farm laid underground and associated fibre optic cables laid underground within cable ducts from Work No. 6 to Work No. 8A;

Work No. 8A – onshore project substation to the east of the existing National Grid substation at Necton;

Work No.8B – surface water management, bunding, embankments, boundary treatments and landscaping in connection with Work No. 8A;

Work No. 9 – works consisting of the connection of up to twelve interface cables, laid underground and associated fibre optic cables laid underground within cable ducts from Work No. 8A to the extended National Grid substation at Necton;

Work No. 10A – an extension to the existing National Grid substation at Necton;

Work No. 10B – additional surface water management for the extended National Grid substation at Necton in connection with Work No. 10A;

Work No. 10C – bunding, embankments, boundary treatments and landscaping in connection with Work No. 10A;

Work No. 11 –the removal of one existing pylon and construction of two new permanent pylons, as shown marked by (W) and (E) on the works plans, and the installation of conductors, insulators and fittings on to the pylons;

Work No. 11A – the overhead line modification;

Work No. 12 – permanent accesses connecting the A47 to Work No.8A, Work No. 10A and Work No. 10B including highway widening works on the A47 to create a new junction;

and in connection with Work Nos. 1 to 4B and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement including—

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work Nos. 1 to 4B and the disposal of up to 49,211,390 cubic metres of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, boulder clearance and pre-trenching and excavation of horizontal directional drilling exit pits;
- (d) removal of static fishing equipment; and
- (e) disposal of drill arisings in connection with any foundation drilling up to a total of 414,761 cubic metres;

and in connection with such Work Nos. 4C to 12 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the work assessed by the environmental statement, including—

- (a) works to secure vehicular and/or pedestrian means of access including the creation of new tracks, footpaths, and/or widening, creation of passing places, upgrades, creation of bell mouths, creation of temporary slip roads and improvements of existing tracks, footpaths and roads;
- (b) temporary access tracks and running tracks both alongside and used for the purpose of constructing Work Nos. 5, 6, 7, and 9;
- (c) car parking areas, welfare facilities, temporary offices and workshops;
- (d) bunds, embankments, swales, landscaping, boundary treatments and works to mitigate any effects of the construction, operation or maintenance of the authorised project;
- (e) spoil and equipment storage;
- (f) jointing pits, manholes, kiosks, marker posts, link boxes and other works associated with laying ducts and/or cables and fibre optic cables and/or pulling cables and fibre optic cables through cable ducts;
- (g) water supply works, foul drainage provision, surface water management systems, temporary drainage during installation of ducts and/or cables and fibre optic cables and at the onshore project substation and culverting;
- (h) works of restoration;
- (i) fencing or other means of enclosure;
- (j) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (k) working sites and mobilisation areas in connection with the construction of the authorised development;
- (l) bowsers, septic tanks, generators and standby generators;
- (m) ramps and temporary bridges used for the purpose of constructing Work Nos. 5, 6, 7, and 9;
- (n) works for the provision of apparatus including cabling, water and electricity supply works;
- (o) habitat creation and archaeological works; and
- (p) such other works, apparatus, plant and machinery of whatever nature as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project;

and in connection with Work No. 11 and Work No. 11A and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part

of the authorised development and which fall within the scope the work assessed by the environmental statement, including—

- (a) the construction of a temporary overhead electric line comprising three temporary pylons, conductors, insulators and fittings between pylons 4VV123 and 4VV127; and
- (b) the temporary diversion of the overhead line onto the temporary pylons.

2. The grid coordinates for that part of the authorised project which is seaward of MHWS are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 55' 0.308" N	3° 4' 42.589" E	269	52° 48' 36.617" N	1° 39' 45.198" E
2	52° 49' 53.975" N	3° 5' 22.789" E	270	52° 48' 36.608" N	1° 39' 45.442" E
3	52° 46' 19.050" N	3° 2' 16.682" E	271	52° 48' 36.111" N	1° 39' 58.227" E
4	52° 45' 10.584" N	2° 45' 33.989" E	272	52° 47' 53.162" N	1° 57' 17.842" E
5	52° 51' 41.636" N	2° 45' 34.220" E	273	52° 47' 51.688" N	1° 57' 48.405" E
6	53° 2' 36.817" N	2° 34' 16.309" E	274	52° 47' 50.436" N	1° 58' 0.642" E
7	52° 49' 38.834" N	2° 34' 15.809" E	275	52° 47' 48.214" N	1° 58' 12.320" E
8	52° 48' 47.472" N	2° 33' 28.343" E	276	52° 47' 42.495" N	1° 58' 33.820" E
9	52° 48' 3.133" N	2° 26' 37.427" E	277	52° 47' 36.793" N	1° 58' 49.157" E
10	52° 56' 9.089" N	2° 18' 33.231" E	278	52° 47' 27.713" N	1° 59' 7.719" E
11	52° 45' 11.467" N	2° 45' 30.454" E	279	52° 47' 19.963" N	1° 59' 19.409" E
12	52° 45' 11.943" N	2° 45' 28.711" E	280	52° 47' 10.581" N	1° 59' 30.409" E
13	52° 45' 12.967" N	2° 45' 25.281" E	281	52° 45' 3.401" N	2° 1' 51.874" E
14	52° 45' 14.081" N	2° 45' 21.928" E	282	52° 45' 3.127" N	2° 1' 52.189" E
15	52° 45' 15.285" N	2° 45' 18.661" E	283	52° 45' 2.287" N	2° 1' 53.183" E
16	52° 45' 15.920" N	2° 45' 17.061" E	284	52° 45' 1.635" N	2° 1' 53.925" E
17	52° 45' 17.254" N	2° 45' 13.933" E	285	52° 45' 1.351" N	2° 1' 54.277" E
18	52° 45' 17.952" N	2° 45' 12.407" E	286	52° 45' 0.388" N	2° 1' 55.510" E
19	52° 45' 19.409" N	2° 45' 9.432" E	287	52° 45' 0.110" N	2° 1' 55.877" E
20	52° 45' 20.533" N	2° 45' 7.335" E	288	52° 44' 59.840" N	2° 1' 56.258" E

21	52° 45' 20.944" N	2° 45' 6.567" E	289	52° 44' 58.926" N	2° 1' 57.587" E
22	52° 45' 21.741" N	2° 45' 5.178" E	290	52° 44' 58.663" N	2° 1' 57.982" E
23	52° 45' 23.389" N	2° 45' 2.488" E	291	52° 44' 58.407" N	2° 1' 58.390" E
24	52° 45' 24.240" N	2° 45' 1.188" E	292	52° 44' 57.545" N	2° 1' 59.812" E
25	52° 45' 25.993" N	2° 44' 58.685" E	293	52° 44' 57.298" N	2° 2' 0.233" E
26	52° 45' 27.812" N	2° 44' 56.313" E	294	52° 44' 57.059" N	2° 2' 0.667" E
27	52° 45' 29.693" N	2° 44' 54.076" E	295	52° 44' 56.253" N	2° 2' 2.175" E
28	52° 45' 31.632" N	2° 44' 51.980" E	296	52° 44' 56.022" N	2° 2' 2.621" E
29	52° 45' 32.623" N	2° 44' 50.985" E	297	52° 44' 55.800" N	2° 2' 3.078" E
30	52° 45' 33.626" N	2° 44' 50.027" E	298	52° 44' 55.053" N	2° 2' 4.667" E
31	52° 45' 35.671" N	2° 44' 48.223" E	299	52° 44' 54.839" N	2° 2' 5.136" E
32	52° 45' 37.763" N	2° 44' 46.570" E	300	52° 44' 54.635" N	2° 2' 5.615" E
33	52° 45' 39.897" N	2° 44' 45.071" E	301	52° 44' 53.950" N	2° 2' 7.278" E
34	52° 45' 42.069" N	2° 44' 43.731" E	302	52° 44' 53.755" N	2° 2' 7.768" E
3	52° 45' 43.168" N	2° 44' 43.121" E	303	52° 44' 53.569" N	2° 2' 8.268" E
36	52° 45' 44.275" N	2° 44' 42.551" E	304	52° 44' 52.949" N	2° 2' 9.998" E
37	52° 45' 46.511" N	2° 44' 41.534" E	305	52° 44' 52.773" N	2° 2' 10.507" E
38	52° 45' 47.638" N	2° 44' 41.087" E	306	52° 44' 52.607" N	2° 2' 11.025" E
39	52° 45' 48.833" N	2° 44' 40.681" E	307	52° 44' 52.053" N	2° 2' 12.816" E
40	52° 46' 9.781" N	2° 44' 40.687" E	308	52° 44' 51.897" N	2° 2' 13.343" E
41	52° 46' 46.724" N	2° 44' 40.696" E	309	52° 44' 51.751" N	2° 2' 13.877" E
42	52° 46' 48.173" N	2° 44' 40.696" E	310	52° 44' 51.267" N	2° 2' 15.722" E
43	52° 46' 52.974" N	2° 44' 40.698" E	311	52° 44' 51.131" N	2° 2' 16.263" E
44	52° 46' 55.152" N	2° 44' 40.698" E	312	52° 44' 51.006" N	2° 2' 16.812" E
45	52° 46' 57.976" N	2° 44' 40.699" E	313	52° 44' 50.593" N	2° 2' 18.703" E
46	52° 47'	2° 44'	314	52° 44'	2° 2' 19.257"

	0.395" N	40.053" E		50.478" N	E
47	52° 47' 1.558" N	2° 44' 39.624" E	315	52° 44' 50.373" N	2° 2' 19.818" E
48	52° 47' 1.970" N	2° 44' 39.479" E	316	52° 44' 50.034" N	2° 2' 21.747" E
49	52° 47' 2.003" N	2° 44' 39.463" E	317	52° 44' 49.940" N	2° 2' 22.313" E
50	52° 47' 3.144" N	2° 44' 38.936" E	318	52° 44' 49.857" N	2° 2' 22.883" E
51	52° 47' 4.295" N	2° 44' 38.272" E	319	52° 44' 49.592" N	2° 2' 24.844" E
52	52° 47' 4.681" N	2° 44' 38.004" E	320	52° 44' 49.520" N	2° 2' 25.418" E
53	52° 47' 4.998" N	2° 44' 37.816" E	321	52° 44' 49.459" N	2° 2' 25.996" E
54	52° 47' 5.524" N	2° 44' 37.450" E	322	52° 44' 49.268" N	2° 2' 27.980" E
55	52° 47' 6.616" N	2° 44' 36.554" E	323	52° 44' 49.218" N	2° 2' 28.561" E
56	52° 47' 7.671" N	2° 44' 35.546" E	324	52° 44' 49.179" N	2° 2' 29.143" E
57	52° 47' 8.686" N	2° 44' 34.431" E	325	52° 44' 49.065" N	2° 2' 31.144" E
58	52° 47' 9.657" N	2° 44' 33.214" E	326	52° 44' 49.037" N	2° 2' 31.728" E
59	52° 47' 10.579" N	2° 44' 31.898" E	327	52° 44' 49.021" N	2° 2' 32.314" E
60	52° 47' 11.449" N	2° 44' 30.489" E	328	52° 44' 48.989" N	2° 2' 34.021" E
61	52° 47' 12.264" N	2° 44' 28.993" E	329	52° 44' 48.983" N	2° 2' 34.638" E
62	52° 47' 13.021" N	2° 44' 27.415" E	330	52° 44' 49.220" N	2° 15' 49.970" E
63	52° 47' 13.715" N	2° 44' 25.762" E	331	52° 44' 49.236" N	2° 15' 51.345" E
64	52° 47' 14.346" N	2° 44' 24.040" E	332	52° 44' 49.268" N	2° 15' 53.169" E
65	52° 47' 14.910" N	2° 44' 22.257" E	333	52° 44' 49.284" N	2° 15' 53.754" E
66	52° 47' 15.404" N	2° 44' 20.418" E	334	52° 44' 49.311" N	2° 15' 54.339" E
67	52° 47' 15.784" N	2° 44' 18.728" E	335	52° 44' 49.422" N	2° 15' 56.340" E
68	52° 47' 15.918" N	2° 44' 18.041" E	336	52° 44' 49.460" N	2° 15' 56.922" E
69	52° 47' 16.179" N	2° 44' 16.606" E	337	52° 44' 49.509" N	2° 15' 57.503" E
70	52° 47' 16.456" N	2° 44' 14.647" E	338	52° 44' 49.680" N	2° 15' 59.308" E
71	52° 47' 16.520" N	2° 44' 14.023" E	339	52° 44' 49.731" N	2° 15' 59.809" E

72	52° 47' 16.658" N	2° 44' 12.664" E	340	52° 44' 49.791" N	2° 16' 0.309" E
73	52° 47' 16.784" N	2° 44' 10.663" E	341	52° 44' 51.112" N	2° 16' 10.573" E
74	52° 47' 16.834" N	2° 44' 8.653" E	342	52° 44' 51.112" N	2° 16' 10.573" E
75	52° 47' 16.807" N	2° 44' 6.642" E	343	52° 45' 49.555" N	2° 23' 47.080" E
76	52° 47' 16.703" N	2° 44' 4.638" E	344	52° 45' 49.556" N	2° 23' 47.093" E
77	52° 47' 16.559" N	2° 44' 3.046" E	345	52° 45' 49.762" N	2° 23' 48.593" E
78	52° 47' 15.589" N	2° 43' 55.247" E	346	52° 45' 50.105" N	2° 23' 50.522" E
79	52° 47' 14.341" N	2° 43' 45.216" E	347	52° 45' 50.521" N	2° 23' 52.412" E
80	52° 47' 13.615" N	2° 43' 39.381" E	348	52° 45' 51.008" N	2° 23' 54.255" E
81	52° 47' 13.538" N	2° 43' 38.765" E	349	52° 45' 51.565" N	2° 23' 56.044" E
82	52° 43' 46.039" N	2° 16' 19.075" E	350	52° 45' 52.188" N	2° 23' 57.772" E
83	52° 43' 45.182" N	2° 16' 10.004" E	351	52° 45' 52.876" N	2° 23' 59.431" E
84	52° 43' 44.634" N	2° 16' 0.162" E	352	52° 45' 53.626" N	2° 24' 1.017" E
85	52° 43' 44.531" N	2° 15' 54.221" E	353	52° 45' 54.434" N	2° 24' 2.521" E
86	52° 43' 44.490" N	2° 15' 51.462" E	354	52° 45' 55.299" N	2° 24' 3.939" E
87	52° 43' 44.512" N	2° 7' 23.550" E	355	52° 45' 56.215" N	2° 24' 5.265" E
88	52° 42' 44.166" N	2° 3' 14.512" E	356	52° 45' 57.180" N	2° 24' 6.493" E
89	52° 42' 43.152" N	2° 3' 9.802" E	357	52° 45' 58.191" N	2° 24' 7.619" E
90	52° 42' 42.369" N	2° 3' 4.946" E	358	52° 45' 59.242" N	2° 24' 8.639" E
91	52° 42' 31.534" N	2° 1' 44.644" E	359	52° 46' 0.330" N	2° 24' 9.547" E
92	52° 42' 31.056" N	2° 1' 40.338" E	360	52° 46' 1.450" N	2° 24' 10.341" E
93	52° 42' 30.948" N	2° 1' 39.044" E	361	52° 46' 2.598" N	2° 24' 11.017" E
94	52° 42' 30.701" N	2° 1' 34.686" E	362	52° 46' 3.770" N	2° 24' 11.573" E
95	52° 42' 30.654" N	2° 1' 30.309" E	363	52° 46' 4.960" N	2° 24' 12.007" E
96	52° 42' 30.675" N	2° 1' 29.003" E	364	52° 46' 6.165" N	2° 24' 12.317" E
97	52° 42'	2° 1' 25.173"	365	52° 46'	2° 24'

	30.833" N	E		7.380" N	12.501" E
98	52° 42'	2° 0' 49.768"	366	52° 46'	2° 24'
	33.173" N	E		8.022" N	12.532" E
99	52° 42'	2° 0' 40.941"	367	52° 46'	2° 24'
	34.216" N	E		9.762" N	12.670" E
100	52° 42'	2° 0' 39.649"	368	52° 50'	2° 24'
	34.439" N	E		9.656" N	31.707" E
101	52° 42'	2° 0' 35.379"	369	52° 51'	2° 34'
	35.302" N	E		3.549" N	15.864" E
102	52° 42'	2° 0' 7.655" E	370	52° 51'	2° 34'
	41.649" N			3.486" N	19.188" E
103	52° 42'	2° 0' 0.073" E	371	52° 51'	2° 34'
	43.788" N			3.295" N	22.530" E
104	52° 42'	1° 59'	372	52° 51'	2° 34'
	44.149" N	59.016" E		2.978" N	25.846" E
105	52° 42'	1° 59'	373	52° 51'	2° 34'
	45.445" N	55.557" E		2.535" N	29.122" E
106	52° 42'	1° 59'	374	52° 51'	2° 34'
	55.437" N	30.877" E		1.968" N	32.346" E
107	52° 42'	1° 59'	375	52° 51'	2° 34'
	55.855" N	29.924" E		1.280" N	35.504" E
108	52° 42'	1° 59'	376	52° 51'	2° 34'
	58.378" N	24.593" E		0.473" N	38.585" E
109	52° 42'	1° 59'	377	52° 50'	2° 34'
	58.842" N	23.685" E		59.551" N	41.577" E
110	52° 43'	1° 59'	378	52° 50'	2° 34'
	0.673" N	20.588" E		58.516" N	44.466" E
111	52° 43'	1° 59'	379	52° 50'	2° 34'
	2.861" N	17.394" E		57.374" N	47.243" E
112	52° 43'	1° 58'	380	52° 50'	2° 34'
	17.859" N	57.179" E		56.129" N	49.896" E
113	52° 43'	1° 58'	381	52° 50'	2° 34'
	19.625" N	54.953" E		54.785" N	52.414" E
114	52° 43'	1° 58'	382	52° 50'	2° 34'
	21.284" N	53.106" E		53.348" N	54.787" E
115	52° 43'	1° 58'	383	52° 50'	2° 34'
	21.796" N	52.576" E		51.823" N	57.007" E
116	52° 43'	1° 58'	384	52° 50'	2° 34'
	23.547" N	50.895" E		50.218" N	59.065" E
117	52° 45'	1° 56'	385	52° 50'	2° 35' 0.952"
	46.103" N	43.184" E		48.537" N	E
118	52° 46'	1° 56'	386	52° 50'	2° 35' 2.661"
	2.160" N	27.260" E		46.788" N	E
119	52° 46'	1° 56'	387	52° 50'	2° 35' 4.185"
	3.532" N	26.078" E		44.977" N	E
120	52° 46'	1° 56'	388	52° 50'	2° 35' 5.518"
	17.577" N	12.146" E		43.112" N	E
121	52° 46'	1° 55'	389	52° 50'	2° 35' 6.655"
	37.038" N	33.566" E		41.200" N	E
122	52° 46'	1° 54'	390	52° 50'	2° 35' 7.591"
	51.513" N	38.977" E		39.248" N	E



123	52° 46' 58.151" N	1° 53' 21.115" E	391	52° 50' 37.265" N	2° 35' 8.323" E
124	52° 46' 59.490" N	1° 52' 52.341" E	392	52° 50' 33.492" N	2° 35' 9.272" E
125	52° 47' 32.039" N	1° 39' 38.159" E	393	52° 50' 32.920" N	2° 35' 9.346" E
126	52° 47' 32.129" N	1° 39' 36.152" E	394	52° 46' 31.498" N	2° 26' 1.301" E
127	52° 47' 32.273" N	1° 39' 33.526" E	395	52° 46' 31.407" N	2° 26' 1.294" E
128	52° 47' 32.388" N	1° 39' 31.565" E	396	52° 46' 31.505" N	2° 26' 1.330" E
129	52° 47' 32.521" N	1° 39' 29.607" E	397	52° 46' 30.476" N	2° 26' 1.280" E
130	52° 47' 32.673" N	1° 39' 27.652" E	398	52° 46' 29.257" N	2° 26' 1.347" E
131	52° 47' 32.844" N	1° 39' 25.702" E	399	52° 46' 28.043" N	2° 26' 1.540" E
132	52° 47' 33.028" N	1° 39' 23.714" E	400	52° 46' 26.839" N	2° 26' 1.859" E
133	52° 47' 33.217" N	1° 39' 21.768" E	401	52° 46' 25.650" N	2° 26' 2.301" E
134	52° 47' 33.425" N	1° 39' 19.828" E	402	52° 46' 24.480" N	2° 26' 2.866" E
135	52° 47' 33.652" N	1° 39' 17.893" E	403	52° 46' 23.333" N	2° 26' 3.551" E
136	52° 47' 33.896" N	1° 39' 15.964" E	404	52° 46' 22.215" N	2° 26' 4.353" E
137	52° 47' 34.155" N	1° 39' 13.999" E	405	52° 46' 21.130" N	2° 26' 5.269" E
138	52° 47' 34.419" N	1° 39' 12.073" E	406	52° 46' 20.230" N	2° 26' 6.150" E
139	52° 47' 34.701" N	1° 39' 10.153" E	407	52° 46' 20.081" N	2° 26' 6.296" E
140	52° 47' 35.001" N	1° 39' 8.241" E	408	52° 46' 19.074" N	2° 26' 7.430" E
141	52° 47' 35.320" N	1° 39' 6.337" E	409	52° 46' 18.112" N	2° 26' 8.665" E
142	52° 47' 35.827" N	1° 39' 3.397" E	410	52° 46' 17.199" N	2° 26' 9.998" E
143	52° 47' 36.193" N	1° 39' 1.398" E	411	52° 46' 16.338" N	2° 26' 11.422" E
144	52° 47' 36.599" N	1° 38' 59.313" E	412	52° 46' 15.534" N	2° 26' 12.933" E
145	52° 47' 37.000" N	1° 38' 57.371" E	413	52° 46' 14.788" N	2° 26' 14.524" E
146	52° 47' 37.497" N	1° 38' 55.056" E	414	52° 46' 14.105" N	2° 26' 16.189" E
147	52° 47' 37.906" N	1° 38' 53.193" E	415	52° 46' 13.486" N	2° 26' 17.921" E
148	52° 47'	1° 38'	416	52° 46'	2° 26'

	38.332" N	51.340" E		12.935" N	19.714" E
149	52° 47'	1° 38'	417	52° 46'	2° 26'
	38.777" N	49.499" E		12.453" N	21.561" E
150	52° 47'	1° 38'	418	52° 46'	2° 26'
	39.239" N	47.670" E		12.042" N	23.454" E
151	52° 48'	1° 33'	419	52° 46'	2° 26'
	59.902" N	32.091" E		11.704" N	25.386" E
152	52° 49'	1° 33'	420	52° 46'	2° 26'
	1.602" N	25.973" E		11.440" N	27.349" E
153	52° 49'	1° 33'	421	52° 46'	2° 26'
	2.819" N	19.121" E		11.252" N	29.335" E
154	52° 49'	1° 33'	422	52° 46'	2° 26'
	3.674" N	13.073" E		11.139" N	31.337" E
155	52° 49'	1° 33' 6.096"	423	52° 46'	2° 26'
	3.797" N	E		11.103" N	33.346" E
156	52° 49'	1° 32'	424	52° 46'	2° 26'
	2.898" N	57.549" E		11.144" N	35.356" E
157	52° 49'	1° 32'	425	52° 46'	2° 26'
	4.139" N	54.271" E		11.261" N	37.357" E
158	52° 49'	1° 32'	426	52° 46'	2° 26'
	4.845" N	52.212" E		11.399" N	38.780" E
159	52° 49'	1° 32'	427	52° 46'	2° 26'
	5.188" N	51.467" E		11.399" N	38.781" E
160	52° 49'	1° 32'	428	52° 46'	2° 26'
	6.147" N	49.575" E		11.399" N	38.782" E
161	52° 49'	1° 32'	429	52° 47'	2° 33'
	7.035" N	47.473" E		4.976" N	42.433" E
162	52° 49'	1° 32'	430	52° 47'	2° 33'
	7.208" N	46.999" E		5.398" N	45.780" E
163	52° 49'	1° 32'	431	52° 47'	2° 33'
	8.015" N	44.486" E		6.051" N	50.967" E
164	52° 49'	1° 32'	432	52° 47'	2° 33'
	8.663" N	42.319" E		6.366" N	53.472" E
165	52° 49'	1° 32'	433	52° 47'	2° 33'
	8.910" N	41.417" E		6.366" N	53.472" E
166	52° 49'	1° 32'	434	52° 47'	2° 33'
	9.102" N	41.019" E		6.366" N	53.473" E
167	52° 49'	1° 32'	435	52° 47'	2° 33'
	9.635" N	40.648" E		6.675" N	55.224" E
168	52° 49'	1° 32'	436	52° 47'	2° 33'
	9.807" N	40.345" E		7.088" N	57.116" E
169	52° 49'	1° 32'	437	52° 47'	2° 33'
	9.768" N	39.737" E		7.573" N	58.962" E
170	52° 49'	1° 32'	438	52° 47'	2° 34' 0.754"
	9.855" N	38.941" E		8.126" N	E
171	52° 49'	1° 32'	439	52° 47'	2° 34' 2.485"
	10.086" N	38.247" E		8.747" N	E
172	52° 49'	1° 32'	440	52° 47'	2° 34' 4.148"
	10.218" N	37.939" E		9.433" N	E
173	52° 49'	1° 32'	441	52° 47'	2° 34' 5.737"
	10.691" N	36.993" E		10.180" N	E

174	52° 49' 11.553" N	1° 32' 35.417" E	442	52° 47' 10.987" N	2° 34' 7.246" E
175	52° 49' 12.200" N	1° 32' 33.887" E	443	52° 47' 11.849" N	2° 34' 8.668" E
176	52° 49' 12.742" N	1° 32' 32.736" E	444	52° 47' 12.764" N	2° 34' 9.998" E
177	52° 49' 13.080" N	1° 32' 31.922" E	445	52° 47' 13.727" N	2° 34' 11.230" E
178	52° 49' 13.507" N	1° 32' 31.040" E	446	52° 47' 14.736" N	2° 34' 12.361" E
179	52° 49' 14.325" N	1° 32' 29.767" E	447	52° 47' 15.785" N	2° 34' 13.384" E
180	52° 49' 14.340" N	1° 32' 29.796" E	448	52° 47' 16.872" N	2° 34' 14.297" E
181	52° 49' 15.178" N	1° 32' 31.478" E	449	52° 47' 17.991" N	2° 34' 15.096" E
182	52° 49' 15.638" N	1° 32' 32.401" E	450	52° 47' 19.138" N	2° 34' 15.777" E
183	52° 49' 45.178" N	1° 33' 31.705" E	451	52° 47' 20.309" N	2° 34' 16.338" E
184	52° 49' 45.944" N	1° 33' 33.513" E	452	52° 47' 21.499" N	2° 34' 16.777" E
185	52° 49' 46.772" N	1° 33' 35.540" E	453	52° 47' 22.704" N	2° 34' 17.091" E
186	52° 49' 47.579" N	1° 33' 37.591" E	454	52° 47' 23.918" N	2° 34' 17.280" E
187	52° 49' 48.363" N	1° 33' 39.664" E	455	52° 47' 25.496" N	2° 34' 17.365" E
188	52° 49' 49.126" N	1° 33' 41.760" E	456	52° 48' 2.953" N	2° 26' 36.184" E
189	52° 49' 49.866" N	1° 33' 43.878" E	457	52° 48' 2.518" N	2° 26' 33.730" E
190	52° 49' 50.585" N	1° 33' 46.016" E	458	52° 48' 1.985" N	2° 26' 31.328" E
191	52° 49' 51.280" N	1° 33' 48.175" E	459	52° 48' 1.357" N	2° 26' 28.991" E
192	52° 49' 51.952" N	1° 33' 50.354" E	460	52° 48' 1.009" N	2° 26' 27.849" E
193	52° 49' 52.602" N	1° 33' 52.551" E	461	52° 48' 0.243" N	2° 26' 25.626" E
194	52° 49' 53.228" N	1° 33' 54.767" E	462	52° 47' 59.827" N	2° 26' 24.547" E
195	52° 49' 53.831" N	1° 33' 57.000" E	463	52° 47' 58.931" N	2° 26' 22.461" E
196	52° 49' 54.410" N	1° 33' 59.251" E	464	52° 47' 57.954" N	2° 26' 20.477" E
197	52° 49' 54.965" N	1° 34' 1.518" E	465	52° 47' 57.436" N	2° 26' 19.526" E
198	52° 49' 55.496" N	1° 34' 3.800" E	466	52° 47' 56.343" N	2° 26' 17.712" E
199	52° 49'	1° 34' 6.098"	467	52° 47'	2° 26'

	56.003" N	E		55.181" N	16.022" E
200	52° 49'	1° 34' 8.409"	468	52° 47'	2° 26'
	56.486" N	E		53.953" N	14.462" E
210	52° 49'	1° 34'	469	52° 47'	2° 26'
	56.944" N	10.735" E		53.316" N	13.734" E
202	52° 49'	1° 34'	470	52° 47'	2° 26'
	57.378" N	13.073" E		52.000" N	12.384" E
203	52° 49'	1° 34'	471	52° 47'	2° 26'
	57.786" N	15.423" E		51.322" N	11.763" E
204	52° 49'	1° 34'	472	52° 47'	2° 26'
	58.171" N	17.784" E		49.931" N	10.635" E
205	52° 49'	1° 34'	473	52° 47'	2° 26' 9.662"
	58.530" N	20.157" E		48.498" N	E
206	52° 49'	1° 34'	474	52° 47'	2° 26' 8.847"
	58.864" N	22.539" E		47.030" N	E
207	52° 49'	1° 34'	475	52° 47'	2° 26' 8.195"
	59.173" N	24.930" E		45.531" N	E
208	52° 49'	1° 34'	476	52° 47'	2° 26' 7.739"
	59.456" N	27.330" E		44.124" N	E
209	52° 49'	1° 34'	477	52° 47'	2° 26' 7.446"
	59.714" N	29.738" E		42.819" N	E
210	52° 49'	1° 34'	478	52° 47'	2° 26' 7.422"
	59.947" N	32.153" E		42.518" N	E
211	52° 50'	1° 34'	479	52° 47'	2° 26' 6.759"
	0.154" N	34.574" E		40.198" N	E
212	52° 50'	1° 34'	480	52° 47'	2° 26' 6.180"
	0.336" N	37.001" E		32.505" N	E
213	52° 50'	1° 34'	481	52° 50'	2° 35' 9.316"
	0.492" N	39.433" E		2.151" N	E
214	52° 50'	1° 34'	482	52° 47'	2° 35'
	0.623" N	41.869" E		39.858" N	10.667" E
215	52° 50'	1° 34'	483	52° 47'	2° 35'
	0.727" N	44.308" E		38.680" N	10.728" E
216	52° 50'	1° 34'	484	52° 47'	2° 35'
	0.806" N	46.750" E		37.466" N	10.917" E
217	52° 50'	1° 34'	485	52° 47'	2° 35'
	0.859" N	49.193" E		36.261" N	11.231" E
218	52° 50'	1° 34'	486	52° 47'	2° 35'
	0.887" N	51.638" E		35.071" N	11.670" E
219	52° 50'	1° 34'	487	52° 47'	2° 35'
	0.888" N	54.083" E		33.900" N	12.231" E
220	52° 50'	1° 34'	488	52° 47'	2° 35'
	0.864" N	56.528" E		32.753" N	12.912" E
221	52° 50'	1° 34'	489	52° 47'	2° 35'
	0.814" N	58.972" E		31.634" N	13.711" E
222	52° 50'	1° 35' 1.414"	490	52° 47'	2° 35'
	0.739" N	E		30.547" N	14.623" E
223	52° 50'	1° 35' 3.854"	491	52° 47'	2° 35'
	0.637" N	E		29.498" N	15.647" E
224	52° 50'	1° 35' 6.290"	492	52° 47'	2° 35'
	0.510" N	E		28.489" N	16.777" E

225	52° 50' 0.357" N	1° 35' 8.722" E	493	52° 47' 27.525" N	2° 35' 18.010" E
226	52° 50' 0.178" N	1° 35' 11.150" E	494	52° 47' 26.611" N	2° 35' 19.340" E
227	52° 49' 59.974" N	1° 35' 13.572" E	495	52° 47' 25.748" N	2° 35' 20.762" E
228	52° 49' 59.745" N	1° 35' 15.987" E	496	52° 47' 24.942" N	2° 35' 22.271" E
229	52° 49' 59.490" N	1° 35' 18.396" E	497	52° 47' 24.194" N	2° 35' 23.860" E
230	52° 49' 59.209" N	1° 35' 20.797" E	498	52° 47' 23.509" N	2° 35' 25.523" E
231	52° 49' 58.903" N	1° 35' 23.190" E	499	52° 47' 22.888" N	2° 35' 27.254" E
232	52° 49' 58.573" N	1° 35' 25.573" E	500	52° 47' 22.334" N	2° 35' 29.046" E
233	52° 49' 58.217" N	1° 35' 27.947" E	501	52° 47' 21.849" N	2° 35' 30.892" E
234	52° 49' 57.836" N	1° 35' 30.310" E	502	52° 47' 21.436" N	2° 35' 32.784" E
235	52° 49' 57.430" N	1° 35' 32.661" E	503	52° 47' 21.096" N	2° 35' 34.716" E
236	52° 49' 56.999" N	1° 35' 35.001" E	504	52° 47' 20.829" N	2° 35' 36.678" E
237	52° 49' 56.544" N	1° 35' 37.328" E	505	52° 47' 20.638" N	2° 35' 38.665" E
238	52° 49' 56.064" N	1° 35' 39.641" E	506	52° 47' 20.523" N	2° 35' 40.667" E
239	52° 49' 55.560" N	1° 35' 41.940" E	507	52° 47' 20.485" N	2° 35' 42.678" E
240	52° 49' 55.032" N	1° 35' 44.225" E	508	52° 47' 20.523" N	2° 35' 44.688" E
241	52° 49' 54.480" N	1° 35' 46.494" E	509	52° 47' 20.637" N	2° 35' 46.691" E
242	52° 49' 53.904" N	1° 35' 48.746" E	510	52° 47' 20.743" N	2° 35' 47.801" E
243	52° 49' 53.304" N	1° 35' 50.982" E	511	52° 47' 20.744" N	2° 35' 47.806" E
244	52° 49' 52.681" N	1° 35' 53.200" E	512	52° 47' 21.786" N	2° 35' 56.101" E
245	52° 49' 52.034" N	1° 35' 55.400" E	513	52° 48' 20.763" N	2° 43' 47.964" E
246	52° 49' 51.868" N	1° 35' 55.943" E	514	52° 48' 21.026" N	2° 43' 49.928" E
247	52° 48' 40.863" N	1° 39' 22.453" E	515	52° 48' 21.364" N	2° 43' 51.862" E
248	52° 48' 40.702" N	1° 39' 22.924" E	516	52° 48' 21.774" N	2° 43' 53.756" E
249	52° 48' 40.367" N	1° 39' 23.994" E	517	52° 48' 22.256" N	2° 43' 55.605" E
250	52° 48'	1° 39'	518	52° 48'	2° 43'

	40.234" N	24.393" E		22.808" N	57.400" E
251	52° 48'	1° 39'	519	52° 48'	2° 43'
	40.107" N	24.797" E		23.426" N	59.134" E
252	52° 48'	1° 39'	520	52° 48'	2° 44' 0.800"
	39.560" N	26.596" E		24.109" N	E
253	52° 48'	1° 39'	521	52° 48'	2° 44' 2.393"
	39.405" N	27.124" E		24.854" N	E
254	52° 48'	1° 39'	522	52° 48'	2° 44' 3.905"
	39.261" N	27.661" E		25.659" N	E
255	52° 48'	1° 39'	523	52° 48'	2° 44' 5.331"
	38.783" N	29.512" E		26.519" N	E
256	52° 48'	1° 39'	524	52° 48'	2° 44' 6.665"
	38.649" N	30.055" E		27.432" N	E
257	52° 48'	1° 39'	525	52° 48'	2° 44' 7.902"
	38.525" N	30.606" E		28.394" N	E
258	52° 48'	1° 39'	526	52° 48'	2° 44' 9.037"
	38.044" N	32.861" E		29.401" N	E
259	52° 48'	1° 39'	527	52° 48'	2° 44'
	37.927" N	33.484" E		30.449" N	10.065" E
260	52° 48'	1° 39'	528	52° 48'	2° 44'
	37.569" N	35.557" E		31.534" N	10.983" E
261	52° 48'	1° 39'	529	52° 48'	2° 44'
	37.477" N	36.124" E		32.652" N	11.786" E
262	52° 48'	1° 39'	530	52° 48'	2° 44'
	37.396" N	36.696" E		33.799" N	12.472" E
263	52° 48'	1° 39'	531	52° 48'	2° 44'
	37.137" N	38.662" E		34.969" N	13.037" E
264	52° 48'	1° 39'	532	52° 48'	2° 44'
	37.067" N	39.237" E		36.158" N	13.481" E
265	52° 48'	1° 39'	533	52° 48'	2° 44'
	37.008" N	39.816" E		37.362" N	13.800" E
266	52° 48'	1° 39'	534	52° 48'	2° 44'
	36.824" N	41.805" E		38.576" N	13.994" E
267	52° 48'	1° 39'	535	52° 48'	2° 44'
	36.776" N	42.387" E		39.226" N	14.030" E
268	52° 48'	1° 39'	536	52° 51'	2° 44'
	36.739" N	42.971" E		27.631" N	14.043" E

## PART 2

### Ancillary Works

1. Works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised development;
- (b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works; and
- (c) temporary works for the benefit or protection of land or structures affected by the authorised development.

## PART 3

### Requirements

#### Time limits

1. The authorised project must commence no later than the expiration of five years beginning with the date this Order comes into force.

#### Detailed offshore design parameters

2.—(1) Subject to paragraph (2), any wind turbine generator forming part of the authorised project must not—

- (a) exceed a height of 350 metres when measured from HAT to the tip of the vertical blade;
- (b) exceed a height of 198.5 metres to the height of the centreline of the generator shaft forming part of the hub when measured from HAT;
- (c) exceed a rotor diameter of 303 metres;
- (d) be less than 800 metres from the nearest wind turbine generator in either direction perpendicular to the approximate prevailing wind direction (crosswind) or be less than 800 metres from the nearest wind turbine generator in either direction which is in line with the approximate prevailing wind direction (downwind);
- (e) have a draught height which is less than the minimum draught height specified for the relevant wind turbine generator capacity in the table below—

<i>Wind Turbine Generator Capacity</i>	<i>Minimum draught height</i>
Up to and including 14.6MW	35m from MHWS
14.7 MW and above	30m from MHWS

(2) References to the location of a wind turbine generator in paragraph (2) above are references to the centre point of that turbine.

3.—(1) The total number of wind turbine generators forming part of the authorised project must not exceed 158 and must be configured such that at any time—

- (a) no more than two-thirds of the total number of wind turbine generators (rounded to the nearest whole number) must be located in Norfolk Vanguard West; and
- (b) no more than one-half of the total number of wind turbine generators (rounded to the nearest whole number) must be located in Norfolk Vanguard East.

(2) The total number of offshore electrical platforms forming part of the authorised project must not exceed two.

(3) The total number of accommodation platforms must not exceed two.

(4) The total number of meteorological masts must not exceed two.

(5) The total number of LIDAR measurement buoys must not exceed two and the total number of wave measurement buoys must not exceed two.

4.—(1) The dimensions of any offshore electrical platforms forming part of the authorised project (excluding towers, helipads, masts and cranes) must not exceed 100 metres in height when measured from HAT, 120 metres in length and 80 metres in width.

(2) The dimensions of any accommodation platform forming part of the authorised project (excluding helipads) must not exceed 100 metres in height when measured from HAT, 90 metres in length and 60 metres in width.

(3) Each meteorological mast must not exceed a height of 200 metres above HAT.

(4) Each meteorological mast must not have more than one supporting foundation.

5. The total length of the cables and the volume and area of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection (m<sup>2</sup> and m<sup>3</sup>)</i>
Work No. 1(e) (array)	600 kilometres	389,000m <sup>2</sup> 198,500m <sup>3</sup>
Work No. 3 (interconnector link)	150 kilometres	76,000m <sup>2</sup> 38,000m <sup>3</sup>
Work No. 4A and 4B (export cable)	400 kilometres	102,086m <sup>2</sup> 59,836m <sup>3</sup>

6.—(1) In relation to a wind turbine generator, each foundation using piles must not have—

- (a) more than four driven piles;
- (b) in the case of single pile structures, a pile diameter which is more than 15 metres; or
- (c) in the case of two or more pile structures, have a pile diameter which is more than five metres.

(2) In relation to a wind turbine generator, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 1,963 m<sup>2</sup>.

7.—(1) In relation to a meteorological mast, each foundation using piles must not have—

- (a) more than four driven piles;
- (b) in the case of single pile structures, a pile diameter which is more than 10 metres;
- (c) in the case of two or more pile structures, have a pile diameter which is more than three metres.

(2) In relation to a meteorological mast, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 314 m<sup>2</sup>.

8.—(1) In relation to an offshore electrical platform, each foundation using piles must not have—

- (a) more than 18 driven piles;
- (b) in the case of two or more pile structures, have a pile diameter which is more than five metres.

(2) In relation to the offshore electrical platform(s), the foundations must not have a combined seabed footprint area (excluding scour protection) of greater than 15,000 m<sup>2</sup>.

9.—(1) In relation to any accommodation platform, each foundation using piles must not have—

- (a) more than six driven piles;
- (b) in the case of two or more pile structures, have a pile diameter which is more than three metres.

(2) In relation to an accommodation platform, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 7,500 m<sup>2</sup>.

10.—(1) In relation to any LIDAR measurement buoys, each foundation using piles must not have a pile diameter of greater than 10 metres.

(2) In relation to any LIDAR measurement buoys, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 79 m<sup>2</sup> per buoy and 157m<sup>2</sup> in total.

(3) In relation to any wave measurement buoys, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 150m<sup>2</sup> per buoy and 300 m<sup>2</sup> in total.

11. The total amount of scour protection for the wind turbine generators, accommodation platform, meteorological masts, offshore electrical platforms and LIDAR measurement buoys forming part of the authorised project must not exceed 5,196,703m<sup>2</sup> and 25,983,515m<sup>3</sup>.



### Aviation safety

12.—(1) The undertaker must exhibit such lights, with such shape, colour and character and at such times as are required in writing by Air Navigation Order 2016(a) and/or determined necessary for aviation safety in consultation with the Defence Infrastructure Organisation Safeguarding and as directed by the CAA. Lighting installed specifically to meet Ministry of Defence aviation safety requirements must remain operational for the life of the authorised development unless otherwise agreed in writing with the Ministry of Defence.

(2) The undertaker must notify the Defence Infrastructure Organisation Safeguarding, at least 14 days prior to the commencement of the offshore works, in writing of the following information—

- (a) the date of the commencement of construction of the offshore works;
- (b) the date any wind turbine generators are brought into use;
- (c) the maximum height of any construction equipment to be used;
- (d) the maximum heights of any wind turbine generator, meteorological mast, offshore electrical platform and accommodation platform to be constructed;
- (e) the latitude and longitude of each wind turbine generator, meteorological mast, offshore electrical platform and accommodation platform to be constructed,

and the Defence Infrastructure Organisation Safeguarding must be notified of any changes to the information supplied under this paragraph and of the completion of the construction of the offshore works.

### Ministry of Defence surveillance operations

13.—(1) No wind turbine generator forming part of the authorised development is permitted to rotate its rotor blades on its horizontal axis until the Secretary of State having consulted with the Ministry of Defence confirms satisfaction in writing that appropriate mitigation will be implemented and maintained for the life of the authorised development and that arrangements have been put in place with the Ministry of Defence to ensure that the approved mitigation is implemented.

(2) For the purposes of this requirement—

- (a) “appropriate mitigation” means measures to prevent or remove any adverse effects which the authorised development will have on the air defence radar at Remote Radar Head (RRH) Trimingham and the Ministry of Defence’s air surveillance and control operations;
- (b) “approved mitigation” means the detailed Radar Mitigation Scheme (RMS) that will set out the appropriate measures and timescales for implementation as agreed with the Ministry of Defence at the time the Secretary of State confirms satisfaction in writing in accordance with paragraph (1);
- (c) “Ministry of Defence” means the Ministry of Defence as represented by Defence Infrastructure Organisation – Safeguarding, Kingston Road, Sutton Coldfield, B75 7RL or any successor body.

(3) The undertaker must thereafter comply with all other obligations contained within the approved mitigation for the life of the authorised development.

### Offshore decommissioning

14. No offshore works may commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) (Requirement to prepare decommissioning programmes) of the 2004 Act has been submitted to the Secretary of State for approval.

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(a) S.I. 2016/765.

### **Stages of authorised development onshore**

**15.**—(1) The onshore transmission works may not be commenced until notification has been submitted to the relevant planning authority detailing whether the onshore works will be constructed:

- (a) in a single onshore phase; or
- (b) in two onshore phases.

(2) The onshore transmission works may not be commenced until a written scheme setting out the stages of the onshore transmission works for the relevant onshore phase has been submitted to the relevant planning authority.

(3) The written scheme must be implemented as notified under paragraph 2.

### **Detailed design parameters onshore**

**16.**—(1) The total number of buildings housing the principal electrical equipment for the onshore project substation comprised in Work No. 8A must not exceed two.

(2) Construction works for the buildings referred to in paragraph (1) above must not commence until details of the layout, scale and external appearance of the same have been submitted to and approved by the relevant planning authority.

(3) The onshore project substation must be carried out in accordance with the approved details.

(4) Any details provided by the undertaker pursuant to paragraph (2) must accord with the design and access statement and be within the Order limits.

(5) Buildings comprised in Work No. 8A must not exceed a height of 19 metres above existing ground level and external electrical equipment comprised in Work No. 8A must not exceed a height of 25 metres above existing ground level.

(6) The total footprint of each building housing the principal electrical equipment for the onshore project substation comprised in Work No. 8A must not exceed 110 metres by 70 metres.

(7) The fenced compound area (excluding its accesses) for the onshore project substation comprised in Work No. 8A must not exceed 250 metres by 300 metres.

(8) For the purposes of subparagraph (5) of this requirement ‘existing ground level’ means 71 metres above ordnance datum.

(9) The external electrical equipment comprised in Work No. 10A must not exceed a height of 15 metres above existing ground level.

(10) For the purposes of subparagraph (9) of this requirement ‘existing ground level’ means 69 metres above ordnance datum.

(11) The fenced compound area (excluding its accesses) for the extension to the Necton National Grid substation comprised in Work No. 10A must not exceed 200 metres by 150 metres.

(12) Construction works for the permanent replacement overhead pylons comprised in Work No. 11 must not commence until details of the same have been submitted to and approved by the relevant planning authority.

(13) The permanent replacement overhead line pylon works comprised in Work No. 11 must be carried out in accordance with the approved details.

(14) The permanent replacement overhead line pylons comprised in Work No. 11 must not exceed a height of 55 metres above existing ground level.

(15) The total footprint of each permanent replacement overhead line pylon comprised in Work No. 11 must not exceed 25 metres by 25 metres.

(16) For the purposes of subparagraph (14) of this requirement ‘existing ground level’ means between 66 and 69 metres above ordnance datum in respect of the eastern pylon identified on work plan 41 of 42 with the letter ‘E’ and between 68 and 70 metres above ordnance datum in respect of the eastern pylon identified on work plan 41 of 42 with the letter ‘W’.

(17) Trenchless installation techniques must be used for the purposes of passing under—

- (a) the River Wensum (Work No. 7);
  - (b) King's Beck (Work No. 5);
  - (c) Wendling Beck (Work No. 7);
  - (d) River Bure (Work No. 6);
  - (e) North Walsham and Dilham Canal (Work No. 5);
  - (f) the Witton Hall Plantation along Old Hall Road (Work No. 5);
  - (g) the Wendling Carr County Wildlife Site (Work No. 7);
  - (h) Little Wood County Wildlife Site (Work No. 7);
  - (i) land south of the Dillington Carr County Wildlife Site (Work No. 7);
  - (j) Kerdiston proposed County Wildlife Site (Work No. 6);
  - (k) Marriott's Way County Wildlife Site/ Public Right of Way (Work No. 6);
  - (l) Paston Way and Knapton Cutting County Wildlife Site (Work No. 5);
  - (m) Norfolk Coast Path (Work No. 4C);
  - (n) Norwich to Cromer railway line at north Walsham (Work No. 5);
  - (o) Wymondham to North Elmham Railway line at Dereham (Work No. 7);
  - (p) A47 Road (Work No. 7);
  - (q) A140 Road (Work No. 6);
  - (r) A149 Road (Work No. 5);
  - (s) A1067 Road (Work No. 7); and
  - (t) In circumstances where the Hornsea Three Offshore Wind Farm Development Consent Order is made and its development commences, there shall be trenchless crossing of the B1149 (Work No. 6).
- (18) The number of underground cable ducts to be installed at the landfall must not exceed two.

#### **Landfall method statement**

17.—(1) No part of Works No. 4A, 4B or 4C may commence until a method statement for the construction of Works No. 4A, 4B and 4C has been submitted to and approved in writing by North Norfolk District Council in consultation with Natural England.

(2) The method statement referred to in paragraph (1) must include measures for long horizontal directional drilling below the coastal shore platform and cliff base at the landfall as well as measures for ongoing inspection of Work No. 4C and reporting of results to North Norfolk District Council during the operation of the authorised project.

(3) In the event that inspections indicate that as a result of the rate and extent of landfall erosion Work No. 4C could become exposed during the operation of the authorised project the undertaker must, as soon as practicable, submit proposals in writing for remedial measures to protect Work No. 4C, together with a timetable for their implementation, to North Norfolk District Council for their approval, in consultation with Natural England.

(4) The method statement and any proposals for remedial measures must be implemented as approved.

#### **Provision of landscaping**

18.—(1) No stage of the onshore transmission works may commence until for that stage a written landscaping management scheme and associated work programme (which accords with the outline landscape and ecological management strategy) has been submitted to and approved by the relevant planning authority in consultation with Natural England.

(2) The landscaping management scheme must include details of proposed hard and soft landscaping works appropriate for the relevant stage, including—

- (a) location, number, species, size and planting density of any proposed planting, including any trees;
  - (b) cultivation, importing of materials and other operations to ensure plant establishment;
  - (c) hard surfacing materials;
  - (d) details of existing trees to be removed, and details of existing trees and hedgerows to be retained with measures for their protection during the construction period;
  - (e) retained historic landscape features and proposals for restoration, where relevant;
  - (f) implementation timetables for all landscaping works;
  - (g) proposed finished heights, form and gradient of earthworks; and
  - (h) maintenance of the landscaping.
- (3) The landscaping management scheme must be implemented as approved.

### **Implementation and maintenance of landscaping**

**19.**—(1) All landscaping works must be carried out in accordance with the landscaping management schemes approved under requirement 18 (provision of landscaping), and in accordance with the relevant recommendations of appropriate British Standards.

(2) Any tree or shrub planted as part of an approved landscaping management scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless a different species is otherwise agreed in writing with the relevant planning authority.

### **Code of construction practice**

**20.**—(1) No stage of the onshore transmission works may commence until for that stage a code of construction practice has been submitted to and approved by the relevant planning authority, in consultation with Norfolk County Council, the Environment Agency, and Natural England.

(2) The code of construction practice must accord with the outline code of construction practice and include details, as appropriate to the relevant stage, on—

- (a) relevant health, safety and environmental legislation and compliance;
- (b) local community liaison responsibilities;
- (c) artificial light emissions;
- (d) contaminated land and groundwater;
- (e) construction noise and vibration;
- (f) soil management;
- (g) construction method statements;
- (h) site and excavated waste management;
- (i) construction surface water and drainage;
- (j) materials management;
- (k) screening, fencing and site security;
- (l) air quality;
- (m) invasive species management; and
- (n) proposals for managing public rights of way.

(3) The code of construction practice approved in relation to the relevant stage of the onshore transmission works must be followed in relation to that stage of the onshore transmission works.

(4) Pre-commencement screening, fencing and site security works must only take place in accordance with a specific plan for such pre-commencement works which must accord with the

relevant details for screening, fencing and site security set out in the outline code of construction practice, and which has been submitted to and approved by the relevant local authority.

### **Traffic**

**21.—**(1) No stage of the onshore transmission works may commence until for that stage the following plans, as appropriate for the relevant stage, have for that stage been submitted to and approved by the relevant planning authority in consultation with the highway authority—

- (a) a traffic management plan which must be in accordance with the outline traffic management plan;
- (b) a travel plan which must be in accordance with the outline travel plan; and
- (c) an access management plan which must be in accordance with the outline access management plan.

(2) The plans approved under paragraph (1) must be implemented upon commencement of the relevant stage of the onshore transmission works.

(3) If any of the accesses identified in the outline access management plan are required for pre-commencement archaeological investigations, a specific plan for such accesses which must accord with the relevant details set out in the outline access management plan must be submitted to and approved by the relevant planning authority, in consultation with the highway authority, prior to the construction and use of such accesses. The accesses identified must be constructed and used in accordance with the details contained in the specific plan so approved.

(4) In circumstances where the Hornsea Three Offshore Wind Farm Development Consent Order is made, and notwithstanding the requirement of sub-paragraph (a) of paragraph (1) above, the traffic management plan shall include, in respect of Link 34 as referred to in the Environmental Statement, revised details of a scheme of traffic mitigation which shall be submitted to, and approved in writing by, the relevant planning authority, in consultation with the highway authority.

(5) In circumstances where the Norfolk Boreas Development Consent Order is made and, in respect of Link 34, the Norfolk Boreas Outline Traffic Management Plan materially differs from the outline traffic management plan, the traffic management plan must include, in respect of Link 34, traffic mitigation which is consistent with the Norfolk Boreas Outline Traffic Management Plan but only to the extent that such mitigation is capable of being accommodated within the Order limits and does not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### **Highway accesses**

**22.—**(1) The access management plan submitted for approval under Requirement 21(1)(c) must include details of the siting, design, layout and any access management measures for any new, permanent or temporary means of access (including, where relevant, details of reinstatement measures) to a highway to be used by vehicular traffic, or any alteration to an existing means of access to a highway used by vehicular traffic.

(2) The highway accesses for each stage of the onshore transmission works must be constructed or altered and the works described in paragraph (1) above in relation to access management measures must be carried out, as the case may be, in accordance with the approved details before they are brought into use for the purposes of the authorised project.

### **Archaeological written scheme of investigation**

**23.—**(1) No stage of the onshore transmission works may commence until for that stage an archaeological written scheme of investigation (which accords with the outline written scheme of investigation (onshore)) has, after consultation with Norfolk County Council and Historic England, been submitted to and approved by the relevant planning authority.

(2) In the event that archaeological site investigation is required, the scheme must include details of the following—

- (a) an assessment of significance and research questions; and
- (b) the programme and methodology of site investigation and recording;
- (c) the programme for post investigation assessment;
- (d) provision to be made for analysis of the site investigation and recording;
- (e) provision to be made for publication and dissemination of the analysis and records of the site investigation;
- (f) provision to be made for archive deposition of the analysis and records of the site investigation; and
- (g) nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.

(3) Any archaeological site investigation, archaeological works or watching brief must be carried out in accordance with the approved scheme.

(4) Pre-commencement surveys, site preparation works and archaeological investigations must only take place in accordance with a specific written scheme of investigation which is in accordance with the details set out in the outline written scheme of investigation (onshore), and which has been submitted to and approved by the relevant local authority.

### **Ecological management plan**

**24.**—(1) No stage of the onshore transmission works may commence until for that stage a written ecological management plan (which accords with the outline landscape and ecological management strategy as appropriate for the relevant stage) has been submitted to and approved by the relevant planning authority in consultation with Natural England. The ecological management plan must be informed by post consent ecological surveying of previously un-surveyed areas for the relevant stage.

(2) The ecological management plan must include an implementation timetable and must be carried out as approved.

(3) Pre-commencement site clearance works must only take place in accordance with a specific ecological management plan for site clearance works which is in accordance with the relevant details for site clearance works set out in the outline landscape and ecological management strategy, and which has been submitted to and approved by the relevant local authority. The plan for site clearance works must be informed by post consent ecological surveying of previously un-surveyed areas for the relevant stage referred to in the plan.

(4) Construction works within 5km of the Broadland Special Protection Area and Ramsar site must be carried out in accordance with the mitigation relating to onshore ornithology contained in paragraphs 227 to 230 of the outline landscape and ecological management strategy, which must be incorporated into the ecological management plan.

### **Watercourse crossings**

**25.**—(1) No stage of the onshore transmission works involving the crossing, diversion and subsequent reinstatement of any designated main river or ordinary watercourse may commence until a scheme and programme for any such crossing, diversion and reinstatement in that stage has been submitted to and, approved by the relevant planning authority in consultation with Norfolk County Council, the Environment Agency, relevant drainage authorities and Natural England.

(2) The designated main river or ordinary watercourse must be crossed, diverted and subsequently reinstated in accordance with the approved scheme and programme.

(3) Unless otherwise permitted under paragraph (1), throughout the period of construction of the onshore transmission works, all ditches, watercourses, field drainage systems and culverts must be maintained such that the flow of water is not impaired or the drainage onto and from adjoining land rendered less effective.

### Construction hours

**26.**—(1) Construction work for the onshore transmission works must only take place between 0700 hours and 1900 hours Monday to Friday, and 0700 hours to 1300 hours on Saturdays, with no activity on Sundays or bank holidays, except as specified in paragraphs (2) to (4).

(2) Outside the hours specified in paragraph (1), construction work may be undertaken for essential activities including but not limited to—

- (a) continuous periods of operation that are required as assessed in the environmental statement, such as concrete pouring, drilling, and pulling cables (including fibre optic cables) through ducts;
- (b) delivery to the onshore transmission works of abnormal loads that may otherwise cause congestion on the local road network;
- (c) works required that may necessitate the temporary closure of roads;
- (d) onshore transmission works requiring trenchless installation techniques;
- (e) onshore transmission works at the landfall;
- (f) commissioning or outage works associated with the extension to the Necton National Grid substation comprised within Work No. 10A;
- (g) commissioning or outage works associated with the overhead line modification works comprised within Work No. 11 and Work No. 11A;
- (h) electrical installation; and
- (i) emergency works.

(3) Outside the hours specified in paragraph (1), construction work may be undertaken for non-intrusive activities including but not limited to—

- (a) fitting out works within the onshore project substation buildings comprised within Work No. 8A; and
- (b) daily start up or shut down;

(4) Save for emergency works, full details, including but not limited to type of activity, vehicle movements and type, timing and duration and any proposed mitigation, of all essential construction activities under paragraph (2) and undertaken outside the hours specified in paragraph (1) must be agreed with the relevant planning authority in writing in advance, and must be carried out within the agreed time.

(5) No crushing or screening works must take place at any time on any of the mobilisation areas, without the prior written consent of the relevant planning authority.

### Control of noise during operational phase and during maintenance

**27.**—(1) The noise rating level for the use of Work No. 8A and during maintenance must not exceed 35dB  $L_{Aeq, (5 \text{ minutes})}$  at any time at a free field location immediately adjacent to any noise sensitive location.

(2) The noise rating level for the use of Work No. 8A and during maintenance must not exceed 32 dB  $L_{Leq, (15 \text{ minutes})}$  in the 100Hz third octave band at any time at a free field location immediately adjacent to any noise sensitive location.

(3) Work No. 8A must not commence operation until a scheme for monitoring compliance with the noise rating levels set out in paragraphs (1) and (2) above has been submitted to and approved by the relevant planning authority. The scheme must include identification of suitable monitoring locations (and alternative surrogate locations if appropriate) and times when the monitoring is to take place to demonstrate that the noise levels have been achieved after both initial commencement of operations and six months after Work No. 8A is at full operational capacity. Such measurements must be submitted to the relevant planning authority no later than 28 days following completion to confirm the rating level of operational noise emissions do not exceed the levels specified in sub-paragraphs (1) and (2), including details of any remedial works and a programme of implementation should the emissions exceed the stated levels.

- (4) The monitoring scheme must be implemented as approved.

### **European protected species onshore**

**28.**—(1) No stage of the onshore transmission works may commence until final pre-construction survey work has been carried out to establish whether a European protected species is present on any of the land affected, or likely to be affected, by that stage of the onshore transmission works or in any of the trees to be lopped or felled as part of that stage of the onshore transmission works.

(2) Where a European protected species is shown to be present, the relevant part(s) of the onshore transmission works must not begin until, after consultation with Natural England and the relevant planning authority, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority. The onshore transmission works must be carried out in accordance with the approved scheme.

(3) “European protected species” has the same meaning as in regulations 42 and 46 of the Conservation of Habitats and Species Regulations 2017(a).

### **Onshore decommissioning**

**29.**—(1) Within six months of the permanent cessation of commercial operation of the onshore transmission works an onshore decommissioning plan must be submitted to the relevant planning authority for approval.

(2) The onshore decommissioning plan must be implemented as approved.

(3) The undertaker must notify the relevant planning authority in writing of the permanent cessation of commercial operation of the onshore transmission works within 28 days of such permanent cessation.

### **Requirement for written approval**

**30.** Where under any of the above requirements the approval or agreement of the Secretary of State, the relevant planning authority or another person is required, that approval or agreement must be given in writing.

### **Amendments to approved details**

**31.**—(1) With respect to any requirement which requires the authorised project to be carried out in accordance with the details approved by the relevant planning authority or another person, the approved details must be carried out as approved unless an amendment or variation is previously agreed in writing by the relevant planning authority or that other person in accordance with paragraph (2).

(2) Any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to changes where it has been demonstrated to the satisfaction of the relevant planning authority or that other person that the subject matter of the agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) The approved details must be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority or that other person.

### **Operational drainage plan**

**32.**—(1) Each of Work No. 8A and Work No. 8B and Work No. 10A, Work No. 10B, and Work No. 10C must not commence until a written plan for drainage during operation of the relevant

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(a) S.I. 2017/1012.



work, has been submitted to and approved by the relevant planning authority, following consultation with Norfolk County Council and the Environment Agency.

(2) The operational drainage plan must accord with the principles for the relevant work set out in the outline operational drainage plan, and must include a timetable for implementation.

(3) The operational drainage plan must be implemented as approved.

### Skills and employment strategy

**33.**—(1) No stage of the onshore transmission works may commence until a skills and employment strategy (which accords with the outline skills and employment strategy) has been submitted to and approved in writing by Norfolk County Council.

(2) Prior to submission of the skills and employment strategy for approval in accordance with paragraph (1), the undertaker must consult North Norfolk District Council, Broadland District Council, Breckland District Council, Norfolk County Council and the New Anglia Local Enterprise Partnership on the content of the strategy.

(3) The skills and employment strategy must be implemented as approved.

### Cromer Primary Surveillance Radar

**34.**—(1) No erection of any wind turbine generator forming part of the authorised development may commence until the Secretary of State having consulted with NATS has confirmed satisfaction in writing that appropriate mitigation will be implemented and maintained for the lifetime of the authorised development and that arrangements have been put in place with NATS to ensure that the approved mitigation is implemented and in operation prior to erection of the wind turbine generators.

(2) The undertaker must thereafter comply with all other obligations contained within the approved mitigation for the lifetime of the authorised development.

(3) For the purposes of this requirement—

“appropriate mitigation” means measures to prevent or remove any adverse effects which the operation of the authorised development will have on NATs’ ability to provide safe and efficient air traffic (surveillance and control) services/operations during the lifetime of the authorised development in respect of which all necessary stakeholder consultation has been completed by NATS and all necessary approvals and regulatory consents have been obtained;

“approved mitigation” means the detailed Primary Surveillance Radar Mitigation Scheme setting out the appropriate mitigation approved by the Secretary of State and confirmed in writing in accordance with paragraph (1);

“NATS” means NATS (En-Route) Plc or any successor body;

“lifetime of the authorised development” means the period ending when the wind turbine generators are finally decommissioned and removed.

## SCHEDULE 2

Article 9

### Streets subject to Street Works

<i>(1) Area</i>	<i>(2) Street subject to street works</i>
District of North Norfolk	Private track between reference points 1a and 1b on the works plan
District of North Norfolk	WHIMPWELL STREET between reference points 2a and 2b on the works plan
District of North Norfolk	Private track between reference points 2c and 2d on the works plan
District of North Norfolk	GRUB STREET between reference points 2e and 2f on the works plan

District of North Norfolk	GRUBB STREET between reference points 2g and 2h on the works plan
District of North Norfolk	WALCOTT GREEN between reference points 3a and 3b on the works plan
District of North Norfolk	B1159 between reference points 3c and 3d on the works plan
District of North Norfolk	NORTH WALSHAM ROAD between reference points 3e and 3f on the works plan
District of North Norfolk	NORTH WALSHAM ROAD between reference points 4a and 4b on the works plan
District of North Norfolk	THE STREET between reference points 4c and 4d on the works plan
District of North Norfolk	NORTH WALSHAM ROAD between reference points 5a and 5b on the works plan
District of North Norfolk	HOOLEHOUSE ROAD between reference points 5c and 5d on the works plan
District of North Norfolk	CROSSWAYS LANE between reference points 5e and 5f on the works plan
District of North Norfolk	BACTON ROAD between reference points 6a and 6b on the works plan
District of North Norfolk	THATCHED COTTAGE ROAD between reference points 6c and 6d on the works plan
District of North Norfolk	THATCHED COTTAGE ROAD between reference points 6e and 6f on the works plan
District of North Norfolk	OLD HALL ROAD between reference points 6g and 6h on the works plan
District of North Norfolk	NORTH WALSHAM ROAD between reference points 7a and 7b on the works plan
District of North Norfolk	PASTON ROAD between reference points 7c and 7d on the works plan
District of North Norfolk	OLD HALL LANE between reference points 8a and 8b on the works plan
District of North Norfolk	HALL LANE between reference points 8c and 8d on the works plan
District of North Norfolk	LITTLE LONDON ROAD between reference points 8e and 8f on the works plan
District of North Norfolk	B1145 between reference points 8g and 8h on the works plan
District of North Norfolk	BRADFIELD ROAD between reference points 9a and 9b on the works plan
District of North Norfolk	Private track between reference points 9c and 9d on the works plan
District of North Norfolk	LYNGATE ROAD between reference points 9e and 9f on the works plan
District of North Norfolk	CROMER ROAD between reference points 10a and 10b on the works plan
District of North Norfolk	CROMER ROAD between reference points 10c and 10d on the works plan
District of North Norfolk	Private track between reference points 10e and 10f on the works plan
District of North Norfolk	CROMER ROAD between reference points 10g and 10h on the works plan
District of North Norfolk	CROMER ROAD between reference points 10i and 10j on the works plan
District of North Norfolk	BRICK KILN LANE between reference points

District of North Norfolk	11a and 11b on the works plan
District of North Norfolk	Private track between reference points 11c and 11d on the works plan
District of North Norfolk	RECTORY ROAD between reference points 12a and 12b on the works plan
District of North Norfolk	FELMINGHAM ROAD between reference points 12c and 12d on the works plan
District of North Norfolk	Private track between reference points 13a and 13b on the works plan
District of North Norfolk	CHURCH ROAD between reference points 13c and 13d on the works plan
District of North Norfolk	CHURCH ROAD between reference points 13e and 13f on the works plan
District of North Norfolk	Private track between reference points 13g and 13h on the works plan
District of North Norfolk	Private track between reference points 13i and 13j on the works plan
District of North Norfolk	BANNINGHAM ROAD between reference points 14a and 14b on the works plan
District of Broadland	Private track between reference points 14c and 14d on the works plan
District of Broadland	A140 between reference points 14e and 14f on the works plan
District of Broadland	DRABBLEGATE between reference points 14g and 14h on the works plan
District of Broadland	CROMER ROAD between reference points 15a and 15b on the works plan
District of Broadland	INGWORTH ROAD between reference points 16a and 16b on the works plan
District of Broadland	BLICKLING ROAD between reference points 16c and 16d on the works plan
District of Broadland	BLICKLING ROAD between reference points 16e and 16f on the works plan
District of Broadland	SILVERGATE LANE between reference points 16g and 16h on the works plan
District of Broadland	AYLSHAM ROAD between reference points 17a and 17b on the works plan
District of Broadland	HEYDON ROAD between reference points 18a and 18b on the works plan
District of Broadland	HEYDON ROAD between reference points 18c and 18d on the works plan
District of Broadland	OULTON STREET between reference points 19a and 19b on the works plan
District of Broadland	B1149 between reference points 19c and 19d on the works plan
District of Broadland	OULTON STREET between reference points 20a and 20b on the works plan
District of Broadland	SOUTHGATE LANE between reference points 20c and 20d on the works plan
District of Broadland	HEYDON ROAD between reference points 20e and 20f on the works plan
District of Broadland	Private track between reference points 21a and 21b on the works plan
District of Broadland	B1145 between reference points 21c and 21d on the works plan

District of Broadland	B1145 between reference points 21e and 21f on the works plan
District of Broadland	Private track between reference points 21g and 21h on the works plan
District of Broadland	B1145 between reference points 22a and 22b on the works plan
District of Broadland	WOOD DALLING ROAD between reference points 22c and 22d on the works plan
District of Broadland	WOOD DALLING ROAD between reference points 22e and 22f on the works plan
District of Broadland	Private track between reference points 22g and 22h on the works plan
District of Broadland	KERDISTON ROAD between reference points 23a and 23b on the works plan
District of Broadland	Private track between reference points 23c and 23d on the works plan
District of Broadland	B1145 between reference points 24a and 24b on the works plan
District of Broadland	B1145 between reference points 24c and 24d on the works plan
District of Broadland	B1145 between reference points 24e and 24f on the works plan
District of Broadland	Private track between reference points 24g and 24h on the works plan
District of Broadland	B1145 between reference points 24i and 24j on the works plan
District of Broadland	Private track between reference points 24k and 24l on the works plan
District of Broadland	NOWHERE LANE between reference points 24m and 24n on the works plan
District of Broadland	JORDAN LANE between reference points 25a and 25b on the works plan
District of Breckland	Private track between reference points 26a and 26b on the works plan
District of Breckland	Private track between reference points 26c and 26d on the works plan
District of Breckland	Private track between reference points 26e and 26f on the works plan
District of Breckland	WELL LANE between reference points 27a and 27b on the works plan
District of Breckland	FAKENHAM ROAD (A1067) between reference points 27c and 27d on the works plan
District of Breckland	LIME KILN ROAD between reference points 27e and 27f on the works plan
District of Breckland	Private track between reference points 27g and 27h on the works plan
District of Breckland	LIME KILN ROAD between reference points 27i and 27j on the works plan
District of Breckland	Private track between reference points 28a and 28b on the works plan
District of Breckland	ELSING LANE between reference points 28c and 28d on the works plan
District of Breckland	BYLAUGH ROAD between reference points 28e and 28f on the works plan
District of Breckland	Private track between reference points 28g and

District of Breckland	28h on the works plan
District of Breckland	ELSING ROAD between reference points 29a and 29b on the works plan
District of Breckland	ELSING ROAD between reference points 29c and 29d on the works plan
District of Breckland	WOODGATE ROAD between reference points 30a and 30b on the works plan
District of Breckland	Frog's Hall Lane between reference points 30c and 30d on the works plan
District of Breckland	Private track between reference points 30e and 30f on the works plan
District of Breckland	NORWICH ROAD between reference points 31a and 31b on the works plan
District of Breckland	MOWLES ROAD between reference points 31c and 31d on the works plan
District of Breckland	DEREHAM ROAD between reference points 31e and 31f on the works plan
District of Breckland	SWANTON ROAD between reference points 31g and 31h on the works plan
District of Breckland	Dirty Lane (private track) between reference points 32a and 32b on the works plan
District of Breckland	HOE ROAD SOUTH between reference points 32c and 32d on the works plan
District of Breckland	HOE ROAD SOUTH between reference points 32e and 32f on the works plan
District of Breckland	Private track between reference points 33a and 33b on the works plan
District of Breckland	BACK LANE between reference points 33c and 33d on the works plan
District of Breckland	BACK LANE between reference points 33e and 33f on the works plan
District of Breckland	HOLT ROAD (B1146) between reference points 34a and 34b on the works plan
District of Breckland	HOLT ROAD (B1146) between reference points 34c and 34d on the works plan
District of Breckland	Private track between reference points 34e and 34f on the works plan
District of Breckland	MILL LANE between reference points 34g and 34h on the works plan
District of Breckland	GRESSENHALL ROAD between reference points 35a and 35b on the works plan
District of Breckland	CHURCH LANE between reference points 35c and 35d on the works plan
District of Breckland	CHURCH LANE between reference points 35e and 35f on the works plan
District of Breckland	LONGHAM ROAD between reference points 36a and 36b on the works plan
District of Breckland	A47 between reference points 37a and 37b on the works plan
District of Breckland	DALE ROAD between reference points 37c and 37d on the works plan
District of Breckland	DALE ROAD between reference points 37e and 37f on the works plan
District of Breckland	DEREHAM ROAD between reference points 37g and 37h on the works plan

District of Breckland	DEREHAM ROAD between reference points 37i and 37j on the works plan
District of Breckland	BRADENHAM LANE between reference points 38a and 38b on the works plan
District of Breckland	Private track between reference points 38c and 38d on the works plan
District of Breckland	BRADENHAM LANE between reference points 38e and 38f on the works plan
District of Breckland	HULVER STREET between reference points 38h and 38i on the works plan
District of Breckland	NOT USED: 39a and 39b
District of Breckland	HAGGARDS WAY between reference points 39c and 39d on the works plan
District of Breckland	NOT USED: 39e and 39f
District of Breckland	NOT USED: 39g and 39h
District of Breckland	Smugglers lane between reference points 39i and 39j on the works plan
District of Breckland	NOT USED: 39k and 39l
District of Breckland	Private track between reference points 39m and 39n on the works plan
District of Breckland	Goggles Lane between reference points 40a and 40b on the works plan
District of Breckland	NOT USED: 40c and 40d
District of Breckland	Private track between reference points 40e and 40f on the works plan
District of Breckland	Private track between reference points 41a and 41b on the works plan
District of Breckland	Private track between reference points 41c and 41d on the works plan
District of Breckland	Private track between reference points 41e and 41f on the works plan
District of Breckland	Private track between reference points 41g and 41h on the works plan
District of Breckland	A47 between reference points 41i and 41j on the works plan
District of Breckland	A47 between reference points 41k and 41l on the works plan
District of Breckland	Private track between reference points 41m and 41n on the works plan
District of Breckland	Private track between reference points 41o and 41p on the works plan
District of Breckland	A47 between reference points 42a and 42b on the works plan

### SCHEDULE 3

Article 10

#### Public Rights of Way to be temporarily stopped up

<i>(1) Area</i>	<i>(2) Public rights of way to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up</i>
District of North Norfolk	Restricted byway reference 1 Happisburgh RB22	Approximately 10 metres of Restricted byway reference 1 Happisburgh RB22 shown in

District of North Norfolk	Footpath reference 2 Happisburgh FP7	purple between points marked A & B on sheet 1 of the public rights of way to be temporarily stopped up plan Approximately 50 metres of footpath reference 2 Happisburgh FP7 shown in orange between points marked C & D on sheet 3 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Footpath reference 3 Witton FP3	Approximately 170 metres of footpath reference 3 Witton FP3 shown in orange between points marked E & F on sheet 4 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Footpath reference 4 Witton FP4	Approximately 50 metres of footpath reference 4 Witton FP4 shown in orange between points marked G & H on sheet 4 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Footpath reference 5 Witton FP7	Approximately 50 metres of footpath reference 5 Witton FP7 shown in orange between points marked I & J on sheet 5 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Footpath reference 6 Witton FP8	Approximately 60 metres of footpath reference 6 Witton FP8 shown in orange between points marked K & L on sheet 5 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Footpath reference 7 Paston FP4	Approximately 180 metres of footpath reference 7 Paston FP4 shown in orange between points marked M & N on sheet 7 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Footpath reference 8 Knapton FP10	Approximately 60 metres of footpath reference 8 Knapton FP10 shown in orange between points marked O & P on sheet 8 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Footpath reference 9 North Walsham FP4	Approximately 100 metres of footpath reference 9 North Walsham FP4 shown in orange between points marked Q & R on sheet 10 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Bridleway reference 10 Felmingham BR12	Approximately 300 metres of Bridleway reference 10

District of North Norfolk	Footpath reference 11 Suffield FP1	Felmingham BR12 shown in green between points marked S & T on sheet 10 of the public rights of way to be temporarily stopped up plan Approximately 50 metres of footpath reference 11 Suffield FP1 shown in orange between points marked U & V on sheet 11 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Footpath reference 12 Suffield FP3	Approximately 100 metres of footpath reference 12 Suffield FP3 shown in orange between points marked W & X on sheet 12 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Footpath reference 13 Colby FP2	Approximately 90 metres of footpath reference 13 Colby FP2 shown in orange between points marked Y & Z on sheet 13 of the public rights of way to be temporarily stopped up plan
District of North Norfolk	Footpath reference 14 Colby FP2	Approximately 10 metres of footpath reference 14 Colby FP2 shown in orange between points marked AA & AB on sheet 13 of the public rights of way to be temporarily stopped up plan
District of Broadland	Bridleway reference 15 Aylsham BR30	Approximately 50 metres of Bridleway reference 15 Aylsham BR30 shown in green between points marked AC & AD on sheet 14 of the public rights of way to be temporarily stopped up plan
District of Broadland	Footpath reference 16 Blickling FP11	Approximately 100 metres of footpath reference 16 Blickling FP11 shown in orange between points marked AE & AF on sheet 15 of the public rights of way to be temporarily stopped up plan
District of Broadland	Bridleway reference 17 Blickling BR12	Approximately 10 metres of Bridleway reference 17 Blickling BR12 shown in green between points marked AG & AH on sheet 16 of the public rights of way to be temporarily stopped up plan
District of Broadland	Footpath reference 18 Blickling FP14	Approximately 80 metres of footpath reference 18



		Blickling FP14 shown in orange between points marked AI & AJ on sheet 16 of the public rights of way to be temporarily stopped up plan
District of Broadland	Long distance trail reference 19 Weavers Way	Approximately 80 metres of Long distance trail reference 19 Weavers Way shown in brown between points marked AK & AL on sheet 16 of the public rights of way to be temporarily stopped up plan
District of Broadland	Footpath reference 20 Reepham FP18	Approximately 50 metres of footpath reference 20 Reepham FP18 shown in orange between points marked AM & AN on sheet 21 of the public rights of way to be temporarily stopped up plan
District of Broadland	Footpath reference 21 Reepham FP34	Approximately 360 metres of footpath reference 21 Reepham FP34 shown in orange between points marked AO & AP on sheet 20 and 21 of the public rights of way to be temporarily stopped up plan
District of Broadland	Footpath reference 22 Salle FP8	Approximately 50 metres of footpath reference 22 Salle FP8 shown in orange between points marked AQ & AR on sheet 22 of the public rights of way to be temporarily stopped up plan
District of Broadland	Footpath reference 23 Reepham FP11	Approximately 10 metres of footpath reference 23 Reepham FP11 shown in orange between points marked AS & AT on sheet 22 of the public rights of way to be temporarily stopped up plan
District of Broadland	Footpath reference 24 Reepham FP8	Approximately 50 metres of footpath reference 24 Reepham FP8 shown in orange between points marked AX & AU on sheet 22 of the public rights of way to be temporarily stopped up plan
District of Broadland	Footpath reference 24a Reepham FP8	Approximately 6 metres of footpath reference 24a Reepham FP8 shown in orange between points marked AV & AW on sheet 22 of the public rights of way to be temporarily stopped up plan
District of Breckland	Long distance trail reference 25 Wensum Way	Approximately 950 metres of Long distance trail reference

		25 Wensum Way shown in brown between points marked AY & AZ on sheet 28 and 29 of the public rights of way to be temporarily stopped up plan
District of Breckland	Long distance trail reference 26 Wensum Way	Approximately 50 metres of Long distance trail reference 26 Wensum Way shown in brown between points marked BA & BB on sheet 29 of the public rights of way to be temporarily stopped up plan
District of Breckland	Footpath reference 27 Dereham FP9	Approximately 60 metres of footpath reference 27 Dereham FP9 shown in orange between points marked BC & BD on sheet 32 of the public rights of way to be temporarily stopped up plan
District of Breckland	Footpath reference 28 Hoe FP6	Approximately 570 metres of footpath reference 28 Hoe FP6 shown in orange between points marked BE & BF on sheet 34 of the public rights of way to be temporarily stopped up plan
District of Breckland	Footpath reference 29 Dereham FP20	Approximately 280 metres of footpath reference 29 Dereham FP20 shown in orange between points marked BG & BH on sheet 34 of the public rights of way to be temporarily stopped up plan

## SCHEDULE 4

Article 11

### Streets to be stopped up

<i>(1) Area</i>	<i>(2) Street to be stopped up</i>	<i>(3) Extent of stopping up</i>
District of North Norfolk	Private track	Approximately 340 metres of Private track as is within Work No.4C as shown between point 1a and 1b on sheet 1 of the streets to be stopped up plan
District of North Norfolk	WHIMPWELL STREET	Approximately 50 metres of WHIMPWELL STREET as is within Work No.5 as shown on sheet 2a and 2b on sheet 2 of the streets to be stopped up plan
District of North Norfolk	Private track	Approximately 50 metres of Private track as is within Work No.5 as shown on sheet 2c and 2d on sheet 2 of the streets to

District of North Norfolk	GRUB STREET	be stopped up plan Approximately 50 metres of GRUB STREET as is within Work No.5 as shown on sheet 2e and 2f on sheet 2 of the streets to be stopped up plan
District of North Norfolk	GRUBB STREET	Approximately 50 metres of GRUBB STREET as is within Work No.5 as shown on sheet 2g and 2h on sheet 2 of the streets to be stopped up plan
District of North Norfolk	WALCOTT GREEN	Approximately 50 metres of WALCOTT GREEN as is within Work No.5 as shown on sheet 3a and 3b on sheet 3 of the streets to be stopped up plan
District of North Norfolk	B1159	Approximately 50 metres of B1159 as is within Work No.5 as shown on sheet 3c and 3d on sheet 3 of the streets to be stopped up plan
District of North Norfolk	NORTH WALSHAM ROAD	Approximately 20 metres of NORTH WALSHAM ROAD as is within Work No.5 as shown on sheet 3e and 3f on sheet 3 of the streets to be stopped up plan
District of North Norfolk	NORTH WALSHAM ROAD	Approximately 30 metres of NORTH WALSHAM ROAD as is within Work No.5 as shown on sheet 4a and 4b on sheet 4 of the streets to be stopped up plan
District of North Norfolk	THE STREET	Approximately 50 metres of THE STREET as is within Work No.5 as shown on sheet 4c and 4d on sheet 4 of the streets to be stopped up plan
District of North Norfolk	NORTH WALSHAM ROAD	Approximately 70 metres of NORTH WALSHAM ROAD as is within Work No.5 as shown on sheet 5a and 5b on sheet 5 of the streets to be stopped up plan
District of North Norfolk	HOOLEHOUSE ROAD	Approximately 50 metres of HOOLEHOUSE ROAD as is within Work No.5 as shown on sheet 5c and 5d on sheet 5 of the streets to be stopped up plan
District of North Norfolk	CROSSWAYS LANE	Approximately 40 metres of CROSSWAYS LANE as is within Work No.5 as shown on sheet 5e and 5f on sheet 5 of the streets to be stopped up

District of North Norfolk	BACTON ROAD	plan Approximately 50 metres of BACTON ROAD as is within Work No.5 as shown on sheet 6a and 6b on sheet 6 of the streets to be stopped up plan
District of North Norfolk	THATCHED COTTAGE ROAD	Approximately 60 metres of THATCHED COTTAGE ROAD as is within Work No.5 as shown on sheet 6c and 6d on sheet 6 of the streets to be stopped up plan
District of North Norfolk	THATCHED COTTAGE ROAD	Approximately 30 metres of THATCHED COTTAGE ROAD as is within Work No.5 as shown on sheet 6e and 6f on sheet 6 of the streets to be stopped up plan
District of North Norfolk	NORTH WALSHAM ROAD	Approximately 50 metres of NORTH WALSHAM ROAD as is within Work No.5 as shown on sheet 7a and 7b on sheet 7 of the streets to be stopped up plan
District of North Norfolk	PASTON ROAD	Approximately 60 metres of PASTON ROAD as is within Work No.5 as shown on sheet 7c and 7d on sheet 7 of the streets to be stopped up plan
District of North Norfolk	OLD HALL LANE	Approximately 30 metres of OLD HALL LANE as is within Work No.5 as shown on sheet 8a and 8b on sheet 8 of the streets to be stopped up plan
District of North Norfolk	HALL LANE	Approximately 80 metres of HALL LANE as is within Work No.5 as shown on sheet 8c and 8d on sheet 8 of the streets to be stopped up plan
District of North Norfolk	LITTLE LONDON ROAD	Approximately 90 metres of LITTLE LONDON ROAD as is within Work No.5 as shown on sheet 8e and 8f on sheet 8 of the streets to be stopped up plan
District of North Norfolk	BRADFIELD ROAD	Approximately 50 metres of BRADFIELD ROAD as is within Work No.5 as shown on sheet 9a and 9b on sheet 9 of the streets to be stopped up plan
District of North Norfolk	Private track	Approximately 60 metres of Private track as is within Work No.5 as shown on sheet 9c and 9d on sheet 9 of the streets to

District of North Norfolk	LYNGATE ROAD	be stopped up plan Approximately 90 metres of LYNGATE ROAD as is within Work No.5 as shown on sheet 9e and 9f on sheet 9/10 of the streets to be stopped up plan
District of North Norfolk	CROMER ROAD	Approximately 30 metres of CROMER ROAD as is within Work No.5 as shown on sheet 10a and 10b on sheet 10 of the streets to be stopped up plan
District of North Norfolk	Private track	Approximately 60 metres of Private track as is within Work No.5 as shown on sheet 10c and 10d on sheet 10 of the streets to be stopped up plan
District of North Norfolk	CROMER ROAD	Approximately 40 metres of CROMER ROAD as is within Work No.5 as shown on sheet 10e and 10f on sheet 10 of the streets to be stopped up plan
District of North Norfolk	CROMER ROAD	Approximately 50 metres of CROMER ROAD as is within Work No.5 as shown on sheet 10g and 10h on sheet 10 of the streets to be stopped up plan
District of North Norfolk	BRICK KILN LANE	Approximately 20 metres of BRICK KILN LANE as is within Work No.5 as shown on sheet 11a and 11b on sheet 11 of the streets to be stopped up plan
District of North Norfolk	Private track	Approximately 50 metres of Private track as is within Work No.5 as shown on sheet 11c and 11d on sheet 11 of the streets to be stopped up plan
District of North Norfolk	RECTORY ROAD	Approximately 50 metres of RECTORY ROAD as is within Work No.5 as shown on sheet 12a and 12b on sheet 12 of the streets to be stopped up plan
District of North Norfolk	FELMINGHAM ROAD	Approximately 50 metres of FELMINGHAM ROAD as is within Work No.5 as shown on sheet 12c and 12d on sheet 12 of the streets to be stopped up plan
District of North Norfolk	Private track	Approximately 50 metres of Private track as is within Work No.5 as shown on sheet 13a and 13b on sheet 13 of the streets to be stopped up plan
District of North Norfolk	CHURCH ROAD	Approximately 30 metres of

District of North Norfolk	CHURCH ROAD	CHURCH ROAD as is within Works No.5 as shown on sheet 13c and 13d on sheet 13 of the streets to be stopped up plan Approximately 50 metres of CHURCH ROAD as is within Work No.5 as shown on sheet 13e and 13f on sheet 13 of the streets to be stopped up plan
District of North Norfolk	Private track	Approximately 50 metres of Private track as is within Work No.5 as shown on sheet 13g and 13h on sheet 13 of the streets to be stopped up plan
District of North Norfolk	Private track	Approximately 50 metres of Private track as is within Work No.5 as shown on sheet 13i and 13j on sheet 13 of the streets to be stopped up plan
District of North Norfolk	BANNINGHAM ROAD	Approximately 50 metres of BANNINGHAM ROAD as is within Work No.5 as shown on sheet 14a and 14b on sheet 14 of the streets to be stopped up plan
District of Broadland	Private track	Approximately 60 metres of Private track as is within Work No.6 as shown on sheet 14c and 14d on sheet 14 of the streets to be stopped up plan
District of Broadland	CROMER ROAD	Approximately 50 metres of CROMER ROAD as is within Work No.6 as shown on sheet 15a and 15b on sheet 15 of the streets to be stopped up plan
District of Broadland	INGWORTH ROAD	Approximately 30 metres of INGWORTH ROAD as is within Work No.6 as shown on sheet 16a and 16b on sheet 16 of the streets to be stopped up plan
District of Broadland	BLICKLING ROAD	Approximately 50 metres of BLICKLING ROAD as is within Work No.6 as shown on sheet 16c and 16d on sheet 16 of the streets to be stopped up plan
District of Broadland	BLICKLING ROAD	Approximately 30 metres of BLICKLING ROAD as is within Work No.6 as shown on sheet 16e and 16f on sheet 16 of the streets to be stopped up plan
District of Broadland	SILVERGATE LANE	Approximately 50 metres of SILVERGATE LANE as is within Work No.6 as shown on

District of Broadland	AYLSHAM ROAD	sheet 16g and 16h on sheet 16 of the streets to be stopped up plan Approximately 50 metres of AYLSHAM ROAD as is within Work No.6 as shown on sheet 17a and 17b on sheet 17 of the streets to be stopped up plan
District of Broadland	HEYDON ROAD	Approximately 70 metres of HEYDON ROAD as is within Work No.6 as shown on sheet 18a and 18b on sheet 18 of the streets to be stopped up plan
District of Broadland	HEYDON ROAD	Approximately 30 metres of HEYDON ROAD as is within Work No.6 as shown on sheet 18c and 18d on sheet 18 of the streets to be stopped up plan
District of Broadland	OULTON STREET	Approximately 30 metres of OULTON STREET as is within Work No.6 as shown on sheet 19a and 19b on sheet 19 of the streets to be stopped up plan
District of Broadland	B1149	Approximately 50 metres of B1149 as is within Work No.6 as shown on sheet 19c and 19d on sheet 19 of the streets to be stopped up plan
District of Broadland	OULTON STREET	Approximately 70 metres of OULTON STREET as is within Work No.6 as shown on sheet 20a and 20b on sheet 20 of the streets to be stopped up plan
District of Broadland	SOUTHGATE LANE	Approximately 50 metres of SOUTHGATE LANE as is within Work No.6 as shown on sheet 20c and 20d on sheet 20 of the streets to be stopped up plan
District of Broadland	HEYDON ROAD	Approximately 50 metres of HEYDON ROAD as is within Work No.6 as shown on sheet 20e and 20f on sheet 20 of the streets to be stopped up plan
District of Broadland	Private track	Approximately 60 metres of Private track as is within Work No.6 as shown on sheet 21a and 21b on sheet 21 of the streets to be stopped up plan
District of Broadland	B1145	Approximately 70 metres of B1145 as is within Work No.6 as shown on sheet 21c and 21d on sheet 21 of the streets to be

District of Broadland	B1145	stopped up plan Approximately 30 metres of B1145 as is within Work No.6 as shown on sheet 21e and 21f on sheet 21 of the streets to be stopped up plan
District of Broadland	Private track	Approximately 100 metres of Private track as is within Work No.6 as shown on sheet 21g and 21h on sheet 21 of the streets to be stopped up plan
District of Broadland	B1145	Approximately 50 metres of B1145 as is within Work No.6 as shown on sheet 22a and 22b on sheet 22 of the streets to be stopped up plan
District of Broadland	WOOD DALLING ROAD	Approximately 50 metres of WOOD DALLING ROAD as is within Work No.6 as shown on sheet 22c and 22d on sheet 22 of the streets to be stopped up plan
District of Broadland	WOOD DALLING ROAD	Approximately 30 metres of WOOD DALLING ROAD as is within Work No.6 as shown on sheet 22e and 22f on sheet 22 of the streets to be stopped up plan
District of Broadland	Private track	Approximately 50 metres of Private track as is within Work No.6 as shown on sheet 22g and 22h on sheet 22 of the streets to be stopped up plan
District of Broadland	KERDISTON ROAD	Approximately 50 metres of KERDISTON ROAD as is within Work No.6 as shown on sheet 23a and 23b on sheet 23 of the streets to be stopped up plan
District of Broadland	B1145	Approximately 50 metres of B1145 as is within Work No.6 as shown on sheet 24a and 24b on sheet 24 of the streets to be stopped up plan
District of Broadland	B1145	Approximately 30 metres of B1145 as is within Work No.6 as shown on sheet 24c and 24d on sheet 24 of the streets to be stopped up plan
District of Broadland	B1145	Approximately 30 metres of B1145 as is within Work No.6 as shown on sheet 24e and 24f on sheet 24 of the streets to be stopped up plan
District of Broadland	B1145	Approximately 30 metres of B1145 as is within Work No.6



District of Broadland	Private track	as shown on sheet 24g and 24h on sheet 24 of the streets to be stopped up plan Approximately 50 metres of Private track as is within Work No.6 as shown on sheet 24i and 24j on sheet 24 of the streets to be stopped up plan
District of Broadland	NOWHERE LANE	Approximately 50 metres of NOWHERE LANE as is within Work No.6 as shown on sheet 24k and 24l on sheet 24/25 of the streets to be stopped up plan
District of Broadland	JORDAN LANE	Approximately 50 metres of JORDAN LANE as is within Work No.6 as shown on sheet 25a and 25b on sheet 25 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 50 metres of Private track as is within Work No.7 as shown on sheet 26a and 26b on sheet 26 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 50 metres of Private track as is within Work No.7 as shown on sheet 26c and 26d on sheet 26 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 50 metres of Private track as is within Work No.7 as shown on sheet 26e and 26f on sheet 26 of the streets to be stopped up plan
District of Breckland	WELL LANE	Approximately 70 metres of WELL LANE as is within Work No.7 as shown on sheet 27a and 27b on sheet 26/27 of the streets to be stopped up plan
District of Breckland	FAKENHAM ROAD (A1067)	Approximately 50 metres of FAKENHAM ROAD (A1067) as is within Work No.7 as shown on sheet 27c and 27d on sheet 27 of the streets to be stopped up plan
District of Breckland	LIME KILN ROAD	Approximately 100 metres of LIME KILN ROAD as is within Work No.7 as shown on sheet 27e and 27f on sheet 27 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 70 metres of Private track as is within Work No.7 as shown on sheet 27g and 27h on sheet 27 of the

District of Breckland	LIME KILN ROAD	streets to be stopped up plan Approximately 60 metres of LIME KILN ROAD as is within Work No.7 as shown on sheet 27i and 27j on sheet 27 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 50 metres of Private track as is within Work No.7 as shown on sheet 28a and 28b on sheet 28 of the streets to be stopped up plan
District of Breckland	ELSING LANE	Approximately 50 metres of ELSING LANE as is within Work No.7 as shown on sheet 28c and 28d on sheet 28 of the streets to be stopped up plan
District of Breckland	BYLAUGH ROAD	Approximately 30 metres of BYLAUGH ROAD as is within Work No.7 as shown on sheet 28e and 28f on sheet 28 of the streets to be stopped up plan
District of Breckland	ELSING ROAD	Approximately 30 metres of ELSING ROAD as is within Work No.7 as shown on sheet 29a and 29b on sheet 29 of the streets to be stopped up plan
District of Breckland	ELSING ROAD	Approximately 50 metres of ELSING ROAD as is within Work No.7 as shown on sheet 29c and 29d on sheet 29 of the streets to be stopped up plan
District of Breckland	WOODGATE ROAD	Approximately 20 metres of WOODGATE ROAD as is within Work No.7 as shown on sheet 30a and 30b on sheet 30 of the streets to be stopped up plan
District of Breckland	Frog's Hall Lane	Approximately 50 metres of Frog's Hall Lane as is within Work No.7 as shown on sheet 30c and 30d on sheet 30/31 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 50 metres of Private track as is within Work No.7 as shown on sheet 30e and 30f on sheet 30 of the streets to be stopped up plan
District of Breckland	NORWICH ROAD	Approximately 50 metres of NORWICH ROAD as is within Work No.7 as shown on sheet 31a and 31b on sheet 31 of the streets to be stopped up plan

District of Breckland	DEREHAM ROAD	Approximately 80 metres of DEREHAM ROAD as is within Work No.7 as shown on sheet 31c and 31d on sheet 31/32 of the streets to be stopped up plan
District of Breckland	SWANTON ROAD	Approximately 50 metres of SWANTON ROAD as is within Work No.7 as shown on sheet 31e and 31f on sheet 31/32 of the streets to be stopped up plan
District of Breckland	Dirty Lane (Private track)	Approximately 60 metres of Dirty Lane as is within Work No.7 as shown on sheet 32a and 32b on sheet 32 of the streets to be stopped up plan
District of Breckland	HOE ROAD SOUTH	Approximately 30 metres of HOE ROAD SOUTH as is within Work No.7 as shown on sheet 32c and 32d on sheet 32 of the streets to be stopped up plan
District of Breckland	HOE ROAD SOUTH	Approximately 30 metres of HOE ROAD SOUTH as is within Work No.7 as shown on sheet 32e and 32f on sheet 32 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 100 metres of Private track as is within Work No.7 as shown on sheet 33a and 33b on sheet 33 of the streets to be stopped up plan
District of Breckland	BACK LANE	Approximately 30 metres of BACK LANE as is within Work No.7 as shown on sheet 33c and 33d on sheet 33 of the streets to be stopped up plan
District of Breckland	BACK LANE	Approximately 50 metres of BACK LANE as is within Work No.7 as shown on sheet 33e and 33f on sheet 33 of the streets to be stopped up plan
District of Breckland	HOLT ROAD (B1146)	Approximately 30 metres of HOLT ROAD (B1146) as is within Work No.7 as shown on sheet 34a and 34b on sheet 34 of the streets to be stopped up plan
District of Breckland	HOLT ROAD (B1146)	Approximately 50 metres of HOLT ROAD (B1146) as is within Work No.7 as shown on sheet 34c and 34d on sheet 34 of the streets to be stopped up plan

District of Breckland	Private track	Approximately 50 metres of Private track as is within Work No.7 as shown on sheet 34e and 34f on sheet 34 of the streets to be stopped up plan
District of Breckland	CHURCH LANE	Approximately 30 metres of CHURCH LANE as is within Work No.7 as shown on sheet 35a and 35b on sheet 35 of the streets to be stopped up plan
District of Breckland	CHURCH LANE	Approximately 50 metres of CHURCH LANE as is within Work No.7 as shown on sheet 35c and 35d on sheet 35 of the streets to be stopped up plan
District of Breckland	LONGHAM ROAD	Approximately 50 metres of LONGHAM ROAD as is within Work No.7 as shown on sheet 36a and 36b on sheet 36 of the streets to be stopped up plan
District of Breckland	DALE ROAD	Approximately 50 metres of DALE ROAD as is within Work No.7 as shown on sheet 37a and 37b on sheet 37 of the streets to be stopped up plan
District of Breckland	DEREHAM ROAD	Approximately 40 metres of DEREHAM ROAD as is within Work No.7 as shown on sheet 37c and 37d on sheet 37 of the streets to be stopped up plan
District of Breckland	DALE ROAD	Approximately 50 metres of DALE ROAD as is within Work No.7 as shown on sheet 37e and 37f on sheet 37 of the streets to be stopped up plan
District of Breckland	DEREHAM ROAD	Approximately 40 metres of DEREHAM ROAD as is within Work No.7 as shown on sheet 37g and 37h on sheet 37 of the streets to be stopped up plan
District of Breckland	BRADENHAM LANE	Approximately 40 metres of BRADENHAM LANE as is within Work No.7 as shown on sheet 38a and 38b on sheet 38 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 50 metres of Private track as is within Work No.7 as shown on sheet 38c and 38d on sheet 38 of the streets to be stopped up plan
District of Breckland	BRADENHAM LANE	Approximately 30 metres of BRADENHAM LANE as is

District of Breckland	HULVER STREET	within Work No.7 as shown on sheet 38e and 38f on sheet 38 of the streets to be stopped up plan Approximately 50 metres of HULVER STREET as is within Work No.7 as shown on sheet 38g and 38h on sheet 38 of the streets to be stopped up plan
District of Breckland District of Breckland	HAGGARDS WAY HAGGARDS WAY	NOT USED: 39a and 39b Approximately 70 metres of HAGGARDS WAY as is within Work No.7 as shown on sheet 39c and 39d on sheet 39 of the streets to be stopped up plan
District of Breckland District of Breckland District of Breckland	Private track Smugglers Lane Smugglers lane	NOT USED: 39e and 39f NOT USED: 39g and 39h Approximately 50 metres of Smugglers lane as is within Work No.7 as shown on sheet 39i and 39j on sheet 39 of the streets to be stopped up plan
District of Breckland District of Breckland	Private track Smugglers lane	NOT USED: 39k and 39l Approximately 70 metres of Private track as is within Work No.7 as shown on sheet 39n and 39m on sheet 39 of the streets to be stopped up plan
District of Breckland	Goggles Lane	Approximately 50 metres of Goggles Lane as is within Work No.7 as shown on sheet 40a and 40b on sheet 40 of the streets to be stopped up plan
District of Breckland District of Breckland	Private track Private track	NOT USED: 40c and 40d Approximately 360 metres of Private track as is within Works No.8B and 9 as shown on sheet 40e and 40f on sheet 40 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 50 metres of Private track as is within Work No.9 as shown on sheet 41a and 41b on sheet 41 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 50 metres of Private track as is within Work No.9 as shown on sheet 41c and 41d on sheet 41 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 50 metres of Private track as is within Works No.9 and 10C as shown on sheet 41e and 41f on sheet

District of Breckland	Private track	41 of the streets to be stopped up plan Approximately 50 metres of Private track as is within Works No.9 and 12 as shown on sheet 41g and 41h on sheet 41 of the streets to be stopped up plan
District of Breckland	A47	Approximately 470 metres of A47 as is within Works No.12 as shown on sheet 41i and 41j on sheet 41 of the streets to be stopped up plan
District of Breckland	A47	Approximately 50 metres of A47 as is within Site Side Access as shown on sheet 41k and 41l on sheet 41 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 150 metres of Private track as is within Works No.10A as shown on sheet 41m and 41n on sheet 41 of the streets to be stopped up plan
District of Breckland	Private track	Approximately 170 metres of Private track as is within Works No.10B and 11 as shown on sheet 41o and 41p on sheet 41 of the streets to be stopped up plan
District of Breckland	A47	Approximately 125 metres of the A47 (located within National Grid overhead line temporary works area and overhead line modification corridor (Work No 11 and Work No 11A) between point 41q and 41r as shown on sheet 41/42 of the streets to be stopped up plan
District of Breckland	A47	Approximately 470 metres of A47 as is within Work No.12 as shown on sheet 42a and 42b on sheet 42 of the streets to be stopped up plan

## SCHEDULE 5

Article 12

### Access to Works

<i>(1) Area</i>	<i>(2) Description of access</i>
District of North Norfolk	Vehicular access from Whimpwell Green to the North marked point at AC1 on the access to works plan

District of North Norfolk	Vehicular access from Whimpwell Street to the North marked point at AC2 on the access to works plan
District of North Norfolk	Vehicular access from Whimpwell Street to the East & West marked point at AC3 on the access to works plan
District of North Norfolk	Vehicular access from Grub Street to the North marked point at AC4 on the access to works plan
District of North Norfolk	Vehicular access from Grub Street to the East & West marked point at AC5 on the access to works plan
District of North Norfolk	Vehicular access from Grub Street to the South marked point at AC6 on the access to works plan
District of North Norfolk	Vehicular access from private track to the West marked point at AC7 on the access to works plan
District of North Norfolk	Vehicular access from private track to the North & South marked point at AC8 on the access to works plan
District of North Norfolk	Vehicular access from private track to the North East marked point at AC9 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East & West marked point at AC10 on the access to works plan
District of North Norfolk	Vehicular access from B1159 to the East & West marked point at AC11 on the access to works plan
District of North Norfolk	Vehicular access from North Walsham Road to the South marked point at AC12 on the access to works plan
District of North Norfolk	Vehicular access from North Walsham Road to the South marked point at AC13 on the access to works plan
District of North Norfolk	Vehicular access from The Street to the East & West marked point at AC14 on the access to works plan
District of North Norfolk	Vehicular access from Happisburgh Road to the South marked point at AC15 on the access to works plan
District of North Norfolk	Vehicular access from Happisburgh Road to the East & West marked point at AC16 on the access to works plan
District of North Norfolk	Vehicular access from Happisburgh Road to the North marked point at AC17 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East & West marked point at AC18 on the access to works plan
District of North Norfolk	Vehicular access from private track to the North marked point at AC19 on the access to works plan
District of North Norfolk	Vehicular access from Edingthorpe to the South marked point at AC20 on the access to works plan

	plan
District of North Norfolk	Vehicular access from Bacton Road to the East & West marked point at AC21 on the access to works plan
District of North Norfolk	Vehicular access from Edingthorpe to the East & West marked point at AC22 on the access to works plan
District of North Norfolk	Vehicular access from Edingthorpe to the North marked point at AC23 on the access to works plan
District of North Norfolk	Vehicular access from Edingthorpe to the North marked point at AC24 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East marked point at AC25 on the access to works plan
District of North Norfolk	Vehicular access from private track to the West marked point at AC26 on the access to works plan
District of North Norfolk	Vehicular access from North Walsham Road to the South marked point at AC27 on the access to works plan
District of North Norfolk	Vehicular access from Walsham Road to the East & West marked point at AC28 on the access to works plan
District of North Norfolk	Vehicular access from North Walsham Road to the South marked point at AC29 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East marked point at AC30 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East marked point at AC30a on the access to works plan
District of North Norfolk	Vehicular access from private track to the West marked point at AC31 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East & West marked point at AC32 on the access to works plan
District of North Norfolk	Vehicular access from North Walsham Road to the North marked point at AC33 on the access to works plan
District of North Norfolk	Vehicular access from Hall Lane to the North marked point at AC34 on the access to works plan
District of North Norfolk	Vehicular access from Hall Lane to the East & West marked point at AC35 on the access to works plan
District of North Norfolk	Vehicular access from Little London Road to the North marked point at AC36 on the access to works plan
District of North Norfolk	Vehicular access from London Road to the East & West marked point at AC37 on the access to works plan
District of North Norfolk	Vehicular access from B1145 to the West



	marked point at AC38 on the access to works plan
District of North Norfolk	Vehicular access from Lyngate Road to the North marked point at AC39 on the access to works plan
District of North Norfolk	Vehicular access from Lyngate Road to the North marked point at AC40 on the access to works plan
District of North Norfolk	Vehicular access from Lyngate Road to the North marked point at AC41 on the access to works plan
District of North Norfolk	Vehicular access from Lyngate Road to the North marked point at AC42 on the access to works plan
District of North Norfolk	Vehicular access from Bradfield Road to the East & West marked point at AC43 on the access to works plan
District of North Norfolk	Vehicular access from Lyngate Road to the North marked point at AC44 on the access to works plan
District of North Norfolk	Vehicular access from Lyngate Road to the North marked point at AC45 on the access to works plan
District of North Norfolk	Vehicular access from Lyngate Road to the East & West marked point at AC46 on the access to works plan
District of North Norfolk	Vehicular access from Cromer Road A149 to the East & West marked point at AC47 on the access to works plan
District of North Norfolk	Vehicular access from footpath Felmingham BR12 off Cromer Road to the East & West marked point at AC48 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East & West marked point at AC49 on the access to works plan
District of North Norfolk	Vehicular access from private track to the West marked point at AC50 on the access to works plan
District of North Norfolk	Vehicular access from Brick Kiln Lane to the South marked point at AC51 on the access to works plan
District of North Norfolk	Vehicular access from Brick Kiln Lane to the South marked point at AC52 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East marked point at AC53 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East & West marked point at AC54 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East & West marked point at AC55 on the access to works plan
District of North Norfolk	Vehicular access from private track to the West marked point at AC56 on the access to works plan

District of North Norfolk	plan Vehicular access from private track to the East marked point at AC57 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East & West marked point at AC58 on the access to works plan
District of North Norfolk	Vehicular access from private track to the South West marked point at AC59 on the access to works plan
District of North Norfolk	Vehicular access from private track off Church Road to the East & West marked point at AC60 on the access to works plan
District of North Norfolk	Vehicular access from private track off Colby Road to the East & West marked point at AC61 on the access to works plan
District of North Norfolk	Vehicular access from private track to the East & West marked point at AC62 on the access to works plan
District of North Norfolk	Vehicular access from private track to the South & East marked point at AC63 on the access to works plan
District of Broadland	Vehicular access from B1145 to the North marked point at AC64 on the access to works plan
District of Broadland	Vehicular access from A140 to the East marked point at AC65 on the access to works plan
District of Broadland	Vehicular access from A140 to the East & West marked point at AC66 on the access to works plan
District of Broadland	Vehicular access from A140 to the West marked point at AC67 on the access to works plan
District of Broadland	Vehicular access from Drabblegate to the West marked point at AC68 on the access to works plan
District of Broadland	Vehicular access from Drabblegate to the South marked point at AC69 on the access to works plan
District of Broadland	Vehicular access from Drabblegate to the East marked point at AC70 on the access to works plan
District of Broadland	Vehicular access from Cromer Road to the East marked point at AC71 on the access to works plan
District of Broadland	Vehicular access from Cromer Road to the East & West marked point at AC72 on the access to works plan
District of Broadland	Vehicular access from Cromer Road to the West marked point at AC73 on the access to works plan
District of Broadland	Vehicular access from Cromer Road to the North marked point at AC74 on the access to works plan
District of Broadland	Vehicular access from private track to the South marked point at AC75 on the access to

	works plan
District of Broadland	Vehicular access from Blickling Road to the North marked point at AC76 on the access to works plan
District of Broadland	Vehicular access from Blickling Road to the East & West marked point at AC77 on the access to works plan
District of Broadland	Vehicular access from Blickling Road to the South marked point at AC78 on the access to works plan
District of Broadland	Vehicular access from Silvergate Lane to the East marked point at AC79 on the access to works plan
District of Broadland	Vehicular access from Silvergate Lane to the East & West marked point at AC80 on the access to works plan
District of Broadland	Vehicular access from private track to the South marked point at AC81 on the access to works plan
District of Broadland	Vehicular access from Aylsham Road to the North & South marked point at AC82 on the access to works plan
District of Broadland	Vehicular access from Aylsham Road to the South marked point at AC83 on the access to works plan
District of Broadland	Vehicular access from private track to the North East & South West marked point at AC84 on the access to works plan
District of Broadland	Vehicular access from private track to the South marked point at AC85 on the access to works plan
District of Broadland	Vehicular access from private track to the South marked point at AC86 on the access to works plan
District of Broadland	Vehicular access from private track to the South marked point at AC87 on the access to works plan
District of Broadland	Vehicular access from The Street to the East marked point at AC88 on the access to works plan
District of Broadland	Vehicular access from B1149 to the East & West marked point at AC89 on the access to works plan
District of Broadland	Vehicular access from B1149 to the South marked point at AC90 on the access to works plan
District of Broadland	Vehicular access from private track to the East marked point at AC91 on the access to works plan
District of Broadland	Vehicular access from private track to the East & West marked point at AC92 on the access to works plan
District of Broadland	Vehicular access from private track to the North marked point at AC93 on the access to works plan
District of Broadland	Vehicular access from Heydon Lane to the East

	& West marked point at AC94 on the access to works plan
District of Broadland	Vehicular access from Heydon Lane to the West marked point at AC95 on the access to works plan
District of Broadland	Vehicular access from private track to the East & West marked point at AC96 on the access to works plan
District of Broadland	Vehicular access from private track to the North marked point at AC97 on the access to works plan
District of Broadland	Vehicular access from private track to the North marked point at AC98 on the access to works plan
District of Broadland	NOT USED: AC99
District of Broadland	Vehicular access from B1145 to the North marked point at AC100 on the access to works plan
District of Broadland	Vehicular access from private track off Cawston Road to the East & West marked point at AC101 on the access to works plan
District of Broadland	Vehicular access from B1145 to the East & West marked point at AC102 on the access to works plan
District of Broadland	Vehicular access from B1145 to the South marked point at AC103 on the access to works plan
District of Broadland	Vehicular access from B1145 to the North marked point at AC104 on the access to works plan
District of Broadland	Vehicular access from B1145 to the East & West marked point at AC105 on the access to works plan
District of Broadland	Vehicular access from B1145 to the East marked point at AC106 on the access to works plan
District of Broadland	Vehicular access from private track to the East & West marked point at AC107 on the access to works plan
District of Broadland	Vehicular access from Wood Dalling Road to the West marked point at AC108 on the access to works plan
District of Broadland	Vehicular access from Kerdiston Road to the East & West marked point at AC109 on the access to works plan
District of Broadland	Vehicular access from B1145 to the West marked point at AC110 on the access to works plan
District of Broadland	Vehicular access from B1145 to the South marked point at AC111 on the access to works plan
District of Broadland	Vehicular access from B1145 to the East marked point at AC112 on the access to works plan
District of Broadland	Vehicular access from private track to the North marked point at AC113 on the access to

	works plan
District of Broadland	Vehicular access from private track to the East & West marked point at AC114 on the access to works plan
District of Broadland	Vehicular access from private track to the North marked point at AC115 on the access to works plan
District of Broadland	Vehicular access from private track to the East marked point at AC116 on the access to works plan
District of Broadland	Vehicular access from private track to the North & South marked point at AC117 on the access to works plan
District of Broadland	Vehicular access from private track to the South marked point at AC118 on the access to works plan
District of Breckland	Vehicular access from Well Lane to the North marked point at AC119 on the access to works plan
District of Breckland	Vehicular access from Well Lane to the North & South marked point at AC120 on the access to works plan
District of Breckland	Vehicular access from Well Lane to the East marked point at AC121 on the access to works plan
District of Breckland	Vehicular access from Lime Kiln Road to the East & West marked point at AC122 on the access to works plan
District of Breckland	Vehicular access from Lime Kiln Road to the East & West marked point at AC123 on the access to works plan
District of Breckland	Vehicular access from Lime Kiln Road to the West marked point at AC124 on the access to works plan
District of Breckland	Vehicular access from Lime Kiln Road to the North & South marked point at AC125 on the access to works plan
District of Breckland	Vehicular access from Elsing Lane to the East & West marked point at AC126 on the access to works plan
District of Breckland	Vehicular access from private track to the South marked point at AC127 on the access to works plan
District of Breckland	Vehicular access from Elsing Road to the East & West marked point at AC128 on the access to works plan
District of Breckland	Vehicular access from Elsing Road to the West marked point at AC129 on the access to works plan
District of Breckland	Vehicular access from Elsing Road to the West marked point at AC130 on the access to works plan
District of Breckland	Vehicular access from Elsing Road to the North marked point at AC131 on the access to works plan
District of Breckland	Vehicular access from private track to the East

	marked point at AC132 on the access to works plan
District of Breckland	Vehicular access from Frogs Hall Lane to the East & West marked point at AC133 on the access to works plan
District of Breckland	Vehicular access from Frogs Hall Lane to the East marked point at AC134 on the access to works plan
District of Breckland	Vehicular access from B1147 to the North marked point at AC135 on the access to works plan
District of Breckland	Vehicular access from Norwich Road to the East & West marked point at AC136 on the access to works plan
District of Breckland	Vehicular access from B1147 to the East & West marked point at AC137 on the access to works plan
District of Breckland	Vehicular access from Swanton Road to the East & West marked point at AC138 on the access to works plan
District of Breckland	Vehicular access from Swanton Road to the South marked point at AC139 on the access to works plan
District of Breckland	Vehicular access from Hoe Road S to the South marked point at AC140 on the access to works plan
District of Breckland	Vehicular access from Swanton Road to the North marked point at AC141 on the access to works plan
District of Breckland	Vehicular access from private track to the South marked point at AC142 on the access to works plan
District of Breckland	Vehicular access from private track to the South marked point at AC143 on the access to works plan
District of Breckland	Vehicular access from private track to the South marked point at AC144 on the access to works plan
District of Breckland	Vehicular access from private track to the East & West marked point at AC145 on the access to works plan
District of Breckland	Vehicular access from B1146 to the North marked point at AC146 on the access to works plan
District of Breckland	Vehicular access from B1146 to the East & West marked point at AC147 on the access to works plan
District of Breckland	Vehicular access from B1146 to the West marked point at AC148 on the access to works plan
District of Breckland	Vehicular access from B1146 to the South marked point at AC149 on the access to works plan
District of Breckland	Vehicular access from unnamed track to the West marked point at AC150 on the access to works plan

District of Breckland	Vehicular access from Mill Lane to the East marked point at AC151 on the access to works plan
District of Breckland	Vehicular access from Dereham to the South marked point at AC152 on the access to works plan
District of Breckland	Vehicular access from Dereham to the East & West marked point at AC153 on the access to works plan
District of Breckland	Vehicular access from private track to the East & West marked point at AC154 on the access to works plan
District of Breckland	Vehicular access from private track to the South marked point at AC155 on the access to works plan
District of Breckland	Vehicular access from private track to the South marked point at AC156 on the access to works plan
District of Breckland	Vehicular access from private track to the North & West marked point at AC157 on the access to works plan
District of Breckland	Vehicular access from private track to the South & West marked point at AC158 on the access to works plan
District of Breckland	Vehicular access from private track to the North marked point at AC159 on the access to works plan
District of Breckland	Vehicular access from private track to the West marked point at AC160 on the access to works plan
District of Breckland	Vehicular access from Dale Road to the West marked point at AC161 on the access to works plan
District of Breckland	Vehicular access from Dale Road to the North & South marked point at AC162 on the access to works plan
District of Breckland	Vehicular access from Dereham Road to the North marked point at AC163 on the access to works plan
District of Breckland	Vehicular access from Dale Road to the East & West marked point at AC164 on the access to works plan
District of Breckland	Vehicular access from Dereham Road to the East & West marked point at AC165 on the access to works plan
District of Breckland	Vehicular access from Bradenham Lane to the North marked point at AC166 on the access to works plan
District of Breckland	Vehicular access from Bradenham Lane to the North marked point at AC167 on the access to works plan
District of Breckland	Vehicular access from Bradenham Lane to the North marked point at AC168 on the access to works plan
District of Breckland	Vehicular access from Hulver Street to the East & West marked point at AC169 on the access

District of Breckland	to works plan Vehicular access from private track to the North marked point at AC170 on the access to works plan
District of Breckland	Vehicular access from private track off Haggards Way to the East & West marked point at AC171 on the access to works plan
District of Breckland	NOT USED: AC172
District of Breckland	Vehicular access from private track off Haggards Way to the West marked point at AC173 on the access to works plan
District of Breckland	NOT USED: AC174
District of Breckland	Vehicular access from private track off Smugglers Lane to the East & West marked point at AC174a on the access to works plan
District of Breckland	Vehicular access from Goggles Lane to the East & West marked point at AC175 on the access to works plan
District of Breckland	Vehicular access from Goggles Lane to the South marked point at AC176 on the access to works plan
District of Breckland	NOT USED: AC177
District of Breckland	Vehicular access from private track off Lodge Lane to the North & South marked point at AC178 on the access to works plan
District of Breckland	Vehicular access from private track off A47 to the East & West marked point at AC179 on the access to works plan
District of Breckland	Vehicular access from private track off A47 to the East & West marked point at AC180 on the access to works plan
District of Breckland	Vehicular access from A47 to the East marked point at AC181 on the access to works plan
District of Breckland	Vehicular access from A47 to the North marked point at AC182 on the access to works plan
District of Breckland	Vehicular access from A47 to the East & West marked point at AC183 on the access to works plan

## SCHEDULE 6

Article 20

### Land in which only New Rights etc., may be acquired

<i>(1) Number of land shown on land plan</i>	<i>(2) Purpose for which rights may be acquired</i>
Landfall Plots 01/01, 01/02, 01/03, 01/04, 01/05, 01/06, 01/07, 01/08, 01/09, 01/10, 01/11, 01/13, 01/17, 01/18, 01/19, 01/20, 02/01, 02/02, 02/03	1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—  (a) construct, lay and install by way of drilling and / or trenching and repair, renew, upgrade, inspect, remove and replace underground electrical cables



and ducts, jointing works including transition joint bays and other apparatus together with such telemetry and fibre optic lines, structures, ducting and other apparatus, protection and safety measures and equipment which is ancillary to the purposes of transmitting electricity along such electrical cables (which collectively for the purposes of this schedule are referred to as the “cables”);

- (b) effect access to offshore apparatus and carry out works for the purposes of construction, installation, operation, maintenance and decommissioning of the parts of the authorised project that communicate between the onshore and offshore elements of the authorised project;
- (c) install, retain, and connect apparatus to connect onshore transmission apparatus to offshore transmission apparatus;
- (d) enter and be upon the land and remain with or without plant, vehicles, vessels, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity along the cables, or use of the cables, cable ducts and jointing works;
- (e) retain and use the cables, cable ducts and jointing works for the purpose of the transmission of telecommunications and electricity;
- (f) pass and repass with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying down, installing, adjusting, altering, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (g) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (h) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing,

upgrading, inspecting, removal and replacing of the cables, cable ducts and jointing works;

- (i) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (j) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduit or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers); and
- (l) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation for the purposes of enabling the right to pass and repass.

#### Access tracks

Plots 01/14, 01/15, 01/16, 02/06, 02/07, 02/08, 02/10, 02/15, 02/17, 02/20, 03/03, 03/12, 04/04, 05/02, 05/05, 05/09, 05/11, 06/06, 06/08, 06/09, 06/11, 06/13, 07/02, 07/05, 07/07, 07/08, 07/12, 08/03, 08/04, 08/06, 08/12, 09/06, 09/09, 09/10, 09/13, 09/14, 10/07, 10/08, 10/09, 10/10, 11/02, 11/04, 11/07, 11/08, 11/11, 11/15, 12/01, 12/07, 12/09, 13/01, 13/04, 13/06, 13/07, 13/12, 14/01, 14/06, 14/11, 14/13, 14/16, 14/19, 14/22, 14/24, 15/08, 15/10, 15/12, 15/14, 16/01, 16/02, 16/04, 16/06, 16/07, 16/11, 16/14, 17/06, 18/06, 18/07, 18/09, 18/10, 18/11, 18/12, 19/01, 19/02, 19/03, 19/06, 19/08, 19/09, 20/04, 20/05, 20/08, 20/11, 20/18, 21/04, 21/05, 21/07, 21/09, 21/12, 21/13, 21/14, 21/15, 21/16, 22/02, 22/08, 22/09, 22/10, 22/11, 22/16, 23/02, 24/02, 24/03, 24/06, 24/07, 24/13, 24/14, 24/15, 24/17, 24/18, 25/01, 25/03, 25/05, 26/02, 26/04, 26/05, 26/06, 26/08, 26/10, 26/11, 26/13, 27/02, 27/04, 27/06, 27/13, 28/04, 28/05, 29/05, 29/07, 29/09, 29/10, 29/12, 30/02, 30/03, 30/04, 30/05, 30/06, 30/10, 30/11, 31/02, 31/03, 31/04, 31/05, 32/02, 32/03, 32/06, 32/09, 32/12, 32/13, 32/14, 32/15, 33/02, 33/03, 33/04, 33/12, 34/03, 34/04, 34/08, 34/09, 34/10, 34/11, 34/13, 35/11, 35/12, 36/02, 36/05, 36/06, 36/08, 36/09, 36/10, 36/11, 36/14, 36/15, 36/16, 36/17, 36/21, 37/05, 37/13, 37/14, 38/02, 38/03, 38/05, 38/06, 38/08, 38/12, 39/04, 39/05, 39/06, 39/07, 39/15, 39/16, 40/02, 40/03, 41/08, 41/10, 41/11, 41/13, 41/16, 41/22.

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (b) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of access to adjoining land and highway;
- (c) retain, maintain and use temporary supporting or protective structures and erect temporary supporting or protective structures (including the bridging over or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;
- (d) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation

for the purposes of enabling the right to pass and repass to and from adjoining land;

- (e) retain and maintain existing temporary permissive paths and lay out temporary permissive paths for public use (if applicable);
- (f) effect access and egress to and from the highway;
- (g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;
- (h) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal works are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights); and
- (i) construct, install, use, retain, maintain, inspect, modify, improve, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

“adjoining land” for the purposes of this paragraph 1 means such other parts of the land within the Order limits required for the authorised project.

#### Full cable rights

Plots 01/12, 02/04, 02/05, 02/09, 02/12, 02/14, 02/18, 02/21, 02/22, 02/23, 03/01, 03/02, 03/04, 03/05, 03/07, 03/08, 03/11, 03/13, 04/01, 04/02, 04/03, 04/05, 04/08, 04/10, 04/12, 05/01, 05/04, 05/06, 05/08, 05/10, 06/01, 06/03, 06/05, 06/14, 07/01, 07/04, 07/06, 07/10, 08/02, 08/08, 08/13, 08/17, 08/20, 08/23, 09/03, 09/07, 09/08, 09/12, 09/16, 10/02, 10/05, 10/14, 10/16, 10/17, 11/01, 11/05, 11/06, 11/09, 11/12, 11/14, 12/02, 12/04, 12/06, 13/02, 13/08, 13/10, 13/11, 13/13, 14/02, 14/05, 14/07, 14/09, 14/15, 14/20, 14/27, 15/02, 15/05, 15/07, 15/13, 15/15, 16/03, 16/08, 16/09, 16/10, 16/13, 17/01, 17/02, 17/03, 17/04, 17/07, 18/01, 18/04, 18/05, 18/08, 18/13, 18/14, 19/04, 19/07, 20/01, 20/03, 20/07, 20/10, 20/17, 20/20, 21/01, 21/08, 22/01, 22/04, 22/06, 22/07, 22/12, 22/13, 22/14, 22/15, 23/01, 23/05, 23/06, 23/08, 23/09, 23/11, 23/13, 23/14, 24/01, 24/04, 24/08,

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of drilling and / or trenching;
- (b) construct, install, use, retain, maintain, inspect, modify, improve, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of

24/11, 24/19, 25/02, 25/06, 25/07, 26/01, 26/03, 26/07, 26/09, 26/14, 26/15, 27/01, 27/07, 27/09, 27/11, 27/15, 27/16, 28/01, 28/03, 29/02, 29/08, 29/13, 30/01, 30/07, 30/08, 30/12, 31/01, 31/07, 31/09, 31/11, 31/13, 32/01, 32/05, 32/07, 32/08, 32/11, 33/01, 33/08, 33/14, 33/16, 34/01, 34/07, 35/01, 35/04, 35/05, 35/07, 35/16, 36/01, 36/04, 36/07, 36/12, 36/13, 36/18, 36/20, 37/09, 37/16, 37/18, 37/22, 38/01, 38/04, 38/09, 38/11, 39/01, 39/02, 39/09, 39/10, 39/12, 39/13, 40/01, 40/04, 40/11, 40/12, 40/14, 40/20, 40/23, 41/03, 41/14, 41/15

- constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (d) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
  - (e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables, or use of the cable ducts and jointing works;
  - (f) retain and use the cables for the purposes of the transmission of telecommunications and electricity;
  - (g) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables, cable ducts and jointing works;
  - (h) install and maintain cable marker posts to identify the location of the cables, cable ducts and jointing works as required for routine integrity testing;
  - (i) remove, store and stockpile materials (including excavated material) within the Order land;
  - (j) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights);
  - (k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables,

conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);

- (l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;
- (m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (n) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the cables, cable ducts and jointing works;
- (o) carry out environmental mitigation, remediation and enhancement works;
- (p) install, construct, use and remove temporary welfare facilities during any periods of construction, maintenance, repair, replacement, renewal, upgrade and removal of the cables, cable ducts and jointing works;
- (q) when the cables are temporarily unusable, to lay down, install, use, maintain and inspect on the surface of the land electric lines, telecommunications, ancillary equipment and associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and
- (r) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised project.

2. The right to enter and remain on the land for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised project, and to—

- (a) enter upon the land and to create temporary secure areas;
- (b) place equipment on the land, including portakabins and welfare equipment;
- (c) store plant, materials and equipment;
- (d) create car parking sites, site offices, site areas for temporary security and welfare facilities;
- (e) effect access and egress to and from the highway;

- (f) create fuel storage and banded facilities for the storage of materials ancillary to the implementation of the authorised project; and
- (g) access the underground electrical cables, cable ducts and jointing works and any other land used or to be used in connection with the installation and use of the underground electrical cables, cable ducts and jointing works, over the temporary secure area within the land, for purposes in connection with the installation and use of the underground electrical cables.

3. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (b) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of access to adjoining land and highway;
- (c) erect temporary supporting or protective structures (including the bridging over or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;
- (d) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation for the purposes of enabling the right to pass and repass to and from adjoining land;
- (e) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (f) effect access and egress to and from the highway;
- (g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;

- (h) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the exercise of the rights); and
- (i) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

“adjoining land” for the purposes of this paragraph 3 means such other parts of the land within the Order limits required for the authorised project.

4. A restrictive covenant over the land for the benefit of the remainder of the Order land to—

- (a) prevent anything to be done in or upon the Order land or any part thereof for the purpose of the erection of any buildings or construction or erection of works of any kind (including the foundations, footings or other supportive structures thereto);
- (b) prevent anything to be done by way of hard surfacing of the Order land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised project nor make it materially more difficult or expensive to maintain the authorised project);
- (c) prevent mole draining or anything to be done by way of excavation of any kind in the Order land nor any activities which increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities or are required to be carried out by National Grid in order to exercise their rights in relation

to their apparatus within the Order land;

- (d) prevent the planting or growing within the Order land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised project nor make it materially more difficult or expensive to access the relevant part of the authorised project) provided that the growing within the land of any pre-existing trees, shrubs or underwood do not require the consent of the undertaker; and
- (e) prevent anything to be done in or upon the Order land or any part thereof which shall or which it is reasonably foreseeable may interfere with the exercise of the other rights set out in this Schedule or the use of the authorised project or in any way render the authorised project or any part thereof in breach of any statute or regulation for the time being in force and applicable thereto.

Crossings required to be undertaken by trenchless crossing

Plots 08/19, 35/13, 37/01, 37/07.

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of horizontal drilling or other trenchless techniques;
- (b) construct, install, use, retain, maintain, inspect, modify, improve, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (d) retain and maintain existing



hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;

- (e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables, or use of the cable ducts and jointing works;
- (f) retain and use the cables for the purposes of the transmission of telecommunications and electricity;
- (g) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables, cable ducts and jointing works;
- (h) install and maintain cable marker posts to identify the location of the cables, cable ducts and jointing works as required for routine integrity testing;
- (i) remove, store and stockpile materials (including excavated material) within the Order land;
- (j) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights);
- (k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);
- (l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;

- (m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (n) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the cables, cable ducts and jointing works;
- (o) carry out environmental mitigation, remediation and enhancement works;
- (p) install, construct, use and remove temporary welfare facilities during any periods of construction, maintenance, repair, replacement, renewal, upgrade and removal of the cables, cable ducts and jointing works;
- (q) when the cables are temporarily unusable, to lay down, install, use, maintain and inspect on the surface of the land electric lines, telecommunications, ancillary equipment and associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and
- (r) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised project.

2. The right to enter and remain on the land for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised project, and to—

- (a) enter upon the land and to create temporary secure areas;
- (b) place equipment on the land, including portakabins and welfare equipment;
- (c) store plant, materials and equipment;
- (d) create car parking sites, site offices, site areas for temporary security and welfare facilities;
- (e) effect access and egress to and from the highway;
- (f) create fuel storage and bunded facilities for the storage of materials ancillary to the implementation of the authorised project; and
- (g) access the underground electrical cables, cable ducts and jointing works

and any other land used or to be used in connection with the installation and use of the underground electrical cables, cable ducts and jointing works, over the temporary secure area within the land, for purposes in connection with the installation and use of the underground electrical cables.

3. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (b) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of access to adjoining land and highway;
- (c) erect temporary supporting or protective structures (including the bridging over or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;
- (d) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation for the purposes of enabling the right to pass and repass to and from adjoining land;
- (e) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (f) effect access and egress to and from the highway;
- (g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;
- (h) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the cables

(subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the exercise of the rights); and

- (i) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.
- (j) “adjoining land” for the purposes of this paragraph 3 means such other parts of the land within the Order limits required for the authorised project.

4. A restrictive covenant over the land for the benefit of the remainder of the Order land to—

- (a) prevent anything to be done in or upon the Order land or any part thereof for the purpose of the erection of any buildings or construction or erection of works of any kind (including the foundations, footings or other supportive structures thereto);
- (b) prevent anything to be done by way of hard surfacing of the Order land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised project nor make it materially more difficult or expensive to maintain the authorised project);
- (c) prevent mole draining or anything to be done by way of excavation of any kind in the Order land nor any activities which increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities or are required to be carried out by National Grid in order to exercise their rights in relation to their apparatus within the Order land;
- (d) prevent the planting or growing within the Order land of any trees, shrubs or underwood without the consent in

writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised project nor make it materially more difficult or expensive to access the relevant part of the authorised project) provided that the growing within the land of any pre-existing trees, shrubs or underwood do not require the consent of the undertaker; and

- (e) prevent anything to be done in or upon the Order land or any part thereof which shall or which it is reasonably foreseeable may interfere with the exercise of the other rights set out in this Schedule or the use of the authorised project or in any way render the authorised project or any part thereof in breach of any statute or regulation for the time being in force and applicable thereto.

#### Minor crossings inc. highway

Plots 02/11, 02/13, 02/16, 02/19, 03/06, 03/09, 03/10, 04/09, 04/11, 05/03, 05/07, 06/02, 06/04, 06/10, 07/03, 07/09, 08/05, 08/07, 08/15, 08/21, 09/11, 09/15, 10/01, 10/15, 11/03, 11/10, 11/13, 12/03, 12/05, 13/05, 13/09, 14/03, 14/04, 14/12, 14/26, 15/11, 16/05, 16/12, 17/05, 18/02, 20/02, 20/06, 20/09, 20/19, 21/03, 22/03, 22/05, 23/03, 24/05, 24/16, 25/04, 26/12, 27/05, 27/10, 27/14, 28/02, 29/11, 30/09, 31/06, 31/08, 31/12, 32/04, 32/10, 33/09, 33/11, 33/15, 34/05, 34/06, 35/06, 35/15, 36/03, 37/11, 37/17, 37/19, 37/21, 38/07, 39/03, 41/05

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of drilling and / or trenching;
- (b) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables and cable ducts;
- (d) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables

- and cable ducts;
- (e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables and cable ducts;
  - (f) retain and use the cables for the purposes of the transmission of telecommunications and electricity;
  - (g) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables and cable ducts;
  - (h) install and maintain cable marker posts to identify the location of the cables and cable ducts as required for routine integrity testing;
  - (i) remove store and stockpile materials (including excavated material) within the Order land;
  - (j) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights);
  - (k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);
  - (l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;
  - (m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
  - (n) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew,

upgrade, inspect or remove the cables and cable ducts;

- (o) carry out environmental mitigation, remediation and enhancement works;
- (p) install, construct, use and remove temporary welfare facilities during any periods of maintenance, repair, replacement, renewal, upgrade and removal of the cables and cable ducts;
- (q) when the cables are temporarily unusable, to lay down, install, use, maintain and inspect on the surface of the land electric lines, telecommunications, ancillary equipment and associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and
- (r) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised project.

Minor crossings inc. highway required to be undertaken by trenchless crossing

Plots 08/10, 10/11, 12/10, 14/18, 19/05, 27/08, 28/08, 35/03, 35/09.

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of horizontal drilling or other trenchless techniques;
- (b) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables and cable ducts;
- (d) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables

- and cable ducts;
- (e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables and cable ducts;
  - (f) retain and use the cables for the purposes of the transmission of telecommunications and electricity;
  - (g) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables and cable ducts;
  - (h) install and maintain cable marker posts to identify the location of the cables and cable ducts as required for routine integrity testing;
  - (i) remove store and stockpile materials (including excavated material) within the Order land;
  - (j) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights);
  - (k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);
  - (l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;
  - (m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
  - (n) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew,



upgrade, inspect or remove the cables and cable ducts;

- (o) carry out environmental mitigation, remediation and enhancement works;
- (p) install, construct, use and remove temporary welfare facilities during any periods of maintenance, repair, replacement, renewal, upgrade and removal of the cables and cable ducts;
- (q) when the cables are temporarily unusable, to lay down, install, use, maintain and inspect on the surface of the land electric lines, telecommunications, ancillary equipment and associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and
- (r) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised project

Major crossings (railway, dual carriageway)

Plots 10/04, 15/03, 15/04, 23/07, 24/10, 33/06, 37/02, 37/08, 37/20

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of horizontal drilling or other trenchless techniques;
- (b) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (c) enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables and cable ducts;
- (d) retain and use the cables for the purposes of the transmission of telecommunications and electricity; and
- (e) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers).

## Balancing pond works

Plots 41/23, 41/24, 41/25

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) with or without vehicles, plant and equipment to enter the land to construct the authorised project and thereafter to use, retain, inspect, maintain, repair, alter, renew and replace or remove the authorised project;
- (b) with or without vehicles, plant and equipment to enter the land to construct or modify drainage apparatus, flood works, water attenuation works or other works, and to construct in, on, over or under the land drains, conduits or pipes to allow existing attenuation works to communicate with the authorised project;
- (c) with or without vehicles, plant and equipment to enter the land to fell, trim or lop trees and bushes which may obstruct or interfere with the rights exercised by the undertaker;
- (d) with or without vehicles, plant and equipment to enter the land to access any adjoining land for the purposes of the authorised project;
- (e) with or without vehicles, plant and equipment to enter the land to exercise the rights over and across any access route; and
- (f) to carry out any activities ancillary or incidental thereto.

2. A restrictive covenant over the land for the benefit of the remainder of the Order land to—

- (a) prevent anything to be done in or upon the Order land or any part thereof for the purpose of the erection of any buildings or construction or erection of works of any kind (including the foundations, footings or other supportive structures thereto);
- (b) prevent anything to be done by way of hard surfacing of the Order land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if

the proposed surfacing would not cause damage to relevant part of the authorised project nor make it materially more difficult or expensive to maintain the authorised project);

- (c) prevent mole draining or anything to be done by way of excavation of any kind in the Order land nor any activities which increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities or are required to be carried out by National Grid in order to exercise their rights in relation to their apparatus within the Order land;
- (d) prevent the planting or growing within the Order land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised project nor make it materially more difficult or expensive to access the relevant part of the authorised project) provided that the growing within the land of any pre-existing trees, shrubs or underwood do not require the consent of the undertaker; and
- (e) prevent anything to be done in or upon the Order land or any part thereof which shall or which it is reasonably foreseeable may interfere with the exercise of the other rights set out in this Schedule or the use of the authorised project or in any way render the authorised project or any part thereof in breach of any statute or regulation for the time being in force and applicable thereto..

Connection into cable sealing ends

41/33

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables by way of drilling and / or trenching or by over ground construction;

- (b) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove any apparatus necessary to connect the cables into cable sealing ends and to facilitate the connection to electrical apparatus;
- (c) construct, install, use, retain, maintain, inspect, modify, improve, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;
- (d) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (e) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the cables, cable ducts and jointing works;
- (f) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the cables, or use of the cable ducts and jointing works;
- (g) retain and use the cables for the purposes of the transmission of telecommunications and electricity;
- (h) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the cables, cable ducts and jointing works;
- (i) install and maintain cable marker posts to identify the location of the cables, cable ducts and jointing works as required for routine integrity testing;
- (j) remove, store and stockpile materials

(including excavated material) within the Order land;

- (k) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights);
- (l) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);
- (m) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;
- (n) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (o) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the cables, cable ducts and jointing works;
- (p) carry out environmental mitigation, remediation and enhancement works;
- (q) install, construct, use and remove temporary welfare facilities during any periods of construction, maintenance, repair, replacement, renewal, upgrade and removal of the cables, cable ducts and jointing works;
- (r) when the cables are temporarily unusable, to lay down, install, use, maintain and inspect on the surface of the land electric lines, telecommunications, ancillary equipment and associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and
- (s) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the

land and the authorised project.

2. The right to enter and remain on the land for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised project, and to—

- (a) enter upon the land and to create temporary secure areas;
- (b) place equipment on the land, including portakabins and welfare equipment;
- (c) store plant, materials and equipment;
- (d) create car parking sites, site offices, site areas for temporary security and welfare facilities;
- (e) effect access and egress to and from the highway;
- (f) create fuel storage and bunded facilities for the storage of materials ancillary to the implementation of the authorised project; and
- (g) access the underground electrical cables, cable ducts and jointing works and any other land used or to be used in connection with the installation and use of the underground electrical cables, cable ducts and jointing works, over the temporary secure area within the land, for purposes in connection with the installation and use of the underground electrical cables.

3. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and to—

- (a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the cables, cable ducts and jointing works;
- (b) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of access to adjoining land and highway;
- (c) erect temporary supporting or protective structures (including the bridging over or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining

land and highway;

- (d) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation for the purposes of enabling the right to pass and repass to and from adjoining land;
- (e) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);
- (f) effect access and egress to and from the highway;
- (g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;
- (h) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the exercise of the rights); and
- (i) retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

“adjoining land” for the purposes of this paragraph 3 means such other parts of the land within the Order limits required for the authorised project.

#### Overhead line alterations

40/26, 40/27, 40/31, 40/33a, 41/01a, 41/28, 41/30b, 41/30c, 41/30d, 41/40

1. The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised project and—

- (a) to enter the land with or without vehicles plant and equipment to erect the electric lines and thereafter retain, inspect, maintain, repair, alter, renew, replace and remove the overhead lines;
- (b) with or without vehicles, plant and equipment and in a proper and woodman like manner to fell, trim or lop all trees and bushes on the land which obstruct or interfere with the

exercise of the undertaker's rights;

- (c) enter the land to access any adjoining land;
- (d) to use the overhead lines.

2. A restrictive covenant over the land for the benefit of the remainder of the Order land to—

- (a) not do or suffer to be done anything upon the land which may in any way interfere with, damage or cause injury to the overhead lines or interfere with or obstruct access thereto or use thereof, and to take all reasonable precautions to prevent such interference, obstruction, damage or injury;
  - (b) not erect any building or structure (whether temporary or permanent) or plant or allow to grow any plant or tree on the land within 5.3 metres of any conductors when they are at a maximum temperature and/or swing;
  - (c) not erect any building or structure (whether temporary or permanent) or plant or allow any plant or tree within or under any towers or within 5 metres of the outer edge of each of the foundations of any towers without the written consent of the undertaker (such consent not to be unreasonably withheld or delayed and which consent may be granted subject to reasonable conditions);
  - (d) not store or place within or under any towers or within 5 metres of the outer edge of the foundations of any towers any goods or materials whatsoever without the written consent of the undertaker (such consent not to be unreasonably withheld or delayed and which consent may be granted subject to reasonable conditions);
  - (e) not raise the level of the surface of the land so as to make the distance between the level of the ground and the lowest conductor at any point of the span less than 7.6 metres; and
  - (f) not carry out any works or excavations on the land or otherwise which may endanger the stability, safety and integrity of the overhead lines.
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## SCHEDULE 7

Article 20

### Modification of compensation and compulsory purchase enactments for creation of new rights

#### Compensation enactments

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

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

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

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

#### Application of the 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, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are 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 prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act applies in relation 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.** For section 7 of the 1965 Act (measure of compensation) there is substituted the following section—

**“7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act”

**5.** Section 8(1) of the Compulsory Purchase Act 1965 has effect as if references to acquiring land were to acquiring a right in the land, and Schedule 2A to that Act is to be read as if, for that Schedule, there were substituted—

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(a) 1973 c. 26.

## “SCHEDULE 2A

### Counter-Notice Requiring Purchase of Land

#### Introduction

**1.**—(1) This Schedule applies where an undertaker serves a notice to treat in respect of a right over the whole or part of a house, building or factory.

(2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).

**2.** In this Schedule “house” includes any park or garden belonging to a house.

#### Counter-notice requiring purchase of land

**3.** A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the undertaker to purchase the owner’s interest in the house, building or factory.

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

#### Response to counter-notice

**5.** On receiving a counter-notice the undertaker must decide whether to—

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

**6.** The undertaker must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

**7.** If the undertaker decides to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

**8.** If the undertaker does not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

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

#### Determination by Upper Tribunal

**10.** On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

**11.** In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right,
- (b) the proposed use of the right, and

- (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

**12.** If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the house, building or factory the authority ought to be required to take.

**13.** If the Upper Tribunal determines that the undertaker ought to be required to take some or all of the house, building or factory the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

**14.—(1)** If the Upper Tribunal determines that the undertaker ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the undertaker withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

**6.** The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

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

**7.** Section 11 of the 1965 Act (powers of entry) is so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act is modified correspondingly.

**8.** Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

**9.** Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

## SCHEDULE 8

Article 26

## Land of which temporary possession may be taken

<i>(1) Area</i>	<i>(2) Number of land shown on land plan</i>	<i>(3) Purpose for which temporary possession may be taken</i>	<i>(4) Part of the authorised project</i>
District of North Norfolk	01/07, 01/08, 01/09, 01/10, 01/11, 02/01, 02/02	Facilitating construction and carrying out the authorised project; construction compounds for carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 4B, 4C and 5
District of North Norfolk	01/01, 01/02, 01/03, 01/04, 01/05, 01/06, 01/13, 01/17, 01/18, 01/19, 01/20, 02/03, 01/12, 02/04, 02/05, 02/09, 02/11, 02/12, 02/13, 02/14, 02/16, 02/18, 02/19, 02/21, 02/22, 02/23, 03/01, 03/02, 03/04, 03/05, 03/06, 03/07, 03/08, 03/09, 03/10, 03/11, 03/13, 04/01, 04/02, 04/03, 04/05, 04/08, 04/09, 04/10, 04/11, 04/12, 05/01, 05/03, 05/04, 05/06, 05/07, 05/08, 05/10, 06/01, 06/02, 06/03, 06/04, 06/05, 06/10, 06/14, 07/01, 07/03, 07/04, 07/06, 07/09, 07/10, 08/02, 08/05, 08/07, 08/08, 08/10, 08/13, 08/15, 08/17, 08/19, 08/20, 08/21, 08/23, 09/03, 09/07, 09/08, 09/11, 09/12, 09/15, 09/16, 10/01, 10/02, 10/04, 10/05, 10/11, 10/14, 10/15, 10/16, 10/17, 11/01, 11/03, 11/05, 11/06, 11/09, 11/10, 11/12, 11/13, 11/14, 12/02, 12/03, 12/04, 12/05, 12/06, 12/10, 13/02, 13/05, 13/08, 13/09, 13/10, 13/11, 13/13, 14/02, 14/03, 14/04, 14/05	Facilitating construction and carrying out the authorised project; carrying out the authorised project; access for carrying out the authorised project.	Work No. 4A, 4B, 4C and 5
District of North Norfolk	01/14, 01/15, 01/16, 02/06, 02/07, 02/08, 02/10, 02/15, 02/17,	Laying of hardstanding and improvements to tracks; access for carrying out the	Work Nos. 4B, 4C, 5 and 6

	02/20, 03/03, 03/12, 04/04, 05/02, 05/05, 05/09, 05/11, 06/06, 06/08, 06/09, 06/11, 06/13, 07/02, 07/05, 07/07, 07/08, 07/12, 08/03, 08/04, 08/06, 08/12, 09/06, 09/09, 09/10, 09/13, 09/14, 10/07, 10/08, 10/09, 10/10, 11/02, 11/04, 11/07, 11/08, 11/11, 11/15, 12/01, 12/07, 12/09, 13/01, 13/04, 13/06, 13/07, 13/12, 14/01, 14/06	authorised project.	
District of North Norfolk	04/06, 04/07, 09/04, 09/05, 10/12	Facilitating construction and carrying out Work No. 5; mobilisation zone for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 4C and 5
District of North Norfolk	06/07, 07/11, 08/01, 08/07, 08/09, 08/11, 08/14, 08/16, 08/18, 08/22, 08/24, 09/01, 09/02, 10/03, 10/06, 10/13, 12/08, 12/11, 13/03	Facilitating construction and carrying out Work No. 5; trenchless crossing zone for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work No. 5
District of North Norfolk	06/12	Facilitating construction and carrying out Work No. 5; mobilisation zone and trenchless crossing zone for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work No. 5
Districts of North Norfolk and Broadland	14/07	Facilitating construction and carrying out the authorised project; carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 5 and 6
Districts of North Norfolk and Broadland	14/08	Facilitating construction and carrying out Work Nos. 5 and 6; trenchless crossing zone for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 5 and 6
District of Broadland	14/09, 14/12, 14/15, 14/18, 14/20, 14/26, 14/27, 15/02, 15/03, 15/04, 15/05, 15/07, 15/11, 15/13, 15/15,	Facilitating construction and carrying out the authorised project; carrying out the authorised project; access for carrying out the authorised	Work No. 6

	16/03, 16/05, 16/08, 16/09, 16/10, 16/12, 16/13, 17/01, 17/02, 17/03, 17/04, 17/05, 17/07, 18/01, 18/02, 18/04, 18/05, 18/08, 18/13, 18/14, 19/04,, 19/07, 20/01, 20/02, 20/03, 20/06, 20/07, 20/09, 20/10, 20/17, 20/19, 20/20, 21/01, 21/03, 21/08, 22/01, 22/03, 22/04, 22/05, 22/06, 22/07, 22/12, 22/13, 22/14, 22/15, 23/01, 23/03, 23/05, 23/06, 23/07, 23/08, 23/09, 23/11, 23/13, 23/14, 24/01, 24/04, 24/05, 24/08, 24/10, 24/11, 24/16, 24/19, 25/02, 25/04, 25/06, 25/07, 26/01	project.	
District of Broadland	14/10, 14/21, 14/23, 14/25, 14/28, 15/01, 15/06, 15/09, 21/10, 21/11, 21/17, 23/04, 23/10, 23/12, 24/09, 24/12	Facilitating construction and carrying out Work No. 6; trenchless crossing zone for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work No. 6
District of Broadland	14/11, 14/13, 14/16, 14/19, 14/22, 14/24, 15/08, 15/10, 15/12, 15/14, 16/01, 16/02, 16/04, 16/06, 16/07, 16/11, 16/14, 17/06, 18/06, 18/07, 18/09, 18/10, 18/11, 18/12, 19/01, 19/02, 19/03, 19/06, 19/08, 19/09, 20/04, 20/05, 20/08, 20/11, 20/12, 20/13, 20/14, 20/15, 20/16, 20/18, 21/04, 21/05, 21/07, 21/09, 21/12, 21/13, 21/14, 21/15, 21/16, 22/02, 22/08, 22/09, 22/10, 22/11, 22/16, 23/02, 24/02, 24/03, 24/06, 24/07, 24/13, 24/14, 24/15, 24/17, 24/18, 25/01, 25/03, 25/05, 26/02, 26/04	Laying of hardstanding and improvements to tracks; access for carrying out the authorised project.	Work Nos. 5, 6 and 7
District of Broadland	14/14, 19/05	Facilitating construction and carrying out Work No. 6; mobilisation zone and	Work No. 6

		trenchless crossing zone for construction, laydown, and carrying out the authorised project; access for carrying out the authorised project.	
District of Broadland	18/03, 20/21, 21/02, 21/06	Facilitating construction and carrying out Work No. 6; mobilisation zone for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work No. 6
District of Broadland	18/15, 18/16	Temporary storage site; worksites for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 5, 6, 7
Districts of Broadland and Breckland	26/03	Facilitating construction and carrying out the authorised project; carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 6 and 7.
District of Breckland	26/05, 26/06, 26/08, 26/10, 26/11, 26/13, 27/02, 27/04, 27/06, 27/13, 28/04, 28/05, 29/05, 29/07, 29/09, 29/10, 29/12, 30/02, 30/03, 30/04, 30/05, 30/06, 30/10, 30/11, 31/02, 31/03, 31/04, 31/05, 32/02, 32/03, 32/06, 32/09, 32/12, 32/13, 32/14, 32/15, 33/02, 33/03, 33/04, 33/12, 34/03, 34/04, 34/08, 34/09, 34/10, 34/11, 34/13, 35/11, 35/12, 36/02, 36/05, 36/06, 36/08, 36/09, 36/10, 36/11, 36/14, 36/15, 36/16, 36/17, 36/21, 37/05, 37/13, 37/14, 38/02, 38/03, 38/05, 38/06, 38/08, 41/08, 41/10, 41/11, 41/13, 41/16, 41/22, 39/07, 40/02, 40/03	Laying of hardstanding and improvements to tracks; access for carrying out the authorised project.	Work Nos. 6, 7
District of Breckland	26/07, 26/09, 26/12, 26/14, 26/15, 27/01, 27/05, 27/07, 27/08, 27/09, 27/10, 27/11, 27/14, 27/15, 27/16, 28/01, 28/02, 28/03, 28/08, 29/02, 29/08,	Facilitating construction and carrying out the authorised project; carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 7

	29/11, 29/13, 30/01, 30/07, 30/08, 30/09, 30/12, 31/01, 31/06, 31/07, 31/08, 31/09, 31/11, 31/12, 31/13, 32/01, 32/04, 32/05, 32/07, 32/08, 32/10, 32/11, 33/01, 33/06, 33/08, 33/09, 33/11, 33/14, 33/15, 33/16, 34/01, 34/05, 34/06, 34/07, 35/01, 35/03, 35/04, 35/05, 35/06, 35/07, 35/09, 35/13, 35/15, 35/16, 36/01, 36/03, 36/04, 36/07, 36/12, 36/13, 36/18, 36/20, 37/01, 37/02, 37/07, 37/08, 37/09, 37/11, 37/16, 37/17, 37/18, 37/19, 37/20, 37/21, 37/22, 38/01, 38/04, 38/07, 38/09, 39/10, 40/11, 40/14, 40/20, 40/23, 41/03, 41/14, 41/15, 38/11, 38/12, 39/01, 39/02, 39/03, 39/04, 39/05, 39/06, 39/09, 39/12, 39/13, 39/15, 39/16, 40/01, 40/04, 40/12, 41/05		
District of Breckland	27/03, 27/12, 31/10, 33/17, 34/02, 37/04, 37/12, 37/15	Facilitating construction and carrying out Work Nos. 7; mobilisation zone for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 7
District of Breckland	27/08, 28/06, 28/07, 28/09, 28/10, 29/01, 29/03, 29/04, 29/06, 33/05, 33/07, 33/09, 33/10, 33/13, 34/12, 35/02, 35/08, 35/10, 35/14, 36/19, 37/10	Facilitating construction and carrying out Work Nos. 7; trenchless crossing zone for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 7
District of Breckland	37/03, 37/06	Facilitating construction and carrying out Work Nos. 7; mobilisation zone and trenchless crossing zone for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 7
District of Breckland	40/16	Construction compound; worksites for construction and laydown and carrying out the	Work Nos. 7, 8A, 8B, 9 and 12



		authorised project; access for carrying out the authorised project.	
District of Breckland	40/26, 40/26a 40/27, 40/27a, 40/28, 40/31, 40/31a, 40/32, 40/33, 40/33a, 40/33b, 41/01, 41/01a, 41/01b, 41/07, 41/09, 41/17, 41/18, 41/27, 41/28, 41/30, 41/30b, 41/30c, 41/30d, 41/30e, 41/30f, 41/39, 41/40, 41/40a, 41/41, 41/42, 41/43, 41/44, 41/45, 41/46, 41/47, 41/48, 42/04	Facilitating construction and carrying out the authorised project and works to the National Grid overhead lines; worksites for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 7, 8A, 8B, 9, 10A, 10B, 10C, 11, 11A and 12
District of Breckland	41/07, 41/09, 41/17, 41/18	Construction compound and carrying out the authorised project; worksites for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 9, 10A, 10B, 10C, 11 and 12
District of Breckland	41/12, 42/05, 42/06	Facilitation construction and carrying out Work No. 12; worksites for construction and laydown and carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 10C and 12
District of Breckland	41/23, 41/24, 41/25	Facilitating construction and carrying out Work No. 10B; carrying out the authorised project; access for carrying out the authorised project.	Work Nos. 8B, 9, 10A, 10B, 10C, 11, 11A and 12
District of Breckland	41/33	Facilitating construction and carrying out Work No. 11 and Work No. 11A; carrying out the authorised project; access for carrying out the authorised project.	Work No. 11, and Work No. 11A
District of Breckland	42/02, 42/03	Facilitating construction and carrying out Work No. 12; worksites for construction and laydown and carrying out the authorised project; park and ride offload area for substation construction; access for carrying out the authorised project.	Work Nos. 8A, 8B, 9 and 12

## SCHEDULE 9

Article 32

## Deemed Licence under the 2009 Act – Generation Assets (Licence 1 – Phase 1)

## PART 1

## Interpretation

## 1. In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017(a);

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“accommodation platform” means a fixed structure providing offshore accommodation for personnel

“authorised deposits” means the substances and articles specified in paragraph 5 of Part 2 of this licence;

“authorised scheme” means Work No. 1 described in Part 3 of this licence or any part of that work;

“cable protection” means measures for offshore cable crossings and where cable burial is not possible due to ground conditions or approaching offshore structures, to protect cables and fibre optic cables and prevent loss of seabed sediment by use of grout bags, protective aprons, mattresses, flow energy dissipation (frond) devices or rock and gravel dumping;

“commence” means the first carrying out of any part of the licensed activities save for pre-construction surveys and monitoring and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 4 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“Development Principles” means the document certified as the Development Principles by the Secretary of State for the purposes of the Order;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State for the purposes of this Order;

“draught height” means the distance between the lowest point of the rotating blade of the wind turbine generator and MHWS;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“gravity base system” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

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(a) S.I. 2017/1013.

“in principle Norfolk Vanguard Southern North Sea Special Area of Conservation Site Integrity Plan” means the document certified as the in principle Norfolk Vanguard Southern North Sea Special area of Conservation Site Integrity Plan by the Secretary of State for the purposes of this Order;

“jacket foundation” means a steel jacket/ lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“HAT” means highest astronomical tide;

“licence 2 (generation)” means the licence set out in Schedule 10 (deemed licence under the 2009 Act – generation assets (licence 2 – phase 2));

“licensed activities” means the activities specified in Part 3 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in Part 2 of Schedule 1 (ancillary works), any cable, and any component part of any wind turbine generator, offshore electrical substation, accommodation platform or meteorological mast described in Part 1 of Schedule 1 (authorised development) not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“marker buoy” means any floating device used for marker or navigation purposes, including LIDAR buoys and wave buoys;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“measurement buoy” means any floating device used for measurement purposes, including LIDAR buoys and wave buoys;

“meteorological mast” means a mast housing equipment to measure wind speed and other wind characteristics, including a topside housing electrical, communication and associated equipment and marking and lighting;

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“Norfolk Vanguard East” means the eastern area located in the offshore Order limits within which wind turbine generators will be situated;

“Norfolk Vanguard West” means the western area located in the offshore Order limits within which wind turbine generators will be situated;

“notice to mariners” means a notice issued by the undertaker to mariners to inform them of issues that affect the safety of navigation;

“offshore cables” means any cables offshore;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State for the purposes of this Order;

“offshore Order limits” means the limits shown on the works plan within which the authorised scheme may be carried out, whose grid coordinates are set out in Part 2 of this licence;

“the Order” means the Norfolk Vanguard Offshore Wind Farm Order 2020;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State for the purposes of this Order;

“outline marine traffic monitoring strategy” means the document certified as the outline marine traffic monitoring strategy by the Secretary of State for the purposes of this Order;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“relevant site” means a European offshore marine site and a European site;

“scour protection” means measures to prevent loss of seabed sediment around any marine structure placed in or on the seabed by use of protective aprons, mattresses with or without frond devices, or rock and gravel placement.

“single offshore phase” means carrying out all offshore works as a single construction operation;

“statutory historic body” means Historic Buildings and Monuments Commission for England (Historic England) or its successor in function;

“statutory nature conservation body” means an organisation charged by government with advising on nature conservation matters;

“suction caisson” means a large diameter steel cylindrical shell which penetrates the seabed assisted by a hydrostatic pressure differential for fixity of foundations;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“two offshore phases” means carrying out the offshore works as two separate construction operations;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Norfolk Vanguard Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with up to three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include corrosion protection systems, helicopter landing facilities and other associated equipment, fixed to a foundation;

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

**2.** A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

**3.** Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

4. Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

- (a) Marine Management Organisation  
Marine Licensing  
Lancaster House  
Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7YH  
Tel: 0300 123 1032;
- (b) Marine Management Organisation (local office)  
Lowestoft Office  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 573 149;
- (c) Trinity House  
Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;
- (d) The United Kingdom Hydrographic Office  
Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900;
- (e) Maritime and Coastguard Agency  
Navigation Safety Branch  
Bay 2/20, Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 3817 2426;
- (f) Centre for Environment, Fisheries and Aquaculture Science  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT

Tel: 01502 562 244;

(g) Natural England  
 Area 1C, Nobel House  
 17 Smith Square  
 London  
 SW1P 2AL  
 Tel: 0300 060 4911;

(h) Historic England  
 Cannon Bridge  
 House 25  
 Dowgate Hill  
 London  
 EC4R 2YA  
 Tel: 020 7973 3700

## PART 2

### Licensed Marine Activities – General

**1.** This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes), and the completion of such programme has been confirmed by the Secretary of State in writing.

**2.** The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

**3.** With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

**4.** Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial and it must be demonstrated to the satisfaction of the MMO that they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

**5.** The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling or seabed preparation for foundation works and cable (including fibre optic cable) sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

6. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 55' 0.308" N	3° 4' 42.589" E	6	53° 2' 36.817" N	2° 34' 16.309" E
2	52° 49' 53.975" N	3° 5' 22.789" E	7	52° 49' 38.834" N	2° 34' 15.809" E
3	52° 46' 19.050" N	3° 2' 16.682" E	8	52° 48' 47.472" N	2° 33' 28.343" E
4	52° 45' 10.584" N	2° 45' 33.989" E	9	52° 48' 3.133" N	2° 26' 37.427" E
5	52° 51' 41.636" N	2° 45' 34.220" E	10	52° 56' 9.089" N	2° 18' 33.231" E

### PART 3

#### Details of Licensed Marine Activities

1. Subject to the licence conditions at Part 4, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 5 of Part 2 of this licence;
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (d) the disposal of up to 37,736,390m<sup>3</sup> of inert material of natural origin within the offshore Order limits produced during construction drilling or seabed preparation for foundation works and cable (including fibre optic cable) sandwave preparation works at disposal site references HU215 and HU216 within the extent of the Order limits seaward of MHWS, comprising—
  - (i) 36,000,000 m<sup>3</sup> for cable and fibre optic cable installation;
  - (ii) 1,648,824 m<sup>3</sup> for the wind turbine generators;
  - (iii) 75,000 m<sup>3</sup> for the accommodation platform; and
  - (iv) 12,566 m<sup>3</sup> for the meteorological masts; and
- (e) the removal of static fishing equipment; and
- (f) the disposal of drill arisings in connection with any foundation drilling up to 400,624 m<sup>3</sup>

2.—(1) Such activities are authorised in relation to the construction, maintenance and operation of Work No. 1 (phase 1)—

- (a) an offshore wind turbine generating station with an electrical export capacity of up to 1,800 MW at the point of connection to the offshore electrical platform(s) referred to at Work No. 2 comprising up to 158 wind turbine generators each fixed to the seabed by one of the following foundation types: monopile (piled or suction caisson), jacket (piled or suction caisson), or gravity base fitted with rotating blades and situated within the area shown on the works plan and further comprising (b) to (e) below;
- (b) up to two accommodation platforms fixed to the seabed within the area shown on the works plan by one of the following foundation types: jacket (piled or suction caisson) or gravity base;

- (c) up to two meteorological masts fixed to the seabed within the area shown on the works plan by one of the following foundation types: monopile (piled or suction caisson), jacket (piled or suction caisson) or gravity base;
- (d) up to two LIDAR measurement buoys fixed to the seabed within the area shown on the works plan by one of the following foundation types: monopile (piled) or floating and up to two wave measurement buoys fixed to the seabed within the area shown on the works plan by one foundation type (floating); and
- (e) a network of subsea array cables and fibre optic cables within the area shown on the works plan between the wind turbine generators, and between the wind turbine generators and Work No.2 including one or more offshore cable crossings.

(2) In connection with such Work No. 1 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including:

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work No. 1 and the disposal of up to 37,736,390 cubic metres of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, boulder clearance and pre-trenching and excavation of horizontal directional drilling exit pits; and
- (d) removal of static fishing equipment;

(3) In connection with such Work No. 1, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised scheme; and
- (b) beacons, fenders and other navigational warning or ship impact protection works.

## PART 4

### Conditions

#### **Design parameters**

**1.**—(1) Subject to paragraph (2), each wind turbine generator forming part of the authorised scheme must not—

- (a) exceed a height of 350 metres when measured from HAT to the tip of the vertical blade;
- (b) exceed a height of 198.5 metres to the height of the centreline of the generator shaft forming part of the hub when measured from HAT;
- (c) exceed a rotor diameter of 303 metres;
- (d) be less than 800 metres from the nearest wind turbine generator in either direction perpendicular to the approximate prevailing wind direction (crosswind) or be less than 800 metres from the nearest wind turbine generator in either direction which is in line with the approximate prevailing wind direction (downwind);
- (e) have a draught height which is less than the minimum draught height specified for the relevant wind turbine generator capacity in the table below



<i>Wind Turbine Generator Capacity</i>	<i>Minimum draught height</i>
Up to and including 14.6MW	35m from MHWS
14.7MW and above	30m from MHWS

(2) References to the location of a wind turbine generator in paragraph (1) above are references to the centre point of that turbine.

(3) The total number of wind turbine generators must not exceed 158 and must be configured such that at any time—

- (a) no more than two-thirds of the total number of wind turbine generators (rounded to the nearest whole number) must be located in Norfolk Vanguard West; and
- (b) no more than one-half of the total number of wind turbine generators (rounded to the nearest whole number) must be located in Norfolk Vanguard East.

**2.**—(1) The dimensions of any accommodation platform forming part of the authorised scheme must not exceed 100 metres in height when measured from HAT, 90 metres in length and 60 metres in width.

(2) Each meteorological mast must not exceed a height of 200 metres above HAT.

(3) Each meteorological mast must not have more than one supporting foundation.

**3.** The total length of the cables and the area and volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection (m<sup>2</sup> and m<sup>3</sup>)</i>
Work No. 1(e) (array)	600 kilometres	389,000m <sup>2</sup> 198,500 m <sup>3</sup>

**4.**—(1) In relation to a wind turbine generator, each foundation using piles must not have—

- (a) more than four driven piles;
- (b) in the case of single pile structures, a pile diameter which is more than 15 metres; or
- (c) in the case of two or more pile structures, have a pile diameter which is more than five metres.

(2) In relation to a wind turbine generator, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 1,963 m<sup>2</sup>.

**5.**—(1) In relation to a meteorological mast, each foundation using piles must not have—

- (a) more than four driven piles;
- (b) in the case of single pile structures, a pile diameter which is more than 10 metres;
- (c) in the case of two or more pile structures, have a pile diameter which is more than three metres.

(2) In relation to a meteorological mast, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 314 m<sup>2</sup>.

**6.**—(1) In relation to an accommodation platform, each foundation using piles must not have—

- (a) more than six driven piles;
- (b) a pile diameter which is more than three metres.

(2) In relation to an accommodation platform, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 7,500 m<sup>2</sup>.

**7.**—(1) In relation to any LIDAR measurement buoys, each foundation using piles must not have a pile diameter of greater than 10 metres.

(2) In relation to any LIDAR measurement buoys, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 79m<sup>2</sup> per buoy and 157 m<sup>2</sup> in total.

(3) In relation to any wave measurement buoys, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 150m<sup>2</sup> per buoy and 300 m<sup>2</sup> in total.

### **Phasing of the authorised scheme**

**8.**—(1) Taken together with works authorised and proposed to be constructed pursuant to licence 2 (generation)—

- (a) the total electrical export capacity of the authorised scheme must not exceed 1,800MW at the point of connection to the offshore electrical platform(s);
- (b) the total number of wind turbine generators forming part of the authorised scheme must not exceed 158;
- (c) the total number of accommodation platforms forming part of the authorised scheme must not exceed two;
- (d) the total number of meteorological masts forming part of the authorised scheme must not exceed two;
- (e) the total number of LIDAR measurement buoys forming part of the authorised scheme must not exceed two;
- (f) the total number of wave measurement buoys forming part of the authorised scheme must not exceed two;
- (g) the total amount of scour protection for the wind turbine generators, accommodation platform(s), meteorological masts and measurement buoys forming part of the authorised scheme must not exceed 5,176,703m<sup>2</sup> and 25,883,515 m<sup>3</sup>;
- (h) the total amount of inert material of natural origin disposed within the offshore Order limits as part of the authorised scheme must not exceed 37,736,390 m<sup>3</sup>;
- (i) the total amount of disposal for drill arisings in connection with any foundation drilling must not exceed 400,624 m<sup>3</sup>; and
- (j) the total length of cable and the amount of cable protection must not exceed the figures stated in condition 3 of this licence.

(2) Prior to the commencement of the authorised scheme the undertaker must give notice to the MMO detailing—

- (a) whether the authorised scheme will be constructed—
  - (i) in a single offshore phase under this licence; or
  - (ii) in two offshore phases under this licence and licence 2 (generation); and
- (b) where the authorised scheme will be constructed in two offshore phases—
  - (i) prior to the commencement of phase 1, the total number of wind turbine generators accommodation platforms, meteorological masts, LIDAR measurement buoys and wave measurement buoys to be constructed in that phase; and
  - (ii) prior to the commencement of phase 2, the total number of wind turbine generators accommodation platforms, meteorological masts, LIDAR measurement buoys and wave measurement buoys to be constructed in that phase.

### **Notifications and inspections**

**9.**—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with condition 17; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 17; and

- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with condition 17 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk) of details regarding the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—

- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) as soon as reasonably practicable and no later than 24 hours of completion of construction of all offshore activities.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 1 (wind turbine generators or other offshore construction activities including array cables and fibre optic cables) and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, MCA and UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under condition 14(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.

(10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO within five days.

(11) In case of damage to, or destruction or decay of the authorised scheme seaward of MHWS or any part thereof, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office.

(12) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO and MCA within five days.

### **Aids to navigation**

**10.**—(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and to take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation as set out in the aids to navigation management plan agreed pursuant to condition 14(1)(k) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 9(11) and condition 9(12) are invoked, the undertaker must lay down such marker buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

### **Colouring of structures**

**11.**—(1) Except as otherwise required by Trinity House the undertaker must colour all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least HAT to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035).

### **Chemicals, drilling and debris**

**12.**—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised scheme, including any chemical agents placed within any monopile void, must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(a) (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under this licence. This information must be submitted to the MMO by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

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(a) S.I. 2002/1355.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within disposal site references HU215 and HU216 within the extent of the Order limits seaward of MHWS. Any other materials must be screened out before disposal of the inert material at this site.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 14(1)(d)(i).

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

### **Force majeure**

**13.—**(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to make a deposit which is not authorised under this licence, whether within or outside of the Order limits, because the safety of human life and/or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

### **Pre-construction plans and documentation**

**14.—**(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO in consultation with Trinity House and the MCA which shows, in accordance with the Development Principles—
  - (i) the proposed location and choice of foundation of all wind turbine generators, offshore electrical platforms, accommodation platforms and meteorological masts;
  - (ii) the height to the tip of the vertical blade of all wind turbine generators;
  - (iii) the height to the centreline of the generator shaft forming part of the hub of all wind turbine generators;
  - (iv) the rotor diameter and spacing of all wind turbine generators;
  - (v) the height of all lattice towers forming part of all meteorological masts;
  - (vi) the height, length and width of all accommodation platforms;
  - (vii) the dimensions of all foundations;

- (viii) the length and arrangement of all cables (including fibre optic cables) comprising Work No. 1(e);
  - (ix) the proposed layout of all wind turbine generators (in accordance with the recommendations for layout contained in MGN543 and its annexes), accommodation platforms and meteorological masts including any exclusion zones identified under sub-paragraph (1)(h)(iv);
  - (x) a plan showing the indicative layout of all wind turbine generators, accommodation platforms and meteorological masts including all exclusion zones (insofar as not shown in (ix) above) and showing the indicative programming of particular works as set out in the indicative programme to be provided under sub-paragraph (1)(b)(iv);
  - (xi) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph (1)(i); and
  - (xii) the grid coordinates of the centre point of the proposed location for each wind turbine generator, offshore electrical platform, substation and meteorological mast.
- to ensure conformity with the description of Work No. 1 and compliance with conditions 1 to 8 above.
- (b) A construction programme and monitoring plan (which accords with the offshore in principle monitoring plan) to include details of—
    - (i) the proposed construction start date;
    - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
    - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction surveys and monitoring and related reporting in accordance with sub-paragraph (1)(h) and conditions 17, 18, 19 and 20; and
    - (iv) an indicative written construction programme for all wind turbine generators accommodation platforms, meteorological masts, measurement buoys and cables (including fibre optic cables) comprised in the works in Part 3 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);

with details pursuant to paragraph (iii) above to be submitted to the MMO in accordance with the following—

    - (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed pre-construction monitoring;
    - (bb) at least four months prior to construction, detail on construction monitoring;
    - (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;

unless otherwise agreed in writing with the MMO.
  - (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
    - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works, and having regard to any mitigation scheme pursuant to sub-paragraph (1)(i);
    - (ii) soft start procedures with specified duration periods;
    - (iii) cable (including fibre optic cable) installation
    - (iv) contractors;
    - (v) vessels, vessels maintenance and vessels transit corridors; and
    - (vi) associated and ancillary works.
  - (d) A project environmental management plan (in accordance with the outline project environmental management plan) covering the period of construction and operation to include details of—

- (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;
  - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) waste management and disposal arrangements;
  - (iv) the appointment and responsibilities of a fisheries liaison officer;
  - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 9 and to address the interaction of the licensed activities with fishing activities; and
  - (vi) procedures to be followed within vessels transit corridors to minimise disturbance to red-throated diver during operation and maintenance activities.
- (e) A scour protection and cable protection plan (in accordance with the outline scour protection and cable protection plan) providing details of the need, type, sources, quantity, distribution and installation methods for scour protection and cable (including fibre optic cable) protection. For the avoidance of doubt “distribution” in this subparagraph must include quantities in respect of each structure comprised in the offshore works and intended to be subject to scour protection.
- (f) In the event that piled foundations are proposed to be used, a marine mammal mitigation protocol, in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals and following current best practice as advised by the relevant statutory nature conservation bodies.
- (g) A cable specification, installation and monitoring plan, to include—
- (i) technical specification of offshore cables (including fibre optic cables) below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a detailed cable (including fibre optic cables) laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and
  - (iii) proposals for monitoring offshore cables (including fibre optic cables) including cable protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables.
- (h) An archaeological written scheme of investigation in relation to the offshore Order limits seaward of mean low water, which must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
  - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
  - (v) monitoring of archaeological exclusion zones during and post construction;
  - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS (Online Access to the Index of archaeological investigations) form with a digital copy of the report within six months of

completion of construction of the authorised scheme, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;

- (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
- (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (i) A mitigation scheme for any habitats of principal importance identified by the survey referred to in condition 18(2)(a) and in accordance with the offshore in principle monitoring plan.
- (j) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
- (k) An aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 10 for the lifetime of the authorised scheme.
- (l) An ornithological monitoring plan setting out the aims, objectives and methods for ornithological monitoring as agreed in consultation with the MMO and relevant statutory nature conservation bodies and in accordance with the offshore in principle monitoring plan.
- (m) In the event that piled foundations are proposed to be used, a site integrity plan which accords with the principles set out in the in principle Norfolk Vanguard Southern North Sea Special Area of Conservation Site Integrity Plan, and which the MMO is satisfied would provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation (offshore), and which has been submitted to and approved by the MMO.

(3) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000kJ.

**15.—**(1) Any archaeological reports produced in accordance with condition 14(h)(iii) must be agreed with the MMO in consultation with the statutory historic body.

(2) The design plan required by condition 14(1)(a) must be prepared by the undertaker and determined by the MMO in accordance with the Development Principles.

(3) Each programme, statement, plan, protocol or scheme required to be approved under condition 14 must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(4) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 14 or approval has been given following an appeal in accordance with subparagraph (6).

(5) Unless otherwise agreed in writing with the undertaker, the MMO must use reasonable endeavours to determine an application for approval made under condition 14 as soon as



practicable and in any event within a period of four months commencing on the date the application is received by the MMO.

(6) The licensed activities must be carried out in accordance with the plans, protocols, statements, schemes and details approved under condition 14, unless otherwise agreed in writing by the MMO.

(7) No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

### **Post-construction plans and documents**

16. The undertaker must conduct a swath bathymetric survey to IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out and provide the data and survey report(s) to the MCA and UKHO.

### **Reporting of engaged agents, contractors and vessels**

17.—(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

### **Pre-construction monitoring and surveys**

18.—(1) The undertaker must, in discharging condition 14(1)(b), submit details (which accord with the offshore in principle monitoring plan) for written approval by the MMO in consultation with the relevant statutory bodies of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and—

- (a) the survey proposals must specify each survey’s objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) appropriate surveys to determine the location and extent of any benthic communities/benthos constituting Annex 1 reef habitats of principal importance in whole or in part inside the area(s) within the Order limits in which it is proposed to carry out construction works;
- (b) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works; and
- (c) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 14(1)(l).

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation bodies.

### **Construction monitoring**

**19.—**(1) The undertaker must, in discharging condition 14(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives. In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.

(2) The undertaker must carry out the surveys approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(3) The results of the initial noise measurements monitored in accordance with sub-paragraph (1) must be provided to the MMO within six weeks of the installation of the first four piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the opinion of the MMO in consultation with Natural England, the assessment shows significantly different impacts to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(4) Construction monitoring must include traffic monitoring in accordance with the outline marine traffic monitoring strategy, including the provision of reports on the results of that monitoring periodically as requested by the MMO in consultation with the MCA and Trinity House.

(5) In the event that piled foundations are proposed to be used, the details submitted in accordance with the offshore in principle monitoring plan must include proposals for monitoring marine mammals.

### **Post construction**

**20.—**(1) The undertaker must, in discharging condition 14(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval by the MMO in consultation with relevant statutory bodies of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) The post-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) a survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) within twelve months of completion of the licensed activities, one full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out to assess any

changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables (including fibre optic cables) have been buried or protected;

- (c) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 14(1)(l); and
- (d) post-construction traffic monitoring in accordance with the outline marine traffic monitoring strategy, including the provision of reports on the results of that monitoring periodically as requested by the MMO in consultation with the MCA and Trinity House.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) Following installation of cables (including fibre optic cables), the cable monitoring plan required under condition 14(1)(g)(iii) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the authorised scheme and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

### **Reporting of impact pile driving**

**21.**—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the UK Marine Noise Registry—

- (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry’s Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry’s Close Out requirements; and
- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry’s Close Out requirements.

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.

(3) For the purpose of this condition—

- (a) “Marine Noise Registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
- (b) “Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

### **Reporting of cable protection**

**22.**—(1) Not more than 4 months following completion of the construction phase of the authorised scheme, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection used for the authorised scheme.

(2) The report must include the following information—

- (a) location of the cable protection;
- (b) volume of cable protection; and
- (c) any other information relating to the cable protection as agreed between the MMO and the undertaker.

### **Decommissioning of cable protection within marine protected areas**

23.—(1) The obligations under paragraphs (2) and (3) shall only apply if and to the extent that—

- (a) cable protection is installed as part of the authorised project within HHW SAC as at the date of the grant of the Order; and
- (b) it is a requirement of the written decommissioning programme approved by the Secretary of State pursuant to sections 105 (requirement to prepare decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes), that such cable protection is removed as part of the decommissioning of the authorised project.

(2) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall carry out an appropriate survey of cables within HHW SAC that are subject to cable protection and that are situated within HHW SAC to assess the integrity and condition of that cable protection and determine the appropriate extent of the feasibility of the removal of such cable protection having regard to the condition of the cable protection and feasibility of any new removal techniques at that time, and submit that along with a method statement for recovery of cable protection to the MMO.

(3) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the MMO must confirm whether or not it is satisfied with the method statement pursuant to (2) above.

(4) If the MMO has confirmed it is satisfied pursuant to (3) above, then within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall endeavour to recover the cable protection to the extent identified in the survey and according to the methodology set out in the method statement submitted pursuant to (2) above.

## SCHEDULE 10

Article 32

### Deemed Licence under the 2009 Act – Generation Assets (Licence 2 – Phase 2)

#### PART 1

##### Interpretation

1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2017 Regulations” means the Conservation of Offshore Marine Habitats and Species Regulations 2017(a);

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“accommodation platform” means a fixed structure providing offshore accommodation for personnel

“authorised deposits” means the substances and articles specified in paragraph 5 of Part 2 of this licence;

“authorised scheme” means Work No. 1 described in Part 3 of this licence or any part of that work;

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(a) S.I. 2017/1013.

“cable protection” means measures for offshore cable crossings and where cable burial is not possible due to ground conditions or approaching offshore structures, to protect cables and fibre optic cables and prevent loss of seabed sediment by use of grout bags, protective aprons, mattresses, flow energy dissipation (frond) devices or rock and gravel dumping;

“commence” means the first carrying out of any part of the licensed activities save for pre-construction surveys and monitoring and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 4 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“Development Principles” means the document certified as the Development Principles by the Secretary of State for the purposes of the Order;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State for the purposes of this Order;

“draught height” means the distance between the lowest point of the rotating blade of the wind turbine generator and MHWS;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“gravity base system” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“in principle Norfolk Vanguard Southern North Sea Special Area of Conservation Site Integrity Plan” means the document certified as the in principle Norfolk Vanguard Southern North Sea Special area of Conservation Site Integrity Plan by the Secretary of State for the purposes of this Order;

“jacket foundation” means a steel jacket/ lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“HAT” means highest astronomical tide;

“licence 1 (generation)” means the licence set out in Schedule 9 (deemed licence under the 2009 Act – generation assets (licence 1 – phase 1));

“licensed activities” means the activities specified in Part 3 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in Part 2 of Schedule 1 (ancillary works), any cable and any component part of any wind turbine generator, offshore electrical substation, accommodation platform or meteorological mast described in Part 1 of Schedule 1 (authorised development) not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“marker buoy” means any floating device used for marker or navigation purposes, including LIDAR buoys and wave buoys;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“measurement buoy” means any floating device used for measurement purposes, including LIDAR buoys and wave buoys;

“meteorological mast” means a mast housing equipment to measure wind speed and other wind characteristics, including a topside housing electrical, communication and associated equipment and marking and lighting;

“monopile foundation” means a steel pile, typically cylindrical, driven and/or drilled into the seabed and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“Norfolk Vanguard East” means the eastern area located in the offshore Order limits within which wind turbine generators will be situated;

“Norfolk Vanguard West” means the western area located in the offshore Order limits within which wind turbine generators will be situated;

“notice to mariners” means a notice issued by the undertaker to mariners to inform them of issues that affect the safety of navigation;

“offshore cables” means any cables offshore;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State for the purposes of this Order;

“offshore Order limits” means the limits shown on the works plan within which the authorised scheme may be carried out, whose grid coordinates are set out in Part 2 of this licence;

“the Order” means the Norfolk Vanguard Offshore Wind Farm Order 2020;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State for the purposes of this Order;

“outline marine traffic monitoring strategy” means the document certified as the outline marine traffic monitoring strategy by the Secretary of State for the purposes of this Order;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“relevant site” means a European offshore marine site and a European site;

“scour protection” means measures to prevent loss of seabed sediment around any marine structure placed in or on the seabed by use of protective aprons, mattresses with or without frond devices, or rock and gravel placement.

“single offshore phase” means carrying out all offshore works as a single construction operation;

“statutory historic body” means Historic Buildings and Monuments Commission for England (Historic England) or its successor in function;

“statutory nature conservation body” means an organisation charged by government with advising on nature conservation matters;

“suction caisson” means a large diameter steel cylindrical shell which penetrates the seabed assisted by a hydrostatic pressure differential for fixity of foundations;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“two offshore phases” means carrying out the offshore works as two separate construction operations;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Norfolk Vanguard Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“wind turbine generator” means a structure comprising a tower, rotor with up to three blades connected at the hub, nacelle and ancillary electrical and other equipment which may include corrosion protection systems, helicopter landing facilities and other associated equipment, fixed to a foundation;

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

2. A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

3. Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

4. Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Marine Licensing  
Lancaster House  
Hampshire Court  
Newcastle Business Park  
Newcastle upon Tyne  
NE4 7YH  
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Lowestoft Office  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 573 149;

(c) Trinity House

Tower Hill  
London

EC3N 4DH  
Tel: 020 7481 6900;

- (d) The United Kingdom Hydrographic Office  
Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900;
- (e) Maritime and Coastguard Agency  
Navigation Safety Branch  
Bay 2/20, Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 3817 2426;
- (f) Centre for Environment, Fisheries and Aquaculture Science  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 562 244;
- (g) Natural England  
Area 1C, Nobel House  
17 Smith Square  
London  
SW1P 2AL  
Tel: 0300 060 4911;
- (h) Historic England  
Cannon Bridge  
House 25  
Dowgate Hill  
London  
EC4R 2YA  
Tel: 020 7973 3700

## PART 2

### Licensed Marine Activities – General

1. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of



decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

2. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72 (7) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

3. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

4. Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial and it must be demonstrated to the satisfaction of the MMO that they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

5. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling or seabed preparation for foundation works and cable (including fibre optic cable) sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

6. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 55' 0.308" N	3° 4' 42.589" E	6	53° 2' 36.817" N	2° 34' 16.309" E
2	52° 49' 53.975" N	3° 5' 22.789" E	7	52° 49' 38.834" N	2° 34' 15.809" E
3	52° 46' 19.050" N	3° 2' 16.682" E	8	52° 48' 47.472" N	2° 33' 28.343" E
4	52° 45' 10.584" N	2° 45' 33.989" E	9	52° 48' 3.133" N	2° 26' 37.427" E
5	52° 51' 41.636" N	2° 45' 34.220" E	10	52° 56' 9.089" N	2° 18' 33.231" E

## PART 3

### Details of Licensed Marine Activities

1. Subject to the licence conditions at Part 4, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 5 of Part 2 of this licence;

- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (d) the disposal of up to 37,736,390 m<sup>3</sup> of inert material of natural origin within the offshore Order limits produced during construction drilling or seabed preparation for foundation works and cable (including fibre optic cable) sandwave preparation works at disposal site references HU215 and HU216 within the extent of the Order limits seaward of MHWS, comprising—
  - (i) 36,000,000 m<sup>3</sup> for cable and fibre optic cable installation;
  - (ii) 1,648,824 m<sup>3</sup> for the wind turbine generators;
  - (iii) 75,000 m<sup>3</sup> for the accommodation platform; and
  - (iv) 12,566 m<sup>3</sup> for the meteorological masts; and
- (e) the removal of static fishing equipment; and
- (f) The disposal of drill arisings in connection with any foundation drilling up to a total of 400,624m<sup>3</sup>.

2.—(1) Such activities are authorised in relation to the construction, maintenance and operation of Work No. 1 (phase 2)—

- (a) an offshore wind turbine generating station with an electrical export capacity of up to 1,800 MW at the point of connection to the offshore electrical platform(s) referred to at Work No. 2 comprising up to 158 wind turbine generators each fixed to the seabed by one of the following foundation types: monopile (piled or suction caisson), jacket (piled or suction caisson), or gravity base fitted with rotating blades and situated within the area shown on the works plan and further comprising (b) to (e) below;
- (b) up to two accommodation platforms fixed to the seabed within the area shown on the works plan by one of the following foundation types: jacket (piled or suction caisson) or gravity base;
- (c) up to two meteorological masts fixed to the seabed within the area shown on the works plan by one of the following foundation types: monopile (piled or suction caisson), jacket (piled or suction caisson) or gravity base;
- (d) up to two LIDAR measurement buoys fixed to the seabed within the area shown on the works plan by one of the following foundation types: monopile (piled) or floating and up to two wave measurement buoys fixed to the seabed within the area shown on the works plan by one foundation type (floating); and
- (e) a network of subsea array cables and fibre optic cables within the area shown on the works plan between the wind turbine generators, and between the wind turbine generators and Work No.2 including one or more offshore cable crossings.

(2) In connection with such Work No. 1 and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence including:

- (a) scour protection around the foundations of the offshore structures;
- (b) cable protection measures such as the placement of rock and/or concrete mattresses, with or without frond devices;
- (c) the removal of material from the seabed required for the construction of Work No. 1 and the disposal of up to 37,736,390 cubic metres of inert material of natural origin within the Order limits produced during construction drilling, seabed preparation for foundation works, cable installation preparation such as sandwave clearance, boulder clearance and pre-trenching and excavation of horizontal directional drilling exit pits; and
- (d) removal of static fishing equipment;

(3) In connection with such Work No. 1, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised scheme; and
- (b) beacons, fenders and other navigational warning or ship impact protection works.

## PART 4

### Conditions

#### Design parameters

1.—(1) Subject to paragraph (2), each wind turbine generator forming part of the authorised scheme must not—

- (a) exceed a height of 350 metres when measured from HAT to the tip of the vertical blade;
- (b) exceed a height of 198.5 metres to the height of the centreline of the generator shaft forming part of the hub when measured from HAT;
- (c) exceed a rotor diameter of 303 metres;
- (d) be less than 800 metres from the nearest wind turbine generator in either direction perpendicular to the approximate prevailing wind direction (crosswind) or be less than 800 metres from the nearest wind turbine generator in either direction which is in line with the approximate prevailing wind direction (downwind);
- (e) have a draught height which is less than the minimum draught height specified for the relevant wind turbine generator capacity in the table below

<i>Wind Turbine Generator Capacity</i>	<i>Minimum draught height</i>
Up to and including 14.6MW	35m from MHWS
14.7 MW and above	30m from MHWS

(2) References to the location of a wind turbine generator in paragraph (1) above are references to the centre point of that turbine.

(3) The total number of wind turbine generators must not exceed 158 and must be configured such that at any time—

- (a) no more than two-thirds of the total number of wind turbine generators (rounded to the nearest whole number) must be located in Norfolk Vanguard West; and
- (b) no more than one-half of the total number of wind turbine generators (rounded to the nearest whole number) must be located in Norfolk Vanguard East.

2.—(1) The dimensions of any accommodation platform forming part of the authorised scheme must not exceed 100 metres in height when measured from HAT, 90 metres in length and 60 metres in width.

(2) Each meteorological mast must not exceed a height of 200 metres above HAT.

(3) Each meteorological mast must not have more than one supporting foundation.

3. The total length of the cables and the area and volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection (m<sup>2</sup> and m<sup>3</sup>)</i>
Work No. 1(e) (array)	600 kilometres	389,000 m <sup>2</sup> 198,500 m <sup>3</sup>

**4.—**(1) In relation to a wind turbine generator, each foundation using piles must not have—

- (a) more than four driven piles;
- (b) in the case of single pile structures, a pile diameter which is more than 15 metres; or
- (c) in the case of two or more pile structures, have a pile diameter which is more than five metres.

(2) In relation to a wind turbine generator, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 1,963 m<sup>2</sup>.

**5.—**(1) In relation to a meteorological mast, each foundation using piles must not have—

- (a) more than four driven piles;
- (b) in the case of single pile structures, a pile diameter which is more than 10 metres;
- (c) in the case of two or more pile structures, have a pile diameter which is more than three metres.

(2) In relation to a meteorological mast, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 314 m<sup>2</sup>.

**6.—**(1) In relation to an accommodation platform, each foundation using piles must not have—

- (a) more than six driven piles;
- (b) a pile diameter which is more than three metres.

(2) In relation to an accommodation platform, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 7,500 m<sup>2</sup>.

**7.—**(1) In relation to any LIDAR measurement buoys, each foundation using piles must not have a pile diameter of greater than 10 metres.

(2) In relation to any LIDAR measurement buoys, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 79m<sup>2</sup> per buoy and 157 m<sup>2</sup> in total.

(3) In relation to any wave measurement buoys, each foundation must not have a seabed footprint area (excluding scour protection) of greater than 150m<sup>2</sup> per buoy and 300 m<sup>2</sup> in total.

### **Phasing of the authorised scheme**

**8.—**(1) Taken together with works authorised and proposed to be constructed pursuant to licence 1 (generation)—

- (a) the total electrical export capacity of the authorised scheme must not exceed 1,800MW at the point of connection to the offshore electrical platform(s);
- (b) the total number of wind turbine generators forming part of the authorised scheme must not exceed 158;
- (c) the total number of accommodation platforms forming part of the authorised scheme must not exceed two;
- (d) the total number of meteorological masts forming part of the authorised scheme must not exceed two;
- (e) the total number of LIDAR measurement buoys forming part of the authorised scheme must not exceed two;
- (f) the total number of wave measurement buoys forming part of the authorised scheme must not exceed two;
- (g) the total amount of scour protection for the wind turbine generators, accommodation platform(s), meteorological masts and measurement buoys forming part of the authorised scheme must not exceed 5,176,703 m<sup>2</sup> and 25,883,515 m<sup>3</sup>; and
- (h) the total amount of inert material of natural origin disposed within the offshore Order limits as part of the authorised scheme must not exceed 37,736,390 m<sup>3</sup>;

- (i) the total amount of disposal for drill arisings in connection with any foundation drilling must not exceed 400,624 m<sup>3</sup>; and
  - (j) the total length of cable and the amount of cable protection must not exceed the figures stated in condition 3 of this licence.
- (2) Prior to the commencement of the authorised scheme the undertaker must give notice to the MMO detailing—
- (a) whether the authorised scheme will be constructed—
    - (i) in a single offshore phase under this licence; or
    - (ii) in two offshore phases under this licence and licence 1 (generation); and
  - (b) where the authorised scheme will be constructed in two offshore phases—
    - (i) prior to the commencement of phase 1, the total number of wind turbine generators accommodation platforms, meteorological masts, LIDAR measurement buoys and wave measurement buoys to be constructed in that phase; and
    - (ii) prior to the commencement of phase 2, the total number of wind turbine generators accommodation platforms, meteorological masts, LIDAR measurement buoys and wave measurement buoys to be constructed in that phase.

### Notifications and inspections

- 9.—(1) The undertaker must ensure that—
- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
    - (i) all agents and contractors notified to the MMO in accordance with condition 17; and
    - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 17;
  - (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.
- (2) Only those persons and vessels notified to the MMO in accordance with condition 17 are permitted to carry out the licensed activities.
- (3) Copies of this licence must also be available for inspection at the following locations—
- (a) the undertaker's registered address;
  - (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
  - (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.
- (4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.
- (5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.
- (6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.
- (7) The undertaker must inform the Kingfisher Information Service of Seafish by email to [kingfisher@seafish.co.uk](mailto:kingfisher@seafish.co.uk) of details regarding the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—

- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) as soon as reasonably practicable and no later than 24 hours of completion of construction of all offshore activities.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 1 (wind turbine generators or other offshore construction activities including array cables and fibre optic cables) and the expected vessel routes from the construction ports to the relevant location. Copies of all notices must be provided to the MMO, the MCA and UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under condition 14(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.

(10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO within five days.

(11) In case of damage to, or destruction or decay of the authorised scheme seaward of MHWS or any part thereof, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office.

(12) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO and MCA within five days.

### **Aids to navigation**

**10.—**(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and to take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation as set out in the aids to navigation management plan agreed pursuant to condition 14(1)(k) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 9(11) and condition 9(12) are invoked, the undertaker must lay down such marker buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

### Colouring of structures

**11.**—(1) Except as otherwise required by Trinity House the undertaker must colour all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least HAT to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035).

### Chemicals, drilling and debris

**12.**—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised scheme, including any chemical agents placed within any monopile void, must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(a) (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under this licence. This information must be submitted to the MMO by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within disposal site references HU215 and HU216 within the extent of the Order limits seaward of MHWS. Any other materials must be screened out before disposal of the inert material at this site.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

(9) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 14(1)(d)(i).

(10) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

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(a) S.I. 2002/1355.

### Force majeure

13.—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to make a deposit which is not authorised under this licence, whether within or outside of the Order limits, because the safety of human life and/or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

### Pre-construction plans and documentation

14.—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO in consultation with Trinity House and the MCA which shows, in accordance with the Development Principles—
  - (i) the proposed location and choice of foundation of all wind turbine generators, offshore electrical platforms, accommodation platforms and meteorological masts;
  - (ii) the height to the tip of the vertical blade of all wind turbine generators;
  - (iii) the height to the centreline of the generator shaft forming part of the hub of all wind turbine generators;
  - (iv) the rotor diameter and spacing of all wind turbine generators;
  - (v) the height of all lattice towers forming part of all meteorological masts;
  - (vi) the height, length and width of all accommodation platforms;
  - (vii) the dimensions of all foundations;
  - (viii) the length and arrangement of all cables (including fibre optic cables) comprising Work No. 1(e);
  - (ix) the proposed layout of all wind turbine generators (in accordance with the recommendations for layout contained in MGN543 and its annexes), accommodation platforms and meteorological masts including any exclusion zones identified under sub-paragraph (1)(h)(iv);
  - (x) a plan showing the indicative layout of all wind turbine generators, accommodation platforms and meteorological masts including all exclusion zones (insofar as not shown in (ix) above) and showing the indicative programming of particular works as set out in the indicative programme to be provided under sub-paragraph (1)(b)(iv);
  - (xi) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph (1)(i); and
  - (xii) the grid coordinates of the centre point of the proposed location for each wind turbine generator, offshore electrical platform, substation and meteorological mast.

to ensure conformity with the description of Work No. 1 and compliance with conditions 1 to 8 above.
- (b) A construction programme and monitoring plan (which accords with the offshore in principle monitoring plan) to include details of—
  - (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction surveys and monitoring and related reporting in accordance with sub-paragraph (1)(h) and conditions 17, 18, 19 and 20; and



- (iv) an indicative written construction programme for all wind turbine generators accommodation platforms, meteorological masts, measurement buoys and cables (including fibre optic cables) comprised in the works in Part 3 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);

with details pursuant to paragraph (iii) above to be submitted to the MMO in accordance with the following—

- (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed pre-construction monitoring;
- (bb) at least four months prior to construction, detail on construction monitoring;
- (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;

unless otherwise agreed in writing with the MMO.

- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
  - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works, and having regard to any mitigation scheme pursuant to sub-paragraph (1)(i);
  - (ii) soft start procedures with specified duration periods;
  - (iii) cable (including fibre optic cable) installation;
  - (iv) contractors;
  - (v) vessels, vessels maintenance and vessels transit corridors; and
  - (vi) associated and ancillary works.
- (d) A project environmental management (in accordance with the outline project environmental management plan) plan covering the period of construction and operation to include details of—
  - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;
  - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) waste management and disposal arrangements;
  - (iv) the appointment and responsibilities of a fisheries liaison officer;
  - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 9 and to address the interaction of the licensed activities with fishing activities; and
  - (vi) procedures to be followed within vessels transit corridors to minimise disturbance to red-throated diver during operation and maintenance activities.
- (e) A scour protection and cable protection plan (in accordance with the outline scour protection and cable protection plan) providing details of the need, type, sources, quantity, distribution and installation methods for scour protection and cable (including fibre optic cable) protection. For the avoidance of doubt “distribution” in this sub-paragraph must include quantities in respect of each structure comprised in the offshore works and intended to be subject to scour protection.
- (f) In the event that piled foundations are proposed to be used, a marine mammal mitigation protocol, in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals and following current best practice as advised by the relevant statutory nature conservation bodies.
- (g) A cable specification, installation and monitoring plan, to include—

- (i) technical specification of offshore cables (including fibre optic cables) below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a detailed cable (including fibre optic cables) laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques, including cable protection; and
  - (iii) proposals for monitoring offshore cables (including fibre optic cables) including cable protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables.
- (h) An archaeological written scheme of investigation in relation to the offshore Order limits seaward of mean low water, which must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
  - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
  - (v) monitoring of archaeological exclusion zones during and post construction;
  - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS (Online Access to the Index of archaeological investigations) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
  - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (i) A mitigation scheme for any habitats of principal importance identified by the survey referred to in condition 18(2)(a) and in accordance with the offshore in principle monitoring plan.
- (j) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
- (k) An aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 10 for the lifetime of the authorised scheme.
- (l) An ornithological monitoring plan setting out the aims, objectives and methods for ornithological monitoring as agreed in consultation with the MMO and relevant statutory nature conservation bodies and in accordance with the offshore in principle monitoring plan.
- (m) In the event that piled foundations are proposed to be used, a site integrity plan which accords with the principles set out in the in principle Norfolk Vanguard Southern North

Sea Special Area of Conservation Site Integrity Plan, and which the MMO is satisfied would provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation (offshore), and which has been submitted to and approved by the MMO.

(3) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000kJ.

**15.—**(1) Any archaeological reports produced in accordance with condition 14(h)(iii) must be agreed with the MMO in consultation with the statutory historic body.

(2) The design plan required by condition 14(1)(a) must be prepared by the undertaker and determined by the MMO in accordance with the Development Principles.

(3) Each programme, statement, plan, protocol or scheme required to be approved under condition 14 must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(4) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 14 or approval has been given following an appeal in accordance with subparagraph (6).

(5) Unless otherwise agreed in writing with the undertaker, the MMO must use reasonable endeavours to determine an application for approval made under condition 14 as soon as practicable and in any event within a period of four months commencing on the date the application is received by the MMO.

(6) The licensed activities must be carried out in accordance with the plans, protocols, statements, schemes and details approved under condition 14, unless otherwise agreed in writing by the MMO.

(7) No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

### **Post-construction plans and documents**

**16.** The undertaker must conduct a swath bathymetric survey to IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out and provide the data and survey report(s) to the MCA and UKHO.

### **Reporting of engaged agents, contractors and vessels**

**17.—**(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

### **Pre-construction monitoring and surveys**

**18.**—(1) The undertaker must, in discharging condition 14(1)(b), submit details (which accord with the offshore in principle monitoring plan) for written approval by the MMO in consultation with the relevant statutory bodies of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and—

- (a) the survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) appropriate surveys to determine the location and extent of any benthic communities/benthos constituting Annex 1 reef habitats of principal importance in whole or in part inside the area(s) within the Order limits in which it is proposed to carry out construction works;
- (b) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works; and
- (c) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 14(1)(l).

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation bodies.

### **Construction monitoring**

**19.**—(1) The undertaker must, in discharging condition 14(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives. In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.

(2) The undertaker must carry out the surveys approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(3) The results of the initial noise measurements monitored in accordance with sub-paragraph (1) must be provided to the MMO within six weeks of the installation of the first four piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the opinion of the MMO in consultation with Natural England, the assessment shows significantly different impacts to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(4) Construction monitoring must include traffic monitoring in accordance with the outline marine traffic monitoring strategy, including the provision of reports on the results of that

monitoring periodically as requested by the MMO in consultation with the MCA and Trinity House.

(5) In the event that piled foundations are proposed to be used, the details submitted in accordance with the offshore in principle monitoring plan must include proposals for monitoring marine mammals.

### **Post construction**

**20.**—(1) The undertaker must, in discharging condition 14(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval by the MMO in consultation with relevant statutory bodies of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) The post-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) a survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey;
- (b) within twelve months of completion of the licensed activities, one full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables (including fibre optic cables) have been buried or protected;
- (c) any ornithological monitoring required by the ornithological monitoring plan submitted in accordance with condition 14(1)(l); and
- (d) post-construction traffic monitoring in accordance with the outline marine traffic monitoring strategy, including the provision of reports on the results of that monitoring periodically as requested by the MMO in consultation with the MCA and Trinity House.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) Following installation of cables (including fibre optic cables), the cable monitoring plan required under condition 14(1)(g)(iii) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the authorised scheme and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

### **Reporting of impact pile driving**

**21.**—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the UK Marine Noise Registry—

- (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements; and

- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements.
- (2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.
- (3) For the purpose of this condition—
  - (a) “Marine Noise Registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
  - (b) “Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

### **Reporting of cable protection**

**22.**—(1) Not more than 4 months following completion of the construction phase of the authorised scheme, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection used for the authorised scheme.

- (2) The report must include the following information—
  - (a) location of the cable protection;
  - (b) volume of cable protection; and
  - (c) any other information relating to the cable protection as agreed between the MMO and the undertaker.

### **Decommissioning of cable protection within marine protected areas**

**23.**—(1) The obligations under paragraphs (2) and (3) shall only apply if and to the extent that—

- (a) cable protection is installed as part of the authorised project within HHW SAC as at the date of the grant of the Order; and
- (b) it is a requirement of the written decommissioning programme approved by the Secretary of State pursuant to sections 105 (requirement to prepare decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes), that such cable protection is removed as part of the decommissioning of the authorised project.

(2) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall carry out an appropriate survey of cables within HHW SAC that are subject to cable protection and that are situated within HHW SAC to assess the integrity and condition of that cable protection and determine the appropriate extent of the feasibility of the removal of such cable protection having regard to the condition of the cable protection and feasibility of any new removal techniques at that time, and submit that along with a method statement for recovery of cable protection to the MMO.

(3) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the MMO must confirm whether or not it is satisfied with the method statement pursuant to (2) above.

(4) If the MMO has confirmed it is satisfied pursuant to (3) above, then within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall endeavour to recover the cable protection to the extent identified in the survey and according to the methodology set out in the method statement submitted pursuant to (2) above.

## SCHEDULE 11

Article 32

## Deemed Licence under the 2009 Act – Transmission Assets (Licence 1 – Phase 1)

## PART 1

## Interpretation

## 1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2017 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(a);

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“authorised deposits” means the substances and articles specified in paragraph 5 of Part 2 of this licence;

“authorised scheme” means Work Nos. 2, 3, 4A, and 4B described in Part 3 of this licence or any part of that work;

“cable protection” means measures for offshore cable crossings and where cable burial is not possible due to ground conditions or approaching offshore structures, to protect cables and fibre optic cables and prevent loss of seabed sediment by use of grout bags, protective aprons, mattresses, flow energy dissipation (frond) devices or rock and gravel dumping;

“commence” means the first carrying out of any part of the licensed activities save for pre-construction surveys and monitoring and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 4 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“Development Principles” means the document certified as the Development Principles by the Secretary of State for the purposes of the Order;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State for the purposes of this Order;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“gravity base system” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State for the purposes of this Order;

“in principle Norfolk Vanguard Southern North Sea Special Area of Conservation Site Integrity Plan” means the document certified as the in principle Norfolk Vanguard Southern

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(a) S.I. 2011/934.

North Sea Special Area of Conservation Site Integrity Plan by the Secretary of State for the purposes of this Order;

“jacket foundation” means a steel jacket/ lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“HAT” means highest astronomical tide;

“licence 2 (transmission)” means the licence set out in Schedule 12 (deemed licence under the 2009 Act – transmission assets (licence 2 – phase 2));

“licensed activities” means the activities specified in Part 3 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in Part 2 of Schedule 1 (ancillary works), any cable and any component part of any wind turbine generator, offshore electrical platform, accommodation platform or meteorological mast described in Part 1 of Schedule 1 (authorised development) not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“meteorological mast” means a mast housing equipment to measure wind speed and other wind characteristics, including a topside housing electrical, communication and associated equipment and marking and lighting;

“notice to mariners” means a notice issued by the undertaker to mariners to inform them of issues that affect the safety of navigation;

“offshore cables” means any cables offshore;

“offshore electrical platform” means a platform attached to the seabed by means of a foundation, with one or more decks, whether open or fully clad, accommodating electrical power transformers, switchgear, instrumentation, protection and control systems and other associated equipment and facilities to enable the transmission of electronic communications and for electricity to be collected at, and exported from, the platform;

“offshore Order limits” means the limits shown on the works plan within which the authorised scheme may be carried out, whose grid coordinates are set out in Part 2 of this licence;

“the Order” means the Norfolk Vanguard Offshore Wind Farm Order 2020;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State for the purposes of this Order;

“outline Norfolk Vanguard Haisborough, Hammond and Winterton Special Area of Conservation site integrity plan” means the document certified as the outline Norfolk Vanguard Haisborough, Hammond and Winterton Special Area of Conservation site integrity plan by the Secretary of State for the purposes of this Order;



“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“relevant site” means a European offshore marine site and a European site

“scour protection” means measures to prevent loss of seabed sediment around any marine structure placed in or on the seabed by use of protective aprons, mattresses with or without frond devices, or rock and gravel placement.

“single offshore phase” means carrying out all offshore works as a single construction operation;

“statutory historic body” means Historic Buildings and Monuments Commission for England (Historic England) or its successor in function;

“statutory nature conservation body” means an organisation charged by government with advising on nature conservation matters;

“suction caisson” means a large diameter steel cylindrical shell which penetrates the seabed assisted by a hydrostatic pressure differential for fixity of foundations;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“two offshore phases” means carrying out the offshore works as two separate construction operations;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Norfolk Vanguard Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“Work No. 4C” means the onshore transmission works at the landfall consisting of up to two transition jointing pits and up to four cables to be laid in ducts underground and associated fibre optic cables laid within cable ducts from MHWS at Happisburgh South, North Norfolk; and

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Marine Licensing

Lancaster House

Hampshire Court

Newcastle Business Park

Newcastle upon Tyne

NE4 7YH  
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Lowestoft Office  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 573 149;

(c) Trinity House

Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

Navigation Safety Branch  
Bay 2/20, Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 3817 2426;

(f) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 562 244;

(g) Natural England

Area 1C, Nobel House  
17 Smith Square  
London  
SW1P 2AL  
Tel: 0300 060 4911;

- (h) Historic England  
 Cannon Bridge  
 House 25  
 Dowgate Hill  
 London  
 EC4R 2YA  
 Tel: 020 7973 3700

## PART 2

### Licensed Marine Activities – General

1. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

2. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

3. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

4. Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial and it must be demonstrated to the satisfaction of the MMO that they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

5. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling or seabed preparation for foundation works and cable (including fibre optic cable) sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

6. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 55' 0.308" N	3° 4' 42.589" E	269	52° 48' 36.617" N	1° 39' 45.198" E
2	52° 49' 53.975" N	3° 5' 22.789" E	270	52° 48' 36.608" N	1° 39' 45.442" E
3	52° 46' 19.050" N	3° 2' 16.682" E	271	52° 48' 36.111" N	1° 39' 58.227" E

4	52° 45' 10.584" N	2° 45' 33.989" E	272	52° 47' 53.162" N	1° 57' 17.842" E
5	52° 51' 41.636" N	2° 45' 34.220" E	273	52° 47' 51.688" N	1° 57' 48.405" E
6	53° 2' 36.817" N	2° 34' 16.309" E	274	52° 47' 50.436" N	1° 58' 0.642" E
7	52° 49' 38.834" N	2° 34' 15.809" E	275	52° 47' 48.214" N	1° 58' 12.320" E
8	52° 48' 47.472" N	2° 33' 28.343" E	276	52° 47' 42.495" N	1° 58' 33.820" E
9	52° 48' 3.133" N	2° 26' 37.427" E	277	52° 47' 36.793" N	1° 58' 49.157" E
10	52° 56' 9.089" N	2° 18' 33.231" E	278	52° 47' 27.713" N	1° 59' 7.719" E
11	52° 45' 11.467" N	2° 45' 30.454" E	279	52° 47' 19.963" N	1° 59' 19.409" E
12	52° 45' 11.943" N	2° 45' 28.711" E	280	52° 47' 10.581" N	1° 59' 30.409" E
13	52° 45' 12.967" N	2° 45' 25.281" E	281	52° 45' 3.401" N	2° 1' 51.874" E
14	52° 45' 14.081" N	2° 45' 21.928" E	282	52° 45' 3.127" N	2° 1' 52.189" E
15	52° 45' 15.285" N	2° 45' 18.661" E	283	52° 45' 2.287" N	2° 1' 53.183" E
16	52° 45' 15.920" N	2° 45' 17.061" E	284	52° 45' 1.635" N	2° 1' 53.925" E
17	52° 45' 17.254" N	2° 45' 13.933" E	285	52° 45' 1.351" N	2° 1' 54.277" E
18	52° 45' 17.952" N	2° 45' 12.407" E	286	52° 45' 0.388" N	2° 1' 55.510" E
19	52° 45' 19.409" N	2° 45' 9.432" E	287	52° 45' 0.110" N	2° 1' 55.877" E
20	52° 45' 20.533" N	2° 45' 7.335" E	288	52° 44' 59.840" N	2° 1' 56.258" E
21	52° 45' 20.944" N	2° 45' 6.567" E	289	52° 44' 58.926" N	2° 1' 57.587" E
22	52° 45' 21.741" N	2° 45' 5.178" E	290	52° 44' 58.663" N	2° 1' 57.982" E
23	52° 45' 23.389" N	2° 45' 2.488" E	291	52° 44' 58.407" N	2° 1' 58.390" E
24	52° 45' 24.240" N	2° 45' 1.188" E	292	52° 44' 57.545" N	2° 1' 59.812" E
25	52° 45' 25.993" N	2° 44' 58.685" E	293	52° 44' 57.298" N	2° 2' 0.233" E
26	52° 45' 27.812" N	2° 44' 56.313" E	294	52° 44' 57.059" N	2° 2' 0.667" E
27	52° 45' 29.693" N	2° 44' 54.076" E	295	52° 44' 56.253" N	2° 2' 2.175" E
28	52° 45' 31.632" N	2° 44' 51.980" E	296	52° 44' 56.022" N	2° 2' 2.621" E
29	52° 45'	2° 44'	297	52° 44'	2° 2' 3.078" E

	32.623" N	50.985" E		55.800" N	
30	52° 45'	2° 44'	298	52° 44'	2° 2' 4.667" E
	33.626" N	50.027" E		55.053" N	
31	52° 45'	2° 44'	299	52° 44'	2° 2' 5.136" E
	35.671" N	48.223" E		54.839" N	
32	52° 45'	2° 44'	300	52° 44'	2° 2' 5.615" E
	37.763" N	46.570" E		54.635" N	
33	52° 45'	2° 44'	301	52° 44'	2° 2' 7.278" E
	39.897" N	45.071" E		53.950" N	
34	52° 45'	2° 44'	302	52° 44'	2° 2' 7.768" E
	42.069" N	43.731" E		53.755" N	
3	52° 45'	2° 44'	303	52° 44'	2° 2' 8.268" E
	43.168" N	43.121" E		53.569" N	
36	52° 45'	2° 44'	304	52° 44'	2° 2' 9.998" E
	44.275" N	42.551" E		52.949" N	
37	52° 45'	2° 44'	305	52° 44'	2° 2' 10.507" E
	46.511" N	41.534" E		52.773" N	
38	52° 45'	2° 44'	306	52° 44'	2° 2' 11.025" E
	47.638" N	41.087" E		52.607" N	
39	52° 45'	2° 44'	307	52° 44'	2° 2' 12.816" E
	48.833" N	40.681" E		52.053" N	
40	52° 46'	2° 44'	308	52° 44'	2° 2' 13.343" E
	9.781" N	40.687" E		51.897" N	
41	52° 46'	2° 44'	309	52° 44'	2° 2' 13.877" E
	46.724" N	40.696" E		51.751" N	
42	52° 46'	2° 44'	310	52° 44'	2° 2' 15.722" E
	48.173" N	40.696" E		51.267" N	
43	52° 46'	2° 44'	311	52° 44'	2° 2' 16.263" E
	52.974" N	40.698" E		51.131" N	
44	52° 46'	2° 44'	312	52° 44'	2° 2' 16.812" E
	55.152" N	40.698" E		51.006" N	
45	52° 46'	2° 44'	313	52° 44'	2° 2' 18.703" E
	57.976" N	40.699" E		50.593" N	
46	52° 47'	2° 44'	314	52° 44'	2° 2' 19.257" E
	0.395" N	40.053" E		50.478" N	
47	52° 47'	2° 44'	315	52° 44'	2° 2' 19.818" E
	1.558" N	39.624" E		50.373" N	
48	52° 47'	2° 44'	316	52° 44'	2° 2' 21.747" E
	1.970" N	39.479" E		50.034" N	
49	52° 47'	2° 44'	317	52° 44'	2° 2' 22.313" E
	2.003" N	39.463" E		49.940" N	
50	52° 47'	2° 44'	318	52° 44'	2° 2' 22.883" E
	3.144" N	38.936" E		49.857" N	
51	52° 47'	2° 44'	319	52° 44'	2° 2' 24.844" E
	4.295" N	38.272" E		49.592" N	
52	52° 47'	2° 44'	320	52° 44'	2° 2' 25.418" E
	4.681" N	38.004" E		49.520" N	
53	52° 47'	2° 44'	321	52° 44'	2° 2' 25.996" E
	4.998" N	37.816" E		49.459" N	
54	52° 47'	2° 44'	322	52° 44'	2° 2' 27.980" E
	5.524" N	37.450" E		49.268" N	

55	52° 47' 6.616" N	2° 44' 36.554" E	323	52° 44' 49.218" N	2° 2' 28.561" E
56	52° 47' 7.671" N	2° 44' 35.546" E	324	52° 44' 49.179" N	2° 2' 29.143" E
57	52° 47' 8.686" N	2° 44' 34.431" E	325	52° 44' 49.065" N	2° 2' 31.144" E
58	52° 47' 9.657" N	2° 44' 33.214" E	326	52° 44' 49.037" N	2° 2' 31.728" E
59	52° 47' 10.579" N	2° 44' 31.898" E	327	52° 44' 49.021" N	2° 2' 32.314" E
60	52° 47' 11.449" N	2° 44' 30.489" E	328	52° 44' 48.989" N	2° 2' 34.021" E
61	52° 47' 12.264" N	2° 44' 28.993" E	329	52° 44' 48.983" N	2° 2' 34.638" E
62	52° 47' 13.021" N	2° 44' 27.415" E	330	52° 44' 49.220" N	2° 15' 49.970" E
63	52° 47' 13.715" N	2° 44' 25.762" E	331	52° 44' 49.236" N	2° 15' 51.345" E
64	52° 47' 14.346" N	2° 44' 24.040" E	332	52° 44' 49.268" N	2° 15' 53.169" E
65	52° 47' 14.910" N	2° 44' 22.257" E	333	52° 44' 49.284" N	2° 15' 53.754" E
66	52° 47' 15.404" N	2° 44' 20.418" E	334	52° 44' 49.311" N	2° 15' 54.339" E
67	52° 47' 15.784" N	2° 44' 18.728" E	335	52° 44' 49.422" N	2° 15' 56.340" E
68	52° 47' 15.918" N	2° 44' 18.041" E	336	52° 44' 49.460" N	2° 15' 56.922" E
69	52° 47' 16.179" N	2° 44' 16.606" E	337	52° 44' 49.509" N	2° 15' 57.503" E
70	52° 47' 16.456" N	2° 44' 14.647" E	338	52° 44' 49.680" N	2° 15' 59.308" E
71	52° 47' 16.520" N	2° 44' 14.023" E	339	52° 44' 49.731" N	2° 15' 59.809" E
72	52° 47' 16.658" N	2° 44' 12.664" E	340	52° 44' 49.791" N	2° 16' 0.309" E
73	52° 47' 16.784" N	2° 44' 10.663" E	341	52° 44' 51.112" N	2° 16' 10.573" E
74	52° 47' 16.834" N	2° 44' 8.653" E	342	52° 44' 51.112" N	2° 16' 10.573" E
75	52° 47' 16.807" N	2° 44' 6.642" E	343	52° 45' 49.555" N	2° 23' 47.080" E
76	52° 47' 16.703" N	2° 44' 4.638" E	344	52° 45' 49.556" N	2° 23' 47.093" E
77	52° 47' 16.559" N	2° 44' 3.046" E	345	52° 45' 49.762" N	2° 23' 48.593" E
78	52° 47' 15.589" N	2° 43' 55.247" E	346	52° 45' 50.105" N	2° 23' 50.522" E
79	52° 47' 14.341" N	2° 43' 45.216" E	347	52° 45' 50.521" N	2° 23' 52.412" E
80	52° 47'	2° 43'	348	52° 45'	2° 23'

	13.615" N	39.381" E		51.008" N	54.255" E
81	52° 47'	2° 43'	349	52° 45'	2° 23'
	13.538" N	38.765" E		51.565" N	56.044" E
82	52° 43'	2° 16'	350	52° 45'	2° 23'
	46.039" N	19.075" E		52.188" N	57.772" E
83	52° 43'	2° 16'	351	52° 45'	2° 23'
	45.182" N	10.004" E		52.876" N	59.431" E
84	52° 43'	2° 16' 0.162"	352	52° 45'	2° 24' 1.017"
	44.634" N	E		53.626" N	E
85	52° 43'	2° 15'	353	52° 45'	2° 24' 2.521"
	44.531" N	54.221" E		54.434" N	E
86	52° 43'	2° 15'	354	52° 45'	2° 24' 3.939"
	44.490" N	51.462" E		55.299" N	E
87	52° 43'	2° 7' 23.550"	355	52° 45'	2° 24' 5.265"
	44.512" N	E		56.215" N	E
88	52° 42'	2° 3' 14.512"	356	52° 45'	2° 24' 6.493"
	44.166" N	E		57.180" N	E
89	52° 42'	2° 3' 9.802" E	357	52° 45'	2° 24' 7.619"
	43.152" N			58.191" N	E
90	52° 42'	2° 3' 4.946" E	358	52° 45'	2° 24' 8.639"
	42.369" N			59.242" N	E
91	52° 42'	2° 1' 44.644"	359	52° 46'	2° 24' 9.547"
	31.534" N	E		0.330" N	E
92	52° 42'	2° 1' 40.338"	360	52° 46'	2° 24'
	31.056" N	E		1.450" N	10.341" E
93	52° 42'	2° 1' 39.044"	361	52° 46'	2° 24'
	30.948" N	E		2.598" N	11.017" E
94	52° 42'	2° 1' 34.686"	362	52° 46'	2° 24'
	30.701" N	E		3.770" N	11.573" E
95	52° 42'	2° 1' 30.309"	363	52° 46'	2° 24'
	30.654" N	E		4.960" N	12.007" E
96	52° 42'	2° 1' 29.003"	364	52° 46'	2° 24'
	30.675" N	E		6.165" N	12.317" E
97	52° 42'	2° 1' 25.173"	365	52° 46'	2° 24'
	30.833" N	E		7.380" N	12.501" E
98	52° 42'	2° 0' 49.768"	366	52° 46'	2° 24'
	33.173" N	E		8.022" N	12.532" E
99	52° 42'	2° 0' 40.941"	367	52° 46'	2° 24'
	34.216" N	E		9.762" N	12.670" E
100	52° 42'	2° 0' 39.649"	368	52° 50'	2° 24'
	34.439" N	E		9.656" N	31.707" E
101	52° 42'	2° 0' 35.379"	369	52° 51'	2° 34'
	35.302" N	E		3.549" N	15.864" E
102	52° 42'	2° 0' 7.655" E	370	52° 51'	2° 34'
	41.649" N			3.486" N	19.188" E
103	52° 42'	2° 0' 0.073" E	371	52° 51'	2° 34'
	43.788" N			3.295" N	22.530" E
104	52° 42'	1° 59'	372	52° 51'	2° 34'
	44.149" N	59.016" E		2.978" N	25.846" E
105	52° 42'	1° 59'	373	52° 51'	2° 34'
	45.445" N	55.557" E		2.535" N	29.122" E

106	52° 42' 55.437" N	1° 59' 30.877" E	374	52° 51' 1.968" N	2° 34' 32.346" E
107	52° 42' 55.855" N	1° 59' 29.924" E	375	52° 51' 1.280" N	2° 34' 35.504" E
108	52° 42' 58.378" N	1° 59' 24.593" E	376	52° 51' 0.473" N	2° 34' 38.585" E
109	52° 42' 58.842" N	1° 59' 23.685" E	377	52° 50' 59.551" N	2° 34' 41.577" E
110	52° 43' 0.673" N	1° 59' 20.588" E	378	52° 50' 58.516" N	2° 34' 44.466" E
111	52° 43' 2.861" N	1° 59' 17.394" E	379	52° 50' 57.374" N	2° 34' 47.243" E
112	52° 43' 17.859" N	1° 58' 57.179" E	380	52° 50' 56.129" N	2° 34' 49.896" E
113	52° 43' 19.625" N	1° 58' 54.953" E	381	52° 50' 54.785" N	2° 34' 52.414" E
114	52° 43' 21.284" N	1° 58' 53.106" E	382	52° 50' 53.348" N	2° 34' 54.787" E
115	52° 43' 21.796" N	1° 58' 52.576" E	383	52° 50' 51.823" N	2° 34' 57.007" E
116	52° 43' 23.547" N	1° 58' 50.895" E	384	52° 50' 50.218" N	2° 34' 59.065" E
117	52° 45' 46.103" N	1° 56' 43.184" E	385	52° 50' 48.537" N	2° 35' 0.952" E
118	52° 46' 2.160" N	1° 56' 27.260" E	386	52° 50' 46.788" N	2° 35' 2.661" E
119	52° 46' 3.532" N	1° 56' 26.078" E	387	52° 50' 44.977" N	2° 35' 4.185" E
120	52° 46' 17.577" N	1° 56' 12.146" E	388	52° 50' 43.112" N	2° 35' 5.518" E
121	52° 46' 37.038" N	1° 55' 33.566" E	389	52° 50' 41.200" N	2° 35' 6.655" E
122	52° 46' 51.513" N	1° 54' 38.977" E	390	52° 50' 39.248" N	2° 35' 7.591" E
123	52° 46' 58.151" N	1° 53' 21.115" E	391	52° 50' 37.265" N	2° 35' 8.323" E
124	52° 46' 59.490" N	1° 52' 52.341" E	392	52° 50' 33.492" N	2° 35' 9.272" E
125	52° 47' 32.039" N	1° 39' 38.159" E	393	52° 50' 32.920" N	2° 35' 9.346" E
126	52° 47' 32.129" N	1° 39' 36.152" E	394	52° 46' 31.498" N	2° 26' 1.301" E
127	52° 47' 32.273" N	1° 39' 33.526" E	395	52° 46' 31.407" N	2° 26' 1.294" E
128	52° 47' 32.388" N	1° 39' 31.565" E	396	52° 46' 31.505" N	2° 26' 1.330" E
129	52° 47' 32.521" N	1° 39' 29.607" E	397	52° 46' 30.476" N	2° 26' 1.280" E
130	52° 47' 32.673" N	1° 39' 27.652" E	398	52° 46' 29.257" N	2° 26' 1.347" E
131	52° 47'	1° 39'	399	52° 46'	2° 26' 1.540"



	32.844" N	25.702" E		28.043" N	E
132	52° 47' 33.028" N	1° 39' 23.714" E	400	52° 46' 26.839" N	2° 26' 1.859" E
133	52° 47' 33.217" N	1° 39' 21.768" E	401	52° 46' 25.650" N	2° 26' 2.301" E
134	52° 47' 33.425" N	1° 39' 19.828" E	402	52° 46' 24.480" N	2° 26' 2.866" E
135	52° 47' 33.652" N	1° 39' 17.893" E	403	52° 46' 23.333" N	2° 26' 3.551" E
136	52° 47' 33.896" N	1° 39' 15.964" E	404	52° 46' 22.215" N	2° 26' 4.353" E
137	52° 47' 34.155" N	1° 39' 13.999" E	405	52° 46' 21.130" N	2° 26' 5.269" E
138	52° 47' 34.419" N	1° 39' 12.073" E	406	52° 46' 20.230" N	2° 26' 6.150" E
139	52° 47' 34.701" N	1° 39' 10.153" E	407	52° 46' 20.081" N	2° 26' 6.296" E
140	52° 47' 35.001" N	1° 39' 8.241" E	408	52° 46' 19.074" N	2° 26' 7.430" E
141	52° 47' 35.320" N	1° 39' 6.337" E	409	52° 46' 18.112" N	2° 26' 8.665" E
142	52° 47' 35.827" N	1° 39' 3.397" E	410	52° 46' 17.199" N	2° 26' 9.998" E
143	52° 47' 36.193" N	1° 39' 1.398" E	411	52° 46' 16.338" N	2° 26' 11.422" E
144	52° 47' 36.599" N	1° 38' 59.313" E	412	52° 46' 15.534" N	2° 26' 12.933" E
145	52° 47' 37.000" N	1° 38' 57.371" E	413	52° 46' 14.788" N	2° 26' 14.524" E
146	52° 47' 37.497" N	1° 38' 55.056" E	414	52° 46' 14.105" N	2° 26' 16.189" E
147	52° 47' 37.906" N	1° 38' 53.193" E	415	52° 46' 13.486" N	2° 26' 17.921" E
148	52° 47' 38.332" N	1° 38' 51.340" E	416	52° 46' 12.935" N	2° 26' 19.714" E
149	52° 47' 38.777" N	1° 38' 49.499" E	417	52° 46' 12.453" N	2° 26' 21.561" E
150	52° 47' 39.239" N	1° 38' 47.670" E	418	52° 46' 12.042" N	2° 26' 23.454" E
151	52° 48' 59.902" N	1° 33' 32.091" E	419	52° 46' 11.704" N	2° 26' 25.386" E
152	52° 49' 1.602" N	1° 33' 25.973" E	420	52° 46' 11.440" N	2° 26' 27.349" E
153	52° 49' 2.819" N	1° 33' 19.121" E	421	52° 46' 11.252" N	2° 26' 29.335" E
154	52° 49' 3.674" N	1° 33' 13.073" E	422	52° 46' 11.139" N	2° 26' 31.337" E
155	52° 49' 3.797" N	1° 33' 6.096" E	423	52° 46' 11.103" N	2° 26' 33.346" E
156	52° 49' 2.898" N	1° 32' 57.549" E	424	52° 46' 11.144" N	2° 26' 35.356" E

157	52° 49' 4.139" N	1° 32' 54.271" E	425	52° 46' 11.261" N	2° 26' 37.357" E
158	52° 49' 4.845" N	1° 32' 52.212" E	426	52° 46' 11.399" N	2° 26' 38.780" E
159	52° 49' 5.188" N	1° 32' 51.467" E	427	52° 46' 11.399" N	2° 26' 38.781" E
160	52° 49' 6.147" N	1° 32' 49.575" E	428	52° 46' 11.399" N	2° 26' 38.782" E
161	52° 49' 7.035" N	1° 32' 47.473" E	429	52° 47' 4.976" N	2° 33' 42.433" E
162	52° 49' 7.208" N	1° 32' 46.999" E	430	52° 47' 5.398" N	2° 33' 45.780" E
163	52° 49' 8.015" N	1° 32' 44.486" E	431	52° 47' 6.051" N	2° 33' 50.967" E
164	52° 49' 8.663" N	1° 32' 42.319" E	432	52° 47' 6.366" N	2° 33' 53.472" E
165	52° 49' 8.910" N	1° 32' 41.417" E	433	52° 47' 6.366" N	2° 33' 53.472" E
166	52° 49' 9.102" N	1° 32' 41.019" E	434	52° 47' 6.366" N	2° 33' 53.473" E
167	52° 49' 9.635" N	1° 32' 40.648" E	435	52° 47' 6.675" N	2° 33' 55.224" E
168	52° 49' 9.807" N	1° 32' 40.345" E	436	52° 47' 7.088" N	2° 33' 57.116" E
169	52° 49' 9.768" N	1° 32' 39.737" E	437	52° 47' 7.573" N	2° 33' 58.962" E
170	52° 49' 9.855" N	1° 32' 38.941" E	438	52° 47' 8.126" N	2° 34' 0.754" E
171	52° 49' 10.086" N	1° 32' 38.247" E	439	52° 47' 8.747" N	2° 34' 2.485" E
172	52° 49' 10.218" N	1° 32' 37.939" E	440	52° 47' 9.433" N	2° 34' 4.148" E
173	52° 49' 10.691" N	1° 32' 36.993" E	441	52° 47' 10.180" N	2° 34' 5.737" E
174	52° 49' 11.553" N	1° 32' 35.417" E	442	52° 47' 10.987" N	2° 34' 7.246" E
175	52° 49' 12.200" N	1° 32' 33.887" E	443	52° 47' 11.849" N	2° 34' 8.668" E
176	52° 49' 12.742" N	1° 32' 32.736" E	444	52° 47' 12.764" N	2° 34' 9.998" E
177	52° 49' 13.080" N	1° 32' 31.922" E	445	52° 47' 13.727" N	2° 34' 11.230" E
178	52° 49' 13.507" N	1° 32' 31.040" E	446	52° 47' 14.736" N	2° 34' 12.361" E
179	52° 49' 14.325" N	1° 32' 29.767" E	447	52° 47' 15.785" N	2° 34' 13.384" E
180	52° 49' 14.340" N	1° 32' 29.796" E	448	52° 47' 16.872" N	2° 34' 14.297" E
181	52° 49' 15.178" N	1° 32' 31.478" E	449	52° 47' 17.991" N	2° 34' 15.096" E
182	52° 49'	1° 32'	450	52° 47'	2° 34'

	15.638" N	32.401" E		19.138" N	15.777" E
183	52° 49' 45.178" N	1° 33' 31.705" E	451	52° 47' 20.309" N	2° 34' 16.338" E
184	52° 49' 45.944" N	1° 33' 33.513" E	452	52° 47' 21.499" N	2° 34' 16.777" E
185	52° 49' 46.772" N	1° 33' 35.540" E	453	52° 47' 22.704" N	2° 34' 17.091" E
186	52° 49' 47.579" N	1° 33' 37.591" E	454	52° 47' 23.918" N	2° 34' 17.280" E
187	52° 49' 48.363" N	1° 33' 39.664" E	455	52° 47' 25.496" N	2° 34' 17.365" E
188	52° 49' 49.126" N	1° 33' 41.760" E	456	52° 48' 2.953" N	2° 26' 36.184" E
189	52° 49' 49.866" N	1° 33' 43.878" E	457	52° 48' 2.518" N	2° 26' 33.730" E
190	52° 49' 50.585" N	1° 33' 46.016" E	458	52° 48' 1.985" N	2° 26' 31.328" E
191	52° 49' 51.280" N	1° 33' 48.175" E	459	52° 48' 1.357" N	2° 26' 28.991" E
192	52° 49' 51.952" N	1° 33' 50.354" E	460	52° 48' 1.009" N	2° 26' 27.849" E
193	52° 49' 52.602" N	1° 33' 52.551" E	461	52° 48' 0.243" N	2° 26' 25.626" E
194	52° 49' 53.228" N	1° 33' 54.767" E	462	52° 47' 59.827" N	2° 26' 24.547" E
195	52° 49' 53.831" N	1° 33' 57.000" E	463	52° 47' 58.931" N	2° 26' 22.461" E
196	52° 49' 54.410" N	1° 33' 59.251" E	464	52° 47' 57.954" N	2° 26' 20.477" E
197	52° 49' 54.965" N	1° 34' 1.518" E	465	52° 47' 57.436" N	2° 26' 19.526" E
198	52° 49' 55.496" N	1° 34' 3.800" E	466	52° 47' 56.343" N	2° 26' 17.712" E
199	52° 49' 56.003" N	1° 34' 6.098" E	467	52° 47' 55.181" N	2° 26' 16.022" E
200	52° 49' 56.486" N	1° 34' 8.409" E	468	52° 47' 53.953" N	2° 26' 14.462" E
210	52° 49' 56.944" N	1° 34' 10.735" E	469	52° 47' 53.316" N	2° 26' 13.734" E
202	52° 49' 57.378" N	1° 34' 13.073" E	470	52° 47' 52.000" N	2° 26' 12.384" E
203	52° 49' 57.786" N	1° 34' 15.423" E	471	52° 47' 51.322" N	2° 26' 11.763" E
204	52° 49' 58.171" N	1° 34' 17.784" E	472	52° 47' 49.931" N	2° 26' 10.635" E
205	52° 49' 58.530" N	1° 34' 20.157" E	473	52° 47' 48.498" N	2° 26' 9.662" E
206	52° 49' 58.864" N	1° 34' 22.539" E	474	52° 47' 47.030" N	2° 26' 8.847" E
207	52° 49' 59.173" N	1° 34' 24.930" E	475	52° 47' 45.531" N	2° 26' 8.195" E

208	52° 49' 59.456" N	1° 34' 27.330" E	476	52° 47' 44.124" N	2° 26' 7.739" E
209	52° 49' 59.714" N	1° 34' 29.738" E	477	52° 47' 42.819" N	2° 26' 7.446" E
210	52° 49' 59.947" N	1° 34' 32.153" E	478	52° 47' 42.518" N	2° 26' 7.422" E
211	52° 50' 0.154" N	1° 34' 34.574" E	479	52° 47' 40.198" N	2° 26' 6.759" E
212	52° 50' 0.336" N	1° 34' 37.001" E	480	52° 47' 32.505" N	2° 26' 6.180" E
213	52° 50' 0.492" N	1° 34' 39.433" E	481	52° 50' 2.151" N	2° 35' 9.316" E
214	52° 50' 0.623" N	1° 34' 41.869" E	482	52° 47' 39.858" N	2° 35' 10.667" E
215	52° 50' 0.727" N	1° 34' 44.308" E	483	52° 47' 38.680" N	2° 35' 10.728" E
216	52° 50' 0.806" N	1° 34' 46.750" E	484	52° 47' 37.466" N	2° 35' 10.917" E
217	52° 50' 0.859" N	1° 34' 49.193" E	485	52° 47' 36.261" N	2° 35' 11.231" E
218	52° 50' 0.887" N	1° 34' 51.638" E	486	52° 47' 35.071" N	2° 35' 11.670" E
219	52° 50' 0.888" N	1° 34' 54.083" E	487	52° 47' 33.900" N	2° 35' 12.231" E
220	52° 50' 0.864" N	1° 34' 56.528" E	488	52° 47' 32.753" N	2° 35' 12.912" E
221	52° 50' 0.814" N	1° 34' 58.972" E	489	52° 47' 31.634" N	2° 35' 13.711" E
222	52° 50' 0.739" N	1° 35' 1.414" E	490	52° 47' 30.547" N	2° 35' 14.623" E
223	52° 50' 0.637" N	1° 35' 3.854" E	491	52° 47' 29.498" N	2° 35' 15.647" E
224	52° 50' 0.510" N	1° 35' 6.290" E	492	52° 47' 28.489" N	2° 35' 16.777" E
225	52° 50' 0.357" N	1° 35' 8.722" E	493	52° 47' 27.525" N	2° 35' 18.010" E
226	52° 50' 0.178" N	1° 35' 11.150" E	494	52° 47' 26.611" N	2° 35' 19.340" E
227	52° 49' 59.974" N	1° 35' 13.572" E	495	52° 47' 25.748" N	2° 35' 20.762" E
228	52° 49' 59.745" N	1° 35' 15.987" E	496	52° 47' 24.942" N	2° 35' 22.271" E
229	52° 49' 59.490" N	1° 35' 18.396" E	497	52° 47' 24.194" N	2° 35' 23.860" E
230	52° 49' 59.209" N	1° 35' 20.797" E	498	52° 47' 23.509" N	2° 35' 25.523" E
231	52° 49' 58.903" N	1° 35' 23.190" E	499	52° 47' 22.888" N	2° 35' 27.254" E
232	52° 49' 58.573" N	1° 35' 25.573" E	500	52° 47' 22.334" N	2° 35' 29.046" E
233	52° 49'	1° 35'	501	52° 47'	2° 35'

	58.217" N	27.947" E		21.849" N	30.892" E
234	52° 49'	1° 35'	502	52° 47'	2° 35'
	57.836" N	30.310" E		21.436" N	32.784" E
235	52° 49'	1° 35'	503	52° 47'	2° 35'
	57.430" N	32.661" E		21.096" N	34.716" E
236	52° 49'	1° 35'	504	52° 47'	2° 35'
	56.999" N	35.001" E		20.829" N	36.678" E
237	52° 49'	1° 35'	505	52° 47'	2° 35'
	56.544" N	37.328" E		20.638" N	38.665" E
238	52° 49'	1° 35'	506	52° 47'	2° 35'
	56.064" N	39.641" E		20.523" N	40.667" E
239	52° 49'	1° 35'	507	52° 47'	2° 35'
	55.560" N	41.940" E		20.485" N	42.678" E
240	52° 49'	1° 35'	508	52° 47'	2° 35'
	55.032" N	44.225" E		20.523" N	44.688" E
241	52° 49'	1° 35'	509	52° 47'	2° 35'
	54.480" N	46.494" E		20.637" N	46.691" E
242	52° 49'	1° 35'	510	52° 47'	2° 35'
	53.904" N	48.746" E		20.743" N	47.801" E
243	52° 49'	1° 35'	511	52° 47'	2° 35'
	53.304" N	50.982" E		20.744" N	47.806" E
244	52° 49'	1° 35'	512	52° 47'	2° 35'
	52.681" N	53.200" E		21.786" N	56.101" E
245	52° 49'	1° 35'	513	52° 48'	2° 43'
	52.034" N	55.400" E		20.763" N	47.964" E
246	52° 49'	1° 35'	514	52° 48'	2° 43'
	51.868" N	55.943" E		21.026" N	49.928" E
247	52° 48'	1° 39'	515	52° 48'	2° 43'
	40.863" N	22.453" E		21.364" N	51.862" E
248	52° 48'	1° 39'	516	52° 48'	2° 43'
	40.702" N	22.924" E		21.774" N	53.756" E
249	52° 48'	1° 39'	517	52° 48'	2° 43'
	40.367" N	23.994" E		22.256" N	55.605" E
250	52° 48'	1° 39'	518	52° 48'	2° 43'
	40.234" N	24.393" E		22.808" N	57.400" E
251	52° 48'	1° 39'	519	52° 48'	2° 43'
	40.107" N	24.797" E		23.426" N	59.134" E
252	52° 48'	1° 39'	520	52° 48'	2° 44' 0.800"
	39.560" N	26.596" E		24.109" N	E
253	52° 48'	1° 39'	521	52° 48'	2° 44' 2.393"
	39.405" N	27.124" E		24.854" N	E
254	52° 48'	1° 39'	522	52° 48'	2° 44' 3.905"
	39.261" N	27.661" E		25.659" N	E
255	52° 48'	1° 39'	523	52° 48'	2° 44' 5.331"
	38.783" N	29.512" E		26.519" N	E
256	52° 48'	1° 39'	524	52° 48'	2° 44' 6.665"
	38.649" N	30.055" E		27.432" N	E
257	52° 48'	1° 39'	525	52° 48'	2° 44' 7.902"
	38.525" N	30.606" E		28.394" N	E
258	52° 48'	1° 39'	526	52° 48'	2° 44' 9.037"
	38.044" N	32.861" E		29.401" N	E

259	52° 48' 37.927" N	1° 39' 33.484" E	527	52° 48' 30.449" N	2° 44' 10.065" E
260	52° 48' 37.569" N	1° 39' 35.557" E	528	52° 48' 31.534" N	2° 44' 10.983" E
261	52° 48' 37.477" N	1° 39' 36.124" E	529	52° 48' 32.652" N	2° 44' 11.786" E
262	52° 48' 37.396" N	1° 39' 36.696" E	530	52° 48' 33.799" N	2° 44' 12.472" E
263	52° 48' 37.137" N	1° 39' 38.662" E	531	52° 48' 34.969" N	2° 44' 13.037" E
264	52° 48' 37.067" N	1° 39' 39.237" E	532	52° 48' 36.158" N	2° 44' 13.481" E
265	52° 48' 37.008" N	1° 39' 39.816" E	533	52° 48' 37.362" N	2° 44' 13.800" E
266	52° 48' 36.824" N	1° 39' 41.805" E	534	52° 48' 38.576" N	2° 44' 13.994" E
267	52° 48' 36.776" N	1° 39' 42.387" E	535	52° 48' 39.226" N	2° 44' 14.030" E
268	52° 48' 36.739" N	1° 39' 42.971" E	536	52° 51' 27.631" N	2° 44' 14.043" E

## PART 3

### Details of Licensed Marine Activities

1. Subject to the licence conditions at Part 4, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 5 of Part 2 of this licence;
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (d) the disposal of up to 11,475,000 m<sup>3</sup> of inert material of natural origin within the offshore Order limits produced during construction drilling or seabed preparation for foundation works and cable (including fibre optic cable) sandwave preparation works at disposal site references HU213, HU214, HU215 and HU216 within the extent of the Order limits seaward of MHWS, comprising—
  - (i) 9,000,000 m<sup>3</sup> for cable (including fibre optic cable) installation;
  - (ii) 75,000 m<sup>3</sup> for the offshore electrical platforms;
  - (iii) 1,900,000 m<sup>3</sup> for the export cables (including fibre optic cables) within the Order limits excluding the Haisborough, Hammond and Winterton Special Area of Conservation;
  - (iv) 500,000 m<sup>3</sup> for the export cables (including fibre optic cables) within the part of the Haisborough, Hammond and Winterton Special Area of Conservation that falls within the Order limits;
- (e) the removal of static fishing equipment; and
- (f) the disposal of drill arisings in connection with any foundation drilling up to 14,137 m<sup>3</sup>.

2.—(1) Such activities are authorised in relation to the construction, maintenance and operation of—

(2) *Work No. 2 (phase 1)* – up to two offshore electrical platforms fixed to the seabed within the area shown on the works plan by one of the following foundation types: jacket (piled or suction caisson) or gravity base.

(3) *Work No. 3 (phase 1)* – a network of subsea cables and fibre optic cables within the area shown on the works plan comprising Work No. 2 and for the transmission of electricity and electronic communications between the offshore electrical platforms including one or more cable crossings.

(4) *Work No. 4A (phase 1)* – up to four subsea export cables and fibre optic cables between Work No. 2 and Work No. 4B consisting of subsea cables and fibre optic cables along routes within the Order limits seaward of MHWS including one or more offshore cable crossings.

(5) *Work No. 4B (phase 1)* – up to four subsea export cables and fibre optic cables between Work No. 4A and Work No. 4C consisting of subsea cables and fibre optic cables along routes within the Order limits between MLWS and MHWS at Happisburgh South, North Norfolk.

(6) In connection with such Works No. 2, 3, 4A and 4B and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence.

(7) In connection with such Works No. 2, 3, 4A and 4B, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised scheme; and
- (b) beacons, fenders and other navigational warning or ship impact protection works.

## PART 4

### Conditions

#### Design parameters

1.—(1) The dimensions of any offshore electrical platform forming part of the authorised scheme (excluding towers, helipads, masts and cranes) must not exceed 100 metres in height when measured from HAT, 120 metres in length and 80 metres in width.

(2) In relation to an offshore electrical platform, each foundation using piles must not have—

- (a) more than 18 driven piles;
- (b) a pile diameter which is more than five metres.

2. In relation to the offshore electrical platform(s), the foundations must not have a combined seabed footprint area (excluding scour protection) of greater than 15,000m<sup>2</sup>. The total length of the cables and the area and volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection (m<sup>2</sup> and m<sup>3</sup>)</i>
Work No. 3 (Interconnector link)	150 kilometres	76,000m <sup>2</sup> 38,000 m <sup>3</sup>
Work No. 4A and 4B (export cable)	400 kilometres	102,086m <sup>2</sup> 59,836 m <sup>3</sup>

#### Phasing of the authorised scheme

3.—(1) Taken together with works authorised and proposed to be constructed pursuant to licence 2 (transmission)—

- (a) the total number of offshore electrical platforms forming part of the authorised scheme must not exceed two;
- (b) the total amount of scour protection for the offshore electrical platforms forming part of the authorised scheme must not exceed 20,000m<sup>2</sup> and 100,000 m<sup>3</sup>; and
- (c) the total amount of inert material of natural origin disposed within the offshore Order limits as part of the authorised scheme must not exceed 11,475,000 m<sup>3</sup>;
- (d) the total amount of disposal for drill arisings in connection with any foundation drilling must not exceed 14,137m<sup>3</sup>;
- (e) the total length of cable and the amount of cable protection must not exceed the figures stated in condition 2 of this licence; and
- (f) in the Haisborough, Hammond and Winterton Special Area of Conservation, the total area of cable protection must not exceed 32,000m<sup>2</sup> and the total volume of cable protection must not exceed 20,800m<sup>3</sup>.

(2) Prior to the commencement of the authorised scheme the undertaker must give notice to the MMO detailing—

- (a) whether the authorised scheme will be constructed—
  - (i) in a single offshore phase under this licence; or
  - (ii) in two offshore phases under this licence and licence 2 (transmission); and
- (b) where the authorised scheme will be constructed in two offshore phases, the total number of offshore electrical platforms to be constructed in each phase.

### **Notifications and inspections**

4.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with condition 12; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 12;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with condition 12 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.



(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details regarding the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—

- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) as soon as reasonably practicable and no later than 24 hours of completion of construction of all offshore activities.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 2 and the expected vessel routes from the construction ports to the relevant location. A second notice to mariners must be issued advising of the start date of Work Nos. 3, 4A and 4B and the route of the sub-sea cables and fibre optic cables. Copies of all notices must be provided to the MMO, MCA and UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under condition 9(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.

(10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO within five days.

(11) In case of damage to, or destruction or decay of the authorised scheme seaward of MHWS or any part thereof, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office.

(12) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO and MCA within five days.

### **Aids to navigation**

**5.—**(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and to take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation as set out in the aids to navigation management plan agreed pursuant to condition 9(1)(k) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon

as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 4(11) and condition 4(12) are invoked, the undertaker must lay down such marker buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

### **Colouring of structures**

6.—(1) Except as otherwise required by Trinity House the undertaker must colour all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least HAT to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035).

### **Chemicals, drilling and debris**

7.—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised scheme must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(a) (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under this licence. This information must be submitted to the MMO by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within disposal site references HU213, HU214, HU215 and HU216 within the extent of the Order limits seaward of MHWS. Any other materials must be screened out before disposal of the inert material at this site.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must undertake the survey agreed under condition 9(1)(h)(iii) following the swath-bathymetry survey referred to in condition 15(2)(b). Should any such obstructions resulting from burial of Work No. 4A or 4B (export cables and fibre optic cables) be identified which, in the reasonable opinion of the MMO, may be considered to interfere with fishing, the undertaker must take such steps to remove them as the MMO in its reasonable opinion may require.

(9) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

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(a) S.I. 2002/1355.

(10) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 14(1)(d)(i).

(11) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

### **Force majeure**

**8.**—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to make a deposit which is not authorised under this licence, whether within or outside of the Order limits, because the safety of human life and/or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

### **Pre-construction plans and documentation**

**9.**—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO in consultation with Trinity House and the MCA which shows, in accordance with the Development Principles—
  - (i) the proposed location and choice of foundation of all offshore electrical platforms;
  - (ii) the height, length and width of all offshore electrical platforms;
  - (iii) the length and arrangement of all cables (including fibre optic cables) comprising Work Nos. 3, 4A and 4B;
  - (iv) the dimensions of all foundations;
  - (v) the proposed layout of all offshore electrical platforms including any exclusion zones identified under sub-paragraph (1)(h)(iv);
  - (vi) a plan showing the indicative layout of all offshore electrical platforms including all exclusion zones (insofar as not shown in (v) above) and showing the indicative programming of particular works as set out in the indicative programme to be provided under sub-paragraph (1)(b)(iv); and
  - (vii) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph (1)(i);

to ensure conformity with the description of Works No. 2, 3, 4A and 4B and compliance with conditions 1 to 3 above.
- (b) A construction programme and monitoring plan (which accords with the offshore in principle monitoring plan) to include details of—
  - (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction surveys and monitoring and related reporting in accordance with sub-paragraph (1)(h) and conditions 12, 13, 14 and 15; and

- (iv) an indicative written construction programme for all offshore electrical platforms and cables including fibre optic cables comprised in the works at Part 3 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);

with details pursuant to paragraph (iii) above to be submitted to the MMO in accordance with the following—

- (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed pre-construction monitoring;
- (bb) at least four months prior to construction, detail on construction monitoring;
- (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;

unless otherwise agreed in writing with the MMO.

- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
  - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works and having regard to any mitigation scheme pursuant to sub-paragraph (1)(i);
  - (ii) soft start procedures with specified duration periods;
  - (iii) offshore electrical platform location and installation, including scour protection;
  - (iv) cable (including fibre optic cable) installation ;
  - (v) contractors;
  - (vi) vessels, vessels maintenance and vessels transit corridors; and
  - (vii) associated and ancillary works.
- (d) A project environmental management plan (in accordance with the outline project environmental management plan) covering the period of construction and operation to include details of—
  - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;
  - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) waste management and disposal arrangements;
  - (iv) the appointment and responsibilities of a fisheries liaison officer; and
  - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 4 and to address the interaction of the licensed activities with fishing activities.
- (e) A scour protection and cable protection plan (in accordance with the outline scour protection and cable protection plan) providing details of the need, type, sources, quantity, distribution and installation methods for scour protection and cable (including fibre optic cable) protection. For the avoidance of doubt “distribution” in this sub-paragraph must include quantities in respect of each structure comprised in the offshore works and intended to be subject to scour protection.
- (f) In the event that piled foundations are proposed to be used, a marine mammal mitigation protocol, in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals and following current best practice as advised by the relevant statutory nature conservation bodies.
- (g) A cable specification, installation and monitoring plan, for the installation and protection of cables outside of the Haisborough, Hammond and Winterton Special Area of Conservation, to include—

- (i) technical specification of offshore cables (including fibre optic cable) below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a detailed cable (including fibre optic cable) laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques, including cable landfall and cable protection measures;
  - (iii) proposals for monitoring offshore cables including cable (including fibre optic cable) protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables; and
  - (iv) appropriate methods such as a trawl or drift net to be deployed along Work No. 4A and 4B (export cables and fibre optic cables), following the survey referred to in condition 15(2)(b) to assess any seabed obstructions resulting from burial of the export cables and fibre optic cables.
- (h) An archaeological written scheme of investigation in relation to the offshore Order limits seaward of mean low water, which must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body (and, if relevant, North Norfolk District Council) to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
  - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
  - (v) monitoring of archaeological exclusion zones during and post construction;
  - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS (Online Access to the Index of archaeological investigations) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO (and North Norfolk District Council where the report relates to the intertidal area) that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
  - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (i) A mitigation scheme for any habitats of principal importance identified by the survey referred to in condition 13(2)(a) and in accordance with the offshore in principle monitoring plan.
- (j) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
- (k) An aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 5 for the lifetime of the authorised scheme.
- (l) In the event that piled foundations are proposed to be used, a site integrity plan which accords with the principles set out in the in principle Norfolk Vanguard Southern North

Sea Special Area of Conservation Site Integrity Plan , and which the MMO is satisfied would provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.

- (m) A site integrity plan which accords with the principles set out in the outline Norfolk Vanguard Haisborough, Hammond and Winterton Special Area of Conservation Site Integrity Plan and which the MMO (in consultation with the relevant statutory nature conservation body) is satisfied would provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that sandbanks and sabellaria spinulosa reefs are a protected feature of that. site.

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation (offshore), and which has been submitted to and approved by the MMO.

(3) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000 KJ.

**10.—**(1) Any archaeological reports produced in accordance with condition 9(1)(h)(iii) must be agreed with the MMO in consultation with the statutory historic body (and, if relevant, North Norfolk District Council).

(2) The design plan required by condition 9(1)(a) must be prepared by the undertaker and determined by the MMO in accordance with the Development Principles.

(3) Each programme, statement, plan, protocol or scheme required to be approved under condition 9 must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(4) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 9 or approval has been given following an appeal in accordance with subparagraph (6).

(5) Unless otherwise agreed in writing with the undertaker, the MMO must use reasonable endeavours to determine an application for approval made under condition 9 as soon as practicable and in any event within a period of four months commencing on the date the application is received by the MMO.

(6) The licensed activities must be carried out in accordance with the plans, protocols, statements, schemes and details approved under condition 9, unless otherwise agreed in writing by the MMO.

(7) No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

#### **Post-construction plans and documents**

**11.** The undertaker must conduct a swath bathymetric survey to IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out and provide the data and survey report(s) to the MCA and UKHO.

#### **Reporting of engaged agents, contractors and vessels**

**12.—**(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
  - (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.
- (2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

### **Pre-construction monitoring and surveys**

**13.**—(1) The undertaker must, in discharging condition 9(1)(b), submit details (which accord with the offshore in principle monitoring plan) for written approval by the MMO in consultation with the relevant statutory bodies of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and—

- (a) the survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) appropriate surveys to determine the location and extent of any benthic communities/benthos constituting Annex 1 reef habitats of principal importance in whole or in part inside the area(s) within the Order limits in which it is proposed to carry out construction works; and
- (b) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation bodies.

### **Construction monitoring**

**14.**—(1) The undertaker must, in discharging condition 9(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives. In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.

(2) The undertaker must carry out the surveys approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(3) The results of the initial noise measurements monitored in accordance with sub-paragraph (1) must be provided to the MMO within six weeks of the installation of the first four piled foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the opinion of the MMO in consultation with Natural England, the assessment shows significantly different impacts to those

assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(4) In the event that driven or part driven pile foundations are proposed to be used, a marine mammal mitigation protocol will be followed in accordance with the draft marine mammal mitigation protocol and the in principle monitoring plan.

### **Post construction**

**15.**—(1) The undertaker must, in discharging condition 9(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval by the MMO in consultation with relevant statutory bodies of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) The post-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) A survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey.
- (b) within twelve months of completion of the licensed activities, one full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables including fibre optic cables have been buried or protected.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) Following installation of cables, the cable (including fibre optic cables) monitoring plan required under condition 9(1)(g)(iii) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the authorised scheme and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

### **Reporting of impact pile driving**

**16.**—(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the UK Marine Noise Registry—

- (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements; and
- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements.

(2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.



(3) For the purpose of this condition—

“Marine Noise Registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;

“Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

### **Reporting of cable protection**

17.—(1) Not more than 4 months following completion of the construction phase of the authorised scheme, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection used for the authorised scheme.

(2) The report must include the following information—

- (a) location of the cable protection;
- (b) volume of cable protection; and
- (c) any other information relating to the cable protection as agreed between the MMO and the undertaker.

### **Restriction on cable installation construction works**

18. During the months of January to March inclusive, construction activities consisting of cable installation for Work No. 4A and Work No. 4B must only take place with one main cable laying vessel.

### **Decommissioning of cable protection within marine protected areas**

19.—(1) The obligations under paragraphs (2) and (3) shall only apply if and to the extent that—

- (a) cable protection is installed as part of the authorised project within an area designated as a European Site or MCZ as at the date of the grant of the Order; and
- (b) it is a requirement of the written decommissioning programme approved by the Secretary of State pursuant to sections 105 (requirement to prepare decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes), that such cable protection is removed as part of the decommissioning of the authorised project.

(2) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall carry out an appropriate survey of cables within Work No. 1(c), that are subject to cable protection and that are situated within any European Site or MCZ to assess the integrity and condition of that cable protection and determine the appropriate extent of the feasibility of the removal of such cable protection having regard to the condition of the cable protection and feasibility of any new removal techniques at that time, and submit that along with a method statement for recovery of cable protection to the MMO.

(3) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the MMO must confirm whether or not it is satisfied with the method statement pursuant to (2) above.

(4) If the MMO has confirmed it is satisfied pursuant to (3) above, then within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall endeavour to recover the cable protection to the extent identified in the survey and according to the methodology set out in the method statement submitted pursuant to (2) above.

## SCHEDULE 12

Article 32

## Deemed Licence under the 2009 Act – Transmission Assets (Licence 2 – Phase 2)

## PART 1

## Interpretation

## 1.—(1) In this licence—

“the 2004 Act” means the Energy Act 2004;

“the 2017 Regulations” means the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007(a);

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“authorised deposits” means the substances and articles specified in paragraph 5 of Part 2 of this licence;

“authorised scheme” means Work Nos. 2, 3, 4A, and 4B described in Part 3 of this licence or any part of that work;

“cable protection” means measures for offshore cable crossings and where cable burial is not possible due to ground conditions or approaching offshore structures, to protect cables and fibre optic cables and prevent loss of seabed sediment by use of grout bags, protective aprons, mattresses, flow energy dissipation (frond) devices or rock and gravel dumping;

“commence” means the first carrying out of any part of the licensed activities save for pre-construction surveys and monitoring and “commenced” and “commencement” must be construed accordingly;

“condition” means a condition in Part 4 of this licence;

“Defence Infrastructure Organisation Safeguarding” means Ministry of Defence Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands B75 7RL and any successor body to its functions;

“Development Principles” means the document certified as the Development Principles by the Secretary of State for the purposes of the Order;

“draft marine mammal mitigation protocol” means the document certified as the draft marine mammal mitigation protocol by the Secretary of State for the purposes of this Order;

“enforcement officer” means a person authorised to carry out enforcement duties under Chapter 3 of the 2009 Act;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“gravity base system” means a structure principally of steel, concrete, or steel and concrete which rests on the seabed either due to its own weight with or without added ballast or additional skirts and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“offshore in principle monitoring plan” means the document certified as the offshore in principle monitoring plan by the Secretary of State for the purposes of this Order;

“in principle Norfolk Vanguard Southern North Sea Special Area of Conservation Site Integrity Plan” means the document certified as the in principle Norfolk Vanguard Southern

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(a) S.I. 2007/1842.

North Sea Special Area of Conservation Site Integrity Plan by the Secretary of State for the purposes of this Order;

“jacket foundation” means a steel jacket/ lattice-type structure constructed of steel which is fixed to the seabed at three or more points with steel pin piles or steel suction caissons and associated equipment including scour protection, J-tubes, transition piece, corrosion protection systems, fenders and maintenance equipment, boat access systems, access ladders and access and rest platform(s) and equipment;

“Kingfisher Fortnightly Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“HAT” means highest astronomical tide;

“licence 1 (transmission)” means the licence set out in Schedule 11 (deemed licence under the 2009 Act – transmission assets (licence 1 – phase 1));

“licensed activities” means the activities specified in Part 3 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace (but only in relation to any of the ancillary works in Part 2 of Schedule 1 (ancillary works), any cable and any component part of any wind turbine generator, offshore electrical platform, accommodation platform or meteorological mast described in Part 1 of Schedule 1 (authorised development) not including the alteration, removal or replacement of foundations), to the extent assessed in the environmental statement; and “maintenance” is construed accordingly;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“meteorological mast” means a mast housing equipment to measure wind speed and other wind characteristics, including a topside housing electrical, communication and associated equipment and marking and lighting;

“notice to mariners” means a notice issued by the undertaker to mariners to inform them of issues that affect the safety of navigation;

“offshore cables” means any cables offshore;

“offshore electrical platform” means a platform attached to the seabed by means of a foundation, with one or more decks, whether open or fully clad, accommodating electrical power transformers, switchgear, instrumentation, protection and control systems and other associated equipment and facilities to enable the transmission of electronic communications and for electricity to be collected at, and exported from, the platform;

“offshore Order limits” means the limits shown on the works plan within which the authorised scheme may be carried out, whose grid coordinates are set out in Part 2 of this licence;

“the Order” means the Norfolk Vanguard Offshore Wind Farm Order 2020;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State for the purposes of this Order;

“outline Norfolk Vanguard Haisborough, Hammond and Winterton Special Area of Conservation site integrity plan” means the document certified as the outline Norfolk Vanguard Haisborough, Hammond and Winterton Special Area of Conservation site integrity plan by the Secretary of State for the purposes of this Order;

“outline offshore operations and maintenance plan” means the document certified as the outline offshore operations and maintenance plan by the Secretary of State for the purposes of the Order;

“outline written scheme of investigation (offshore)” means the document certified as the outline written scheme of investigation (offshore) by the Secretary of State for the purposes of this Order;

“pin piles” means steel cylindrical piles driven and/or drilled into the seabed to secure steel jacket foundations;

“relevant site” means a European offshore marine site and a European site;

“scour protection” means measures to prevent loss of seabed sediment around any marine structure placed in or on the seabed by use of protective aprons, mattresses with or without frond devices, or rock and gravel placement.

“single offshore phase” means carrying out all offshore works as a single construction operation;

“statutory historic body” means Historic Buildings and Monuments Commission for England (Historic England) or its successor in function;

“statutory nature conservation body” means an organisation charged by government with advising on nature conservation matters;

“suction caisson” means a large diameter steel cylindrical shell which penetrates the seabed assisted by a hydrostatic pressure differential for fixity of foundations;

“Trinity House” means the Corporation of Trinity House of Deptford Strond;

“two offshore phases” means carrying out the offshore works as two separate construction operations;

“UK Hydrographic Office” means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

“undertaker” means Norfolk Vanguard Limited;

“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

“Work No. 4C” means the onshore transmission works at the landfall consisting of up to two transition jointing pits and up to four cables to be laid in ducts underground and associated fibre optic cables laid within cable ducts from MHWS at Happisburgh South, North Norfolk; and

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

- (a) all times are taken to be Greenwich Mean Time (GMT);
- (b) all co-ordinates are taken to be latitude and longitude degrees and minutes to two decimal places.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Marine Licensing

Lancaster House

Hampshire Court

Newcastle Business Park

Newcastle upon Tyne

NE4 7YH  
Tel: 0300 123 1032;

(b) Marine Management Organisation (local office)

Lowestoft Office  
Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 573 149;

(c) Trinity House

Tower Hill  
London  
EC3N 4DH  
Tel: 020 7481 6900;

(d) The United Kingdom Hydrographic Office

Admiralty Way  
Taunton  
Somerset  
TA1 2DN  
Tel: 01823 337 900;

(e) Maritime and Coastguard Agency

Navigation Safety Branch  
Bay 2/20, Spring Place  
105 Commercial Road  
Southampton  
SO15 1EG  
Tel: 020 3817 2426;

(f) Centre for Environment, Fisheries and Aquaculture Science

Pakefield Road  
Lowestoft  
Suffolk  
NR33 0HT  
Tel: 01502 562 244;

(g) Natural England

Area 1C, Nobel House  
17 Smith Square  
London  
SW1P 2AL  
Tel: 0300 060 4911;

- (h) Historic England  
 Cannon Bridge  
 House 25  
 Dowgate Hill  
 London  
 EC4R 2YA  
 Tel: 020 7973 3700

## PART 2

### Licensed Marine Activities – General

1. This licence remains in force until the authorised scheme has been decommissioned in accordance with a programme approved by the Secretary of State under section 106 (approval of decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108, and the completion of such programme has been confirmed by the Secretary of State in writing.

2. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

3. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this Schedule, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

4. Any amendments to or variations from the approved plans, protocols or statements must be minor or immaterial and it must be demonstrated to the satisfaction of the MMO that they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

5. The substances or articles authorised for deposit at sea are—

- (a) iron and steel, copper and aluminium;
- (b) stone and rock;
- (c) concrete;
- (d) sand and gravel;
- (e) plastic and synthetic;
- (f) material extracted from within the offshore Order limits during construction drilling or seabed preparation for foundation works and cable (including fibre optic cable) sandwave preparation works; and
- (g) marine coatings, other chemicals and timber.

6. The grid coordinates for the authorised scheme are specified below—

<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>	<i>Point</i>	<i>Latitude (DMS)</i>	<i>Longitude (DMS)</i>
1	52° 55' 0.308" N	3° 4' 42.589" E	269	52° 48' 36.617" N	1° 39' 45.198" E
2	52° 49' 53.975" N	3° 5' 22.789" E	270	52° 48' 36.608" N	1° 39' 45.442" E
3	52° 46' 19.050" N	3° 2' 16.682" E	271	52° 48' 36.111" N	1° 39' 58.227" E

4	52° 45' 10.584" N	2° 45' 33.989" E	272	52° 47' 53.162" N	1° 57' 17.842" E
5	52° 51' 41.636" N	2° 45' 34.220" E	273	52° 47' 51.688" N	1° 57' 48.405" E
6	53° 2' 36.817" N	2° 34' 16.309" E	274	52° 47' 50.436" N	1° 58' 0.642" E
7	52° 49' 38.834" N	2° 34' 15.809" E	275	52° 47' 48.214" N	1° 58' 12.320" E
8	52° 48' 47.472" N	2° 33' 28.343" E	276	52° 47' 42.495" N	1° 58' 33.820" E
9	52° 48' 3.133" N	2° 26' 37.427" E	277	52° 47' 36.793" N	1° 58' 49.157" E
10	52° 56' 9.089" N	2° 18' 33.231" E	278	52° 47' 27.713" N	1° 59' 7.719" E
11	52° 45' 11.467" N	2° 45' 30.454" E	279	52° 47' 19.963" N	1° 59' 19.409" E
12	52° 45' 11.943" N	2° 45' 28.711" E	280	52° 47' 10.581" N	1° 59' 30.409" E
13	52° 45' 12.967" N	2° 45' 25.281" E	281	52° 45' 3.401" N	2° 1' 51.874" E
14	52° 45' 14.081" N	2° 45' 21.928" E	282	52° 45' 3.127" N	2° 1' 52.189" E
15	52° 45' 15.285" N	2° 45' 18.661" E	283	52° 45' 2.287" N	2° 1' 53.183" E
16	52° 45' 15.920" N	2° 45' 17.061" E	284	52° 45' 1.635" N	2° 1' 53.925" E
17	52° 45' 17.254" N	2° 45' 13.933" E	285	52° 45' 1.351" N	2° 1' 54.277" E
18	52° 45' 17.952" N	2° 45' 12.407" E	286	52° 45' 0.388" N	2° 1' 55.510" E
19	52° 45' 19.409" N	2° 45' 9.432" E	287	52° 45' 0.110" N	2° 1' 55.877" E
20	52° 45' 20.533" N	2° 45' 7.335" E	288	52° 44' 59.840" N	2° 1' 56.258" E
21	52° 45' 20.944" N	2° 45' 6.567" E	289	52° 44' 58.926" N	2° 1' 57.587" E
22	52° 45' 21.741" N	2° 45' 5.178" E	290	52° 44' 58.663" N	2° 1' 57.982" E
23	52° 45' 23.389" N	2° 45' 2.488" E	291	52° 44' 58.407" N	2° 1' 58.390" E
24	52° 45' 24.240" N	2° 45' 1.188" E	292	52° 44' 57.545" N	2° 1' 59.812" E
25	52° 45' 25.993" N	2° 44' 58.685" E	293	52° 44' 57.298" N	2° 2' 0.233" E
26	52° 45' 27.812" N	2° 44' 56.313" E	294	52° 44' 57.059" N	2° 2' 0.667" E
27	52° 45' 29.693" N	2° 44' 54.076" E	295	52° 44' 56.253" N	2° 2' 2.175" E
28	52° 45' 31.632" N	2° 44' 51.980" E	296	52° 44' 56.022" N	2° 2' 2.621" E
29	52° 45'	2° 44'	297	52° 44'	2° 2' 3.078" E

	32.623" N	50.985" E		55.800" N	
30	52° 45'	2° 44'	298	52° 44'	2° 2' 4.667" E
	33.626" N	50.027" E		55.053" N	
31	52° 45'	2° 44'	299	52° 44'	2° 2' 5.136" E
	35.671" N	48.223" E		54.839" N	
32	52° 45'	2° 44'	300	52° 44'	2° 2' 5.615" E
	37.763" N	46.570" E		54.635" N	
33	52° 45'	2° 44'	301	52° 44'	2° 2' 7.278" E
	39.897" N	45.071" E		53.950" N	
34	52° 45'	2° 44'	302	52° 44'	2° 2' 7.768" E
	42.069" N	43.731" E		53.755" N	
3	52° 45'	2° 44'	303	52° 44'	2° 2' 8.268" E
	43.168" N	43.121" E		53.569" N	
36	52° 45'	2° 44'	304	52° 44'	2° 2' 9.998" E
	44.275" N	42.551" E		52.949" N	
37	52° 45'	2° 44'	305	52° 44'	2° 2' 10.507" E
	46.511" N	41.534" E		52.773" N	
38	52° 45'	2° 44'	306	52° 44'	2° 2' 11.025" E
	47.638" N	41.087" E		52.607" N	
39	52° 45'	2° 44'	307	52° 44'	2° 2' 12.816" E
	48.833" N	40.681" E		52.053" N	
40	52° 46'	2° 44'	308	52° 44'	2° 2' 13.343" E
	9.781" N	40.687" E		51.897" N	
41	52° 46'	2° 44'	309	52° 44'	2° 2' 13.877" E
	46.724" N	40.696" E		51.751" N	
42	52° 46'	2° 44'	310	52° 44'	2° 2' 15.722" E
	48.173" N	40.696" E		51.267" N	
43	52° 46'	2° 44'	311	52° 44'	2° 2' 16.263" E
	52.974" N	40.698" E		51.131" N	
44	52° 46'	2° 44'	312	52° 44'	2° 2' 16.812" E
	55.152" N	40.698" E		51.006" N	
45	52° 46'	2° 44'	313	52° 44'	2° 2' 18.703" E
	57.976" N	40.699" E		50.593" N	
46	52° 47'	2° 44'	314	52° 44'	2° 2' 19.257" E
	0.395" N	40.053" E		50.478" N	
47	52° 47'	2° 44'	315	52° 44'	2° 2' 19.818" E
	1.558" N	39.624" E		50.373" N	
48	52° 47'	2° 44'	316	52° 44'	2° 2' 21.747" E
	1.970" N	39.479" E		50.034" N	
49	52° 47'	2° 44'	317	52° 44'	2° 2' 22.313" E
	2.003" N	39.463" E		49.940" N	
50	52° 47'	2° 44'	318	52° 44'	2° 2' 22.883" E
	3.144" N	38.936" E		49.857" N	
51	52° 47'	2° 44'	319	52° 44'	2° 2' 24.844" E
	4.295" N	38.272" E		49.592" N	
52	52° 47'	2° 44'	320	52° 44'	2° 2' 25.418" E
	4.681" N	38.004" E		49.520" N	
53	52° 47'	2° 44'	321	52° 44'	2° 2' 25.996" E
	4.998" N	37.816" E		49.459" N	
54	52° 47'	2° 44'	322	52° 44'	2° 2' 27.980" E
	5.524" N	37.450" E		49.268" N	



55	52° 47' 6.616" N	2° 44' 36.554" E	323	52° 44' 49.218" N	2° 2' 28.561" E
56	52° 47' 7.671" N	2° 44' 35.546" E	324	52° 44' 49.179" N	2° 2' 29.143" E
57	52° 47' 8.686" N	2° 44' 34.431" E	325	52° 44' 49.065" N	2° 2' 31.144" E
58	52° 47' 9.657" N	2° 44' 33.214" E	326	52° 44' 49.037" N	2° 2' 31.728" E
59	52° 47' 10.579" N	2° 44' 31.898" E	327	52° 44' 49.021" N	2° 2' 32.314" E
60	52° 47' 11.449" N	2° 44' 30.489" E	328	52° 44' 48.989" N	2° 2' 34.021" E
61	52° 47' 12.264" N	2° 44' 28.993" E	329	52° 44' 48.983" N	2° 2' 34.638" E
62	52° 47' 13.021" N	2° 44' 27.415" E	330	52° 44' 49.220" N	2° 15' 49.970" E
63	52° 47' 13.715" N	2° 44' 25.762" E	331	52° 44' 49.236" N	2° 15' 51.345" E
64	52° 47' 14.346" N	2° 44' 24.040" E	332	52° 44' 49.268" N	2° 15' 53.169" E
65	52° 47' 14.910" N	2° 44' 22.257" E	333	52° 44' 49.284" N	2° 15' 53.754" E
66	52° 47' 15.404" N	2° 44' 20.418" E	334	52° 44' 49.311" N	2° 15' 54.339" E
67	52° 47' 15.784" N	2° 44' 18.728" E	335	52° 44' 49.422" N	2° 15' 56.340" E
68	52° 47' 15.918" N	2° 44' 18.041" E	336	52° 44' 49.460" N	2° 15' 56.922" E
69	52° 47' 16.179" N	2° 44' 16.606" E	337	52° 44' 49.509" N	2° 15' 57.503" E
70	52° 47' 16.456" N	2° 44' 14.647" E	338	52° 44' 49.680" N	2° 15' 59.308" E
71	52° 47' 16.520" N	2° 44' 14.023" E	339	52° 44' 49.731" N	2° 15' 59.809" E
72	52° 47' 16.658" N	2° 44' 12.664" E	340	52° 44' 49.791" N	2° 16' 0.309" E
73	52° 47' 16.784" N	2° 44' 10.663" E	341	52° 44' 51.112" N	2° 16' 10.573" E
74	52° 47' 16.834" N	2° 44' 8.653" E	342	52° 44' 51.112" N	2° 16' 10.573" E
75	52° 47' 16.807" N	2° 44' 6.642" E	343	52° 45' 49.555" N	2° 23' 47.080" E
76	52° 47' 16.703" N	2° 44' 4.638" E	344	52° 45' 49.556" N	2° 23' 47.093" E
77	52° 47' 16.559" N	2° 44' 3.046" E	345	52° 45' 49.762" N	2° 23' 48.593" E
78	52° 47' 15.589" N	2° 43' 55.247" E	346	52° 45' 50.105" N	2° 23' 50.522" E
79	52° 47' 14.341" N	2° 43' 45.216" E	347	52° 45' 50.521" N	2° 23' 52.412" E
80	52° 47'	2° 43'	348	52° 45'	2° 23'

	13.615" N	39.381" E		51.008" N	54.255" E
81	52° 47'	2° 43'	349	52° 45'	2° 23'
	13.538" N	38.765" E		51.565" N	56.044" E
82	52° 43'	2° 16'	350	52° 45'	2° 23'
	46.039" N	19.075" E		52.188" N	57.772" E
83	52° 43'	2° 16'	351	52° 45'	2° 23'
	45.182" N	10.004" E		52.876" N	59.431" E
84	52° 43'	2° 16' 0.162"	352	52° 45'	2° 24' 1.017"
	44.634" N	E		53.626" N	E
85	52° 43'	2° 15'	353	52° 45'	2° 24' 2.521"
	44.531" N	54.221" E		54.434" N	E
86	52° 43'	2° 15'	354	52° 45'	2° 24' 3.939"
	44.490" N	51.462" E		55.299" N	E
87	52° 43'	2° 7' 23.550"	355	52° 45'	2° 24' 5.265"
	44.512" N	E		56.215" N	E
88	52° 42'	2° 3' 14.512"	356	52° 45'	2° 24' 6.493"
	44.166" N	E		57.180" N	E
89	52° 42'	2° 3' 9.802" E	357	52° 45'	2° 24' 7.619"
	43.152" N			58.191" N	E
90	52° 42'	2° 3' 4.946" E	358	52° 45'	2° 24' 8.639"
	42.369" N			59.242" N	E
91	52° 42'	2° 1' 44.644"	359	52° 46'	2° 24' 9.547"
	31.534" N	E		0.330" N	E
92	52° 42'	2° 1' 40.338"	360	52° 46'	2° 24'
	31.056" N	E		1.450" N	10.341" E
93	52° 42'	2° 1' 39.044"	361	52° 46'	2° 24'
	30.948" N	E		2.598" N	11.017" E
94	52° 42'	2° 1' 34.686"	362	52° 46'	2° 24'
	30.701" N	E		3.770" N	11.573" E
95	52° 42'	2° 1' 30.309"	363	52° 46'	2° 24'
	30.654" N	E		4.960" N	12.007" E
96	52° 42'	2° 1' 29.003"	364	52° 46'	2° 24'
	30.675" N	E		6.165" N	12.317" E
97	52° 42'	2° 1' 25.173"	365	52° 46'	2° 24'
	30.833" N	E		7.380" N	12.501" E
98	52° 42'	2° 0' 49.768"	366	52° 46'	2° 24'
	33.173" N	E		8.022" N	12.532" E
99	52° 42'	2° 0' 40.941"	367	52° 46'	2° 24'
	34.216" N	E		9.762" N	12.670" E
100	52° 42'	2° 0' 39.649"	368	52° 50'	2° 24'
	34.439" N	E		9.656" N	31.707" E
101	52° 42'	2° 0' 35.379"	369	52° 51'	2° 34'
	35.302" N	E		3.549" N	15.864" E
102	52° 42'	2° 0' 7.655" E	370	52° 51'	2° 34'
	41.649" N			3.486" N	19.188" E
103	52° 42'	2° 0' 0.073" E	371	52° 51'	2° 34'
	43.788" N			3.295" N	22.530" E
104	52° 42'	1° 59'	372	52° 51'	2° 34'
	44.149" N	59.016" E		2.978" N	25.846" E
105	52° 42'	1° 59'	373	52° 51'	2° 34'
	45.445" N	55.557" E		2.535" N	29.122" E

106	52° 42' 55.437" N	1° 59' 30.877" E	374	52° 51' 1.968" N	2° 34' 32.346" E
107	52° 42' 55.855" N	1° 59' 29.924" E	375	52° 51' 1.280" N	2° 34' 35.504" E
108	52° 42' 58.378" N	1° 59' 24.593" E	376	52° 51' 0.473" N	2° 34' 38.585" E
109	52° 42' 58.842" N	1° 59' 23.685" E	377	52° 50' 59.551" N	2° 34' 41.577" E
110	52° 43' 0.673" N	1° 59' 20.588" E	378	52° 50' 58.516" N	2° 34' 44.466" E
111	52° 43' 2.861" N	1° 59' 17.394" E	379	52° 50' 57.374" N	2° 34' 47.243" E
112	52° 43' 17.859" N	1° 58' 57.179" E	380	52° 50' 56.129" N	2° 34' 49.896" E
113	52° 43' 19.625" N	1° 58' 54.953" E	381	52° 50' 54.785" N	2° 34' 52.414" E
114	52° 43' 21.284" N	1° 58' 53.106" E	382	52° 50' 53.348" N	2° 34' 54.787" E
115	52° 43' 21.796" N	1° 58' 52.576" E	383	52° 50' 51.823" N	2° 34' 57.007" E
116	52° 43' 23.547" N	1° 58' 50.895" E	384	52° 50' 50.218" N	2° 34' 59.065" E
117	52° 45' 46.103" N	1° 56' 43.184" E	385	52° 50' 48.537" N	2° 35' 0.952" E
118	52° 46' 2.160" N	1° 56' 27.260" E	386	52° 50' 46.788" N	2° 35' 2.661" E
119	52° 46' 3.532" N	1° 56' 26.078" E	387	52° 50' 44.977" N	2° 35' 4.185" E
120	52° 46' 17.577" N	1° 56' 12.146" E	388	52° 50' 43.112" N	2° 35' 5.518" E
121	52° 46' 37.038" N	1° 55' 33.566" E	389	52° 50' 41.200" N	2° 35' 6.655" E
122	52° 46' 51.513" N	1° 54' 38.977" E	390	52° 50' 39.248" N	2° 35' 7.591" E
123	52° 46' 58.151" N	1° 53' 21.115" E	391	52° 50' 37.265" N	2° 35' 8.323" E
124	52° 46' 59.490" N	1° 52' 52.341" E	392	52° 50' 33.492" N	2° 35' 9.272" E
125	52° 47' 32.039" N	1° 39' 38.159" E	393	52° 50' 32.920" N	2° 35' 9.346" E
126	52° 47' 32.129" N	1° 39' 36.152" E	394	52° 46' 31.498" N	2° 26' 1.301" E
127	52° 47' 32.273" N	1° 39' 33.526" E	395	52° 46' 31.407" N	2° 26' 1.294" E
128	52° 47' 32.388" N	1° 39' 31.565" E	396	52° 46' 31.505" N	2° 26' 1.330" E
129	52° 47' 32.521" N	1° 39' 29.607" E	397	52° 46' 30.476" N	2° 26' 1.280" E
130	52° 47' 32.673" N	1° 39' 27.652" E	398	52° 46' 29.257" N	2° 26' 1.347" E
131	52° 47'	1° 39'	399	52° 46'	2° 26' 1.540"

	32.844" N	25.702" E		28.043" N	E
132	52° 47' 33.028" N	1° 39' 23.714" E	400	52° 46' 26.839" N	2° 26' 1.859" E
133	52° 47' 33.217" N	1° 39' 21.768" E	401	52° 46' 25.650" N	2° 26' 2.301" E
134	52° 47' 33.425" N	1° 39' 19.828" E	402	52° 46' 24.480" N	2° 26' 2.866" E
135	52° 47' 33.652" N	1° 39' 17.893" E	403	52° 46' 23.333" N	2° 26' 3.551" E
136	52° 47' 33.896" N	1° 39' 15.964" E	404	52° 46' 22.215" N	2° 26' 4.353" E
137	52° 47' 34.155" N	1° 39' 13.999" E	405	52° 46' 21.130" N	2° 26' 5.269" E
138	52° 47' 34.419" N	1° 39' 12.073" E	406	52° 46' 20.230" N	2° 26' 6.150" E
139	52° 47' 34.701" N	1° 39' 10.153" E	407	52° 46' 20.081" N	2° 26' 6.296" E
140	52° 47' 35.001" N	1° 39' 8.241" E	408	52° 46' 19.074" N	2° 26' 7.430" E
141	52° 47' 35.320" N	1° 39' 6.337" E	409	52° 46' 18.112" N	2° 26' 8.665" E
142	52° 47' 35.827" N	1° 39' 3.397" E	410	52° 46' 17.199" N	2° 26' 9.998" E
143	52° 47' 36.193" N	1° 39' 1.398" E	411	52° 46' 16.338" N	2° 26' 11.422" E
144	52° 47' 36.599" N	1° 38' 59.313" E	412	52° 46' 15.534" N	2° 26' 12.933" E
145	52° 47' 37.000" N	1° 38' 57.371" E	413	52° 46' 14.788" N	2° 26' 14.524" E
146	52° 47' 37.497" N	1° 38' 55.056" E	414	52° 46' 14.105" N	2° 26' 16.189" E
147	52° 47' 37.906" N	1° 38' 53.193" E	415	52° 46' 13.486" N	2° 26' 17.921" E
148	52° 47' 38.332" N	1° 38' 51.340" E	416	52° 46' 12.935" N	2° 26' 19.714" E
149	52° 47' 38.777" N	1° 38' 49.499" E	417	52° 46' 12.453" N	2° 26' 21.561" E
150	52° 47' 39.239" N	1° 38' 47.670" E	418	52° 46' 12.042" N	2° 26' 23.454" E
151	52° 48' 59.902" N	1° 33' 32.091" E	419	52° 46' 11.704" N	2° 26' 25.386" E
152	52° 49' 1.602" N	1° 33' 25.973" E	420	52° 46' 11.440" N	2° 26' 27.349" E
153	52° 49' 2.819" N	1° 33' 19.121" E	421	52° 46' 11.252" N	2° 26' 29.335" E
154	52° 49' 3.674" N	1° 33' 13.073" E	422	52° 46' 11.139" N	2° 26' 31.337" E
155	52° 49' 3.797" N	1° 33' 6.096" E	423	52° 46' 11.103" N	2° 26' 33.346" E
156	52° 49' 2.898" N	1° 32' 57.549" E	424	52° 46' 11.144" N	2° 26' 35.356" E

157	52° 49' 4.139" N	1° 32' 54.271" E	425	52° 46' 11.261" N	2° 26' 37.357" E
158	52° 49' 4.845" N	1° 32' 52.212" E	426	52° 46' 11.399" N	2° 26' 38.780" E
159	52° 49' 5.188" N	1° 32' 51.467" E	427	52° 46' 11.399" N	2° 26' 38.781" E
160	52° 49' 6.147" N	1° 32' 49.575" E	428	52° 46' 11.399" N	2° 26' 38.782" E
161	52° 49' 7.035" N	1° 32' 47.473" E	429	52° 47' 4.976" N	2° 33' 42.433" E
162	52° 49' 7.208" N	1° 32' 46.999" E	430	52° 47' 5.398" N	2° 33' 45.780" E
163	52° 49' 8.015" N	1° 32' 44.486" E	431	52° 47' 6.051" N	2° 33' 50.967" E
164	52° 49' 8.663" N	1° 32' 42.319" E	432	52° 47' 6.366" N	2° 33' 53.472" E
165	52° 49' 8.910" N	1° 32' 41.417" E	433	52° 47' 6.366" N	2° 33' 53.472" E
166	52° 49' 9.102" N	1° 32' 41.019" E	434	52° 47' 6.366" N	2° 33' 53.473" E
167	52° 49' 9.635" N	1° 32' 40.648" E	435	52° 47' 6.675" N	2° 33' 55.224" E
168	52° 49' 9.807" N	1° 32' 40.345" E	436	52° 47' 7.088" N	2° 33' 57.116" E
169	52° 49' 9.768" N	1° 32' 39.737" E	437	52° 47' 7.573" N	2° 33' 58.962" E
170	52° 49' 9.855" N	1° 32' 38.941" E	438	52° 47' 8.126" N	2° 34' 0.754" E
171	52° 49' 10.086" N	1° 32' 38.247" E	439	52° 47' 8.747" N	2° 34' 2.485" E
172	52° 49' 10.218" N	1° 32' 37.939" E	440	52° 47' 9.433" N	2° 34' 4.148" E
173	52° 49' 10.691" N	1° 32' 36.993" E	441	52° 47' 10.180" N	2° 34' 5.737" E
174	52° 49' 11.553" N	1° 32' 35.417" E	442	52° 47' 10.987" N	2° 34' 7.246" E
175	52° 49' 12.200" N	1° 32' 33.887" E	443	52° 47' 11.849" N	2° 34' 8.668" E
176	52° 49' 12.742" N	1° 32' 32.736" E	444	52° 47' 12.764" N	2° 34' 9.998" E
177	52° 49' 13.080" N	1° 32' 31.922" E	445	52° 47' 13.727" N	2° 34' 11.230" E
178	52° 49' 13.507" N	1° 32' 31.040" E	446	52° 47' 14.736" N	2° 34' 12.361" E
179	52° 49' 14.325" N	1° 32' 29.767" E	447	52° 47' 15.785" N	2° 34' 13.384" E
180	52° 49' 14.340" N	1° 32' 29.796" E	448	52° 47' 16.872" N	2° 34' 14.297" E
181	52° 49' 15.178" N	1° 32' 31.478" E	449	52° 47' 17.991" N	2° 34' 15.096" E
182	52° 49'	1° 32'	450	52° 47'	2° 34'

	15.638" N	32.401" E		19.138" N	15.777" E
183	52° 49' 45.178" N	1° 33' 31.705" E	451	52° 47' 20.309" N	2° 34' 16.338" E
184	52° 49' 45.944" N	1° 33' 33.513" E	452	52° 47' 21.499" N	2° 34' 16.777" E
185	52° 49' 46.772" N	1° 33' 35.540" E	453	52° 47' 22.704" N	2° 34' 17.091" E
186	52° 49' 47.579" N	1° 33' 37.591" E	454	52° 47' 23.918" N	2° 34' 17.280" E
187	52° 49' 48.363" N	1° 33' 39.664" E	455	52° 47' 25.496" N	2° 34' 17.365" E
188	52° 49' 49.126" N	1° 33' 41.760" E	456	52° 48' 2.953" N	2° 26' 36.184" E
189	52° 49' 49.866" N	1° 33' 43.878" E	457	52° 48' 2.518" N	2° 26' 33.730" E
190	52° 49' 50.585" N	1° 33' 46.016" E	458	52° 48' 1.985" N	2° 26' 31.328" E
191	52° 49' 51.280" N	1° 33' 48.175" E	459	52° 48' 1.357" N	2° 26' 28.991" E
192	52° 49' 51.952" N	1° 33' 50.354" E	460	52° 48' 1.009" N	2° 26' 27.849" E
193	52° 49' 52.602" N	1° 33' 52.551" E	461	52° 48' 0.243" N	2° 26' 25.626" E
194	52° 49' 53.228" N	1° 33' 54.767" E	462	52° 47' 59.827" N	2° 26' 24.547" E
195	52° 49' 53.831" N	1° 33' 57.000" E	463	52° 47' 58.931" N	2° 26' 22.461" E
196	52° 49' 54.410" N	1° 33' 59.251" E	464	52° 47' 57.954" N	2° 26' 20.477" E
197	52° 49' 54.965" N	1° 34' 1.518" E	465	52° 47' 57.436" N	2° 26' 19.526" E
198	52° 49' 55.496" N	1° 34' 3.800" E	466	52° 47' 56.343" N	2° 26' 17.712" E
199	52° 49' 56.003" N	1° 34' 6.098" E	467	52° 47' 55.181" N	2° 26' 16.022" E
200	52° 49' 56.486" N	1° 34' 8.409" E	468	52° 47' 53.953" N	2° 26' 14.462" E
210	52° 49' 56.944" N	1° 34' 10.735" E	469	52° 47' 53.316" N	2° 26' 13.734" E
202	52° 49' 57.378" N	1° 34' 13.073" E	470	52° 47' 52.000" N	2° 26' 12.384" E
203	52° 49' 57.786" N	1° 34' 15.423" E	471	52° 47' 51.322" N	2° 26' 11.763" E
204	52° 49' 58.171" N	1° 34' 17.784" E	472	52° 47' 49.931" N	2° 26' 10.635" E
205	52° 49' 58.530" N	1° 34' 20.157" E	473	52° 47' 48.498" N	2° 26' 9.662" E
206	52° 49' 58.864" N	1° 34' 22.539" E	474	52° 47' 47.030" N	2° 26' 8.847" E
207	52° 49' 59.173" N	1° 34' 24.930" E	475	52° 47' 45.531" N	2° 26' 8.195" E

208	52° 49' 59.456" N	1° 34' 27.330" E	476	52° 47' 44.124" N	2° 26' 7.739" E
209	52° 49' 59.714" N	1° 34' 29.738" E	477	52° 47' 42.819" N	2° 26' 7.446" E
210	52° 49' 59.947" N	1° 34' 32.153" E	478	52° 47' 42.518" N	2° 26' 7.422" E
211	52° 50' 0.154" N	1° 34' 34.574" E	479	52° 47' 40.198" N	2° 26' 6.759" E
212	52° 50' 0.336" N	1° 34' 37.001" E	480	52° 47' 32.505" N	2° 26' 6.180" E
213	52° 50' 0.492" N	1° 34' 39.433" E	481	52° 50' 2.151" N	2° 35' 9.316" E
214	52° 50' 0.623" N	1° 34' 41.869" E	482	52° 47' 39.858" N	2° 35' 10.667" E
215	52° 50' 0.727" N	1° 34' 44.308" E	483	52° 47' 38.680" N	2° 35' 10.728" E
216	52° 50' 0.806" N	1° 34' 46.750" E	484	52° 47' 37.466" N	2° 35' 10.917" E
217	52° 50' 0.859" N	1° 34' 49.193" E	485	52° 47' 36.261" N	2° 35' 11.231" E
218	52° 50' 0.887" N	1° 34' 51.638" E	486	52° 47' 35.071" N	2° 35' 11.670" E
219	52° 50' 0.888" N	1° 34' 54.083" E	487	52° 47' 33.900" N	2° 35' 12.231" E
220	52° 50' 0.864" N	1° 34' 56.528" E	488	52° 47' 32.753" N	2° 35' 12.912" E
221	52° 50' 0.814" N	1° 34' 58.972" E	489	52° 47' 31.634" N	2° 35' 13.711" E
222	52° 50' 0.739" N	1° 35' 1.414" E	490	52° 47' 30.547" N	2° 35' 14.623" E
223	52° 50' 0.637" N	1° 35' 3.854" E	491	52° 47' 29.498" N	2° 35' 15.647" E
224	52° 50' 0.510" N	1° 35' 6.290" E	492	52° 47' 28.489" N	2° 35' 16.777" E
225	52° 50' 0.357" N	1° 35' 8.722" E	493	52° 47' 27.525" N	2° 35' 18.010" E
226	52° 50' 0.178" N	1° 35' 11.150" E	494	52° 47' 26.611" N	2° 35' 19.340" E
227	52° 49' 59.974" N	1° 35' 13.572" E	495	52° 47' 25.748" N	2° 35' 20.762" E
228	52° 49' 59.745" N	1° 35' 15.987" E	496	52° 47' 24.942" N	2° 35' 22.271" E
229	52° 49' 59.490" N	1° 35' 18.396" E	497	52° 47' 24.194" N	2° 35' 23.860" E
230	52° 49' 59.209" N	1° 35' 20.797" E	498	52° 47' 23.509" N	2° 35' 25.523" E
231	52° 49' 58.903" N	1° 35' 23.190" E	499	52° 47' 22.888" N	2° 35' 27.254" E
232	52° 49' 58.573" N	1° 35' 25.573" E	500	52° 47' 22.334" N	2° 35' 29.046" E
233	52° 49'	1° 35'	501	52° 47'	2° 35'

	58.217" N	27.947" E		21.849" N	30.892" E
234	52° 49'	1° 35'	502	52° 47'	2° 35'
	57.836" N	30.310" E		21.436" N	32.784" E
235	52° 49'	1° 35'	503	52° 47'	2° 35'
	57.430" N	32.661" E		21.096" N	34.716" E
236	52° 49'	1° 35'	504	52° 47'	2° 35'
	56.999" N	35.001" E		20.829" N	36.678" E
237	52° 49'	1° 35'	505	52° 47'	2° 35'
	56.544" N	37.328" E		20.638" N	38.665" E
238	52° 49'	1° 35'	506	52° 47'	2° 35'
	56.064" N	39.641" E		20.523" N	40.667" E
239	52° 49'	1° 35'	507	52° 47'	2° 35'
	55.560" N	41.940" E		20.485" N	42.678" E
240	52° 49'	1° 35'	508	52° 47'	2° 35'
	55.032" N	44.225" E		20.523" N	44.688" E
241	52° 49'	1° 35'	509	52° 47'	2° 35'
	54.480" N	46.494" E		20.637" N	46.691" E
242	52° 49'	1° 35'	510	52° 47'	2° 35'
	53.904" N	48.746" E		20.743" N	47.801" E
243	52° 49'	1° 35'	511	52° 47'	2° 35'
	53.304" N	50.982" E		20.744" N	47.806" E
244	52° 49'	1° 35'	512	52° 47'	2° 35'
	52.681" N	53.200" E		21.786" N	56.101" E
245	52° 49'	1° 35'	513	52° 48'	2° 43'
	52.034" N	55.400" E		20.763" N	47.964" E
246	52° 49'	1° 35'	514	52° 48'	2° 43'
	51.868" N	55.943" E		21.026" N	49.928" E
247	52° 48'	1° 39'	515	52° 48'	2° 43'
	40.863" N	22.453" E		21.364" N	51.862" E
248	52° 48'	1° 39'	516	52° 48'	2° 43'
	40.702" N	22.924" E		21.774" N	53.756" E
249	52° 48'	1° 39'	517	52° 48'	2° 43'
	40.367" N	23.994" E		22.256" N	55.605" E
250	52° 48'	1° 39'	518	52° 48'	2° 43'
	40.234" N	24.393" E		22.808" N	57.400" E
251	52° 48'	1° 39'	519	52° 48'	2° 43'
	40.107" N	24.797" E		23.426" N	59.134" E
252	52° 48'	1° 39'	520	52° 48'	2° 44' 0.800"
	39.560" N	26.596" E		24.109" N	E
253	52° 48'	1° 39'	521	52° 48'	2° 44' 2.393"
	39.405" N	27.124" E		24.854" N	E
254	52° 48'	1° 39'	522	52° 48'	2° 44' 3.905"
	39.261" N	27.661" E		25.659" N	E
255	52° 48'	1° 39'	523	52° 48'	2° 44' 5.331"
	38.783" N	29.512" E		26.519" N	E
256	52° 48'	1° 39'	524	52° 48'	2° 44' 6.665"
	38.649" N	30.055" E		27.432" N	E
257	52° 48'	1° 39'	525	52° 48'	2° 44' 7.902"
	38.525" N	30.606" E		28.394" N	E
258	52° 48'	1° 39'	526	52° 48'	2° 44' 9.037"
	38.044" N	32.861" E		29.401" N	E



259	52° 48' 37.927" N	1° 39' 33.484" E	527	52° 48' 30.449" N	2° 44' 10.065" E
260	52° 48' 37.569" N	1° 39' 35.557" E	528	52° 48' 31.534" N	2° 44' 10.983" E
261	52° 48' 37.477" N	1° 39' 36.124" E	529	52° 48' 32.652" N	2° 44' 11.786" E
262	52° 48' 37.396" N	1° 39' 36.696" E	530	52° 48' 33.799" N	2° 44' 12.472" E
263	52° 48' 37.137" N	1° 39' 38.662" E	531	52° 48' 34.969" N	2° 44' 13.037" E
264	52° 48' 37.067" N	1° 39' 39.237" E	532	52° 48' 36.158" N	2° 44' 13.481" E
265	52° 48' 37.008" N	1° 39' 39.816" E	533	52° 48' 37.362" N	2° 44' 13.800" E
266	52° 48' 36.824" N	1° 39' 41.805" E	534	52° 48' 38.576" N	2° 44' 13.994" E
267	52° 48' 36.776" N	1° 39' 42.387" E	535	52° 48' 39.226" N	2° 44' 14.030" E
268	52° 48' 36.739" N	1° 39' 42.971" E	536	52° 51' 27.631" N	2° 44' 14.043" E

## PART 3

### Details of Licensed Marine Activities

1. Subject to the licence conditions at Part 4, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under section 66(1) (licensable marine activities) of the 2009 Act—

- (a) the deposit at sea of the substances and articles specified in paragraph 5 of Part 2 of this licence;
- (b) the construction of works in or over the sea and/or on or under the sea bed;
- (c) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;
- (d) the disposal of up to 11,475,000 m<sup>3</sup> of inert material of natural origin within the offshore Order limits produced during construction drilling or seabed preparation for foundation works and cable (including fibre optic cable) sandwave preparation works at disposal site references HU213, HU214, HU215 and HU216 within the extent of the Order limits seaward of MHWS, comprising—
  - (i) 9,000,000 m<sup>3</sup> for cable (including fibre optic cable) installation;
  - (ii) 75,000 m<sup>3</sup> for the offshore electrical platforms;
  - (iii) 1,900,000 m<sup>3</sup> for the export cables (including fibre optic cables) within the Order limits excluding the Haisborough, Hammond and Winterton Special Area of Conservation;
  - (iv) 500,000 m<sup>3</sup> for the export cables (including fibre optic cables) within the part of the Haisborough, Hammond and Winterton Special Area of Conservation that falls within the Order limits;
- (e) the removal of static fishing equipment; and
- (f) the disposal of drill arisings in connection with any foundation drilling up to 14,137 m<sup>3</sup>.

2.—(1) Such activities are authorised in relation to the construction, maintenance and operation of—

(2) *Work No. 2 (phase 2)* – up to two offshore electrical platforms fixed to the seabed within the area shown on the works plan by one of the following foundation types: jacket (piled or suction caisson) or gravity base.

(3) *Work No. 3 (phase 2)* – a network of subsea cables and fibre optic cables within the area shown on the works plan comprising Work No. 2 and for the transmission of electricity and electronic communications between the offshore electrical platforms including one or more cable crossings.

(4) *Work No. 4A (phase 2)* – up to four subsea export cables and fibre optic cables between Work No. 2 and Work No. 4B consisting of subsea cables and fibre optic cables along routes within the Order limits seaward of MHWS including one or more offshore cable crossings.

(5) *Work No. 4B (phase 2)* – up to four subsea export cables and fibre optic cables between Work No. 4A and Work No. 4C consisting of subsea cables and fibre optic cables along routes within the Order limits between MLWS and MHWS at Happisburgh South, North Norfolk.

(6) In connection with such Works No. 2, 3, 4A and 4B and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised scheme and which fall within the scope of the work assessed by the environmental statement and the provisions of this licence.

(7) In connection with such Works No. 2, 3, 4A and 4B, ancillary works within the Order limits which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

- (a) temporary landing places, moorings or other means of accommodating vessels in the construction and/ or maintenance of the authorised scheme; and
- (b) beacons, fenders and other navigational warning or ship impact protection works.

## PART 4

### Conditions

#### Design parameters

**1.**—(1) The dimensions of any offshore electrical platform forming part of the authorised scheme (excluding towers, helipads, masts and cranes) must not exceed 100 metres in height when measured from HAT, 120 metres in length and 80 metres in width.

(2) In relation to an offshore electrical platform, each foundation using piles must not have—

- (a) more than 18 driven piles;
- (b) a pile diameter which is more than five metres.

(3) In relation to an offshore electrical platform, the foundations must not have a seabed footprint area (excluding scour protection) of greater than 15,000 m<sup>2</sup>.

**2.** The total length of the cables and the area and volume of their cable protection must not exceed the following—

<i>Work</i>	<i>Length</i>	<i>Cable protection (m<sup>2</sup> and m<sup>3</sup>)</i>
Work No. 3 (Interconnector link)	150 kilometres	76,000m <sup>2</sup> 38,000 m <sup>3</sup>
Work No. 4A and 4B (export cable)	400 kilometres	102,086m <sup>2</sup> 59,836 m <sup>3</sup>

#### Phasing of the authorised scheme

**3.**—(1) Taken together with works authorised and proposed to be constructed pursuant to licence 1 (transmission)—

- (a) the total number of offshore electrical platforms forming part of the authorised scheme must not exceed two;
- (b) the total amount of scour protection for the offshore electrical platforms forming part of the authorised scheme must not exceed 20,000m<sup>2</sup> and 100,000 m<sup>3</sup>; and
- (c) the total amount of inert material of natural origin disposed within the offshore Order limits as part of the authorised scheme must not exceed 11,475,000 m<sup>3</sup>;
- (d) the total amount of disposal for drill arisings in connection with any foundation drilling must not exceed 14,137 m<sup>3</sup>;
- (e) the total length of cable and the amount of cable protection must not exceed the figures stated in condition 2 of this licence; and
- (f) in the Haisborough, Hammond and Winterton Special Area of Conservation, the total area of cable protection must not exceed 32,000m<sup>2</sup> and the total volume of cable protection must not exceed 20,800m<sup>3</sup>.

(2) Prior to the commencement of the authorised scheme the undertaker must give notice to the MMO detailing—

- (a) whether the authorised scheme will be constructed—
  - (i) in a single offshore phase under this licence; or
  - (ii) in two offshore phases under this licence and licence 1 (transmission); and
- (b) where the authorised scheme will be constructed in two offshore phases, the total number of offshore electrical platforms to be constructed in each phase.

### **Notifications and inspections**

4.—(1) The undertaker must ensure that—

- (a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—
  - (i) all agents and contractors notified to the MMO in accordance with condition 12; and
  - (ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 12;
- (b) within 28 days of receipt of a copy of this licence those persons referred to in paragraph (a) above must provide a completed confirmation form to the MMO confirming receipt of this licence.

(2) Only those persons and vessels notified to the MMO in accordance with condition 12 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

- (a) the undertaker's registered address;
- (b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and
- (c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1)(a) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3)(b) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised scheme.

(6) The undertaker must inform the MMO Coastal Office in writing at least five days prior to the commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details regarding the vessel routes, timings and locations relating to the construction of the authorised scheme or relevant part—

- (a) at least fourteen days prior to the commencement of offshore activities, for inclusion in the Kingfisher Fortnightly Bulletin and offshore hazard awareness data; and
- (b) as soon as reasonably practicable and no later than 24 hours of completion of construction of all offshore activities.

Confirmation of notification must be provided to the MMO within five days.

(8) A notice to mariners must be issued at least ten days prior to the commencement of the licensed activities or any part of them advising of the start date of Work No. 2 and the expected vessel routes from the construction ports to the relevant location. A second notice to mariners must be issued advising of the start date of Work Nos. 3, 4A and 4B and the route of the sub-sea cables and fibre optic cables. Copies of all notices must be provided to the MMO, MCA and UKHO within five days.

(9) The notices to mariners must be updated and reissued at weekly intervals during construction activities and at least five days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme approved under condition 9(1)(b). Copies of all notices must be provided to the MMO and UKHO within five days.

(10) The undertaker must notify the UK Hydrographic Office both of the commencement (within ten days), progress and completion of construction (within ten days) of the licensed activities in order that all necessary amendments to nautical charts are made and the undertaker must send a copy of such notifications to the MMO within five days.

(11) In case of damage to, or destruction or decay of the authorised scheme seaward of MHWS or any part thereof, the undertaker must as soon as reasonably practicable and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office.

(12) In case of exposure of cables on or above the seabed, the undertaker must within three days following identification of a potential cable exposure, notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO and MCA within five days.

### **Aids to navigation**

**5.—**(1) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS exhibit such lights, marks, sounds, signals and other aids to navigation, and to take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(2) The undertaker must during the period from the start of construction of the authorised scheme to completion of decommissioning seaward of MHWS keep Trinity House and the MMO informed of progress of the authorised scheme seaward of MHWS including the following—

- (a) notice of commencement of construction of the authorised scheme within 24 hours of commencement having occurred;
- (b) notice within 24 hours of any aids to navigation being established by the undertaker; and
- (c) notice within five days of completion of construction of the authorised scheme.

(3) The undertaker must provide reports to Trinity House on the availability of aids to navigation as set out in the aids to navigation management plan agreed pursuant to condition 9(1)(k) using the reporting system provided by Trinity House.

(4) The undertaker must during the whole period from commencement of the licensed activities to completion of decommissioning seaward of MHWS notify Trinity House and the MMO of any failure of the aids to navigation and the timescales and plans for remedying such failures, as soon

as possible and no later than 24 hours following the undertaker becoming aware of any such failure.

(5) In the event that the provisions of condition 4(11) and condition 4(12) are invoked, the undertaker must lay down such marker buoys, exhibit such lights and take such other steps for preventing danger to navigation as directed by Trinity House.

### **Colouring of structures**

**6.**—(1) Except as otherwise required by Trinity House the undertaker must colour all structures forming part of the authorised scheme yellow (colour code RAL 1023) from at least HAT to a height directed by Trinity House, or must colour the structure as directed by Trinity House from time to time.

(2) Subject to sub-paragraph (1) above, unless the MMO otherwise directs, the undertaker must paint the remainder of the structures submarine grey (colour code RAL 7035).

### **Chemicals, drilling and debris**

**7.**—(1) Unless otherwise agreed in writing by the MMO all chemicals used in the construction of the authorised scheme must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002(a) (as amended).

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with guidelines approved by Health and Safety Executive and the Environment Agency Pollution Prevention Control Guidelines.

(3) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including bunding of 110% of the total volume of all reservoirs and containers.

(4) The undertaker must inform the MMO of the location and quantities of material disposed of each month under this licence. This information must be submitted to the MMO by 15 February each year for the months August to January inclusive, and by 15 August each year for the months February to July inclusive.

(5) The undertaker must ensure that only inert material of natural origin, produced during the drilling installation of or seabed preparation for foundations, and drilling mud is disposed of within disposal site references HU213, HU214, HU215 and HU216 within the extent of the Order limits seaward of MHWS. Any other materials must be screened out before disposal of the inert material at this site.

(6) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source, free from contaminants and containing minimal fines.

(7) In the event that any rock material used in the construction of the authorised scheme is misplaced or lost below MHWS, the undertaker must report the loss to the District Marine Office within 48 hours and if the MMO reasonably considers such material to constitute a navigation or environmental hazard (dependent on the size and nature of the material) the undertaker must endeavour to locate the material and recover it.

(8) The undertaker must undertake the survey agreed under condition 9(1)(h)(iii) following the swath-bathymetry survey referred to in condition 15(2)(b). Should any such obstructions resulting from burial of Work No. 4A or 4B (export cables and fibre optic cables) be identified which, in the reasonable opinion of the MMO, may be considered to interfere with fishing, the undertaker must take such steps to remove them as the MMO in its reasonable opinion may require.

(9) The undertaker must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water through the freeing ports.

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(a) S.I. 2002/1355.

(10) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team in accordance with the marine pollution contingency plan agreed under condition 14(1)(d)(i).

(11) All dropped objects must be reported to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours of the undertaker becoming aware of an incident. On receipt of the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

### **Force majeure**

**8.**—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to make a deposit which is not authorised under this licence, whether within or outside of the Order limits, because the safety of human life and/or of the vessel is threatened, within 48 hours the undertaker must notify full details of the circumstances of the deposit to the MMO.

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

### **Pre-construction plans and documentation**

**9.**—(1) The licensed activities or any part of those activities must not commence until the following (as relevant to that part) have been submitted to and approved in writing by the MMO—

- (a) A design plan at a scale of between 1:25,000 and 1:50,000, including detailed representation on the most suitably scaled admiralty chart, to be agreed in writing with the MMO in consultation with Trinity House and the MCA which shows, in accordance with the Development Principles—
  - (i) the proposed location and choice of foundation of all offshore electrical platforms;
  - (ii) the height, length and width of all offshore electrical platforms;
  - (iii) the length and arrangement of all cables (including fibre optic cables) comprising Work Nos. 3, 4A and 4B;
  - (iv) the dimensions of all foundations;
  - (v) the proposed layout of all offshore electrical platforms including any exclusion zones identified under sub-paragraph (1)(h)(iv);
  - (vi) a plan showing the indicative layout of all offshore electrical platforms including all exclusion zones (insofar as not shown in (v) above) and showing the indicative programming of particular works as set out in the indicative programme to be provided under sub-paragraph (1)(b)(iv); and
  - (vii) any exclusion zones/micrositing requirements identified in any mitigation scheme pursuant to sub-paragraph (1)(i);

to ensure conformity with the description of Works No. 2, 3, 4A and 4B and compliance with conditions 1 to 3 above.
- (b) A construction programme and monitoring plan (which accords with the offshore in principle monitoring plan) to include details of—
  - (i) the proposed construction start date;
  - (ii) proposed timings for mobilisation of plant delivery of materials and installation works;
  - (iii) proposed pre-construction surveys, baseline report format and content, construction monitoring, post-construction surveys and monitoring and related reporting in accordance with sub-paragraph (1)(h) and conditions 12, 13, 14 and 15; and

- (iv) an indicative written construction programme for all offshore electrical platforms and cables including fibre optic cables comprised in the works at Part 3 (licensed marine activities) of this Schedule (insofar as not shown in paragraph (ii) above);

with details pursuant to paragraph (iii) above to be submitted to the MMO in accordance with the following—

- (aa) at least four months prior to the first survey, detail of the pre-construction surveys and an outline of all proposed pre-construction monitoring;
- (bb) at least four months prior to construction, detail on construction monitoring;
- (cc) at least four months prior to commissioning, detail of post-construction (and operational) monitoring;

unless otherwise agreed in writing with the MMO.

- (c) A construction method statement in accordance with the construction methods assessed in the environmental statement and including details of—
  - (i) foundation installation methodology, including drilling methods and disposal of drill arisings and material extracted during seabed preparation for foundation works and having regard to any mitigation scheme pursuant to sub-paragraph (1)(i);
  - (ii) soft start procedures with specified duration periods;
  - (iii) offshore electrical platform location and installation, including scour protection;
  - (iv) cable (including fibre optic cable) installation;
  - (v) contractors;
  - (vi) vessels, vessels maintenance and vessels transit corridors; and
  - (vii) associated and ancillary works.
- (d) A project environmental management plan (in accordance with the outline project environmental management plan) covering the period of construction and operation to include details of—
  - (i) a marine pollution contingency plan to address the risks, methods and procedures to deal with any spills and collision incidents of the authorised scheme in relation to all activities carried out;
  - (ii) a chemical risk assessment to include information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance;
  - (iii) waste management and disposal arrangements;
  - (iv) the appointment and responsibilities of a fisheries liaison officer; and
  - (v) a fisheries liaison and coexistence plan (which accords with the outline fisheries liaison and co-existence plan) to ensure relevant fishing fleets are notified of commencement of licensed activities pursuant to condition 4 and to address the interaction of the licensed activities with fishing activities.
- (e) A scour protection and cable protection plan (in accordance with the outline scour protection and cable protection plan) providing details of the need, type, sources, quantity, distribution and installation methods for scour protection and cable (including fibre optic cable) protection. For the avoidance of doubt “distribution” in this sub-paragraph must include quantities in respect of each structure comprised in the offshore works and intended to be subject to scour protection.
- (f) In the event that piled foundations are proposed to be used, a marine mammal mitigation protocol, in accordance with the draft marine mammal mitigation protocol, the intention of which is to prevent injury to marine mammals and following current best practice as advised by the relevant statutory nature conservation bodies.
- (g) A cable specification, installation and monitoring plan, for the installation and protection of cables outside of the Haisborough, Hammond and Winterton Special Area of Conservation, to include—

- (i) technical specification of offshore cables (including fibre optic cable) below MHWS, including a desk-based assessment of attenuation of electro-magnetic field strengths, shielding and cable burial depth in accordance with industry good practice;
  - (ii) a detailed cable (including fibre optic cable) laying plan for the Order limits, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques, including cable landfall and cable protection measures;
  - (iii) proposals for monitoring offshore cables including cable (including fibre optic cable) protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables; and
  - (iv) appropriate methods such as a trawl or drift net to be deployed along Work No. 4A and 4B (export cables and fibre optic cables), following the survey referred to in condition 15(2)(b) to assess any seabed obstructions resulting from burial of the export cables and fibre optic cables.
- (h) An archaeological written scheme of investigation in relation to the offshore Order limits seaward of mean low water, which must accord with the outline written scheme of investigation (offshore) and industry good practice, in consultation with the statutory historic body (and, if relevant, North Norfolk District Council) to include—
- (i) details of responsibilities of the undertaker, archaeological consultant and contractor;
  - (ii) a methodology for further site investigation including any specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;
  - (iii) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO within four months of any survey being completed;
  - (iv) delivery of any mitigation including, where necessary, identification and modification of archaeological exclusion zones;
  - (v) monitoring of archaeological exclusion zones during and post construction;
  - (vi) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Record of the Historic Environment, by submitting a Historic England OASIS (Online Access to the Index of archaeological investigations) form with a digital copy of the report within six months of completion of construction of the authorised scheme, and to notify the MMO (and North Norfolk District Council where the report relates to the intertidal area) that the OASIS form has been submitted to the National Record of the Historic Environment within two weeks of submission;
  - (vii) a reporting and recording protocol, including reporting of any wreck or wreck material during construction, operation and decommissioning of the authorised scheme; and
  - (viii) a timetable for all further site investigations, which must allow sufficient opportunity to establish a full understanding of the historic environment within the offshore Order Limits and the approval of any necessary mitigation required as a result of the further site investigations prior to commencement of licensed activities.
- (i) A mitigation scheme for any habitats of principal importance identified by the survey referred to in condition 13(2)(a) and in accordance with the offshore in principle monitoring plan.
- (j) An offshore operations and maintenance plan, in accordance with the outline offshore operations and maintenance plan, to be submitted to the MMO at least four months prior to commencement of operation of the licensed activities and to provide for review and resubmission every three years during the operational phase.
- (k) An aids to navigation management plan to be agreed in writing by the MMO following consultation with Trinity House, to include details of how the undertaker will comply with the provisions of condition 5 for the lifetime of the authorised scheme.



- (l) In the event that piled foundations are proposed to be used, a site integrity plan which accords with the principles set out in the in principle Norfolk Vanguard Southern North Sea Special Area of Conservation Site Integrity Plan , and which the MMO is satisfied would provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.
- (m) A site integrity plan which accords with the principles set out in the outline Norfolk Vanguard Haisborough, Hammond and Winterton Special Area of Conservation Site Integrity Plan and which the MMO (in consultation with the relevant statutory nature conservation body) is satisfied would provide such mitigation as is necessary to avoid adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that sandbanks and sabellaria spinulosa reefs are a protected feature of that site.

(2) Pre-commencement surveys and archaeological investigations and pre-commencement material operations which involve intrusive seabed works must only take place in accordance with a specific written scheme of investigation which is itself in accordance with the details set out in the outline offshore written scheme of investigation (offshore), and which has been submitted to and approved by the MMO.

(3) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000KJ.

**10.—**(1) Any archaeological reports produced in accordance with condition 9(1)(h)(iii) must be agreed with the MMO in consultation with the statutory historic body (and, if relevant, North Norfolk District Council).

(2) The design plan required by condition 9(1)(a) must be prepared by the undertaker and determined by the MMO in accordance with the Development Principles.

(3) Each programme, statement, plan, protocol or scheme required to be approved under condition 9 must be submitted for approval at least four months prior to the intended commencement of licensed activities, except where otherwise stated or unless otherwise agreed in writing by the MMO.

(4) No licensed activity may commence until for that licensed activity the MMO has approved in writing any relevant programme, statement, plan, protocol or scheme required to be approved under condition 9 or approval has been given following an appeal in accordance with subparagraph (6).

(5) Unless otherwise agreed in writing with the undertaker, the MMO must use reasonable endeavours to determine an application for approval made under condition 9 as soon as practicable and in any event within a period of four months commencing on the date the application is received by the MMO.

(6) The licensed activities must be carried out in accordance with the plans, protocols, statements, schemes and details approved under condition 9, unless otherwise agreed in writing by the MMO.

(7) No part of the authorised scheme may commence until the MMO, in consultation with the MCA, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed all MCA recommendations as appropriate to the authorised scheme contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

### **Post-construction plans and documents**

**11.** The undertaker must conduct a swath bathymetric survey to IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out and provide the data and survey report(s) to the MCA and UKHO.

### **Reporting of engaged agents, contractors and vessels**

12.—(1) The undertaker must provide the following information to the MMO—

- (a) the name and function of any agent or contractor appointed to engage in the licensed activities within seven days of appointment; and
- (b) each week during the construction of the authorised scheme a completed Hydrographic Note H102 listing the vessels currently and to be used in relation to the licensed activities.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

### **Pre-construction monitoring and surveys**

13.—(1) The undertaker must, in discharging condition 9(1)(b), submit details (which accord with the offshore in principle monitoring plan) for written approval by the MMO in consultation with the relevant statutory bodies of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and—

- (a) the survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and
- (b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

- (a) appropriate surveys to determine the location and extent of any benthic communities/benthos constituting Annex 1 reef habitats of principal importance in whole or in part inside the area(s) within the Order limits in which it is proposed to carry out construction works; and
- (b) a full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation bodies.

### **Construction monitoring**

14.—(1) The undertaker must, in discharging condition 9(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval by the MMO in consultation with the relevant statutory nature conservation bodies of any proposed monitoring, including methodologies and timings, to be carried out during the construction of the authorised scheme. The survey proposals must specify each survey's objectives. In the event that driven or part-driven pile foundations are proposed, such monitoring must include measurements of noise generated by the installation of the first four piled foundations of each piled foundation type to be installed unless the MMO otherwise agrees in writing.

(2) The undertaker must carry out the surveys approved under sub-paragraph (1), including any further noise monitoring required in writing by the MMO, and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(3) The results of the initial noise measurements monitored in accordance with sub-paragraph (1) must be provided to the MMO within six weeks of the installation of the first four piled

foundations of each piled foundation type. The assessment of this report by the MMO will determine whether any further noise monitoring is required. If, in the opinion of the MMO in consultation with Natural England, the assessment shows significantly different impacts to those assessed in the environmental statement or failures in mitigation, all piling activity must cease until an update to the marine mammal mitigation protocol and further monitoring requirements have been agreed.

(4) In the event that piled foundations are proposed to be used, the details submitted in accordance with the offshore in principle monitoring plan must include proposals for monitoring marine mammals.

### **Post construction**

**15.—**(1) The undertaker must, in discharging condition 9(1)(b), submit details (which accord with the offshore in principle monitoring plan) for approval by the MMO in consultation with relevant statutory bodies of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement.

(2) The post-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake-

- (a) A survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out. The survey design must be informed by the results of the pre-construction benthic survey.
- (b) within twelve months of completion of the licensed activities, one full sea floor coverage swath-bathymetry survey that meets the requirements of IHO S44ed5 Order 1a across the area(s) within the Order limits in which construction works were carried out to assess any changes in bedform topography and such further monitoring or assessment as may be agreed to ensure that cables including fibre optic cables have been buried or protected.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the agreed reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing with the MMO in consultation with the relevant statutory nature conservation bodies.

(4) Following installation of cables, the cable (including fibre optic cables) monitoring plan required under condition 9(1)(g)(iii) must be updated with the results of the post installation surveys. The plan must be implemented during the operational lifetime of the authorised scheme and reviewed as specified within the plan, following cable burial surveys, or as instructed by the MMO.

### **Reporting of impact pile driving**

**16.—**(1) Only when driven or part-driven pile foundations are proposed to be used as part of the foundation installation the undertaker must provide the following information to the UK Marine Noise Registry—

- (a) prior to the commencement of the licensed activities, information on the expected location, start and end dates of impact pile driving to satisfy the Marine Noise Registry's Forward Look requirements;
- (b) at six month intervals following the commencement of pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements; and

- (c) within 12 weeks of completion of impact pile driving, information on the locations and dates of impact pile driving to satisfy the Marine Noise Registry's Close Out requirements.
- (2) The undertaker must notify the MMO of the successful submission of Forward Look or Close Out data pursuant to paragraph (1) above within 7 days of the submission.
- (3) For the purpose of this condition—
  - (a) “Marine Noise Registry” means the database developed and maintained by JNCC on behalf of Defra to record the spatial and temporal distribution of impulsive noise generating activities in UK seas;
  - (b) “Forward Look” and “Close Out” requirements are as set out in the UK Marine Noise Registry Information Document Version 1 (July 2015) or any updated information document.

### **Reporting of cable protection**

17.—(1) Not more than 4 months following completion of the construction phase of the authorised scheme, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection used for the authorised scheme.

- (2) The report must include the following information—
  - (a) location of the cable protection;
  - (b) volume of cable protection; and
  - (c) any other information relating to the cable protection as agreed between the MMO and the undertaker.

### **Restriction on cable installation construction works**

18. During the months of January to March inclusive, construction activities consisting of cable installation for Work No. 4A and Work No. 4B must only take place with one main cable laying vessel.

### **Decommissioning of cable protection within marine protected areas**

- 19.—(1) The obligations under paragraphs (2) and (3) shall only apply if and to the extent that—
  - (a) cable protection is installed as part of the authorised project within an area designated as a European Site or MCZ as at the date of the grant of the Order; and
  - (b) it is a requirement of the written decommissioning programme approved by the Secretary of State pursuant to sections 105 (requirement to prepare decommissioning programmes) of the 2004 Act, including any modification to the programme under section 108 (reviews and revisions of decommissioning programmes), that such cable protection is removed as part of the decommissioning of the authorised project.
- (2) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the undertaker shall carry out an appropriate survey of cables within Work No. 1(c), that are subject to cable protection and that are situated within any European Site or MCZ to assess the integrity and condition of that cable protection and determine the appropriate extent of the feasibility of the removal of such cable protection having regard to the condition of the cable protection and feasibility of any new removal techniques at that time, and submit that along with a method statement for recovery of cable protection to the MMO.
- (3) Within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the MMO must confirm whether or not it is satisfied with the method statement pursuant to (2) above.
- (4) If the MMO has confirmed it is satisfied pursuant to (3) above, then within such timeframe as specified within the decommissioning programme approved by the Secretary of State, the

undertaker shall endeavour to recover the cable protection to the extent identified in the survey and according to the methodology set out in the method statement submitted pursuant to (2) above.

## SCHEDULE 13

Article 35

### Hedgerows

#### PART 1

##### Removal of Potentially Important Hedgerows

(1) Area	(2) Reference of hedgerow
District of North Norfolk	The potentially important hedgerow marked 9 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 10 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 11 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 12 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 13 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 14 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 15 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 16 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 17 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 18 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 19 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 20 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 21 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 22 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 25 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 27 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 28 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 29 on the important hedgerows plan
District of North Norfolk	The potentially important hedgerow marked 30 on the important hedgerows plan













District of Breckland	The potentially important hedgerow marked 250 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 251 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 260 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 261 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 266 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 267 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 268 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 269 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 270 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 271 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 272 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 273 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 274 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 275 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 276 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 277 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 284 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 288 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 289 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 290 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 291 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 292 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 293 on the important hedgerows plan
District of Breckland	The potentially important hedgerow marked 303 on the important hedgerows plan

## PART 2

### Removal of Important Hedgerows

(1)	(2)
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<i>Area</i>	<i>Reference of hedgerow</i>
District of North Norfolk	The important hedgerow marked 2 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 4 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 6 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 8 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 23 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 24 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 26 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 34 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 36 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 37 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 49 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 50 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 52 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 64 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 65 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 66 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 67 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 68 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 73 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 74 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 75 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 76 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 77 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 78 on the important hedgerows plan
District of North Norfolk	The important hedgerow marked 80 on the important hedgerows plan
District of Broadland	The important hedgerow marked 82 on the important hedgerows plan
District of Broadland	The important hedgerow marked 83 on the

	important hedgerows plan
District of Broadland	The important hedgerow marked 84 on the important hedgerows plan
District of Broadland	The important hedgerow marked 85 on the important hedgerows plan
District of Broadland	The important hedgerow marked 86 on the important hedgerows plan
District of Broadland	The important hedgerow marked 87 on the important hedgerows plan
District of Broadland	The important hedgerow marked 110 on the important hedgerows plan
District of Broadland	The important hedgerow marked 111 on the important hedgerows plan
District of Broadland	The important hedgerow marked 112 on the important hedgerows plan
District of Broadland	The important hedgerow marked 115 on the important hedgerows plan
District of Broadland	The important hedgerow marked 146 on the important hedgerows plan
District of Broadland	The important hedgerow marked 169 on the important hedgerows plan
District of Broadland	The important hedgerow marked 170 on the important hedgerows plan
District of Broadland	The important hedgerow marked 174 on the important hedgerows plan
District of Broadland	The important hedgerow marked 175 on the important hedgerows plan
District of Broadland	The important hedgerow marked 176 on the important hedgerows plan
District of Breckland	The important hedgerow marked 181 on the important hedgerows plan
District of Breckland	The important hedgerow marked 182 on the important hedgerows plan
District of Breckland	The important hedgerow marked 195 on the important hedgerows plan
District of Breckland	The important hedgerow marked 196 on the important hedgerows plan
District of Breckland	The important hedgerow marked 198 on the important hedgerows plan
District of Breckland	The important hedgerow marked 199 on the important hedgerows plan
District of Breckland	The important hedgerow marked 200 on the important hedgerows plan
District of Breckland	The important hedgerow marked 201 on the important hedgerows plan
District of Breckland	The important hedgerow marked 202 on the important hedgerows plan
District of Breckland	The important hedgerow marked 203 on the important hedgerows plan
District of Breckland	The important hedgerow marked 204 on the important hedgerows plan
District of Breckland	The important hedgerow marked 205 on the important hedgerows plan



District of Breckland	The important hedgerow marked 282 on the important hedgerows plan
District of Breckland	The important hedgerow marked 283 on the important hedgerows plan
District of Breckland	The important hedgerow marked 285 on the important hedgerows plan
District of Breckland	The important hedgerow marked 286 on the important hedgerows plan
District of Breckland	The important hedgerow marked 287 on the important hedgerows plan
District of Breckland	The important hedgerow marked 294 on the important hedgerows plan
District of Breckland	The important hedgerow marked 295 on the important hedgerows plan
District of Breckland	The important hedgerow marked 296 on the important hedgerows plan
District of Breckland	The important hedgerow marked 297 on the important hedgerows plan
District of Breckland	The important hedgerow marked 299 on the important hedgerows plan
District of Breckland	The important hedgerow marked 302 on the important hedgerows plan
District of Breckland	The important hedgerow marked 304 on the important hedgerows plan
District of Breckland	The important hedgerow marked 308 on the important hedgerows plan
District of Breckland	The important hedgerow marked 312 on the important hedgerows plan
District of Breckland	The important hedgerow marked 313 on the important hedgerows plan
District of Breckland	The important hedgerow marked 314 on the important hedgerows plan
District of Breckland	The important hedgerow marked 315 on the important hedgerows plan
District of Breckland	The important hedgerow marked 316 on the important hedgerows plan

### PART 3

#### Removal of Hedgerows

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Reference of hedgerow</i>
District of North Norfolk	The hedgerow marked 1 on the important hedgerows plan
District of North Norfolk	The hedgerow marked 3 on the important hedgerows plan
District of North Norfolk	The hedgerow marked 5 on the important hedgerows plan
District of North Norfolk	The hedgerow marked 7 on the important hedgerows plan
District of North Norfolk	The hedgerow marked 35 on the important hedgerows plan
District of North Norfolk	The hedgerow marked 38 on the important

	hedgerows plan
District of North Norfolk	The hedgerow marked 51 on the important hedgerows plan
District of North Norfolk	The hedgerow marked 53 on the important hedgerows plan
District of North Norfolk	The hedgerow marked 79 on the important hedgerows plan
District of Broadland	The hedgerow marked 117 on the important hedgerows plan
District of Broadland	The hedgerow marked 137 on the important hedgerows plan
District of Broadland	The hedgerow marked 138 on the important hedgerows plan
District of Broadland	The hedgerow marked 139 on the important hedgerows plan
District of Broadland	The hedgerow marked 140 on the important hedgerows plan
District of Broadland	The hedgerow marked 141 on the important hedgerows plan
District of Broadland	The hedgerow marked 142 on the important hedgerows plan
District of Broadland	The hedgerow marked 143 on the important hedgerows plan
District of Broadland	The hedgerow marked 144 on the important hedgerows plan
District of Broadland	The hedgerow marked 145 on the important hedgerows plan
District of Broadland	The hedgerow marked 147 on the important hedgerows plan
District of Broadland	The hedgerow marked 171 on the important hedgerows plan
District of Broadland	The hedgerow marked 172 on the important hedgerows plan
District of Breckland	The hedgerow marked 183 on the important hedgerows plan
District of Breckland	The hedgerow marked 191 on the important hedgerows plan
District of Breckland	The hedgerow marked 194 on the important hedgerows plan
District of Breckland	The hedgerow marked 240 on the important hedgerows plan
District of Breckland	The hedgerow marked 246 on the important hedgerows plan
District of Breckland	The hedgerow marked 247 on the important hedgerows plan
District of Breckland	The hedgerow marked 248 on the important hedgerows plan
District of Breckland	The hedgerow marked 249 on the important hedgerows plan
District of Breckland	The hedgerow marked 262 on the important hedgerows plan
District of Breckland	The hedgerow marked 298 on the important hedgerows plan
District of Breckland	The hedgerow marked 300 on the important



	hedgerows plan
District of Breckland	The hedgerow marked 301 on the important hedgerows plan
District of Breckland	The hedgerow marked 305 on the important hedgerows plan
District of Breckland	The hedgerow marked 306 on the important hedgerows plan
District of Breckland	The hedgerow marked 307 on the important hedgerows plan
District of Breckland	The hedgerow marked 309 on the important hedgerows plan
District of Breckland	The hedgerow marked 310 on the important hedgerows plan
District of Breckland	The hedgerow marked 311 on the important hedgerows plan

## SCHEDULE 14

### ARBITRATION RULES

Article 38

#### **Primary objective**

1.—(1) The primary objective of these Arbitration Rules is to achieve a fair, impartial, final and binding award on the substantive difference between the parties (save as to costs) within 4 months from the date the Arbitrator is appointed pursuant to article 38 (arbitration) of the Order.

(2) The Parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within 20 business days of the dispute arising, or such longer period as agreed in writing by the Parties, shall be subject to arbitration in accordance with the terms of this Schedule.

(3) The Arbitration is deemed to have commenced when a party (“the Claimant”) serves a written notice of arbitration on the other party (“the Respondent”).

#### **Time periods**

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

(2) Time periods are calculated from the day after the Arbitrator is appointed which is either:

- (a) the date the Arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the Arbitrator is appointed by the Secretary of State.

#### **Timetable**

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

(2) Within 14 days of the Arbitrator being appointed, the Claimant must provide both the Respondent and the Arbitrator with:

- (a) a written Statement of Claim which describes the nature of the difference between the parties, the legal and factual issues, the Claimant’s contentions as to those issues, the amount of its claim and/or the remedy it is seeking; and

- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.
- (3) Within 14 days of receipt of the Claimant's statements under sub-paragraph (2) by the Arbitrator and Respondent, the Respondent must provide the Claimant and the Arbitrator with:
- (a) a written Statement of Defence responding to the Claimant's Statement of Claim, its statement in respect of the nature of the difference, the legal and factual issues in the Claimant's claim, its acceptance of any element(s) of the Claimant's claim, its contentions as to those elements of the Claimant's claim it does not accept;
  - (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports; and
  - (c) any objections it wishes to make to the Claimant's statements, comments on the Claimant's expert report(s) (if submitted by the Claimant) and explanations for the objections.
- (4) Within 7 days of the Respondent serving its statements sub-paragraph (3), the Claimant may make a Statement of Reply by providing both the Respondent and the Arbitrator with:
- (a) a written statement responding to the Respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
  - (b) all statements of evidence and copies of documents in response to the Respondent's submissions;
  - (c) any expert report in response to the Respondent's submissions;
  - (d) any objections to the statements of evidence, expert reports or other documents submitted by the Respondent; and
  - (e) its written submissions in response to the legal and factual issues involved.

## **Procedure**

**4.—(1)** The parties' pleadings, witness statements and expert reports (if any) must be concise. No single pleading is to exceed 30 single-sided A4 pages using 10pt Arial font.

(2) The Arbitrator must make an award on the substantive difference(s) based solely on the written material submitted by the parties unless the Arbitrator decides that a hearing is necessary to explain or resolve any matters.

(3) Either party may, within 2 days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within 7 days of receiving the last submission, the Arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(5) Within 10 days of the Arbitrator advising the parties that he is to hold a hearing, the date and venue for the hearing must be fixed by agreement with the parties, save that if there is no agreement the Arbitrator must direct a date and venue which he considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the Arbitrator's direction confirming the date and venue of the hearing.

(6) A decision must be made by the Arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the Arbitrator, then any expert(s) attending the hearing may be asked questions by the Arbitrator.

(7) There is no process of examination and cross-examination of experts, but the Arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the expert(s) in response to the Arbitrator's questions. Prior to the hearing the procedure for the expert(s) is:

- (a) at least 28 days before a hearing, the Arbitrator must provide a list of issues to be addressed by the expert(s);

- (b) if more than one expert is called, they are to jointly confer and produce a joint report or reports within 14 days of the issues being provided; and
- (c) the form and content of a joint report must be as directed by the Arbitrator and must be provided at least 7 days before the hearing.

(8) Within 14 days of a Hearing or a decision by the Arbitrator that no hearing is to be held the Parties may by way of exchange provide the Arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The Arbitrator must take these submissions into account in the Award.

(9) The Arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within 4 months of the date on which they are appointed, unless both parties otherwise agree to an extension to the date for the award.

(10) If a party fails to comply with the timetable, procedure or any other direction then the Arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before them attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure and/or direction.

(11) The Arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given are proportionate to the issues in dispute and the time available to the Arbitrator to deliver the award.

### **Arbitrator's powers**

**5.—**(1) The Arbitrator has all the powers of the Arbitration Act 1996(a), including the non-mandatory sections, save where modified by these Rules.

(2) There must be no discovery or disclosure, except that the Arbitrator has the power to order the parties to produce such documents as are reasonably requested by another party no later than the Statement of Reply, or by the Arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders are to be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the Arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the Arbitrator. In the absence of agreement, the Arbitrator may vary the timescales and/or procedure:

- (a) if the Arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the Arbitrator must notify the parties that the award is completed, signed and dated, and that it is to be issued to the parties on receipt of cleared funds for the Arbitrator's fees and expenses.

### **Costs**

**6.—**(1) The costs of the Arbitration must include the fees and expenses of the Arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the Arbitration.

(2) Where the difference involves connected/interrelated issues, the Arbitrator must consider the relevant costs collectively.

(3) The final award must fix the costs of the arbitration and decide which of the parties must bear them or in what proportion they are to be borne by the parties.

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(a) 1996 c. 23.

(4) The Arbitrator must award recoverable costs on the general principle that costs follow the event, having regard to all material circumstances, including such matters as exaggerated claims and/or defences, the degree of success for different elements of the claims, claims that have incurred substantial costs, the conduct of the parties and the degree of success of a party.

### **Confidentiality**

7.—(1) The parties agree that any hearings in this Arbitration must take place in private.

(2) The parties and Arbitrator agree that any matters, materials, documents, awards, expert reports and the like are confidential and must not be disclosed to any third party without prior written consent of the other party, save for any application to the Courts and/or save for compliance with legislative rules, functions or obligations on either party.

## **SCHEDULE 15**

Article 39

### **Procedure for discharge of Requirements**

#### **Applications made under requirement**

1.—(1) Where an application has been made to a discharging authority for any agreement or approval required pursuant to requirements 13, 14, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33 and 34 in Part 3 of Schedule 1 (requirements) of this Order:

- (a) the undertaker must give the discharging authority sufficient information to identify the requirement(s) to which the application relates;
- (b) the undertaker must provide such particulars, and the request be accompanied by such plans and drawings, as are reasonably considered necessary to deal with the application.

(2) The discharging authority must give notice to the undertaker of its decision on the application before the end of the decision period.

(3) For the purposes of sub-paragraph (2), the decision period is—

- (a) where no further information is requested under paragraph 2 (further information), 8 weeks from the day immediately following that on which the application is received by the discharging authority;
- (b) where further information is requested under paragraph 2 (further information), 8 weeks from the day immediately following that on which further information has been supplied by the undertaker under paragraph 2; or
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (a) or (b).

#### **Further information**

2.—(1) In relation to any application to which this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is necessary to enable it to consider the application.

(2) If the discharging authority considers such further information to be necessary and the requirement does not specify that consultation with a requirement consultee is required, it must, as soon as reasonably practicable and within 20 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement specifies that consultation with a requirement consultee is required, the discharging authority must issue the consultation to the requirement consultee within 10 business days of receipt of the application, and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 10 business days of receipt of such a request and in any event within 42 days of receipt of the application.

(4) If the discharging authority does not give such notification as specified in sub-paragraph (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

## Appeals

3.—(1) The undertaker may appeal to the Secretary of State in the event that—

- (a) the discharging authority refuses an application for any agreement or approval required by a requirement included in this Order;
- (b) the discharging authority does not give notice of its decision to the undertaker within the decision period as determined in paragraph 1;
- (c) on receipt of a request for further information pursuant to paragraph 2 (further information) the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not reasonably necessary for consideration of the application; or
- (d) 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 reasonably necessary for consideration of the application.

(2) The appeal process is as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State, a copy of the application submitted to the discharging authority and any supporting documentation which the undertaker may wish to provide (“the appeal documentation”);
- (b) the undertaker must on the same day provide copies of the appeal documentation to the discharging authority and the requirement consultee (if applicable);
- (c) as soon as is practicable after receiving the appeal documentation, but in any event within 28 business days of receiving the appeal documentation, the Secretary of State must appoint a person and forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
- (d) the discharging authority and the requirement consultee (if applicable) must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person; and
- (e) the appeal parties must make any counter-submissions to the appointed person within 20 business days of receipt of written representations pursuant to sub-paragraph (d) above.

(3) The appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable. If the appointed person considers that further information is necessary to enable him to consider the appeal he 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.

(4) Any further information required pursuant to sub-paragraph (3) 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. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 20 business days of that date.

(5) 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.

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person, under this paragraph.

(7) The appointed person may proceed to a decision even though no written representations have been made within those 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.

(8) 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.

(9) If an approval is given by the appointed person pursuant to this Schedule, it is deemed to be an approval for the purpose of Part 3 of Schedule 1 (requirements) as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) may not be taken to affect or invalidate the effect of the appointed person's determination.

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

(11) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance on the award of costs or any guidance which may from time to time replace it.

### **Interpretation of this Schedule**

#### **4. In this Schedule—**

“the appeal parties” means the discharging authority, the requirement consultee and the undertaker;

“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971;

“discharging authority” means that person or body responsible for approving details pursuant to requirements 13, 14, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33 and 34 in Part 3 of Schedule 1 (requirements);

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the discharging authority in discharging that requirement.

## **SCHEDULE 16**

Article 43

### **PROTECTIVE PROVISIONS**

#### **PART 1**

##### **Protection for electricity, gas, water and sewerage undertakers**

**1.** For the protection of the undertakers referred to in this Part the following provisions must, unless otherwise agreed in writing between the undertaker and the affected undertaking concerned, have effect.

#### **2. In this Part—**

“affected undertaker” means

- (a) any licence holder within the meaning of Part 1 (electricity supply) of the 1989 Act;
- (b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986(a);
- (c) a water undertaker within the meaning of the Water Industry Act 1991(b); and
- (d) a sewerage undertaker within the meaning of Part 1 (preliminary) of the Water Industry Act 1991,

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

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

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989), belonging to or maintained by that affected undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that affected undertaker for the purposes of water supply; and any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A (agreements to adopt water main or service pipe at future date) of the Water Industry Act 1991 at the time of the works mentioned in this Part; and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the affected undertaker in accordance with 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) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewerage disposal works, at future date) of that Act,

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

“functions” includes powers and duties; and

“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.

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

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

**5.—(1)** If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part and any right of an affected 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 affected undertaker in question.

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(a) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

(b) 1991 c. 56.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the affected undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an affected undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the affected undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

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

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part shall be constructed in such manner and in such line or situation as may be agreed between the affected undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 38 (arbitration).

(5) The affected undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 38 (arbitration), and after the grant to the affected undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the affected undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the affected undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the affected undertaker.

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

**6.—**(1) Where, in accordance with the provisions of this Part, the undertaker affords to an affected undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the undertaker and the affected undertaker in question or in default of agreement settled by arbitration in accordance with article 38 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the affected undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the undertaker to that affected undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

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



(2) Those works shall 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 affected undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the affected undertaker shall be entitled to watch and inspect the execution of those works.

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

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

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

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

**8.—**(1) Subject to the following provisions of this paragraph, the undertaker shall repay to an affected undertaker the reasonable expenses incurred by that affected undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus (including costs or compensation payable in connection with the acquisition of land for that purpose) which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).

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

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 38 (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 affected undertaker in question by virtue of sub-paragraph (1) shall 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 shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an affected undertaker in respect of works by virtue of sub-paragraph (1) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the affected 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.

**9.**—(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 5(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of an affected undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any affected undertaker, the undertaker must—

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

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

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an affected undertaker, its officers, servants, contractors or agents.

(3) An affected undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

**10.** Any difference or dispute arising between the undertaker and the affected undertaker under this Schedule must, unless otherwise agreed in writing between the undertaker and the affected undertaker, be determined by arbitration in accordance with article 38 (arbitration).

**11.** Nothing in this Part shall affect the provisions of any enactment or agreement regulating the relations between the undertaker and an affected undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 2

### For the Protection of National Grid as Electricity and Gas Undertaker

#### **Application**

**12.** For the protection of National Grid referred to in this Part the following provisions will, unless otherwise agreed in writing between the promoter and National Grid, have effect.

#### **Interpretation**

**13.** In this Part—

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

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

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;

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

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

“commence” has the same meaning as in article 2 of this Order and commencement must be construed to have the same meaning save that for the purpose of this part only the term commence includes operations consisting site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purposes of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure and temporary hard standing;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this part;

“functions” includes powers and duties;

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

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the promoter to submit for National Grid’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 National Grid including construct use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means, as appropriate—

- (a) National Grid Electricity Transmission PLC (Company No. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH and any successor to their licence under Part 1 of the Electricity Act 1989; and
- (b) National Grid Gas PLC (Company No. 200600) whose registered office is at 1-3 Strand, London, WC2N 5EH and any successor to their licence under Part 1 of the Gas Act 1986 or their successor company(ies).

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

“promoter” means the undertaker as defined in article 2 of this Order;

“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 promoter under paragraph 17(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the promoter under paragraph 17(2) or otherwise; or
- (c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Grid'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").

**14.—**(1) Except for paragraphs 15 (apparatus in stopped up streets), 20 (retained apparatus: protection), 21 (expenses) and 22 (compensation) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the promoter and National Grid are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

(2) Notwithstanding Art 25(5) or any other powers in the Order generally, s85 of the 1991 Act in relation to costs sharing and the powers in respect of cost sharing generally including the regulations made thereunder does not apply in relation to any diversion of apparatus of National Grid under the 1991 Act.

#### **Apparatus of Undertakers in stopped up streets**

**15.** Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 10 (temporary stopping up of streets), National Grid will be at liberty at all times to take all necessary access across any such stopped up highway or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

#### **Acquisition of land**

**16.—**(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the promoter may not acquire any land interest or apparatus or override any easement and/or other interest of National Grid otherwise than by agreement.

(2) As a condition of agreement between the parties in paragraph 16(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between the undertaker and the promoter) that are subject to the requirements of this Part that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of the undertaker and/or affects the provisions of any enactment or agreement regulating the relations between the undertaker and the promoter in respect of any apparatus laid or erected in land belonging to or secured by the promoter, the promoter must as the undertaker reasonably and necessarily requires enter into such deeds of consent upon such terms and conditions as may be agreed between the undertaker and the promoter acting reasonably and which must be no less favourable on the whole to the undertaker unless otherwise agreed by the undertaker, and it will be the responsibility of the promoter to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The promoter and the undertaker agree that where there is any inconsistency or duplication between the provisions set out in this Part relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by the undertaker and/or other enactments relied upon by the undertaker as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by the undertaker under paragraph 19 or 20 or any other paragraph of this Part, must not be taken to constitute agreement under sub-paragraph 16(1).

### **Removal of apparatus**

17.—(1) If, in the exercise of the agreement reached in accordance with paragraph 16 or in any other authorised manner, the promoter 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 an 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 National Grid in question in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the promoter requires the removal of any apparatus placed in that land, it must give to National Grid 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the promoter must, subject to sub-paragraph (3), afford to National Grid to its reasonable satisfaction (taking into account paragraph 18(1) below) the necessary facilities and rights:

- (a) for the construction of alternative apparatus in other land of or land secured by the promoter; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the promoter, or the promoter is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the promoter, as soon as possible take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed, with the promoter's assistance if required by National Grid, save that this obligation does not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the promoter under this Part must be constructed in such manner and in such line or situation as may be agreed between National Grid and the promoter.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the promoter to be removed under the provisions of this Part.

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

18.—(1) Where, in accordance with the provisions of this Part, the promoter affords to or secures for National Grid 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 promoter and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid, acting reasonably

(2) If the facilities and rights to be afforded by the promoter and agreed with National Grid under paragraph 18(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid 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 in the matter may be

referred to arbitration in accordance with paragraph 26 (Arbitration) of this Part and the arbitrator may make such provision for the payment of compensation by the promoter to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case

### **Retained apparatus: protection Gas Undertakers**

**19.**—(1) The promoter must provide technical information relevant to any specified works to National Grid as soon as reasonably practicable after it becomes available, and will seek to liaise with National Grid as early as reasonably practicable regarding the specified works.

(2) Not less than 56 days before the commencement of any specified works the promoter must submit to National Grid a plan and, if reasonably required by National Grid, a ground monitoring scheme in respect of those works.

(3) The plan to be submitted to National Grid under sub-paragraph (2) 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.

(4) The promoter must not commence any works to which sub-paragraphs 2 and 3 apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraph (3)—

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

(6) In relation to any work to which sub-paragraphs (2) and/or (3) apply, National Grid 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 convenient means of access to any apparatus provided that such modifications are requested by National Grid within a period of 56 days, unless otherwise agreed between the parties, beginning with the date on which the plan under sub-paragraph (2) is submitted to it. For the avoidance of doubt, provided that any further iterations of the plan submitted to National Grid for approval as a result of modifications required under this paragraph are not materially different to the modifications previously made by National Grid, any further required modifications will be made by the promoter as soon as reasonably practicable thereafter and in any event within 56 days of receipt of any further plans.

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

(8) Where National Grid requires any protective works to be carried out by itself or by the promoter (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grids' reasonable satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works

are required and National Grid must give 56 days' notice of such works from the date of submission of a plan pursuant to sub-paragraph (2) or (3) (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the promoter, reasonably requires the removal of any apparatus and gives written notice to the promoter of that requirement, paragraphs 12 to 14 and 17 to 19 apply as if the removal of the apparatus had been required by the promoter under paragraph 17(2).

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

(11) The promoter will not be required to comply with sub-paragraph (2) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must—

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

(12) At all times when carrying out any works authorised under the Order the promoter must comply with National Grid'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 HSE's "HS(~G)47 Avoiding Danger from underground services".

(13) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the promoter must implement an appropriate ground mitigation scheme save that National Grid retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 21.

### **Retained apparatus: protection Electricity Undertakers**

**20.**—(1) The promoter must provide technical information relevant to any specified works to National Grid as soon as reasonably practicable after it becomes available, and will seek to liaise with National Grid as early as reasonably practicable regarding the specified works.

(2) Not less than 56 days before the commencement of any specified works, the promoter must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity tower foundations.

(3) In relation to works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

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

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

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of 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) assessment of earth rise potential if reasonably required by National Grid's engineers;
- (h) evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic.

(5) The promoter must not commence any works to which sub-paragraphs (3) or (4) apply until National Grid has given written approval of the plan so submitted.

(6) Any approval of National Grid required under sub-paragraphs (3) or (4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (7) or (9); and
- (b) must not be unreasonably withheld.

(7) In relation to any work to which sub-paragraphs (3) or (4) apply, National Grid 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 convenient means of access to any apparatus

(8) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (2) or as relevant sub-paragraph (3), (4) or (7), as approved or as amended from time to time by agreement between the promoter and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (7) or (9) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(9) Where National Grid requires any protective works to be carried out by itself or by the promoter (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and National Grid must give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(10) If National Grid in accordance with sub-paragraphs (7) or (9) and in consequence of the works proposed by the promoter, reasonably requires the removal of any apparatus and gives written notice to the promoter of that requirement, paragraphs 12 to 14 and 17 to 19 apply as if the removal of the apparatus had been required by the promoter under paragraph 17(2).

(11) Nothing in this paragraph precludes the promoter from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised 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.

(12) The promoter will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (7), (8) and (9) insofar as is reasonably practicable in the circumstances; and



(b) comply with sub-paragraph (13) at all times.

(13) At all times when carrying out any works authorised under the Order, the promoter must comply with National Grid's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoiding danger from overhead power lines".

### Expenses

**21.**—(1) Subject to the following provisions of this paragraph, the promoter must pay to National Grid on demand all charges, costs and expenses reasonably and properly anticipated or incurred by National Grid in or in connection with the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid—
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 17(3); and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any necessary diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

- (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 promoter or, in default of agreement, is not determined by arbitration in accordance with article 38 (arbitration) of the Order 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 National Grid by virtue of sub-paragraph (1) will 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 will be borne by the promoter.

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

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

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid 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.

### **Compensation**

**22.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the promoter or in consequence of any act or default of the promoter (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the promoter under this Part or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party or National Grid incurs any liability as a result of the transfer of undertaking under article 5, the promoter will—

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

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

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

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents; and
- (b) any authorised works or any other works authorised by this Part carried out by National Grid as an assignee, transferee or lessee of the promoter with the benefit of this Order pursuant to section 156 (benefit of order granting development consent) of the Planning Act 2008 or article 5 (consent to transfer benefit of order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part including this paragraph 22.
- (c) National Grid must give the promoter reasonable 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 promoter and considering their representations.

### **Enactments and agreements**

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

### **Co-operation**

24.—(1) Where in consequence of the proposed construction of any of the authorised works, the promoter or an undertaker requires the removal of apparatus under paragraph 17(2) or an undertaker makes requirements for the protection or alteration of apparatus under paragraph (19), the promoter must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of National Grid’s undertaking and National Grid must use its best endeavours to co-operate with the promoter for that purpose.

(2) For the avoidance of doubt whenever the undertaker’s consent, agreement or approval to is required in relation to plans, documents or other information submitted by National Grid or the taking of action by National Grid, it must not be unreasonably withheld or delayed.

### **Access**

25. If in consequence of the agreement reached in accordance with paragraph 16(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the promoter must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

26. Save for differences or disputes arising under paragraph 17(2), 17(4), 18(1), 19 and 20 any difference or dispute arising between the promoter and National Grid under this Part must, unless otherwise agreed in writing between the promoter and National Grid, be determined by arbitration in accordance with article 38 (arbitration).

### **Notices**

27. The plans submitted to National Grid by the promoter pursuant to paragraph 19 and 20 must be sent to National Grid Plant Protection at [plantprotection@nationalgrid.com](mailto:plantprotection@nationalgrid.com) or such other address as National Grid may from time to time appoint instead for that purpose and notify to the promoter in writing.

## **PART 3**

### **For the Protection of Cadent Gas Limited as Gas Undertaker**

#### **Application**

28. For the protection of Cadent referred to in this Part the following provisions will, unless otherwise agreed in writing between the promoter and Cadent , have effect.

#### **Interpretation**

29. In this Part of this Schedule—

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

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

“apparatus” means any mains, pipes pressure governors, ventilators, cathodic protections cables or other apparatus belonging to or maintained by Cadent for the purposes of gas distribution and supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of Cadent for the purposes of distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

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

“Cadent” means Cadent Gas Limited and/or its successors in title and/or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986

“commence” has the same meaning as in article 2 of this Order and commencement must be construed to have the same meaning save that for the purpose of this part only the term commence includes operations consisting site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purposes of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure and temporary hard standing;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

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

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

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

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

“maintain” and “maintenance” include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, maintain, protect, access, enlarge, replace, use, repair, alter, inspect, renew, decommission or render unusable or remove the apparatus;

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

“promoter” means the undertaker as defined in article 2 of this Order;

“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 promoter under paragraph 33(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the promoter under paragraph 33(2) or otherwise; or
- (c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Grid'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").

### **On Street Apparatus**

**30.**—(1) Except for paragraphs 31 (apparatus in stopped up streets), 33 (Removal of Apparatus) in so far as sub-paragraph 3(2) applies, 34 (Facilities and Rights for Alternative Apparatus) in so far as sub-paragraph 3(2) applies, 35 (retained apparatus: protection), 36 (expenses) and 37 (compensation) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Cadent, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the promoter and Cadent are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraph 34 and 35 of this Agreement apply to diversions when where carried out under the 1991 Act, in circumstance where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway

(3) Notwithstanding Art 25(5) or any other powers in the Order generally, s85 of the 1991 Act in relation to costs sharing and the powers in respect of cost sharing generally including the regulations made thereunder does not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

### **Apparatus of Undertakers in stopped up streets**

**31.** Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 11 (temporary stopping up of streets), Cadent will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway

### **Acquisition of land**

**32.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the promoter may not acquire or appropriate any land interest or apparatus or appropriate, acquire, extinguish, interfere with or override any easement and/or other interest of Cadent otherwise than by agreement

(2) As a condition of agreement between the parties in paragraph 32(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the promoter) that are subject to the requirements of this Part that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of the undertaker and/or affects the provisions of any enactment or agreement regulating the relations between Cadent and the promoter in respect of any apparatus laid or erected in land belonging to or secured by the promoter, the promoter must as Cadent reasonably and necessarily requires enter into such deeds of consent upon such terms and conditions as may be agreed between Cadent and the promoter acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by the undertaker, and it will be the responsibility of the promoter to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The promoter and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part relating to the relocation and/or removal of apparatus/including

but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by the undertaker and/or other enactments relied upon by the undertaker as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by the undertaker under paragraph 35 or any other paragraph of this Part, must not be taken to constitute agreement under sub-paragraph 32(1).

### **Removal of apparatus**

**33.**—(1) If, in the exercise of the agreement reached in accordance with paragraph 32 or in any other authorised manner, the promoter 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 an 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 Cadent in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the promoter requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to remove any of its apparatus) the promoter must, subject to sub-paragraph (3), afford to Cadent to its satisfaction (taking into account paragraph 34(1) below) the necessary facilities and rights

- (a) for the construction of alternative apparatus in other land of or land secured by the promoter; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the promoter, or the promoter is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent must, on receipt of a written notice to that effect from the promoter, as soon as possible take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed, with the promoter's assistance if required by Cadent, save that this obligation does not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the promoter under this Part must be constructed in such manner and in such line or situation as may be agreed between Cadent and the promoter.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the promoter to be removed under the provisions of this Part .

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

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

(2) If the facilities and rights to be afforded by the promoter and agreed with Cadent under paragraph 34(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid 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 in the matter may be referred to arbitration in accordance with paragraph 41 (Arbitration) of this Part and the arbitrator may make such provision for the payment of compensation by the promoter to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case

### **Retained apparatus: protection Gas Undertakers**

**35.**—(1) The promoter must provide technical information relevant to any specified works to Cadent as soon as reasonably practicable after it becomes available, and will seek to liaise with Cadent as early as reasonably practicable regarding the specified works.

(2) Not less than 56 days before the commencement of any specified works the promoter must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(3) The plan to be submitted to Cadent under sub-paragraph (2) 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.

(4) The promoter must not commence any works to which sub-paragraphs 2 and (3) apply until Cadent has given written approval of the plan so submitted.

(5) Any approval of Cadent required under sub-paragraph (4)—

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

(6) In relation to any work to which sub-paragraphs (1) and/or (2) apply, Cadent 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 convenient means of access to any apparatus provided that such modifications are requested by Cadent within a period of 56 days, unless otherwise agreed between the parties, beginning with the date on which the plan under sub-paragraph (1) is submitted to it. For the avoidance of doubt, provided that any further iterations of the plan submitted to Cadent for approval as a result of modifications required under this paragraph are not materially different to the modifications previously made by Cadent, any further required modifications will be made by the promoter as soon as reasonably practicable thereafter and in any event within 56 days of receipt of any further plans.

(7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (2) or as relevant sub paragraph (6), as approved or as amended from time to time by agreement between the promoter and Cadent and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by Cadent for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Cadent will be entitled to watch and inspect the execution of those works.

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

schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and Cadent must give 56 days' notice of such works from the date of submission of a plan pursuant to sub-paragraph (2) or (3) (except in an emergency).

(9) If Cadent in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the promoter, reasonably requires the removal of any apparatus and gives written notice to the promoter of that requirement, paragraphs 28 to 30 and 33 to 35 apply as if the removal of the apparatus had been required by the promoter under paragraph 33(2).

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

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

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

(12) At all times when carrying out any works authorised under the Order the promoter must comply with Cadent's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of Cadent's, High pressure Gas pipelines and associated installation requirements for third parties SPGD//SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(13) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the promoter must implement an appropriate ground mitigation scheme save that Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 37.

## Expenses

**36.**—(1) Subject to the following provisions of this paragraph, the promoter must pay to Cadent on demand all charges, costs and expenses reasonably and properly anticipated or incurred by Cadent in or in connection with the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by Cadent as a consequence of Cadent;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 33(3); and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any necessary diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;



- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

- (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 promoter or, in default of agreement, is not determined by arbitration in accordance with article 38 (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 Cadent by virtue of sub-paragraph (1) will 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 will be borne by the promoter.

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

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

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

## Compensation

**37.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the promoter or in consequence of any act or default of the promoter (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the promoter under this Part or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party or Cadent incurs any liability as a result of the transfer of undertaking under article 6, the promoter will—

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

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

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

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and
- (b) any authorised works and/or any other works authorised by this Part carried out by Cadent as an assignee, transferee or lessee of the promoter with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 6 (consent to transfer benefit of order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part including this paragraph 37.

(4) Cadent must give the promoter reasonable 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 promoter and considering their representations.

### **Enactments and agreements**

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

### **Co-operation**

**39.—**(1) Where in consequence of the proposed construction of any of the authorised works, the promoter or an undertaker requires the removal of apparatus under paragraph 33(2) or an undertaker makes requirements for the protection or alteration of apparatus under paragraph 35, the promoter must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent’s undertaking and Cadent must use its best endeavours to co-operate with the promoter for that purpose.

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

### **Access**

**40.** If in consequence of the agreement reached in accordance with paragraph 32(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the promoter must provide such alternative means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**41.** Save for differences or disputes arising under paragraph 33(2), 33(4), 34(1), 35 and 36 any difference or dispute arising between the promoter and Cadent under this Part must, unless otherwise agreed in writing between the promoter and Cadent, be determined by arbitration in accordance with article 38 (arbitration).

## Notices

**42.** The plans submitted to Cadent by the promoter pursuant to paragraph 35 must be sent to National Grid Plant Protection at [plantprotection@cadent.com](mailto:plantprotection@cadent.com) or such other address as Cadent may from time to time appoint instead for that purpose and notify to the promoter in writing.

## PART 4

### Protection for Operators of Electronic Communications Code Networks

**43.**—(1) For the protection of any operator, the following provisions shall, unless otherwise agreed in writing between the undertaker and the operator, have effect.

(2) In this Part—

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

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

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

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 (networks, services and the radio spectrum) of the 2003 Act(b);

“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 (application of the electronic communications code) of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

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

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

**44.** The exercise of the powers of article 29 (statutory undertakers) are subject to Part 10 of Schedule 3A (the electronic communications code) to the 2003 Act.

**45.**—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or their 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 shall bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must—
  - (i) make reasonable compensation to an operator for loss sustained by it; and
  - (ii) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

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(a) 2003 c. 21.

(b) See section 106.

(2) Nothing in sub-paragraph (1) shall impose any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand shall be made without the consent of the undertaker which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this paragraph shall be referred to and settled by arbitration under article 38 (arbitration).

**46.** 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 (street works in England and Wales) of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

**47.** Nothing in this Part shall affect the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 5

### Protection of Network Rail Infrastructure Limited

**48.** The following provisions of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 62 any other person on whom rights or obligations are conferred by that paragraph.

**49.** In this Part—

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

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of powers under section 8 (licences) of the Railways Act 1993(a);

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006 the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and

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(a) 1993 c .43.

- (b) any easement or other property interest held or used by Network for the purposes of such railway or works, apparatus or equipment; and

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

**50.**—(1) Where under this Part Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development under this Order.

**51.**—(1) The undertaker must not exercise the powers conferred by—

- (a) article 15 (discharge of water);
- (b) article 16 (authority to survey and investigate the land);
- (c) article 18 (compulsory acquisition of land);
- (d) article 20 (compulsory acquisition of rights);
- (e) article 21 (private rights);
- (f) article 24 (acquisition of subsoil only);
- (g) article 26 (temporary use of land for carrying out the authorised development);
- (h) article 27 (temporary use of land for maintaining the authorised development);
- (i) article 28 (extinguishment of private rights);
- (j) article 29(b) (statutory undertakers) (where relevant);
- (k) article 35 (felling or lopping of trees and removal of hedgerows);
- (l) article 36 (trees subject to tree preservation orders);
- (m) or the powers conferred by section 11(3) of the 1965 Act (powers of entry),

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, or article 29 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers conferred by this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

**52.**—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval 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 (or deemed approved under sub-paragraph (2)) or settled by arbitration under article 38 (Arbitration) (as varied by paragraph 69 of this Part of this Schedule).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes may be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

**53.—**(1) Any specified work and any protective works to be constructed by virtue of paragraph 52(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 52;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of or in consequence of the construction of a specified work, the undertaker must, regardless of any approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

**54.** 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.

**55.** Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail 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.

**56.—(1)** If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail or the services of operators using the same, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 52(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 57(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

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

**57.** The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 52(3) or in constructing any protective works under the provisions of paragraph 52(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

58.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 52(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take measures reasonably necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 52(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 52(1) has effect subject to this sub-paragraph.

(6) If at any time prior to the commencement of regular revenue-earning operations comprised in the authorised development and regardless of any measures adopted under sub-paragraph (3), the testing or commissioning of the authorised development causes EMI then the undertaker shall immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker’s apparatus causing such EMI until necessary measures have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail’s apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker’s apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail’s apparatus in the investigation of such EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail’s apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail’s apparatus pursuant to sub-paragraphs (5) or (6)—



- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 53.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 62(1) applies, subject to paragraphs 62(2) to 62(6), to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 57(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

**59.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**60.** The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**61.** Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

**62.—(1)** The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Schedule which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction or maintenance of a specified work or the failure thereof or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission; and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must give the undertaker reasonable written notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, to be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**63.** Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Schedule (including the amount of the relevant costs mentioned in paragraph 62) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part (including any claim relating to those relevant costs).

**64.** In the assessment of any sums payable to Network Rail under this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Schedule or increasing the sums so payable.

**65.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

**66.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I (the provision of services) of the Railways Act 1993.

**67.** The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State’s consent, under article 6 (transfer of benefit of Order) of this Order in relation to railway property or any specified works and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**68.** The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 37 (certification of plans etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in electronic form specified by Network Rail.

**69.** In relation to any dispute arising under this Part that is referred to arbitration in accordance with article 38 (arbitration) of this Order, the parties agree that the timetable referred to within Paragraph 3 of Schedule 14 (Arbitration Rules) will be amended where Network Rail can demonstrate that it is unable (acting reasonably) to comply with the time limit due to timing constraints that may arise for Network Rail in obtaining clearance conditions and/or any

engineering regulatory or stakeholder (internal or external) consents and/or assessing any matters of concern with regards to the safe operation of the railway.

## PART 6

### For the Protection of Anglian Water Services Limited

**70.**—(1) For the protection of Anglian Water, the following provisions shall, unless otherwise agreed in writing between the undertaker and Anglian Water, have effect.

(2) In this Part—

“Anglian Water” means Anglian Water Services Limited (company number 02366656) whose registered office is at Lancaster House, Lancaster Way, Ermine Business Park, Huntington, Cambridgeshire PE29 6XU;

“apparatus” means any works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage and

- (a) any drain or works vested in Anglian Water under The Water Industry Act 1991,
- (b) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4)(a) (adoption of sewers and disposal works) of The Water Industry Act 1991 or an agreement to adopt made under section 104(b) (agreements to adopt sewer, drain or sewage disposal works at future date) of that Act,

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

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

“undertaker” means the undertaker under article 2 of this Order

“functions” includes powers and duties

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

“plan” includes sections, drawings, specifications and method statements.

(3) The undertaker must not interfere with, build over or near to any apparatus within the Order Land or 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 the standard protection strips which are the strips of land falling the following distances to either side of the medial line of any relevant pipe or apparatus:

- (a) 2.25 metres where the diameter of the pipe is less than 150 millimetres, 3 metres where the diameter of the pipe is between 150 and 450 millimetres,
- (b) 4.5 metres where the diameter of the pipe is between 450 and 750 millimetres and
- (c) 6 metres where the diameter of the pipe exceeds 750 millimetres

unless otherwise agreed in writing with Anglian Water, such agreement not to be unreasonably withheld or delayed, and such provision being brought to the attention of any agent or contractor responsible for carrying out any work on behalf of the undertaker.

(4) The alteration, extension, removal or re-location of any apparatus must not be implemented until

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(a) Section 102(4) was amended by the Water Act 2003 (c. 37), s96(1) and the Water Act 2014 (c.21), Schedule 7, paragraph 90.

(b) Section 104 was amended by the Water Act 2003 (c. 37), s96 and the Water Act 2014 (c. 21).

- (a) any requirement for any permits under the Environmental Permitting Regulations 2010 or other legislations and any other associated consents are obtained, and any approval or agreement required from Anglian Water on alternative outfall locations as a result of such re-location are approved, such approvals from Anglian Water not to be unreasonably withheld or delayed; and
- (b) the undertaker has made the appropriate application required under the Water Industry Act 1991 together with a plan and section of the works proposed and Anglian Water has agreed all of the contractual documentation required under the Water Industry Act 1991, such agreement not to be unreasonably withheld or delayed; and such works to be executed only in accordance with the plan, section and description submitted and in accordance with such reasonable requirements as may be made by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it.

(5) In the situation, where in exercise of the powers conferred by the Order, the undertaker acquires any interest in any land in which Apparatus is placed and such apparatus is to be relocated, extended, removed or altered in any way, no alteration or extension shall take place until Anglian Water has established to its reasonable satisfaction, contingency arrangements in order to conduct its functions for the duration of the works to relocate, extend, remove or alter the apparatus. Anglian Water must use all reasonable endeavours to establish contingency arrangements in a timely manner.

(6) Regardless of any provision in this Order or anything shown on any plan, the undertaker must not acquire any apparatus otherwise than by agreement, and before extinguishing any existing rights for Anglian Water to use, keep, inspect, renew and maintain its apparatus in the Order land, the undertaker shall, with the agreement of Anglian Water, create a new right to use, keep, inspect, renew and maintain the apparatus that is reasonably convenient for Anglian Water, such agreement not to be unreasonably withheld or delayed, and to be subject to arbitration under article 38 (Arbitration).

(7) If the undertaker is unable to create the new rights referred to in sub-paragraph (6), Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible, use its reasonable endeavours to obtain the necessary rights.

(8) If in consequence of the exercise of the powers conferred by the Order the access to any apparatus is materially obstructed the undertaker shall provide such alternative means of access to such apparatus as will enable Anglian Water to maintain or use the apparatus no less effectively than was possible before such obstruction, or alternatively such means of access as may be agreed with Anglian Water, acting reasonably.

(9) If in consequence of the exercise of the powers conferred by the Order, previously unmapped sewers, lateral drains or other apparatus are identified by the company, notification of the location of such assets will immediately be given to Anglian Water and afforded the same protection of other Anglian Water assets.

(10) If for any reason or in consequence of the construction of any of the works referred to in paragraphs (4) to (6) and (8) above 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 Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must:

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good any damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other reasonably necessary expenses, loss, damages, penalty or costs incurred by Anglian Water

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

(11) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without first consulting the undertaker and considering their representations acting reasonably.

(12) Nothing in sub-paragraph (10) above imposes any liability on the undertaker with respect to—

- (a) any damage or interruption to the extent that it is attributable to the act, neglect or default of Anglian Water, its officer, servants, contractors or agents; and
- (b) any authorised works and/or any other works authorised by this Part carried out by Anglian Water as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 6 (Benefit of order).

(13) Anglian Water must use its reasonable endeavours to mitigate and minimise any claim, costs, expenses, loss, demands and penalties pursuant to sub-paragraph (11). If requested to do so by the undertaker, Anglian Water shall provide an explanation of how the claim has been minimised.

(14) Any difference or dispute arising between the undertaker and Anglian Water under this Part must, unless otherwise agreed in writing between the undertaker and Anglian Water, be determined by arbitration in accordance with article 38(arbitration).

## PART 7

### For the protection of the Environment Agency and drainage authorities

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

**72.** In this Part—

“construction” includes execution, placing, altering, replacing, relaying and removal; and

“construct” and “constructed” must be construed accordingly;

“drainage authority” means—

(a) in relation to an ordinary watercourse, the drainage board concerned within the meaning of section 23 (prohibitions of obstructions etc in watercourses) of the Land Drainage Act 1991(a); and

(b) in relation to a main river or any sea defence work, the Environment Agency;

“drainage work” means any watercourse and includes any land that provides or is expected to provide flood storage capacity for any watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence, sea defence or tidal monitoring;

“ordinary watercourse” has the meaning given in the Land Drainage Act 1991(b);

“plans” includes sections, drawings, specifications and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 16 metres of a drainage work or is otherwise likely to—

(a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;

(b) affect the flow, purity, or quality of water in any watercourse; or

(c) affect the conservation, distribution or use of water resources.

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

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph 71.

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

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(a) c. 23. Section 23 was amended by the Environment Act 1995 (c. 29), Schedule 22, paragraph 192 and the Flood and Water Management Act 2010 (c. 29), Schedule 2, paragraph 32.

(b) See section 72(1).

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

(4) The drainage authority must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

**74.** Without limiting paragraph 71, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

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

**75.—**(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 72, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and
- (b) to the reasonable satisfaction of the drainage authority, and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

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

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

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

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

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

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

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

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

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

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

(5) This paragraph does not apply to—

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

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

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

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

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

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any raising or lowering of the water table in land adjoining the authorised development or any sewers, drains and watercourses; or
- (c) any flooding or increased flooding of any such land; and
- (d) where the drainage authority is the Environment Agency, inadequate water quality in any watercourse or other surface waters or in any groundwater, that is caused by the construction of any specified work by the undertaker or any act or omission of the undertaker, its contractors, agents or employees whilst engaged on the work.

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

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

**81.** Any dispute between the undertaker and the drainage authority under this Part, if the parties agree, must be determined by arbitration under article 38 (arbitration), but otherwise must be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Business, Energy and Industrial Strategy acting jointly on a reference to them by the undertaker or the drainage authority, after notice in writing by one to the other.

## PART 8

### For the protection of Ørsted Hornsea Project Three (UK) Ltd

**82.** The provisions of this Part apply for the protection of Orsted unless otherwise agreed in writing between the undertaker and Orsted.

**83.** In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by Orsted or its successor in title within the Hornsea Three Order Land;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“Crossing Area” means the land within land parcel 21/08 shown on the land plans and described in the book of reference;

“Orsted” means an undertaker with the benefit of all or part of the Hornsea Three Order for the time being;

“Hornsea Three Order” means any development consent order made by the Secretary of State in relation to Hornsea Three Offshore Wind Farm following the application of 14 May;

“Hornsea Three Order land” means Order land as defined in the Hornsea Three Order;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Hornsea Three Order land;

“proposed Hornsea Three Cable Corridor” means the proposed location for any electrical circuit(s) and construction compound(s) permitted by the Hornsea Three Order within the Hornsea Three Order land;

“specified works” means so much of any works or operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is—

- (a) within the Crossing Area;
- (b) in, on, under, over or within 25 metres of the proposed Hornsea Three Cable Corridor or any apparatus; or
- (c) may in any way adversely affect any apparatus.

**84.** The consent of Orsted under this Part is not required where the Hornsea Three Order has expired without the authorised development having been commenced pursuant to requirement 1 of Schedule 2 to the Hornsea Three Order.



**85.** Where conditions are included in any consent granted by Orsted pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by Orsted.

**86.** The undertaker must not under the powers of this Order—

- (a) acquire, extinguish, suspend, override or interfere with any rights that Orsted has in respect of any apparatus or the proposed Hornsea Three Cable Corridor;
- (b) acquire the Hornsea Three Order land or acquire any new rights or impose restrictive covenants or exercise any powers of temporary use over or in relation to the Hornsea Three Order land without the consent of Orsted, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

**87.—(1)** The undertaker must not under the powers of this Order carry out any specified works without the consent of Orsted, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions and if Orsted does not respond within 30 days then consent is deemed to be given.

(2) Subject to obtaining consent pursuant to sub-paragraph (1) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to Orsted and must submit such further particulars available to it that Orsted may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by Orsted.

(4) Any approval of Orsted required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus or the proposed Hornsea Three Cable Corridor or for securing access to any apparatus or the proposed Hornsea Three Cable Corridor;

(5) Without limiting sub-paragraph (1), it is not reasonable for Orsted to withhold or delay any consent or approval under this Part in relation to specified works in, on, under, or over the Crossing Area solely on the basis of thermal interaction where the plans of the specified works submitted under sub-paragraph (2) demonstrate that all reasonable steps have been taken to minimise thermal interaction between the specified works and any apparatus or the proposed Hornsea Three Cable Corridor.

(6) Where Orsted requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to Orsted's reasonable satisfaction.

(7) 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 specified works, new plans instead of the plans previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans.

**88.—(1)** The undertaker must give to Orsted not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give Orsted written notice of the completion.

(2) The undertaker is not required to comply with paragraph 87 or sub-paragraph (1) in a case of emergency, but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonable practicable subsequently and must comply with paragraph 87 in so far as is reasonably practicable in the circumstances.

**89.** The undertaker must at all reasonable times during construction of the specified works allow Orsted and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

**90.—(1)** After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from Orsted requiring the undertaker to do so, remove the temporary works in, on, under, over, or within the Crossing Area.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), Orsted may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

**91.** If in consequence of the exercise of the powers conferred by 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 Orsted to maintain or use the apparatus no less effectively than was possible before the obstruction.

**92.** The undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by Orsted to the proposed Hornsea Three Cable Corridor.

**93.** To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order within the Crossing Area request up-to-date written confirmation from Orsted of the location of any apparatus or the proposed Hornsea Three Cable Corridor.

**94.** The undertaker and Orsted must each act in good faith and use reasonable endeavours to cooperate with, and provide assistance to, each other as may be required to give effect to the provisions of this Part.

**95.** The undertaker must pay to Orsted the reasonable expenses incurred by Orsted in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the proposed Hornsea Three Cable Corridor.

**96.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by Orsted, or Orsted becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Orsted in making good such damage or restoring the service or supply; and
- (b) compensate Orsted for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Orsted, by reason or in consequence of any such damage or interruption or Orsted becoming liable to any third party as aforesaid.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Orsted, its officers, servants, contractors or agents.

(3) Orsted must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) Orsted must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 96 applies. If requested to do so by the undertaker, Orsted shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph 96 for claims reasonably incurred by Orsted.

(5) The fact that any work or thing has been executed or done with the consent of Orsted and in accordance with any conditions or restrictions prescribed by Orsted or in accordance with any plans approved by Orsted or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

**97.** Any dispute arising between the undertaker and Orsted under this Part must be determined by arbitration under article 38 (arbitration).

## EXPLANATORY NOTE

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

This Order grants development consent for, and authorises Norfolk Vanguard Limited to construct, operate and maintain a generating station located in the North Sea approximately 47km from the Norfolk coast, together with all necessary and associated development. For the purposes of the development that it authorises Norfolk Vanguard Limited is authorised by this Order compulsorily or by agreement to purchase land and rights in land to use land, as well as to override easements and other rights. This Order also provides a defence in proceedings in respect of statutory nuisance and to discharge water. The Order imposes requirements in connection with the development for which it grants development consent.

This Order also grants deemed marine licences for the marine licensable activities, being the deposit of substances and articles and the carrying out of works, involved in the construction of the generating station and associated development. The deemed marine licences impose conditions in connection with the deposits and works for which they grant consent.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 37 (certification of plans and documents, etc.) may be inspected free of charge on the website of the Planning Inspectorate (only during periods where restrictions on movement are in place under the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (SI 350)) or thereafter at the offices of North Norfolk District Council, Council Offices, Holt Road, Cromer, NR27 9EN.

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**APPENDIX 6 THE WHEELABRATOR KEMSLEY K3 GENERATING STATION ORDER 2021**



18. Procedure in relation to certain approvals
19. Service of notices

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## SCHEDULES

- SCHEDULE 1 — AUTHORISED DEVELOPMENT
- SCHEDULE 2 — REQUIREMENTS
- PART 1 — REQUIREMENTS
- PART 2 — K3 GENERATING STATION APPROVED PLANS AND DOCUMENTS
- SCHEDULE 3 — PROCEDURE FOR DISCHARGE OF REQUIREMENTS

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

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

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

The Secretary of State has considered the report and recommendation of the single appointed person, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(d) 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 an Order giving effect to the proposals comprised in the application with modifications which in the opinion of the Secretary of State do not make substantial changes to the proposals.

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

## PART 1

### PRELIMINARY

#### **Citation and commencement**

**1.** This Order may be cited as the Wheelabrator Kemsley K3 Generating Station Order 2021 and comes into force on 15th March 2021.

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(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).  
 (b) S.I. 2009/2264 as amended by S.I. 2013/522.  
 (c) S.I. 2010/103 was amended by S.I. 2012/635.  
 (d) S.I. 2017/572.



## Interpretation

### 2.—(1) In this Order—

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

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

“the 1989 Act” means the Electricity Act 1989(c);

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

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

“the 2008 Act” means the Planning Act 2008(f);

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016(g);

“authorised development” means the development and associated development described in Schedule 1 (authorised development), which is development within the meaning of section 32 of the 2008 Act;

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

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

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

“commissioning” means the process of testing all systems and components of Work No 1 (including systems and components which are not yet installed but the installation of which is near to completion), in order to verify that they function in accordance with the design objectives, specifications and operational requirements of the undertaker; and “commission” and other cognate expressions are to be construed accordingly;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order and submitted with the application on 11 September 2019 including all appendices thereto;

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

“K3 Generating Station” means a generating station having a capacity of up to 75MW, which was originally commissioned on 16 July 2020 pursuant to the K3 Sustainable Energy Plant Planning Permission and the approved plans and documents listed in Part 2 of Schedule 2 permitting the construction and operation of a generating station having a capacity of up to 49.9MW;

“K3 Sustainable Energy Plant Planning Permission” means planning permission SW/19/501345 granted on 14 June 2019 by Kent County Council pursuant to section 73 of the 1990 Act permitting the construction and operation of a generating station having a capacity of up to 49.9MW;

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

“maintain” includes (i) inspect, repair, adjust, alter, refurbish or improve the authorised development and (ii) in relation to any part (but not the whole of the authorised development) remove, reconstruct or replace that part provided those works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement; and “maintenance” is construed accordingly;

“MW” means megawatts of electrical output;

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- (a) 1961 c. 33.
  - (b) 1980 c. 66.
  - (c) 1989 c. 29.
  - (d) 1990 c. 8.
  - (e) 1991 c. 22.
  - (f) 2008 c. 29.
  - (g) S.I. 2016/1154.

“operational use” of the development comprising the authorised development means operational use for the purposes for which it is authorised under this Order but not including commissioning;

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

“Order limits” means the limits shown on the works plan 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 highway authority” means the highway authority for the area in which the relevant highway to which the relevant provision of this Order applies is situated;

“relevant planning authority” means the local planning authority for the area in which the land to which the relevant provision of this Order applies is situated;

“requirements” means those matters set out in Schedule 2 (requirements) to this Order;

“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 (subject to confirmation from the relevant highway authority), 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;

“undertaker” means WTI/EFW Holdings Ltd. (company number 07593865) or any other person who for the time being has the benefit of this Order in accordance with article 8 of this Order;

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

“works plan” means the plan certified as the works plan by the Secretary of State for the purposes of the Order.

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

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

(4) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by Schedule 1 of this Order.

(5) The expression “includes” shall be construed without limitation.

## PART 2

### PRINCIPAL POWERS

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

3. Subject to the provisions of this Order and to the requirements in Schedule 2 the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

#### **Effect of the Order on the K3 Sustainable Energy Plant Planning Permission**

4.—(1) The undertaker may not start operational use of the K3 Generating Station under this Order until notice has been served on the relevant planning authority that the undertaker is ceasing to operate the K3 Sustainable Energy Plant under the K3 Generating Station Planning Permission.

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(a) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 c. 34. There are other amendments to the 1981 Act which are not relevant to this Order.

(2) Upon service of the notice under paragraph (1) the K3 Sustainable Energy Plant Planning Permission will cease to have effect.

### **Authorisation of the operation of the authorised development**

**5.**—(1) The undertaker is authorised to operate the generating station forming part of the authorised development.

(2) Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required to authorise the operation of a generating station.

### **Power to maintain authorised development**

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

### **Benefit of the Order**

**7.** Subject to article 8 (consent to transfer benefit of order), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

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

**8.**—(1) Except where paragraph (4) applies, the undertaker may with the written 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 between the undertaker and the lessee.

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

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

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

- (a) the transfer or grant is made to K3 CHP Limited (Company number 09240062); or
- (b) the transfer or grant is made to a licence holder within the meaning of section 6(1) of the 1989 Act.

(5) Where the consent of the Secretary of State is not required under paragraph (4) the undertaker must provide written notification to the Secretary of State and the relevant planning authority at least 14 days prior to transferring and/or granting any benefit under paragraph (1).

## PART 3

### SUPPLEMENTARY POWERS

#### Access to works

**9.** The undertaker may with the approval of the relevant highway authority, form and lay out such means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

#### Discharge of water

**10.**—(1) Subject to paragraphs (3) to (5) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

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

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but shall not be unreasonably withheld.

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

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

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river without the prior written consent of the Environment Agency.

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

(7) This article does not authorise a groundwater activity or a water discharge activity for which an environmental permit would be required under regulation 12 of the 2016 Regulations.

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority; 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.

#### Authority to survey and investigate the land

**11.**—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;

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(a) 1991 c. 56. Section 106 was amended by sections 36(2) and 99 of the Water Act 2003 (c. 37). There are other amendments to this section which are not relevant to this Order.

(b) 1991 c. 57.

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

(2) No land may be entered or equipment placed or left on or removed from the land under sub-paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

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

- (a) must if so required on 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 shall be made under this article—

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

(5) A consent for the purpose of sub-paragraph (4)(a) or (b) may be given subject to such terms and conditions as the authority giving it may reasonably impose, but may not be unreasonably withheld.

(6) As soon as practicable following the exercise of any powers under paragraph (1), any vehicles, apparatus or equipment must be removed and the land shall be restored to the reasonable satisfaction of the owners of the land.

(7) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

### **Felling or lopping of trees**

**12.—**(1) The undertaker may fell or lop any tree or shrub within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

## PART 4

### MISCELLANEOUS AND GENERAL

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

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

(2) 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 is attributable to that construction or maintenance—
  - (i) in accordance with a notice served under section 60 (control of noise on construction site) of the Control of Pollution Act 1974<sup>(b)</sup>;
  - (ii) in accordance with a consent given under section 61 of that Act (prior consent for work on construction site); or
- (b) is a consequence of the construction, maintenance or operation of the authorised development and cannot reasonably be avoided.

(3) Section 61(9) (prior consent for work on construction site) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for purposes of or in connection with the construction or maintenance of the authorised development.

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

**14.**—(1) This article applies to—

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

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

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

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

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

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(a) 1990 c. 43.

(b) 1974 c. 40.

### **Operational land for purposes of the 1990 Act**

15. Development consent granted by this Order shall 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 not being operational land).

### **Certification of plans etc**

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

- (a) the book of reference (dated August 2020);
- (b) the land plan (drawing number 9812-0071-02 dated July 2020);
- (c) the work plan (drawing number 9812-0072-02 dated July 2020);
- (d) the environmental statement (dated September 2019);
- (e) the K3 Generating Station approved plans as follows:
  - (i) 16315-A1-P-0100 4.3D Proposed Site Layout Rev U dated November 2009;
  - (ii) 16315-A1-P-0110 4.4D South East Elevation Rev U dated November 2009;
  - (iii) 16315-A1-P-0111 4.5D North East Elevation Rev T dated November 2009;
  - (iv) 16315-A1-P-0112 4.6D South West Elevation Rev U dated November 2009;
  - (v) 16315-A1-P-0113 4.7D North West Elevation Rev T dated November 2009;
  - (vi) 16315-A1-4.21 Landscape Masterplan Rev M dated June 2013;
- (f) the K3 rail and water transportation strategy (dated September 2019);
- (g) the Design and Access Statement dated September 2019;
- (h) the draft K3 operational traffic routing and management plan; and
- (i) the draft K3 travel plan – Highways England version (dated 7 August 2020)

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

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

### **Arbitration**

17. Any difference under any provision of this Order, unless otherwise provided for, shall be referred to and settled in writing 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.

### **Procedure in relation to certain approvals**

18.—(1) Where an application is made to or request is made of the relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any agreement or approval required or contemplated by any of the provisions of this Order, such agreement or approval must, if given, be given in writing and may not be unreasonably withheld.

(2) Schedule 3 (procedure for discharge of requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to Schedule 2 (requirements).

### **Service of notices**

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

- (a) by post;

- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8), by electronic transmission.

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

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

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

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

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

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

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

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

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

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

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

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

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(a) 1978 c. 30.



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

19th February 2021

*Gareth Leigh*  
Head of Energy Infrastructure Planning  
Department for Business, Energy and Industrial Strategy

## SCHEDULES

### SCHEDULE 1

Article 3

#### AUTHORISED DEVELOPMENT

In the County of Kent a nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the 2008 Act and associated development within the meaning of s115(2) of the 2008 Act—

Work No. 1- An electricity generating station (the K3 Generating Station) with a gross installed generating capacity of up to 75MW and capacity to process up to 657,000 tonnes of waste per annum, comprising the following works—

- (a) tipping hall;
- (b) waste fuel bunker;
- (c) boiler hall;
- (d) flue gas treatment building;
- (e) turbine hall housing steam turbine and generator;
- (f) air cooled condenser;
- (g) stack and associated emissions monitoring system;
- (h) electricity substation;
- (i) stores and utilities;
- (j) administration office;
- (k) fire water tanks;
- (l) stores;
- (m) weighbridges, gatehouses, fuel tank, raw water tank, vehicle ramps, diesel generators.

Work No. 1A – Installation of grid connection for Work No 1.

Work No. 1B – Installation of steam connection for Work No 1.

#### **Associated development**

Associated development within the meaning of section 115(2) of the 2008 Act in connection with those works including—

Work No. 1C - Alteration of existing private access road to construct, use and maintain Work No 1.

Work No. 1D - Creation of a temporary construction compound and laydown area for the construction of Work No 1.

Work No. 1E - Construction and operation of a surface water outfall for Work No. 1.

In connection with and in addition to Work No. 1 to the extent that it does not otherwise form part of that work, further associated development including—

- (a) pipe racks and pipe runs;
- (b) external lighting;
- (c) fencing, boundary treatment and other means of enclosure;
- (d) signage;

- (e) CCTV and other security measures;
- (f) surface and foul water drainage facilities;
- (g) potable water supply;
- (h) new telecommunications and utilities apparatus and connections;
- (i) hard and soft landscaping;
- (j) biodiversity enhancement measures;
- (k) works to permanently alter the position of existing telecommunications and utilities apparatus and connections;
- (l) works for the protection of buildings and land affected by the authorised development;
- (m) site establishment and preparation works, including site clearance (including temporary fencing and vegetation removal), earthworks (including soil stripping and storage and site levelling) and excavations, the creation of temporary construction access points and the temporary alteration of the position of services and utilities apparatus and connections;
- (n) establishment of temporary construction compounds, vehicle parking areas, materials storage and laydown areas, construction related buildings, structures, plant and machinery, lighting and fencing, internal haul routes and wheel wash facilities;

and, to the extent that it does not form part of such works, further associated development comprising such other works as (i) may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and (ii) fall within the scope of the works assessed in the environmental statement.

## SCHEDULE 2 REQUIREMENTS

Article 3

### Interpretation

1.—(1) In this Schedule—

“approved Landscape Masterplan” means the K3 Generating Station approved Landscape Masterplan listed in Part 2 of Schedule 2;

“approved plans” means any approved plans or other plans, details, schemes or other documents which require approval by the relevant planning authority pursuant to any requirement or which are already approved and listed in Part 2 of Schedule 2;

“commencement” means beginning to carry out any material operation, as defined in section 155 of the 2008 Act (which explains when development begins), other than permitted preliminary works, comprised in or carried out for the purposes of the authorised development; and “commence” and other cognate expressions are to be construed accordingly;

“Kemsley Paper Mill” means the paper mill on the land immediately adjacent to the Order land at Sittingbourne, Kent operated by DS Smith Limited;

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

“permitted preliminary works” means site clearance work, survey work, the erection of any temporary means of enclosure, the preparation of facilities for the use of the contractor, the temporary display of site notices and advertisements and the provision of site security, and archaeological field work, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, and the diversion and laying of services, provided that no permitted preliminary works will give rise to any materially new or materially different effects from those assessed in the environmental statement;

“rail and water transportation strategy” means the rail and water transportation strategy certified by the Secretary of State under article 16.

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

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

## PART 1 REQUIREMENTS

### Commencement of the authorised development

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

### Notice of commissioning

3.—(1) Notice of commencement of commissioning of Work No 1 must be given to the relevant planning authority within 7 days of the date on which commissioning is commenced.

(2) Notice of completion of commissioning of Work No 1 must be given to the relevant planning authority within 7 days of the date on which commissioning is completed.

### **Decommissioning**

**4.**—(1) Within six months after it notifies the relevant planning authority that it intends to decommission the K3 Generating Station, the undertaker must submit to the relevant planning authority for its approval a written decommissioning environmental management plan for that generating station.

(2) Decommissioning works must not be carried out until the relevant planning authority has approved the scheme.

(3) The decommissioning environmental management plan submitted and approved must include details of—

- (a) the buildings to be demolished;
- (b) the means of removal of the materials resulting from the decommissioning works;
- (c) the phasing of the demolition and removal works;
- (d) all measures necessary for the protection from the potential environmental effects pursuant to decommissioning;
- (e) any restoration works to restore the Order land to a condition agreed with the relevant planning authority;
- (f) the phasing of any restoration works;
- (g) a timetable for the implementation of the scheme.

(4) The undertaker must implement the scheme as approved and is responsible for the costs of the decommissioning works.

### **Fuel storage**

**5.**—(1) All fuels, oils and other liquids with the potential to contaminate the Order land shall be stored in a secure bonded area in order to prevent any accidental or unauthorised discharge to the ground.

(2) The area for storage shall not drain to any surface water system.

(3) Where it is proposed to store more than 200 litres of any type of oil must be stored in accordance with the provisions of the Control of Pollution (Oil Storage) (England) Regulations 2001(a).

(4) Where a drum or barrel has a capacity less than 200 litres a drip tray capable of retaining 25% of the maximum capacity of the drum or barrel may be used in lieu of storing the drum or barrel in the secure bonded area.

### **Rail and water transportation strategy**

**6.** The K3 Generating Station must be operated in accordance with the approved K3 rail and water transportation strategy.

### **Amendments to approved plans, etc.**

**7.**—(1) With respect to any approved plans, the undertaker may submit to the relevant planning authority for approval any amendments to the approved plans and following any such approval by the relevant planning authority the approved plans are to be taken to include the amendments approved pursuant to this paragraph.

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(a) S.I. 2001/2954.

(2) Approval under sub-paragraph (1) for any amendments to the parameters must not be given except where it has been demonstrated to the satisfaction of the relevant planning authority that the subject-matter of the approval sought does not give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved (as identified in the environmental statement).

### **Works in the vicinity of gas apparatus**

**8.**—(1) No work involving excavations shall take place within 3 metres of gas apparatus belonging to Southern Gas Networks PLC unless the undertaker has first obtained written consent from Southern Gas Networks PLC for those works to proceed.

(2) The undertaker shall provide such information as Southern Gas Networks PLC may reasonably require in order for it to respond to a request for consent under sub-paragraph (1).

### **Approved details**

**9.** The authorised development must be carried out in accordance with the K3 Generating Station approved plans and documents as listed in Part 2 of this Schedule.

### **Operational traffic and travel plans**

**10.**—(1) The number of Heavy Goods Vehicle Movements to and from the K3 Generating Station shall not exceed 348 movements per day until the following have been submitted to and, after consultation with the relevant highway authority, approved by the relevant planning authority:

- (a) a written operational traffic routing and management plan; and,
- (b) a written travel plan for operational staff.

(2) The plan submitted and approved under sub-paragraph (1)(a) must be in accordance with the draft K3 operational traffic routing and management plan certified by the Secretary of State under article 16.

(3) The plan submitted and approved under sub-paragraph (1)(b) must be in accordance with the draft K3 travel plan certified by the Secretary of State under article 16.

(4) The plans referred to in sub-paragraphs (1)(a) and (1)(b) must be implemented as approved.

(5) Subject to paragraph (1), the total maximum number of Heavy Goods Vehicle Movements to and from the K3 Generating Station shall not exceed a combined total of 416 movements per day subject to any prior written variation as approved by the relevant planning authority

(6) Sub-paragraphs (1) to (5) do not apply to waste deliveries originating from and returning to the railway depot at Ridham Docks accessing and egressing the K3 Generating Station by the use of Ridham Dock Road.

### **Trees**

**11.**—(1) All trees and shrubs planted under the approved Landscape Masterplan shall be maintained for a period of 5 years.

(2) Any trees or shrubs that either die, are lost, damaged or become diseased during this 5 year period shall be replaced with a tree or shrub of the same species within the next available planting season.

### **Surface water drainage**

**12.** All surface water drainage from the authorised development discharging to a local water course shall be attenuated for a 1:100 year return storm with a limited discharge of 7 litres per second per hectare or the equivalent run off from a greenfield site for a 1:2 storm.

### Combined heat and power

13.—(1) Within 12 months of ceasing to supply heat and/or power to the Kemsley Paper Mill, the undertaker must submit to the relevant planning authority for its approval a strategy (“the CHP strategy”).

(2) The CHP strategy submitted and approved must—

- (a) consider the opportunities that reasonably exist at the time of submission for the export of heat and/or power from the K3 Generating Station to other users; and
- (b) include a list of actions (if any) that the undertaker is reasonably to take (without material additional cost to the undertaker) to increase the potential for the export of heat from the K3 Generating Station to other users.

(3) The undertaker must take such actions as are included, within the timescales specified, in the approved CHP strategy.

## Part 2

### K3 GENERATING STATION APPROVED PLANS AND DOCUMENTS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Reference</i>	<i>(3)</i> <i>Revision</i>
Environmental Statement	March 2010	
ES Addendum (Air Quality)	June 2013	
ES Chapter 10 – Hydrology and Flood Risk – Supplementary Report	May 2017	
ES Addendum	May 2018	
Design and Access Statement	March 2010	
Surface Water Management and Foul Drainage Design Philosophy	December 2016	
Ecological Mitigation and Management Plan	JPP1804-MP-001d	July 2013
Flood Risk Assessment	May 2019	
Proposed (Permitted) Site Location Plan	16315/A0/P/0060	Rev N
Proposed Site Layout	16315/A1/P/0100	Rev U
Proposed Building Layout	16315/A0/P/0105	Rev L
Boundary Treatment	16315/A0/P/0106	Rev R
South East Elevation	16315/A1/P/0110	Rev U
North East Elevation	16315/A1/P/0111	Rev T
South West Elevation	16315/A1/P/0112	Rev U
North West Elevation	16315/A1/P/0113	Rev T
Proposed Structure for Air Cooled Condenser (URC) Elevations	16315/A1/P/0121	Rev N
Main Building – Proposed South East Elevation	16315/A0/P/0125	Rev K
Main Building – Proposed North East Elevation	16315/A1/P/0126	Rev K
Main Building – Proposed South West Elevation	16315/A1/P/0127	Rev L
Main Building – Proposed North West Elevation	16315/A0/P/0128	Rev K

Site Layout and Access	16315/A1/P/0160	Rev K
Typical Office and Staff Amenities Building (UYA) Floor Plans	16315/A1/P/0171	Rev H
Proposed Gatehouse Floor Plan	16315/A2/P/0172	Rev L
Site Sections	16315/A0/0250	Rev J
Proposed Drainage Layout	16315/A0/0301	Rev J
Proposed Levels Site Plan	16315/A1/0600	Rev H
Illustrative Visual 1 of 7	16315/P/0150	Rev R
Illustrative Visual 2 of 7	16315/P/0151	Rev P
Illustrative Visual 3 of 7	16315/P/0152	Rev O
Illustrative Visual 4 of 7	16315/P/0153	Rev Q
Illustrative Visual 5 of 7	16315/P/0154	Rev O
Illustrative Visual 6 of 7	16315/P/0155	Rev O
Illustrative Visual 7 of 7	16315/P/0156	Rev R
Landscape Masterplan	16315/A1/4.21	Rev M
Fuel Bunker Level +2.0000m	16315/A1/P/0220	Rev D
Fuel Bunker Level +20.000m and Level +36.000m	16315/A1/P/0221	Rev E
Fuel Bunker Section A-A	16315/A1/P/0222	Rev C
Fuel Bunker Section B-B	16315/A0/P/0223	Rev C
Tipping Hall Layout Level +2.000m	16315/A1/P/0201	Rev E
Tipping Hall Section A-A	16315/A1/P/0202	Rev D
Overall Roof Layout Comparison Drawing	16315/A1/P/0200	Rev H
Lighting Discharges Report	20020117LXI0019	Rev C
External Lighting Technical Submission	20020117LXJ0922	Rev I
External Lighting Drawing	20020117LXG0907	Rev H
K3 External Lighting Strategy	ECO00047 Fig1	-
Access Road - Proposed	9163-0135-01-JNY9060	Rev 01
Proposed Internal Access Layout		
K3 Employment Strategy	March 2012	

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## SCHEDULE 3

Article 18

### PROCEDURE FOR DISCHARGE OF REQUIREMENTS

#### **Application of this Schedule**

1. This Schedule applies to an application made by the undertaker to the planning authority (referred to in this Schedule as “the authority”) for an approval, consent or agreement required by any of the requirements.

#### **Decision Period**

2.—(1) The authority must give written notice to the undertaker of its decision on the application before the end of the decision period.

(2) In sub-paragraph (1), “the decision period” means—

- (a) where the authority does not give written notice under paragraph 3(1) or (2) requiring further information, the period of eight weeks from the later of—
  - (i) the day immediately following the day on which the authority receives the application, and
  - (ii) the day on which the authority receives the fee payable under paragraph 4; or
- (b) where the authority gives written notice under paragraph 3(1) or (2) requiring further information, the period of eight weeks from the day immediately following the day on which the undertaker provides the further information; or
- (c) such longer period as may be agreed in writing by the undertaker and the authority.

#### **Further information**

3.—(1) If the authority considers that it requires further information to make a decision on the application, it must give written notice to the undertaker specifying the further information required within seven business days from the day on which it receives the application.

(2) If the relevant requirement requires that authority to consult a person (referred to in this Schedule as a “consultee”) in relation to the application—

- (a) the authority must consult the consultee within five business days from the day on which it receives the application;
- (b) if the consultee considers that it requires further information to respond to the consultation, it must so notify the authority, specifying what further information is required, within 18 business days from the day on which the authority received the application; and
- (c) within five business days from the day on which it receives any such notification from the consultee, the authority must give written notice to the undertaker specifying the further information required by the consultee.

(3) If the authority, after consultation with any consultee, considers that further information provided by the undertaker in response to a written notice from the authority under sub-paragraph (1) or (2) is not sufficient to allow it to make a decision on the application, it must give written notice to the undertaker specifying what further information is still required, within seven business days from the day on which the undertaker provided the information.

(4) If the authority does not give written notice in accordance with sub-paragraph (1), (2) or (3), it is not entitled to request any additional information in relation to the application without the prior agreement in writing of the undertaker.

## Fees

4.—(1) The undertaker must pay the authority a fee of £116, or such greater fee as for the time being is payable to the authority in respect of an application for the discharge of a condition imposed on a grant of planning permission, in respect of each application.

(2) The authority must refund the fee paid under sub-paragraph (1) to the undertaker, within the relevant period, if it—

- (a) rejects the application as being invalidly made;
- (b) fails to give the written notice required by paragraph 2(1).

(3) Sub-paragraph (2) does not apply if, within the relevant period, the undertaker agrees in writing that the authority may retain the fee paid and credit it in respect of a future application.

(4) In sub-paragraphs (2) and (3) “the relevant period” means the period of eight weeks from, as the case may be—

- (a) the day on which the authority rejects the application as being invalidly made;
- (b) the day after the day on which the decision period expires.

## Appeal to the Secretary of State (procedure)

5.—(1) The undertaker may appeal to the Secretary of State against—

- (a) the authority’s refusal of an application;
- (b) the authority’s grant subject to conditions of an application;
- (c) the authority’s failure to give the written notice required by paragraph 2(1);
- (d) a written notice given by the authority under paragraph 3(1), (2) or (3).

(2) In order to appeal, the undertaker must, within 10 business days from the relevant day, send the Secretary of State the following documents—

- (a) its grounds of appeal;
- (b) a copy of the application submitted to the authority;
- (c) any supporting documentation which it wishes to provide.

(3) In sub-paragraph (2), “the relevant day” means—

- (a) in the case of an appeal under sub-paragraph (1)(a) or (b), the day on which the undertaker is notified by the authority of its decision;
- (b) in the case of an appeal under sub-paragraph (1)(c), the day after the day on which the decision period expires;
- (c) in the case of an appeal under sub-paragraph (1)(d), the day on which the undertaker receives the authority’s notice.

(4) At the same time as it sends the documents mentioned in sub-paragraph (2) to the Secretary of State, the undertaker must send copies of those documents to the authority and any consultee.

(5) As soon as reasonably practicable following receipt of the documents mentioned in sub-paragraph (2), the Secretary of State must—

- (a) appoint a person (referred to in this Schedule as “the appointed person”) to determine the appeal on his behalf;
- (b) give written notice to the undertaker, the authority and any consultee of the appointment and of the appointed person’s address for correspondence in relation to the appeal.

(6) Within 20 business days from the day on which the Secretary of State gives notice under sub-paragraph (5)(b), the authority and any consultee—

- (a) may submit written representations in respect of the appeal to the appointed person; and
- (b) must, at the same time, send a copy of any such representations to the undertaker and (if applicable) to each other.

(7) Within 10 business days from the last day on which representations are submitted to the appointed person under sub-paragraph (6), any party—

- (a) may make further representations to the appointed person in response to the representations of another party; and
- (b) must, at the same time, send a copy of any such further representations to each other party.

#### **Appeal to the Secretary of State (powers of the appointed person)**

6.—(1) The appointed person may—

- (a) allow or dismiss the appeal;
- (b) reverse or vary any part of the authority's decision, irrespective of whether the appeal relates to that part;
- (c) make a decision on the application as if it had been made to the appointed person in the first instance.

(2) The appointed person—

- (a) if he considers that he requires further information to make a decision on the appeal, may by written notice require any party to provide such further information to him and to each other party by a specified date;
- (b) if he gives such a notice, must—
  - (i) at the same time send a copy of it to each other party, and
  - (ii) allow each party to make further representations in relation to any further information provided in response to the notice, within 10 business days from the day on which it is provided.

(3) The appointed person may waive or extend any time limit (including after it has expired) for the provision of representations or information in relation to an appeal.

#### **Appeal to the Secretary of State (supplementary)**

7.—(1) The decision of the appointed person on an appeal may not be challenged except by proceedings for judicial review.

(2) If the appointed person grants approval of an application, that approval is to be taken as if it were an approval granted by the authority in relation to the application.

(3) Subject to sub-paragraph (4), the undertaker must pay the reasonable costs of the appointed person incurred in deciding the appeal.

(4) On written application by the authority or the undertaker, the appointed person may make a direction as to the costs of the parties to the appeal and of the appointed person, including imposing an obligation on any party to pay all or part of such costs to the party which incurred them.

(5) In considering an application under sub-paragraph (4) the appointed person must have regard to the National Planning Practice Guidance: Advice on planning appeals and the award costs or any circular or guidance which may from time to time replace it.

## **EXPLANATORY NOTE**

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

This Order grants development consent for WTI/EFW Holdings Ltd (company number 07593865) to construct, operate and maintain the K3 Generating Station, an electricity generating station with a gross installed capacity of up to 75MW.

The Order also authorises associated development and imposes requirements in connection with the development.

A copy of the various documents referred to in this Order and certified in accordance with article 16 (certification of plans, etc) of this Order may be inspected free of charge during working hours at the offices of Kent County Council, Sessions House, County Hall, Maidstone, Kent ME14 1XQ.

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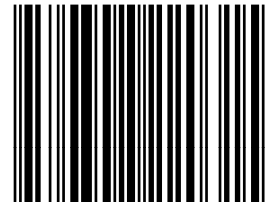
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**APPENDIX 7 THE WEST BURTON C (GAS FIRED GENERATING STATION) ORDER 2020**





**PART 6**  
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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) for an Order granting development consent.

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(c).

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

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

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120 and 140 of the 2008 Act, makes the following Order—

- 
- (a) 2008 c.29. Sections 37, 83, 114 and 120 were amended by Localism Act 2011 (c.20). Section 115 was amended by the Localism Act 2011, the Housing and Planning Act 2016 (c.22) and the Wales Act 2017 (c.4).
- (b) S.I. 2009/2264, relevant amendments were made by S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2015/377, S.I. 2017/572; S.I. 2017/524 and S.I. 2020/764, and the instrument modified by S.I. 2012/1659.
- (c) S.I. 2010/103, as amended by S.I. 2012/635.

## PART 1

### Preliminary

#### Citation and commencement

**1.—**(1) This Order may be cited as the West Burton C (Gas Fired Generating Station) Order 2020 and comes into force on 11th November 2020.

#### Interpretation

**2.—**(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961**(a)**;

“the 1980 Act” means the Highways Act 1980**(b)**;

“the 1989 Act” means the Electricity Act 1989**(c)**;

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

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

“the 2008 Act” means the Planning Act 2008;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) which is development within the meaning of section 32 of the 2008 Act;

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

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

“CCGT” means combined cycle gas turbine;

“the combined heat and power assessment” means the document certified as the combined heat and power assessment by the Secretary of State for the purposes of this Order;

“commence”, unless otherwise provided for, means beginning to carry out any material operation (as defined in section 155 of the 2008 Act) forming the relevant part of the authorised development other than operations consisting of preliminary works, site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “commencement” is construed accordingly;

“discharging authority” means the body responsible for giving any agreement or approval required by a requirement;

“electrical cables” means overhead or underground cables including fibre optic cables;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

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

“framework construction traffic management plan” means the document certified as the framework construction traffic management plan by the Secretary of State for the purposes of this Order;

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(a) 1961 c.33.  
 (b) 1980 c.66.  
 (c) 1989 c.29.  
 (d) 1990 c.8.  
 (e) 1991 c.22.

“framework construction workers’ travel plan” means the document certified as the framework construction workers’ travel plan by the Secretary of State for the purposes of this Order;

“gross rated electrical output” means the aggregate of gross electrical power as measured at the terminals of each generator in accordance with standards agreed with the regulating authority under the Environmental Permitting (England and Wales) Regulations 2016(a);

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

“Highways England” means Highways England Company Ltd (company registration number 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ; “Historic England” means the Historic Buildings and Monuments Commission for England;

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

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

“the landscaping and biodiversity management and enhancement plan” means the document certified as the landscaping and biodiversity management and enhancement plan by the Secretary of State for the purposes of this Order;

“Lead Local Flood Authority” means Nottinghamshire County Council or any replacement body;

“lighting strategy” means the document certified as the lighting strategy by the Secretary of State for the purposes of this Order;

“maintain” includes, to the extent assessed in the environmental statement, inspect, repair, adjust, alter, refurbish, remove, reconstruct any part (but not the whole), replacement of any part (but not the whole) and improve, but not so as to vary from the description of the authorised development and “maintenance” is construed accordingly;

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

“outline drainage strategy” means the document certified as the outline drainage strategy by the Secretary of State for the purposes of this Order;

“OCGT” means open cycle gas turbine;

“outline written scheme of investigation” means the document certified as the outline written scheme of investigation by the Secretary of State for the purposes of this Order;

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

“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;

“relevant internal drainage board” means Trent Valley Internal Drainage Board or any replacement body;

“relevant planning authority” in relation to any land means the district planning authority for the area in which the land is situated;

“requirements” means those matters set out in Schedule 2 to this Order;

“scheduled works” means the numbered works specified in Schedule 1 to this Order, or any part of them;

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(a) S.I. 2016/1154. There are no amendments to this instrument that are relevant here.

(b) 1981 c.67. The definition of “owner” was amended by the Planning and Compensation Act 1991 (c.34).

“sewerage undertaker” has the same meaning as in Schedule 1 of the Interpretation Act 1978(a);

“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 any footpath and any part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“tree preservation order” has the meaning given in section 198 of the 1990 Act(b).

“undertaker” means EDF Energy (Thermal Generation) Limited (company number 4267569) whose registered office is 90 Whitfield Street, London, England, W1T 4EZ;

“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;

“West Burton A” means West Burton A, a coal fired power station operated by the undertaker, forming part of the West Burton Power Station Site;

“West Burton B” means West Burton B CCGT, a gas fired power station operated by the undertaker, forming part of the West Burton Power Station Site;

“West Burton Power Station Site” means the land near Retford in Nottinghamshire within the ownership of the undertaker comprising West Burton A, West Burton B and other land including the Order limits; and

“the works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) Save in relation to Tables 1 and 2 of Schedule 2 all distances, directions and lengths referred to in this Order are approximate and distances between points on a scheduled work comprised in the authorised development will be taken to be measured along that scheduled work.

## PART 2

### Principal Powers

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

**3.**—(1) Subject to the provisions of this Order and to the requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Subject to article 6 (limits of deviation) the development must be constructed and installed in the lines and situations shown on the works plans.

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

**4.**—(1) 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.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

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(a) 1978 c.30. The definition of “sewerage undertaker” was inserted by section 6 of the Water Industry Act 1991 (c.56) and words within definition inserted by section 2 of the Water Consolidation (Consequential Provisions) Act 1991 (c.60).

(b) Section 198 was amended by section 192, section 238 of and Schedule 13 to the 2008 Act and by section 42 of the Planning and Compulsory Purchase Act 2004(c. 5).

## PART 3

### Operations

#### **Operation of generating station**

5.—(1) The undertaker is hereby authorised to use and to operate the generating station comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

#### **Limits of deviation**

6. In carrying out the authorised development the undertaker may deviate laterally from the lines or situations of the authorised development shown on the works plans within the relevant areas shown on those plans.

#### **Benefit of Order**

7.—(1) — Except as otherwise provided in this Order, the provisions of this Order have effect solely for the benefit of the undertaker.

(2) 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

except where paragraph (5) applies in which case no such consent is required.

(3) Where a transfer or grant has been made in accordance with paragraph (2) references in this Order to the undertaker, except in paragraph (4) include references to the transferee or the lessee.

(4) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) 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.

(5) This paragraph applies where the transferee or lessee is a person who holds a licence under section 6 of the 1989 Act(a) or section 7 of the Gas Act 1986(b).

(6) Where the consent of the Secretary of State is not required under paragraph (5) the undertaker must notify the Secretary of State in writing before transferring or granting a benefit referred to in paragraph (2).

(7) The notification referred to in paragraph (6) must state -

- (a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;
- (b) subject to paragraph (8), the date on which the transfer will take effect;
- (c) the powers to be transferred or granted;

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(a) Section 6 was amended by section 30 of the Utilities Act 2000 (c.27), section 136, 143, 145 and 197 of and schedule 23 to the Energy Act 2004 (c.20), section 79 of and Schedule 8 to the Climate Change Act 2008 (c.27), the Electricity and Gas (Internal Markets) Regulations (S.I. 2011/2704) and the Electricity and Gas (Smart Meters Licensable Activity) Order (S.I. 2012/2400).

(b) 1986 c.44, Section 7 was substituted by section 5 of the Gas Act 1995 (c.45) and then amended by section 76(2) of the Utilities Act 2000 (c.27). There are other amendments to the section that are not relevant to this Order.

- (d) pursuant to paragraph (4), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and
- (e) where relevant, a plan showing the works or areas to which the transfer or grant relates.

(8) The date specified under paragraph (7)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notice

(9) The notice given under paragraph (7) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

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

**8.**—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by persons aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (statutory nuisances and inspections therefor no order is to be made, and no fine is to be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(b); or
  - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in accordance with a scheme of monitoring of noise agreed with the relevant planning authority as described in requirement 22 (control of noise - operation); or
  - (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include 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.

## **PART 4**

### **Streets**

#### **Temporary prohibition or restriction of use of streets**

**9.**—(1) The undertaker may, during and for the purposes of carrying out the authorised development, temporarily divert or prohibit or restrict the use of any street specified in column 2

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- (a) 1990 c.43. Section 82(1) was amended by section 107 of and Schedule 17 to the Environment Act 1995 (c.25). There are other amendments to this Act which are not relevant to this Order. Section 79(1) was amended by section 120 of and schedule 22 to the Environment Act 1995. There are other amendments to section 79(1) that are not relevant to this Order. Section 82(2) was amended by section 5 of the Noise and Statutory Nuisance Act 1993 (c.40) and section 107 of and schedule 17 to the Environment Act 1995.
  - (b) 1974 c.40. Section 61 was amended by section 162 of and schedule 24 to the Environmental Protection Act 1990. There are other amendments to this Act which are not relevant to this Order.

of Schedule 4 (streets subject to temporary prohibition or restriction of use) and may for any reasonable time—

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

(2) The undertaker must provide reasonable access for non-motorised users (including pedestrians) going to or from premises abutting a street affected by the temporary diversion, prohibition or restriction of a street under this article if there would otherwise be no such access.

(3) The undertaker must not temporarily divert or prohibit or restrict the use of—

- (a) any street referred to in paragraph (1) without first consulting the street authority; or
- (b) any other street without the prior written consent of the street authority which may attach reasonable conditions to any consent.

(4) If a street authority fails to notify the undertaker of its decision within 4 weeks of receiving an application for consent under paragraph (3)(b) (or such longer period as may be agreed with the undertaker in writing) that street authority is deemed to have granted consent.

(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 (determination of questions of disputed compensation) of the 1961 Act.

### **Agreements with street authorities**

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

- (a) any diversion or prohibition or restriction of use of a street authorised by this Order; or
- (b) the temporary removal and reinstatement of street furniture.

(2) Such an agreement may, without prejudice to the generality of paragraph (1),—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

## **PART 5**

### **Supplemental powers**

#### **Discharge of water**

**11.**—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain subject to the obtaining of consent and approval respectively pursuant to paragraphs (3) and (4) below.

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

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject

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(a) 1991 c.56. Section 106 was amended by sections 36 and 99 the Water Act 2003 (c.37), sections 35 and 43 of the Competition and Services (Utilities) Act 1992 (c.43), and section 32 of and schedule 3 to the Flood and Water Management Act 2010 (c.29).

to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

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

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river other than in accordance with a consent granted by the Environment Agency.

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

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1) of the Environmental Permitting (England and Wales) Regulations 2016 (requirement for an environmental permit).

- (8) In this article—
- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, a harbour authority within the meaning of section 57 of the Harbours Act 1964<sup>(a)</sup> (interpretation), an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and
  - (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991<sup>(b)</sup> have the same meaning as in that Act.

## PART 6

### Miscellaneous and General

#### Application of landlord and tenant law

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

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

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

(3) Accordingly, no such enactment or rule of law to which paragraph (2) 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;

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(a) 1964 c.40.

(b) 1991 c.57.



- (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**

**13.** 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 not being operational land).

### **Felling or lopping of trees**

**14.—(1)** The undertaker may fell or lop any tree or shrub within or overhanging the Order limits or within the extent of the publicly maintainable highway near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or operation of the authorised development.

(2) In relation to the felling or lopping of any tree or shrub within the publicly maintainable highway, the power contained in paragraph (1) must only be exercised in connection with the delivery of abnormal indivisible loads to the West Burton Power Station Site.

(3) In carrying out any activity authorised by paragraph (1) the undertaker must –

- (a) give at least 14 days' notice to the relevant planning authority of its intention to fell or lop any tree or shrub overhanging the Order limits or within the extent of the publicly maintainable highway;
- (b) do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (c) the duty contained in section 206(1) of the 1990 Act (replacement of trees)(a) does not apply.

(4) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(5) 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).

### **Protective provisions**

**15.** Schedule 5 (protective provisions) has effect.

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

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

- (a) the combined heat and power assessment (Document 7.2 Rev 0);
- (b) the environmental statement (Document 5.2 Rev 0);
  - (i) Chapter 9 (Ecology Chapter) of the environmental statement (Rev 2);
- (c) the framework construction environmental management plan (Document 7.3 Rev 2);
- (d) the framework construction traffic management plan (Document 7.6 Rev 3);
- (e) the framework construction workers' travel plan (Document 7.7 Rev 0);

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(a) Section 206(1) was amended by section 192 of and schedule 8 to the 2008 Act.

- (f) the indicative layout plans (Document 3.4 Rev 0);
- (g) the land plans (Document 3.3 Rev 0);
- (h) the landscaping and biodiversity management and enhancement plan (Document 7.5 Rev 4);
- (i) the lighting strategy (Document 7.4 Rev 0);
- (j) the outline drainage strategy (Document 7.8 Rev 0);
- (k) the outline written scheme of investigation (Document 7.9 Rev 0); and
- (l) the works plans (Document 3.2 Rev 0),

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.

#### **Procedure in relation to certain approvals etc.**

**17.**—(1) Where an application is made to or request is made of the relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any agreement or approval required or contemplated by any of the provisions of this Order, such agreement or approval must, if given, be given in writing and must not be unreasonably withheld or delayed.

(2) Schedule 3 (procedure for discharge of requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to the requirements.

#### **Arbitration**

**18.** Any difference under any provision of this Order, unless otherwise provided for, 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.

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

21st October 2020

*Gareth Leigh*  
Head of Energy Infrastructure Planning  
Department for Business, Energy and Industrial Strategy

## SCHEDULES

### SCHEDULE 1

Article 2, 3, 5

#### AUTHORISED DEVELOPMENT

In the County of Nottinghamshire and District of Bassetlaw a nationally significant infrastructure project as defined in sections 14(a) (nationally significant infrastructure projects: general) and 15 (generating stations) of the 2008 Act, comprising—

Work No.1 — a gas fired generating station located on the West Burton Power Station Site with a gross electrical output capacity of up to 299MW comprising—

- (a) up to 5 OCGT units and associated generators, potentially housed within buildings with stacks, transformers, air inlet filters and exhaust gas diffusers;
- (b) associated switchgear and ancillary equipment; and
- (c) auxiliary closed loop cooling equipment/system.

Work No.1 may also include a banking compound comprising up to 6 transformers, overhead busbars, cable sealing ends and associated switchgear and ancillary equipment.

Work No.2 – a gas receiving area, gas treatment and control facilities, a compression station, generator and other auxiliary control cabinets and equipment.

Work No.3 – electrical connection works comprising—

Work No. 3A – up to 400 kV electrical cables and control systems cables to and from the existing West Burton B switchyard; and

Work No. 3B – works within or adjacent to the existing West Burton B switchyard, including electrical cables, connections to busbars and upgraded or replacement equipment.

Work No.4 – auxiliary buildings, structures and equipment, comprising—

- (a) emergency diesel generator and associated diesel fuel tank;
- (b) contained road tanker diesel unloading area;
- (c) workshop, store, control, administration and welfare building;
- (d) above ground raw water and fire water storage tanks and associated infrastructure;
- (e) area of hardstanding for maintenance laydown and erection of temporary buildings associated with the commissioning, operation and maintenance of the OCGT units;
- (f) pipework, pipe runs and pipe racks;
- (g) fire-fighting equipment, buildings and distribution pipework; and
- (h) chemical storage facilities, other minor infrastructure and auxiliaries/services.

Work No. 5 – a new surface water drainage system comprising pond or a tank or similar including connection to an existing surface water drainage system on the West Burton Power Station Site.

Work No. 6 – gas supply pipeline connection works for the transport of natural gas to Work No. 1 from an existing gas receiving facility within West Burton B comprising -

Work No. 6A - on or below ground high pressure steel pipeline of up to 500 millimetres (nominal bore) in diameter and up to 150 metres in length including controls and instrumentation; and

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(a) There are no relevant amendments to section 14 or section 15.

Work No. 6B - an extension to the existing West Burton B gas receiving facility comprising –

- (i) an offtake connection;
- (ii) gas compressor (if required);
- (iii) above and below ground valves, flanges and pipework;
- (iv) an above or below ground remotely operated valve;
- (v) an above or below ground remotely operated valve bypass;
- (vi) an above or below ground pressurisation bridle;
- (vii) instrumentation and electrical kiosks; and
- (viii) telemetry equipment kiosks and communications equipment.

Work No. 7 – water supply and pipeline from Work No. 1 to an existing water supply within West Burton B.

Work No. 8 – low voltage electrical, control, metering and other cables and associated switchgear and ancillary equipment and cabinets required to connect Work Nos 1- 6 with West Burton B.

Associated development within the meaning of section 115(2(a)) of the 2008 Act in connection with Work Nos. 1 - 8 comprising—

Work No. 9 – a rail offloading area from the existing rail loop ‘merry-go-round’ on the West Burton Power Station site.

Work No. 10 – a Landscaping and Biodiversity Management and Enhancement Area.

And to the extent that it does not otherwise form part of any such works, further associated development within the meaning of section 115(2) of the 2008 Act comprising such other works or operations as may be necessary or expedient for the purpose of or in connection with the construction, operation and maintenance of the works in this Schedule whether or not shown on the land plans, Order limit plans and works plans and falling within the scope of the works assessed in the environmental statement comprising—

- (a) vehicle parking and cycle storage facilities;
- (b) construction laydown areas and contractor facilities including materials and plant storage and laydown areas; generators; concrete batching facilities; vehicle and cycle parking facilities; pedestrian and cycle routes and facilities; offices and staff welfare facilities; security fencing and gates; external lighting; roadways and haul routes; wheel wash facilities; and signage;
- (c) internal access roads, roadways and footpaths;
- (d) noise attenuation features;
- (e) landscaping, fencing and security provisions; and
- (f) lighting columns and lighting.

## SCHEDULE 2 REQUIREMENTS

Article 2, 3

### Interpretation

1.—(1) In this Schedule—

“commercial use” means that the commissioning of the authorised development has been completed and it is generating electricity on a commercial basis;

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(a) There are no relevant amendments to section 115(2).

“commissioning” means the process of assuring that all systems and components of the authorised development (which are installed or where installation is near to completion) are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker;

“local residents” means the residents living within the administrative areas of Nottinghamshire and Lincolnshire;

“local organisations” means organisations based or with their main activities within the administrative areas of Nottinghamshire and Lincolnshire;

“m” means metres;

“mAGL” means metres above ground level;

“mAOD” means metres above ordnance datum; and

“stage” of the authorised development means any part or parts of Works Nos. 1 to 10.

(2) Where any requirement requires the authorised development to be carried out in accordance with matters including a plan, document, or details approved by the relevant planning authority, those matters are to be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority.

(3) Where an approval or agreement is required under the terms of a requirement or a document referred to in a requirement, or any requirement specifies “unless otherwise approved” or “unless otherwise agreed” by the relevant planning authority, such approval or agreement may only be given in relation to non-material changes where it has been demonstrated to the satisfaction of the relevant planning authority that the subject matter of the approval or agreement sought is unlikely to give rise to any greater environmental effects from those assessed in the environmental statement.

### **Commencement of the authorised development**

2.—(1) The authorised development must not be commenced after the expiration of 7 years from the date this Order comes into force.

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

### **Notice of commencement and completion of commissioning**

3.—(1) Notice of the intended commissioning of the authorised development must be given to the relevant planning authority, Nottinghamshire County Council, Lincolnshire County Council and West Lindsey District Council prior to such commencement and in any event not less than 7 days before the date that commissioning is commenced.

(2) Notice of the intended completion of commissioning of the authorised development must be given to the relevant planning authority where practicable prior to such completion and in any event within 7 days from the date that commissioning is completed.

### **Notice of commencement of commercial use**

4. Notice of the intended commencement of commercial use of the authorised development must be given to the relevant planning authority prior to such commencement and in any event not less than 7 days before the date that commercial use is commenced.

### **Detailed design**

5.—(1) In relation to Work No. 1, Work No. 2, Work No. 4 and Work No. 5, no development must commence until details of the following, where relevant for that Work have, after consultation with West Lindsey District Council and the Lead Local Flood Authority, been submitted to and approved by the relevant planning authority—

- (a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures;
- (b) finished floor levels;
- (c) hard standings;
- (d) the internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities, cycle parking and routes and pedestrian facilities and routes; and
- (e) surface water management.

(2) Work No. 1, Work No. 2, Work No. 4 and Work No. 5 unless otherwise agreed with the relevant planning authority must be carried out in accordance with the approved details.

(3) Unless otherwise agreed with the relevant planning authority if a single OCGT is installed the details approved by the relevant planning authority under paragraph (1) must be in accordance with table 1.

**Table 1**

**Main Dimensions for Single OCGT**

<i>Component</i>	<i>Maximum length (m)</i>	<i>Maximum width (m)</i>	<i>Maximum height (mAGL/ mAOD)</i>	<i>Minimum height (mAGL)</i>
Minimum final ground height (mAOD)	+7.1m			
Maximum final ground height (mAOD)	+14m			
Single Gas Turbine, Exhaust gas diffuser, Generator and Air inlet filter (Work No. 1(a))	50	20	27/41	-
Gas Turbine building (if required) (Work No. 1(a))	36	12	19/33	-
Stack(s) (Work No. 1(a))	10m diameter		45/59	40
Auxiliary closed loop cooling equipment (Work No. 1(c))	30	15	12/26	-
Workshop, Stores, Control, Administration and Welfare Buildings (Work No. 4(c))	40	30	10/24	-
Raw Water / Fire Water Storage tank (Work No. 4(d))	15m diameter		7/21	-
Gas receiving areas, gas treatment facilities, compression station and other auxiliary control cabinets and equipment (Work No. 2)	60	45	7/21	-

(4) Unless otherwise agreed with the relevant planning authority if up to 5 OCGT units are installed the details approved by the relevant planning authority under paragraph (1) must be in accordance with table 2.

**Table 2**

**Main Dimensions for Up to 5 Gas Turbines**

<i>Component</i>	<i>Maximum length (m)</i>	<i>Maximum width (m)</i>	<i>Maximum height (mAGL/ mAOD)</i>	<i>Minimum height (mAGL)</i>
Minimum final ground height	+7.1m			

(mAOD)				
Maximum final ground height (mAOD)	+14m			
Each Single Gas Turbine and Generator (Work No. 1(a))	35	12	15/29	-
Each Stack (Work No. 1(a))	5m diameter		45/59	35
Banking Compound Area (Work No. 1)	52	48	8/22	-
Workshop, Stores, Control, Administration and Welfare Buildings (Work No. 4(c))	40	30	10/24	-
Raw Water / Fire Water Storage Tank (Work No. 4(d))	15m diameter		7/21	-
Gas receiving areas, gas treatment facilities, compression station and other auxiliary control cabinets and equipment (Work No. 2)	60	45	7/21	-

### Landscaping and biodiversity management and enhancement

6.—(1) In relation to Work No. 1, Work No. 2 and Work No. 4, no development must be commenced until a landscaping and biodiversity management and enhancement plan, where relevant for that Work has, after consultation with the Environment Agency, Natural England, Lincolnshire County Council, Nottinghamshire County Council and West Lindsey District Council, been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must include details of—

- (a) measures to protect, manage and enhance existing shrub and tree planting that is to be retained;
- (b) biodiversity and habitat mitigation and impact avoidance;
- (c) an implementation timetable; and
- (d) maintenance and management, including a landscaping maintenance plan incorporating measures to protect, manage and enhance all shrub and tree planting.

(3) The plan submitted and approved must be in accordance with the certified landscaping and biodiversity management and enhancement plan unless otherwise agreed with the relevant planning authority.

(4) The plan must be implemented prior to commissioning and maintained as approved unless otherwise agreed with the relevant planning authority.

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

### External lighting

7.—(1) In relation to Work No. 1, no development must commence until a scheme for all external lighting to be installed during construction, where relevant to that Work, has been submitted to and approved by the relevant planning authority.

(2) No part of Work No. 1 must be commissioned until a scheme for all permanent external lighting to be installed has been submitted to and approved by the relevant planning authority.

(3) The schemes submitted and approved pursuant to paragraphs (1) and (2) of this requirement must accord with the principles of the lighting strategy and include measures to minimise and

otherwise mitigate any artificial light emissions during the construction and operation of the authorised development.

(4) The schemes must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Means of enclosure**

**8.**—(1) No stage of the authorised development must commence until details of any proposed temporary means of enclosure (including a programme for the removal of all temporary means of enclosure) where relevant to that stage have been submitted to and approved by the relevant planning authority.

(2) Any construction areas or sites associated with the authorised development must remain securely fenced at all times during construction of the authorised development.

(3) Pre-commencement activities which involve temporary means of enclosure may take place only in accordance with a specific written scheme of investigation which has been submitted to and approved by the relevant planning authority.

(4) No stage of the authorised development must be brought into commercial use until details of any proposed permanent means of enclosure, have, for that stage, been submitted to and approved by the relevant planning authority.

(5) No stage of the authorised development may be brought into commercial use until any approved permanent means of enclosure has been completed.

(6) The authorised development must be carried out in accordance with the approved details unless otherwise agreed with the relevant planning authority.

(7) In this requirement, “means of enclosure” means fencing, walls or other means of boundary treatment and enclosure.

### **Surface water drainage**

**9.**—(1) In relation to Work No. 1, Work No. 2, Work No. 4 and Work No.5, no development must commence until, where relevant for that Work details of temporary surface water drainage system, including means of pollution control have, after consultation with the Environment Agency, Lead Local Flood Authority and relevant internal drainage board and Canal & River Trust in relation to Work No. 5 only, been submitted to and approved in writing by the relevant planning authority.

(2) Details of the permanent surface water drainage system, including a programme for its implementation and maintenance must, after consultation with the Lead Local Flood Authority, Environment Agency and relevant internal drainage board and Canal & River Trust in relation to Work No. 5 only, be submitted to and approved by the relevant planning authority prior to the start of construction of any part of that system.

(3) The details submitted and approved pursuant to paragraphs (1) and (2) of this requirement in relation to Work No. 5 must include a detailed construction method statement for the proposed works, including temporary access arrangements and construction vehicle routes to facilitate the drainage connection.

(4) The details submitted and approved pursuant to paragraphs (1) and (2) of this requirement must be in accordance with the outline drainage strategy.

(5) The schemes must be implemented as approved and maintained throughout the construction and operation of the authorised development unless otherwise agreed with the relevant planning authority.

### **Foul water drainage**

**10.**—(1) In relation to Work No. 4, no development must commence until, details for that work, details of a written scheme for the connection, conveyance, treatment and disposal of foul water drainage on and off the West Burton Power Station Site has, after consultation with the



Environment Agency and Severn Trent Water, been submitted to and approved by the relevant planning authority.

(2) If the written scheme submitted and approved pursuant to paragraph (1) of this requirement identifies that it is not practicable or reasonable to connect to a mains foul water system, an alternative strategy for the provision and implementation of wastewater treatment must, after consultation with the Environment Agency and Severn Trent Water, be submitted to and approved by the relevant planning authority.

(3) Any alternative strategy submitted and approved pursuant to paragraph (2) of this requirement must include a management and maintenance plan to ensure that it will not cause pollution to the water environment.

(4) The schemes approved pursuant to paragraph (1) and, where relevant, paragraph (2) of this requirement must be implemented and maintained throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.

### **Flood risk mitigation**

**11.**—(1) No stage of the authorised development must commence until for that stage a scheme for mitigation of flood risk during construction has, after consultation with the Environment Agency and relevant internal drainage board, been submitted to and approved in writing by the relevant planning authority.

(2) Details of the permanent flood risk mitigation works, including a programme for their implementation must, after consultation with the Environment Agency and relevant internal drainage board, be submitted to and approved in writing by the relevant planning authority prior to the start of construction of any part of those works.

(3) The details submitted and approved pursuant to paragraphs (1) and (2) of this requirement must be in accordance with the principles set out in the flood risk assessment that forms part of the environmental statement.

(4) The schemes must be implemented as approved and maintained throughout the construction and operation of the authorised development unless otherwise agreed with the relevant local planning authority.

### **Contaminated land and groundwater**

**12.**—(1) No stage of the authorised development must commence until a scheme to deal with the contamination of land including groundwater which is likely to cause significant effects to persons or pollution of controlled waters or the environment has, for that stage and after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The scheme submitted and approved must be in accordance with the principles set out in Chapter 11 of the environmental statement and must be included in the construction environmental management plan submitted pursuant to requirement 16.

(3) The scheme must include a risk assessment and if necessary a site investigation to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a materials management plan which sets out long-term measures with respect to any contaminants remaining on the site.

(4) Pre-construction remedial work and pre-commencement activities which involve remedial works in respect of any contamination or adverse ground conditions may take place only in accordance with a specific written scheme which has been submitted to and approved by the relevant planning authority.

(5) The authorised development, including any remediation, must be carried out in accordance with the approved scheme unless otherwise agreed with the relevant planning authority.

### **Unexpected contamination**

**13.**—(1) If, during any stage of the authorised development, contamination not identified or addressed within the scheme approved under requirement 12 is found to be present within the Order limits, no further development in the vicinity of the contamination may be carried out until a written scheme to deal with the associated risks has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The scheme must include an investigation and assessment report prepared by a specialist consultant notified in advance to the relevant planning authority, the purpose of which is to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on site.

(3) No remedial work identified in accordance with paragraph (2) may be carried out until the scheme has been approved.

(4) The scheme and management plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Archaeology**

**14.**—(1) No stage of the authorised development must commence until a written scheme of investigation for that stage has, after consultation with Historic England and Nottinghamshire County Council in its capacity as the relevant archaeological body, been submitted to and approved by the relevant planning authority.

(2) The scheme submitted and approved must be in accordance with the outline written scheme of investigation.

(3) The scheme must identify any areas where further archaeological investigations are required and the nature and extent of the investigation required in order to preserve by knowledge or in-situ any archaeological features that are identified.

(4) Pre-construction archaeological investigations and pre-commencement activities which include intensive ground works may take place only in accordance with a specific written scheme of investigations which has been submitted to and approved by the relevant planning authority.

(5) Any archaeological investigations implemented must be carried out—

(a) in accordance with the approved scheme; and

(b) by a suitably qualified person or organisation approved by the relevant planning authority unless otherwise agreed with the relevant planning authority.

### **Protected species**

**15.**—(1) No stage of the authorised development must commence until further survey work for that stage has been carried out to establish whether any protected species is present on any of the land affected, or likely to be affected, by that part of the authorised development.

(2) Where a protected species is shown to be present, no authorised development of that part must commence until, after consultation with Natural England and the Environment Agency, a scheme of protection and mitigation measures has been submitted to and approved in writing by the relevant planning authority.

(3) The authorised development must be implemented in accordance with the approved scheme unless otherwise agreed with the relevant planning authority.

### **Construction environmental management plan**

**16.**—(1) No stage of the authorised development must commence until a construction environmental management plan has been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the framework construction environmental management plan and incorporate—

- (a) a code of construction practice, specifying measures designed to minimise the impacts of construction works;
- (b) a scheme for the control of any emissions to air;
- (c) a soil and waste management plan;
- (d) a sediment control plan;
- (e) a scheme for environmental monitoring and reporting during the construction of the authorised development, including measures for undertaking any corrective actions; and
- (f) a scheme for the notification of any significant construction impacts on local residents and for handling any complaints received from local residents relating to such impacts during the construction of the authorised development.

(3) All construction works associated with the authorised development must be carried out in accordance with the approved construction environmental management plan unless otherwise agreed with the relevant planning authority.

### **Protection of highway surfaces**

**17.—**(1) No stage of the authorised development must commence until details for undertaking condition surveys of the relevant highways which are maintainable at the public expense and which are to be used during construction of the authorised development have been submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(2) The condition surveys must be undertaken in accordance with the approved details and a schedule of repairs, including a programme for undertaking any such repairs and their inspection, must, following the completion of the post-construction condition surveys, be submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(3) The schedule of repairs must be carried out as approved unless otherwise agreed with the relevant planning authority.

### **Construction traffic management plan**

**18.—**(1) No stage of the authorised development must commence until a construction traffic management plan has, after consultation with Highways England, the highway authority, Lincolnshire County Council and West Lindsey District Council been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the principles set out in the framework construction traffic management plan.

(3) The plan submitted and approved must include—

- (a) details of the routes to be used for the delivery of construction materials and any temporary signage to identify routes and promote their safe use, including details of the access points to the construction site to be used by light goods vehicles and heavy goods vehicles;
- (b) details of the routing strategy and procedures for the notification and conveyance of abnormal indivisible loads, including agreed routes, the numbers of abnormal loads to be delivered by road and measures to mitigate traffic impact;
- (c) the construction programme; and
- (d) any necessary measures for the temporary protection of carriageway surfaces, the protection of statutory undertakers' plant and equipment and any temporary removal of street furniture.

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

(5) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority in consultation with Highways England and the highway authority.

### **Travel plan - construction staff**

**19.**—(1) No stage of the authorised development must commence until a construction workers' travel plan has, after consultation with the highway authority, been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the framework construction workers' travel plan.

(3) The plan submitted and approved must include—

- (a) measures to promote the use of sustainable transport modes to and from the authorised development by construction staff;
- (b) provision as to the responsibility for, and timescales of, the implementation of those measures;
- (c) details of parking for construction personnel within the construction sites; and
- (d) a monitoring and review regime.

(4) The approved plan must be implemented within 3 months of commencement of the authorised development and must be maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

### **Construction hours**

**20.**—(1) Subject to sub-paragraph (2), construction work relating to the authorised development, including the delivery or removal of materials, plant and machinery, must not take place on Bank Holidays or Sundays and otherwise outside the hours of—

- (a) 0700 and 1900 hours on Monday to Friday; and
- (b) 0800 and 1800 hours on a Saturday.

(2) The restrictions in sub-paragraph (1) do not apply to construction work or the delivery or removal of materials, plant and machinery, where these—

- (a) do not exceed a noise limit to be agreed with the relevant planning authority at the Order limits;
- (b) relate to continuous construction activities where prior notification has been given to the relevant planning authority;
- (c) are carried out with the prior approval of the relevant planning authority; or
- (d) are associated with an emergency.

(3) The restrictions in sub-paragraph (1) do not apply to the delivery of abnormal indivisible loads, where this is—

- (a) associated with an emergency; or
- (b) carried out with the prior approval of the relevant planning authority.

(4) Sub-paragraph (1) does not preclude:

- (a) a start-up period from 0630 to 0700 and a shut-down period from 1900 to 1930 Monday to Friday and a start-up period from 0730 to 0800 and a shut-down period from 1800 to 1830 on a Saturday; or
- (b) maintenance at any time of plant and machinery engaged in the construction of the authorised development.

(5) Any request for the prior approval of the relevant planning authority under sub-paragraphs (2)(b) or (3)(b) must be made at least 48 hours in advance of start of the proposed activity.

(6) In this requirement “emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable

opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action.

#### **Control of noise - construction**

**21.**—(1) No stage of the authorised development must commence until a scheme for the monitoring and control of noise during the construction of the authorised development has been submitted to and approved by the relevant planning authority.

(2) The scheme submitted and approved must specify—

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

(3) The scheme must be implemented as approved unless otherwise agreed with the relevant planning authority.

#### **Control of noise - operation**

**22.**—(1) No stage of the authorised development must be brought into commercial use until a scheme for noise management including monitoring during operation of the authorised development has been submitted to and approved by the relevant planning authority.

(2) Noise from the operation of the authorised development must be no greater than 5dB above background levels measured following commissioning of the authorised development at any residential property in existence at the date of this Order.

(3) The scheme must be implemented as approved unless otherwise agreed with the relevant planning authority.

#### **Piling and penetrative foundation design**

**23.**—(1) No piling works for the construction of the authorised development must commence until for that stage a written piling and penetrative foundation design method statement, informed by a risk assessment has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) All piling and penetrative foundation works must be carried out in accordance with the approved method statement unless otherwise agreed with the relevant planning authority.

#### **Restoration of land used temporarily for construction**

**24.**—(1) The authorised development must not be brought into commercial use until a scheme for the restoration of any land within the Order limits which has been used temporarily for construction has been submitted to and approved by the relevant planning authority.

(2) The land must be restored within 3 years of the authorised development being brought into commercial use (or such other period as the relevant planning authority may approve), in accordance with—

- (a) the restoration scheme approved in accordance with sub- paragraph (1); and
- (b) the landscaping and biodiversity management and enhancement plan approved in accordance with requirement 6.

### **Local liaison committee**

**25.**—(1) The authorised development must not commence until the undertaker has established a committee to liaise with local residents and local organisations about matters relating to the authorised development (a ‘local liaison committee’).

(2) The local liaison committee must include representatives of the undertaker.

(3) The undertaker must invite the relevant planning authority, Lincolnshire County Council, Nottinghamshire County Council, West Lindsey District Council, and other relevant interest groups as agreed with the relevant planning authority, to nominate representatives to join the local liaison committee.

(4) The undertaker must provide a full secretariat service and supply an appropriate venue.

(5) The local liaison committee must, unless otherwise agreed in writing by the majority of the members of the local liaison committee –

(a) meet every quarter, starting in the month prior to commencement of the authorised development, until the completion of construction, testing and commissioning works; and

(b) meet once a year during the operation of the authorised development.

(6) If the majority of members agree in writing that a meeting is not required in accordance with sub-paragraph (5), any individual committee member can require the meeting to go ahead by making a written request within 20 working days of the scheduled meeting.

### **Employment, skills and training plan**

**26.**—(1) No part of the authorised development must commence until a plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction of the authorised development has, after consultation with Lincolnshire County Council and Nottinghamshire County Council, been submitted to and approved by the relevant planning authority.

(2) The approved plan must be implemented and maintained during the construction of the authorised development unless otherwise agreed by the relevant planning authority.

### **Decommissioning**

**27.**—(1) The undertaker must submit to the relevant planning authority for its approval a decommissioning environmental management plan within 12 months of the date that the authorised development is to be decommissioned.

(2) No decommissioning works must be carried out until the relevant planning authority has approved the plan.

(3) The plan submitted and approved must include details of—

(a) the buildings to be demolished;

(b) the means of removal of the materials resulting from the decommissioning works;

(c) the phasing of the demolition and removal works;

(d) any restoration works to restore land shown within the Order limits to a condition agreed with the relevant planning authority;

(e) the phasing of any restoration works;

(f) a timetable for the implementation of the scheme; and

(g) a decommissioning traffic management plan.

(4) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

### Consultation on requirements

**28.**—(1) Where any requirement specifies that consultation must be undertaken with a named consultee in relation to a plan, document or details being submitted to the relevant planning authority for approval—

- (a) such consultation must be carried out in advance of the plan, document or details being provided to the relevant planning authority for approval; and
- (b) unless otherwise agreed in advance with the undertaker, if a named consultee has not provided its comments in relation to the plan, document or details within 24 days of receipt of a request to do so, the consultee is deemed to have no comments in relation to the plan, document or details.

## SCHEDULE 3

Article 17

### PROCEDURE FOR DISCHARGE OF REQUIREMENTS

#### Applications made under Requirements

**1.**—(1) Where an application has been made to the discharging authority for any consent, agreement or approval required under a requirement the discharging authority must give notice to the undertaker of its decision on the application including the reasons before the end of the decision period.

(2) For the purposes of paragraph (1), the decision period is—

- (a) where no further information is requested under paragraph (2), 8 weeks from the first business day immediately following that on which the application is received by the discharging authority or the day on which the fee under paragraph 3(1) is received, whichever is the later;
- (b) where further information is requested under paragraph (2), 8 weeks from the first business day immediately following that on which further information has been supplied by the undertaker under paragraph (2);
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (a) or (b).

#### Further information

**2.**—(1) In relation to any application to which this Schedule applies, the discharging authority may request further information from the undertaker where it is necessary to enable it to consider the application.

(2) If the discharging authority considers such further information necessary, it must, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

#### Fees

**3.**—(1) Where an application is made to the discharging authority for agreement or approval in respect of a requirement the fee contained in regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012<sup>(a)</sup> (as may be amended from time to time) is to apply and must be paid to the discharging authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 8 weeks of the discharging authority either rejecting the application as invalidly made or failing to determine the

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(a) S.I. 2012/2920. Regulation 16 was amended by S.I. 2017/1314.

application within the decision period as determined under paragraph (1), unless within that period the undertaker agrees, in writing, that the fee may be retained by the discharging authority and credited in respect of a future application.

## Appeals

4.—(1) The undertaker may appeal in the event that—

- (a) the discharging authority refuses an application for any agreement or approval required by a requirement or grants it subject to conditions;
- (b) the discharging authority does not give notice of its decision to the undertaker within the decision period as determined in paragraph 1(2);
- (c) on receipt of a request for further information pursuant to paragraph (2) 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
- (d) 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) the undertaker must submit to the Secretary of State a copy of the application submitted to the discharging authority and any supporting documentation which the undertaker may wish to provide (“the appeal documentation”);
- (b) the undertaker must on the same day provide copies of the appeal documentation to the discharging authority;
- (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (“the appointed person”) and forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
- (d) the discharging authority must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of its written representations are sent to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations pursuant to paragraph (d) above.

(3) The appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 business days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (e).

(4) If the appointed person considers that further information is necessary to enable him to consider the appeal he 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 pursuant to 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. Any written representations concerning matters contained in the further information must be submitted to the appointed person and made available to all appeal parties within 10 business days of that date.

(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 only such written representations as have been sent within the time limits prescribed, or set by the appointed person, under this paragraph.

(8) The appointed person may proceed to a decision even though no written representations have been made within those 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 pursuant to this Schedule, it is deemed to be an approval for the purpose of the relevant requirement in Schedule 2 (requirements) as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) may not be taken to affect or invalidate the effect of the appointed person's determination.

(11) Save where a direction is given pursuant to 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 parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance or any circular or guidance which may from time to time replace it.

(13) In this Schedule:

- (a) "business day" means a normal working day, excluding weekends and Bank Holidays; and
- (b) "Planning Practice Guidance" means the Planning Practice Guidance as published online by the Ministry of Housing, Communities and Local Government.

SCHEDULE 4  
Article 9  
STREETS SUBJECT TO TEMPORARY PROHIBITION OR RESTRICTION OF USE

(1) Area	(2) Streets	(3) Extent of Prohibition				Grid reference	
		Streets from	X	Y	Streets to	X	Y
In the District of Bassetlaw	Cottam Road	Power Station Site Entrance	480996	379757	Rampton Road	479207	379583
In the District of Bassetlaw	Green Lane	Rampton Road	479207	379583	Cottam Lane	478974	379507
In the District of Bassetlaw	Cottam Lane	Cottam Lane	478974	379507	Townside Lane	478640	379293
In the District of Bassetlaw	Town Street	Townside Lane	478640	379293	Leverton Road	478288	379214
In the District of Bassetlaw	Leverton Road	Leverton Road	478288	379214	Beckingham Lane	478125	379698
In the District of Bassetlaw	Treswell Road	Beckingham Lane	478125	379698	High Street	478339	380793
In the District of Bassetlaw	Church Street	High Street	478339	380793	Station Road	478342	381231
In the District of Bassetlaw	Station Road	Station Road	478342	381231	Pippistrelle Close	478565	381835
In the District of Bassetlaw	Southgore Lane	Pippistrelle Close	478565	381835	Main Street	478539	382149
In the District of Bassetlaw	Sturton Road	Main Street	478539	382149	Ketlock Hill Lane	478564	382452
In the District of Bassetlaw	Leverton Road	Ketlock Hill Lane	478564	382452	Church Street	478706	383903

In the District of Bassetlaw	Cross Street	Church Street	478706	383903	North Street	478601	384506
In the District of Bassetlaw	Station Road	North Street	478601	384506	Gainsborough Road	478439	384527
In the District of Bassetlaw	Gainsborough Road	Station Road	478439	384527	Power Station Site Entrance	478554	385136

## SCHEDULE 5

### PROTECTIVE PROVISIONS

Article 15

#### PART 1

##### Protection for operators of electronic communications code networks

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

**2.** In this Part—

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

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system must be construed in accordance with paragraph 1(3A) of the 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 (networks, services and the radio spectrum) of the 2003 Act;

“electronic communications code network” means—

- (a) so much of an electronic communications network or infrastructure 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 (application of the electronic communications code) of the 2003 Act(b); and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

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

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

**3.—(1)** Subject to sub-paragraphs (2) to (4), if as the result of the authorised development its construction, or 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 the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply, make reasonable compensation to an operator for loss sustained by it and indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

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

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(a) 2003 c.21.

(b) Section 106 was amended by section 4 of the Digital Economy Act 2017 (c.30).

(3) The operator must give the undertaker reasonable notice of any claim or demand, and no settlement or compromise of the claim or demand may be made without the consent of the undertaker which, if it withholds consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 18 (arbitration).

**4.** This Part does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by Part 3 of the 1991 Act (street works in England and Wales); or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

**5.** Nothing in this Part effects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## **EXPLANATORY NOTE**

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

This Order authorises EDF Energy (Thermal Generation) Limited (referred to in this Order as the undertaker) to construct, operate, use and maintain a gas fired electricity generating station.

A copy of the Order plans and documents mentioned in this Order and certified in accordance with article 16 of this Order (certification of plans etc.) may be inspected free of charge during working hours at Bassetlaw District Council, 17B The Square, Retford, Notts, DN22 6DB or (during periods in which official restrictions on movement are in place under the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (S.I. 2020/350) or other Government legislation)) on the website of the Planning Inspectorate.

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**APPENDIX 8 THE IMMINGHAM OPEN CYCLE GAS TURBINE ORDER 2020**



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S T A T U T O R Y   I N S T R U M E N T S

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**2020 No. 847**

**INFRASTRUCTURE PLANNING**

**The Immingham Open Cycle Gas Turbine Order 2020**

*Made*   -   -   -   -   -   *7th August 2020*

*Coming into force*   -   -   *1st September 2020*

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An application under section 37 (applications for Orders granting development consent) of the Planning Act 2008(a) (the “2008 Act”) has been made to the Secretary of State for an Order granting development consent.

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(a) 2008 c.29. Section 37 was amended by section 137(5) of, and Schedule 13 to, the Localism Act 2011 (c.20).

The application was examined by a single appointed person (appointed by the Secretary of State) in accordance with Chapters 3 and 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(a). The single appointed person having considered the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with section 83(b) of the 2008 Act, submitted a report and recommendation to the Secretary of State.

The Secretary of State having considered the representations made and not withdrawn, the report and recommendation of the single appointed person and having taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(c) and having had regard to the documents and matters referred to in section 104(2) (decisions in cases where national policy statement has effect) of the 2008 Act has determined to make an Order granting development consent for the development comprised in the application on terms that, in the opinion of the Secretary of State, are not materially different from those comprised in the application.

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

## PART 1

### PRELIMINARY

#### **Citation and commencement**

1. This Order may be cited as the Immingham Open Cycle Gas Turbine Order 2020 and comes into force on 1st September 2020.

#### **Interpretation**

2.—(1) In this Order—

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

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

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

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(g);

“the 1984 Act” means the Road Traffic Regulation Act 1984(h);

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

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

“the 2008 Act” means the Planning Act 2008(k);

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

(b) Section 83 was amended by the Localism Act 2011 (c.20) section 128(2) and 237, Schedule 13 paragraphs 1, 35 (1) to (4) and Schedule 25, Part 20.

(c) S.I. 2017/572.

(d) 1961 c.33.

(e) 1965 c.56.

(f) 1980 c.66.

(g) 1981 c.66.

(h) 1984 c.27.

(i) 1990 c.8.

(j) 1991 c.22.

(k) 2008 c.29.

“access and rights of way plans” means the plans which are certified as the access and rights of way plans by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

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

“apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act and further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity cables, telecommunications equipment and electricity cabinets;

“Anglian Water” means Anglian Water Services Limited (company number 2366656) whose registered address is Lancaster House Lancaster Way, Ermine Business Park, Huntingdon, Cambridge, United Kingdom PE29 6XU;

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

“book of reference” means the document of that description set out in Schedule 11 (documents to be certified) certified by the Secretary of State as the book of reference under article 39 for the purposes of this Order;

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

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

“commence” means to carry out any material operation, as defined in section 155 (when development begins) of the 2008 Act, comprised in or carried out for the purposes of the authorised development and the words “commencement” and “commenced” and cognate expressions are to be construed accordingly;

“commissioning” means the process of testing all systems and components of the authorised development (which are installed or in relation to which installation is nearly complete) in order to ensure that they, and the authorised development as a whole, function in accordance with the plant design specifications and the undertaker’s operational and safety requirements;

“commitments register” means the plans which are certified as the access and rights of way plans by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

“date of completion of construction” means the date on which the construction of the authorised development is complete including rectification of any construction defects, landscaping and reinstatement works;

“date of final commissioning” means the date on which the authorised development commences operation by generating power on a commercial basis, but excluding the generation of power during commissioning;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means provided it is in electronic form;

“emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that, in the reasonable opinion of the undertaker, would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action;

“the environmental statement” means the statement certified as the environmental statement by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

“flood risk assessment” means the document certified as the flood risk assessment by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“framework biodiversity enhancement and management plan” means the plan which is certified as the framework biodiversity enhancement and management plan by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this order;

“framework construction environmental management plan” means the plan which is certified as the framework construction environmental management plan by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

“framework construction traffic management plan” means the plan which is certified as the framework construction traffic management plan by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

“framework construction worker travel plan” means the plan which is certified as the framework construction worker travel plan by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

“framework written scheme of investigation” means the documents which are certified as the framework written scheme of investigation documents by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

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

“indicative lighting strategy” means the documents which are certified as the indicative lighting strategy documents by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

“land plans” means the plans which are certified as the land plans by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

“limits of deviation” means in respect of numbered works 1, 2, 3, 4, 5 and 6 the outer limits of the corresponding numbered area shown on the works plan;

“maintain” includes, inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part, but not the whole of, the authorised development provided that such activities are not likely to give rise to any significant adverse effects that have not been assessed in the environmental statement and “maintenance” and “maintaining” are to be construed accordingly;

“National Grid” means National Grid Electricity Transmission plc (Company Registration Number 02366977) whose registered office is at 1 to 3 Strand, London, WE2N 5EH and/or National Grid Gas plc (Company Registration Number 02006000) whose registered office is at 1 to 3 Strand, London WC2N 5EH as the context requires;

“Network Rail” means Network Rail Infrastructure Limited (Company Registration Number 02904587) whose registered office is at 1 Eversholt Street, London, NW1 2DN;

“Order land” means the land which is required for, or is required to facilitate, or is incidental to, or is affected by, the authorised development shown coloured pink, blue and yellow on the land plans and described in the book of reference;

“Order limits” means the Order limits shown on the works plans;

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

“relevant planning authority” means the local planning authority for the land in question, being North Lincolnshire Council, or any successor to it as planning authority;

“requirements” means those matters set out in Schedule 2 (requirements) to this Order;

“statutory undertaker” means any person falling within section 127(8) (statutory undertakers’ land) of the 2008 Act;

“statement to inform appropriate assessment” means statement to inform appropriate assessment which are certified as by the Secretary of State under article 39 (certification of plans etc.) for the purposes of this Order;

---

(a) 1981 c.67.

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

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

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

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

“undertaker” means VPI Immingham B Limited or the person who for the time being has the benefit of this Order in accordance with articles 6 (benefit of this Order) and 7 (consent to transfer benefit of the Order);

“VPI Immingham B Limited” means VPI Immingham B Limited (Company number 10630563) whose registered office is at 4th Floor, Nova South, 160 Victoria Street, London, England, SW1E 5LB;

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

“works plans” means the plans of that description set out in Schedule 11.

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

(3) All distances, directions and lengths referred to in this Order are approximate and distances between lines and/or points on a numbered work comprised in the authorised development and shown on the works plan and access and rights of way plan are to be taken to be measured along that work.

(4) All areas described in square metres in the book of reference are approximate.

(5) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 (authorised development) and shown on the works plans.

(6) The expression “includes” is to be construed without limitation.

(7) References in this Order to plots are references to the plots shown on the land plans and described in the book of reference.

## PART 2

### PRINCIPAL POWERS

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

**3.—**(1) Subject to the provisions of this Order and to the requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Each numbered work must be situated within the corresponding numbered area shown on the works plans and within the limits of deviation shown for each work number on the works plans.

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

**4.—**(1) 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.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

### Operation of authorised development

5.—(1) The undertaker is authorised to use and operate the generating station comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence or any obligation under any legislation that may be required to authorise the operation of the generating station.

### Benefit of this Order

6. Subject to article 7 (consent to transfer benefit of this Order), the provisions of this Order have effect solely for the benefit of VPI Immingham B Limited save for Work No. 5, for which the provisions of this Order have effect for the benefit of VPI Immingham B Limited and National Grid.

### Consent to transfer benefit of this Order

7.—(1) Subject to paragraph (4), the undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (including any of the numbered works) and such related statutory rights as may be agreed in writing 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 (including any of the numbered works) 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 required for the exercise of the powers of paragraph (1) except where—

- (a) the transferee or lessee is—
  - (i) the holder of a licence under section 6 (licences authorising supply, etc.) of the Electricity Act 1989<sup>(a)</sup> or section 7 (licensing of public gas transporters) of the Gas Act 1986<sup>(b)</sup>; or
  - (ii) in relation to a transfer or a lease of any works within a highway, a highway authority responsible for the highways within the Order land; or
- (b) the time limits for all claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
  - (i) no such claims have been made;
  - (ii) any such claims that have been made have all been compromised or withdrawn;
  - (iii) compensation has been paid in final settlement of all such claims;
  - (iv) payment of compensation into court in lieu of settlement of all such claims has taken place; or
  - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of all claims that no compensation is payable.

---

(a) 1989 c.29. Section 6 was amended by section 30 of the Utilities Act 2000 (c.27), and by section 89(3) of the Energy Act 2004 (c.20). There are other amendments to this section that are not relevant to this Order.

(b) 1986 c.44. Section 7 was amended by section 5 of the Gas Act 1995 (c.45) and section 76(2) of the Utilities Act 2000 (c.27). There are other amendments to the section that are not relevant to this Order.



(5) Where the consent of the Secretary of State is not required under paragraph (4), the undertaker must notify the Secretary of State and National Grid in writing before transferring or granting a benefit referred to in paragraph (1).

(6) The notification referred to in paragraph (5) must state—

- (a) the name and contact details of the person to whom the benefit of the powers are to be transferred or granted;
- (b) subject to paragraph (9), the date on which the transfer is expected to take effect;
- (c) the powers to be transferred or granted;
- (d) pursuant to paragraph (3), the restrictions, liabilities and obligations that are to apply to the person exercising the powers transferred or granted; and
- (e) where relevant, a plan showing the works or areas to which the transfer or grant relates.

(7) The undertaker must notify National Grid on seeking the consent of the Secretary of State referred to in paragraph (4).

(8) The notification referred to in paragraph (7) must comply with the requirements in paragraph (6).

(9) The date specified under paragraph (6)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notice.

(10) The notice given under paragraph (6) must be signed by the undertaker and the person to whom the benefit of the powers are to be transferred or granted as specified in that notice.

## PART 3

### STREETS

#### **Power to alter layout etc. of streets**

**8.**—(1) The undertaker may for the purposes of the authorised development alter the layout of, or carry out any works in, the street in the manner specified in relation to that street in column (3) of Schedule 3 (streets subject to street works).

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraph (3), the undertaker may, for the purposes of constructing, operating and maintaining the authorised development alter the layout of any street within the Order limits and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, cycle track or verge; and
- (b) make and maintain passing places.

(3) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority.

(4) Paragraph (3) does not apply where the undertaker is the street authority for a street in which the works are being carried out.

#### **Street works**

**9.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) drill, tunnel or bore under the street;
- (c) place and keep apparatus 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) Where the undertaker is not the street authority, the provisions of sections 54 (notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any street works carried out under paragraph (1).

### **Construction and maintenance of new or altered means of access**

**10.**—(1) Those parts of each means of access specified in Part 1 of Schedule 4 (access) to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and, unless otherwise agreed by the highway authority, must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the highway authority.

(2) Those parts of each means of access specified in Part 2 of Schedule 4 (access) to be constructed under this Order and which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the street authority.

(3) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(4) For the purposes of a defence under paragraph (3), a court must in particular have regard to the following matters—

- (a) the character of the street including the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

### **Temporary prohibition or restriction of use of streets**

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

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

(2) Without prejudice to the scope of paragraph (1), the undertaker may use any street where the use has been prohibited or restricted under the powers conferred by this article and within the Order limits as a temporary working site.

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

(4) Without prejudice to the generality of paragraph (1), the undertaker may temporarily alter, divert, prohibit the use of or restrict the use of the street specified in column (2) of Schedule 5 (temporary prohibition or restriction of the use of streets) to the extent specified in column (3) of that Schedule.

(5) The undertaker must not temporarily alter, divert, prohibit the use of or restrict the use of—

- (a) the street specified in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority which may attach reasonable conditions to any consent.

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

### **Access to works**

**12.** The undertaker may, for the purposes of the authorised development—

- (a) form and lay out the means of access, or improve existing means of access, in the locations specified in Schedule 3 (streets subject to street 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 the existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

### **Agreements with street authorities**

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

- (a) construction of any new street including any structure carrying the street;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under the authorised development;
- (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order;
- (e) the execution in the street of any of the authorised development;
- (f) the adoption by a street authority which is the highway authority of works—
  - (i) undertaken on a street which is existing publicly maintainable highway; or
  - (ii) which the undertaker and highway authority agree are to be adopted as publicly maintainable highway; and
- (g) any such works as the parties may agree.

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

### Traffic regulation

**14.**—(1) Subject to paragraphs (3) and (4) and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction of the authorised development, at any time prior to the date that is 12 months after the date of final commissioning—

- (a) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road; and
- (b) make provision as to the direction or priority of vehicular traffic on any road,

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

(2) The undertaker must not exercise the powers under paragraph (1) of this article unless it has—

- (a) given not less than four weeks' notice in writing of its intention so to do to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within seven days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a).

(3) Any prohibition, restriction or other provision made by the undertaker under article 11 (temporary prohibition or restriction of use of streets) or paragraph (1) of this article has effect as if duly made by, as the case may be—

- (a) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
- (b) the local authority in whose area the road is situated as an order under section 32 (power of local authorities to provide parking places)(a) of the 1984 Act,

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

(4) In this article—

- (a) subject to sub-paragraph (b), expressions used in it and in the 1984 Act have the same meaning; and
- (b) a “road” means a road that is a public highway maintained by and at the expense of the traffic authority.

## PART 4

### SUPPLEMENTAL POWERS

#### Discharge of water

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

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

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(a) Relevant amendments to section 32 were made by the 1991 Act section 168(1), Schedule 8, paragraph 39.

(b) 2004 c.18.

(c) 1991 c.56. Section 106 was amended by sections 35(8)(a) and 43(2) and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c.43) and sections 36(2) and 99(2), (4), and (5) of the Water Act 2003 (c.37).

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

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

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

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

(6) This article does not authorise any water discharge activities or groundwater activities for which an environmental permit would be required pursuant to regulation 12(1) (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(a).

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, a harbour authority within the meaning of section 57 (interpretation) of the Harbours Act 1964(b), an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and
- (b) other terms and expressions, with the exception of the term “watercourse”, used both in this article and in the Water Resources Act 1991(c) have the same meaning as in that Act.

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

**16.—**(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or on any land which may be affected by the authorised development and—

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

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

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

- (a) must, if so required on entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or

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(a) S.I. 2016/1154.

(b) 1964 c.40. Paragraph 9B was inserted into Schedule 2 by paragraph 9 of Schedule 3 of the Transport and Works Act 1992 (c.42).

(c) 1991 c.57.

(b) in a private street without the consent of the street authority.

(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, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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

### **Removal of human remains**

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

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

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

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant planning authority.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium and that person must, as soon as reasonably practicable after such re-interment or cremation,

provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10) and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

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

(8) If—

- (a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the Order land; or
- (b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice, but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the Order fails to remove the remains; or

(d) it is determined that the remains to which any such notice relates cannot be identified, subject to paragraph (9), the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

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

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (3).

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

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

(13) Section 25 (offence of removal of body from burial ground) of the Burial Act 1857(a) is not to apply to a removal carried out in accordance with this article.

## PART 5

### POWERS OF ACQUISITION

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

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

(2) This article is subject to article 21 (compulsory acquisition of rights etc.) and article 27 (temporary use of land for carrying out the authorised development).

#### **Power to override easements and other rights**

**19.**—(1) The carrying out or use of the authorised development and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) (nuisance: statutory authority) of the 2008 Act, notwithstanding that it involves—

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

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

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

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(a) 1857 c.81. Substituted by Church of England (Miscellaneous Provisions) Measure 2014 No. 1 s.2 (January 1, 2015: substitution has effect subject to transitional and saving provisions specified in SI 2014/2077 Sch.1 paras 1 and 2).

caused by the carrying out or use of the authorised development and the operation of section 158 (benefit of order granting development consent) of the 2008 Act.

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

(4) Section 10(2) (further provision as to compensation for injurious affection) of the 1965 Act applies to paragraph (2) by virtue of section 152(5) (compensation in case where no right to claim in nuisance) of the 2008 Act.

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

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

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

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act (as applied by article 23 (application of the 1981 Act)).

(2) The authority conferred by article 27 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), save that 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.

### **Compulsory acquisition of rights etc.**

**21.**—(1) Subject to paragraph (2), the undertaker may acquire such rights over the Order land or impose such restrictive covenants affecting the Order land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) In respect of such parts of the Order land that are shown edged red and shaded blue on the land plans, the undertaker may acquire compulsorily the existing rights over land and create and acquire compulsorily the new class of rights and impose the restrictions as described in Table 6 of Schedule 6 (land in which only new rights etc. may be acquired).

(3) Subject to section 8 (provisions as to divided land) and Schedule 2A (counter-notice requiring purchase of land) of the 1965 Act (as substituted by paragraph 5(8) of Schedule 7 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) ), where the undertaker creates or acquires a right over land or imposes a restrictive covenant under paragraph (1) or (2), the undertaker is not to be required to acquire a greater interest in that land.

(4) Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictive covenants) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant .

(5) In any case where the acquisition of new rights or imposition of a restriction under paragraph (1) or (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) Subject to the modifications set out in Schedule 7 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictive



covenants) the enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply in the case of a compulsory acquisition under this Order in respect of a right by the creation of a new right or imposition of a restriction as they apply to the compulsory purchase of land and interests in land.

### **Private rights**

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

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act,

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights and restrictions over land subject to the compulsory acquisition of rights or imposition of restrictions under this Order are suspended and unenforceable or, where so notified by the undertaker, extinguished in so far as in either case their continuance would be inconsistent with the exercise of the right—

- (a) as from the date of acquisition of the right by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act in pursuance of the right,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights over any part of the Order land that is owned by, vested in or acquired by the undertaker are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights and where the undertaker gives notice of such extinguishment.

(4) Subject to the provisions of this article, all private rights or restrictions over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land and so far as their continuance would be inconsistent with the exercise of the temporary possession of that land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restriction under this Order is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 29 (statutory undertakers) applies.

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

- (a) any notice given by the undertaker before—
  - (i) the completion of the acquisition of the land or the creation and acquisition of rights or the imposition of restrictions over land;
  - (ii) the undertaker's appropriation of it;
  - (iii) the undertaker's entry onto it; or
  - (iv) the undertaker's taking temporary possession of it,

that any or all of those paragraphs are not to apply to any right specified in the notice; and

- (b) any agreement made at any time between the undertaker and the person in or to whom the right or restriction in question is vested, belongs or benefits.

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

- (a) is made with a person in or to whom the right is vested or belongs; and

- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

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

(9) References in this article to private rights over land include any right of way, trust, incident, easement, liberty, privilege, restrictions right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

### **Application of the 1981 Act**

**23.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of Act) for subsection 2 there is substituted—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.

(4) In section 5(2) (earliest date for execution of declaration), omit the words from “, and this subsection” to the end.

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

(6) In section 5B(1) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 20 (time limit for exercise of authority to acquire land compulsorily) of the Immingham Open Cycle Gas Turbine Order 2020”.

(7) In section 6 (notices after execution of declaration), in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

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

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

“(2) But see article 24(3) (acquisition of subsoil only) of the Immingham Open Cycle Gas Turbine Order 2020, which excludes the acquisition of subsoil only from this Schedule.”

(10) References to the 1965 Act in the 1981 Act must be construed as references to that Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (as modified by article 25 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil only**

**24.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 18 (compulsory acquisition of land) and paragraphs (1) and (2) of article 21 (compulsory acquisition of rights etc.) as may be required for any purpose for which that land or rights or restrictions over that land may be created and acquired or imposed under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of land under paragraph (1), the undertaker is not to be required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;

- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
  - (c) section 153(4A) (reference of objection to Upper Tribunal: general) of the 1990 Act.
- (4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

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

**25.**—(1) Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 20 (time limit for exercise of authority to acquire land compulsorily) of the Immingham Open Cycle Gas Turbine Order 2020”.

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

- (a) in subsection (1)(a), after “land” insert “under that provision”; and
- (b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “article 20 (time limit for exercise of authority to acquire land compulsorily) of the Immingham Open Cycle Gas Turbine Order 2020”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 24(3)(acquisition of subsoil only) of the Immingham Open Cycle Gas Turbine Order 2020, which excludes the acquisition of subsoil only from this Schedule”; and

(b) after paragraph 29, insert—

## **“PART 4**

### **INTERPRETATION**

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 27 (temporary use of land for carrying out the authorised development) or article 28 (temporary use of land for maintaining the authorised development) of the Immingham Open Cycle Gas Turbine Order 2020.”.

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

**26.**—(1) The undertaker may enter upon and appropriate so much of the subsoil of, or airspace over, any street within the Order land as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

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

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

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5) any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, is to be entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out the authorised development**

**27.**—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take possession of—
  - (i) so much of the land specified in column (1) of Schedule 8 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule;
  - (ii) any other part of the Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, fences, debris and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land;
- (d) construct any works specified in relation to that land in column (2) of Schedule 8; and
- (e) carry out or construct any other mitigation works.

(2) Before taking temporary possession of land for a period of time by virtue of sub-paragraph (1) the undertaker must give a notice of intended entry to each of the owners and occupiers of the land, so far as known to the undertaker after making diligent inquiry.

(3) The notice in paragraph (2) must specify—

- (a) the period after the end of which the undertaker may take temporary possession of the land provided that such period must not end earlier than the end of the period of three months beginning with the day on which the notice is given;
- (b) subject to paragraph (4) the period for which the undertaker is to take temporary possession of the land,

provided that such periods may be varied from time to time by agreement between the undertaker and the owner or occupier.

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

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of final commissioning of the authorised development; or
- (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of final commissioning of the authorised development unless the undertaker has, before the end of that period, served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or has otherwise acquired the land subject to temporary possession.

(5) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or has otherwise acquired the land subject to temporary possession, the undertaker must, before giving up possession of land of which temporary possession has been taken under this article, remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not to be required to replace a building or any debris removed under this article.

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

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

(8) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) The undertaker must not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i).

(10) Nothing in this article precludes the undertaker from—

- (a) creating and acquiring new rights or imposing restrictions over any part of the Order land identified in article 21 (compulsory acquisition of rights etc.); or
- (b) acquiring any right in the subsoil of any part of the Order land identified in part 1 of the book of reference under article 24 (acquisition of subsoil only) or article 26 (rights under or over streets).

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

(13) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in Schedule 8.

(14) The provisions of the Neighbourhood Planning Act 2017<sup>(a)</sup> do not apply insofar as they relate to temporary possession of land under this article in connection with the carrying out of the authorised development and other development or works necessary for the authorised development within the Order land.

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

**28.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any of the Order land if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any of the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Before taking temporary possession of land for a period of time by virtue of paragraph (1) the undertaker must give notice of intended entry to each of the owners and occupiers of the land, so far as known to the undertaker after making diligent inquiry.

(4) The notice in paragraph (3) must specify—

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(a) 2017 c.20.

- (a) the period after the end of which the undertaker may take temporary possession of the land provided that such period must not end earlier than the end of the period of three months beginning with the day on which the notice is given; and
- (b) subject to sub-paragraph (5) the period for which the undertaker is to take temporary possession of the land,

provided that such periods may be varied from time to time by agreement between the undertaker and the owner or occupier.

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

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

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

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

(9) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 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 (7).

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

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

(12) In this article "the maintenance period" means the period of one year beginning with the date of final commissioning.

(13) The provisions of the Neighbourhood Planning Act 2017<sup>(a)</sup> do not apply insofar as they relate to temporary possession of land under this article in connection with the maintenance of the authorised development and other development necessary for the authorised development within the Order land.

### **Statutory undertakers**

**29.** Subject to the provisions of Schedule 9 (protective provisions), the undertaker may—

- (a) acquire compulsorily the land belonging to statutory undertakers within the Order land;
- (b) extinguish or suspend the rights of or restrictions for the benefit of, and remove or reposition the apparatus belonging to, statutory undertakers on, under, over or within the Order land; and
- (c) create and acquire compulsorily rights or impose restrictions over any Order land belonging to statutory undertakers.

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

**30.** Where a street is altered or diverted or its use is temporarily prohibited or restricted under article 8 (power to alter layout etc. of streets), article 9 (street works), article 10 (construction and

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(a) 2017 c.20.

maintenance of new or altered means of access) or article 11 (temporary prohibition or restriction of use of streets) any statutory undertaker whose apparatus is under, in, on, along or across the street is to have the same powers and rights in respect of that apparatus, subject to Schedule 9 (protective provisions), as if this Order had not been made.

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

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

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 29 any person who is—

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

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

(3) This article does not have effect in relation to apparatus to which article 30 (apparatus and rights of statutory undertakers in streets) or Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

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

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

## **PART 6 OPERATION**

### **Felling or lopping of trees**

**32.**—(1) The undertaker may fell or lop any tree or shrub within or overhanging land within the Order land or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

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

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

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(a) 2003 c.21. Section 151(1) was amended by paragraphs 90(a)(i), (ii), (iii), 90(b), 90(c) and 90(d) of Schedule 1 to the Electronic Communications and Wireless Telegraphy Regulations S.I. 2011/1210.

### Protective works to buildings

33.—(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 or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of five years beginning with the date of final commissioning.

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

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

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

(5) Before exercising—

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

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

(6) Where a notice is served under paragraph (5) (a),(c) or (d) , the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of ten days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 42 (arbitration).

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

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within a period of five years beginning with the date of final commissioning it appears that the protective works are inadequate to protect the building against damage caused by 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 152 (compensation in case where no right to claim in nuisance) of the Planning Act 2008.

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

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



- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the construction, operation and maintenance or use of the authorised development;
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the construction, operation and maintenance or use of the authorised development; and
- (c) any works the purpose of which is to secure the safe operation of the authorised development or to prevent or minimise the risk of such operation being disrupted.

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

## PART 7

### MISCELLANEOUS AND GENERAL

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

**34.**—(1) This article applies to—

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

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

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

(3) No enactment or rule of law to which paragraph (2) applies is to apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

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

#### **Operational land for purposes of the 1990 Act**

**35.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

### Defence to proceedings in respect of statutory nuisance

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

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

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

### Protective provisions

**37.** Schedule 9 (protective provisions) has effect.

### Procedure in relation to certain approvals

**38.**—(1) Where an application is made to, or a request is made of, the relevant planning authority, highway authority, traffic authority, street authority, or the owner of a watercourse, sewer or drain or the beneficiary of any of the protective provisions contained in Schedule 9 (protective provisions) for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements), such consent, agreement or approval to be validly given, must be given in writing.

(2) Where paragraph (1) applies to any consent, agreement or approval, such consent, agreement or approval must not be unreasonably withheld or delayed.

(3) Schedule 10 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements.

(4) Save for applications made pursuant to Schedule 10 and where stated to the contrary if, within eight weeks (or such longer period as may be agreed with the undertaker in writing) after the application or request has been submitted to an authority, beneficiary of protective provisions or an owner as referred to in paragraph (1) of this article it has not notified the undertaker of its disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

(5) The procedure set out in paragraph 1(3) of Schedule 10 has effect in relation to any refusal by an authority, beneficiary of protective provisions, or an owner as referred to in paragraph (1) of this article to any consent, agreement or approval required under this Order, including such as may

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(a) 1990 c.43. Section 82 was amended by section 103 of the Clean Neighbourhoods and Environment Act 2005 (c.16); Section 79 was amended by sections 101 and 102 of the same Act.

(b) 1974 c.40. Section 60 was amended by section 7(3)(a)(4)(g) of the Public Health (Control of Disease) Act 1984 (c.22) and section 112(1)(3), paragraphs 33 and 35(1) of Schedule 17, and paragraph 1(1)(xxvii) of Schedule 16 to the Electricity Act 1989 (c.29); Section 61 was amended by section 133(2) and Schedule 7 to the Building Act 1984 (c.55), paragraph 1 of Schedule 24 to the Environment Act 1995 (c.25), and section 162(1) of and paragraph 15(3) of Schedule 15 to the Environmental Protection Act 1990 (c.43).

be required pursuant to the protective provisions contained within Schedule 9 (protective provisions).

(6) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (4).

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

**39.**—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all documents and plans listed in Table 8 of Schedule 11 (documents and plans to be certified) to this Order for certification that they are true copies of the documents referred to in this Order.

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

### **Service of notices**

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

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

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

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

- (a) in the case of the secretary or clerk of that body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at that time of service.

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

- (a) addressing it to that person by the description of “owner”, or as the case may be, “occupier” of the land (describing it); and
- (b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

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

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;

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(a) 1978 c.30. Section 7 was amended by section 144 and paragraph 19 of Schedule 10 to the Road Traffic Regulation Act 1984 (c.27). There are other amendments not relevant to this Order.

- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

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

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

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

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

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

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

#### **Amendment and modification of statutory provisions**

**41.** The Able Marine Energy Park Development Consent Order 2014 is amended for the purposes of this Order only as set out in Schedule 13 (modifications to the Able Marine Energy Park Development Consent Order 2014).

#### **Arbitration**

**42.** Any difference under any provision of this Order, unless otherwise provided for, 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.

#### **Funding**

**43.—(1)** The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any Order land unless it has first put in place, following approval by the Secretary of State, either—

- (a) a guarantee (and the amount of that guarantee) in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) in respect of the exercise of the relevant power in relation to that land; or
- (b) an alternative form of security (and the amount of that security) in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) .

(2) The provisions are—

- (a) article 18 (compulsory acquisition of land);
- (b) article 21 (compulsory acquisition of rights etc.);
- (c) article 22 (private rights);
- (d) article 24 (acquisition of subsoil only);
- (e) article 26 (rights under or over streets);
- (f) article 27 (temporary use of land for carrying out the authorised development);

(g) article 28 (temporary use of land for maintaining the authorised development); and

(h) article 29 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

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

7th August 2020

*Gareth Leigh*  
Head of Energy Infrastructure Planning  
Department for Business, Energy and Industrial Strategy

## SCHEDULES

### SCHEDULE 1

Article 3

#### AUTHORISED DEVELOPMENT

In North Lincolnshire—

A nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the 2008 Act, and associated development under section 115(1)(b) of that Act, consisting of a generating station with a gross rated electrical output of up to 299MWe—

**Work No. 1** – OCGT power station, being an open cycle gas turbine generating station with a gross capacity of up to 299 megawatts, comprising—

- (a) gas turbine and turbine hall buildings;
- (b) electrical generator;
- (c) stack;
- (d) auxiliary cooling equipment or system;
- (e) gas turbine air intake filters;
- (f) banks of finfan coolers;
- (g) nitrogen oxide emissions control equipment;
- (h) transformers;
- (i) a switchyard, associated switch gear and ancillary equipment;
- (j) a gas receiving area, gas control facilities and gas reception building;
- (k) lubricating oil, hydraulic oil and chemical storage tanks and equipment;
- (l) continuous emissions monitoring system;
- (m) raw water and fire water storage tanks;
- (n) water treatment facilities, demineralised water treatment works, including storage tanks;
- (o) oily water and waste water treatment plant building and basin;
- (p) fire fighting equipment, buildings and distribution pipework;
- (q) permanent plant laydown area;
- (r) auxiliary plant, buildings, enclosures and structures;
- (s) mechanical, electrical, gas, telecommunications and water networks, pipework, cables, racks, infrastructure, instrumentation and utilities, including connections between parts of this Work No. 1 and Work Nos 4, 5 and 6;
- (t) workshop buildings and stores;
- (u) electrical, control, administration and welfare buildings; and
- (v) storm water attenuation system.

**Work No. 2** – access, comprising access from Rosper Road to each of Work Numbers 1, 3, 4, 5 and 6.

**Work No. 3** – temporary construction and laydown comprising hard standing, laydown and open storage areas, contractor compounds and staff welfare facilities, vehicle parking, roadways and haul routes, security fencing and gates, gatehouses, external lighting and lighting columns.

**Work No. 4** – gas connection, being works for the transport of natural gas to Work No. 1, comprising—

- (a) an underground and overground gas pipeline up to 600 millimetres (nominal internal diameter);
- (b) cathodic protection system and posts;
- (c) marker posts; and
- (d) control systems and cables.

**Work No. 5** – overground electrical connection up to 400 kilovolts and controls systems.

**Work No 6** – utilities and services connections comprising—

- (a) water pipes, connections, structures and ancillary equipment;
- (b) telecommunications cables and equipment;
- (c) compressed air connections and ancillary equipment;
- (d) electrical cables, connections and ancillary equipment;
- (e) control systems and cables; and
- (f) closed circuit television and security system connections.

In connection with and in addition to Work Nos. 1 to 6, further development including—

- (a) buildings and structures;
- (b) surface water drainage systems, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage systems;
- (c) electrical, gas, water, foul drainage and telecommunications infrastructure, connections and works, and works to install, remove, alter and connect into such services;
- (d) hard standing and hard landscaping, soft landscaping, embankments, planting and biodiversity enhancement measures;
- (e) security fencing, gates, boundary treatment and other means of enclosure;
- (f) lighting, including lighting columns;
- (g) gatehouses and weighbridges;
- (h) closed circuit television cameras, columns and other security works;
- (i) site establishment and preparation works, including site clearance, demolition, earthworks, excavations, vehicular access points, the alteration and protection of services and utilities, and works for the protection of buildings and land;
- (j) temporary construction laydown areas, contractor facilities, materials and plant storage, generators, concrete batching facilities, vehicle and cycle parking, roadways and haul routes, offices and welfare facilities, wheel wash facilities, and signage;
- (k) vehicle parking and cycle storage;
- (l) accesses, roads, pedestrian and cycle routes; and
- (m) tunnelling, boring and drilling works,

and to the extent that it does not form part of such works, further associated development comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and which fall within the scope of the works assessed in the environmental statement.

## SCHEDULE 2 REQUIREMENTS

Article 3

### Interpretation

#### 1. In this Schedule—

“Environment Agency” means the non-departmental public body of that name created by section 1 (the Environment Agency) of the Environment Act 1995(a);

“Highways England” means Highways England Company Limited or such other person who is appointed as the strategic highways company in respect of the A160 Humber Road and the A160/A180 interchange pursuant to section 1 (appointment of strategic highways companies) of the Infrastructure Act 2015(b);

“Historic England” means the Historic Buildings and Monuments Commission for England established by section 32 (establishment of commission) of the National Heritage Act 1983(c);

“lead local flood authority” means the body designated as such, for the area in which the authorised development is located, pursuant to section 6(7) (other definitions) of the Flood and Water Management Act 2010(d);

“Lincolnshire Wildlife Trust” means Lincolnshire Wildlife Trust (registered charity number 218895) of Banovallum House, Lincolnshire, LN9 5HF;

“North East Lindsey Internal Drainage Board” means the internal drainage board for the area in which the authorised development is located pursuant to section 1 (internal drainage districts and boards) of the Land Drainage Act 1991(e);

“North Lincolnshire Police” means the police force for the area in which the authorised development is located pursuant to section 1 (police areas) of the Police Act 1996(f);

“part of the authorised development” means any part of Works Nos. 1 to 6; and

“permitted preliminary works” means operations consisting of environmental surveys and monitoring, investigations for the purpose of assessing ground conditions, archaeological investigations, receipt and erection of construction plant and equipment, erection of any temporary means of enclosure, the temporary display of site notices or advertisements.

### Commencement of the authorised development

2.—(1) The authorised development must not be commenced after the expiration of five years from the date this Order comes into force.

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

### Notice of commencement

3. Notice of the intended start of commissioning of the authorised development must be given to the relevant planning authority where practicable prior to such start and in any event within seven days from the date that commissioning is started.

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(a) 1995 c.25.

(b) 2015 c.7.

(c) 1983 c.47.

(d) 2010 c.29.

(e) 1991 c.59 as amended by the Water Act 2014 (c.21).

(f) 1996 c.16 as amended by the Local Government and Public Involvement in Health Act 2007 (c.28) and the Policing and Crime Act 2017 (c.3).



### **Notice of date of final commissioning**

4. Notice of the intended date of final commissioning of the authorised development must be given to the relevant planning authority where practicable prior to such date of final commissioning and in any event within seven days from the date of final commissioning.

### **Detailed design**

5.—(1) In relation to any part of the authorised development comprised in Work No. 1 no development of that part may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, in respect of sub-paragraph (d) after consultation with the highway authority, approved by the relevant planning authority—

- (a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures;
- (b) finished floor levels;
- (c) hard standings;
- (d) the internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities, cycle parking and routes, and pedestrian facilities and routes; and
- (e) landscaping

(2) The details submitted pursuant to sub-paragraph (1) must be in accordance with the parameters set out in Schedule 12.

(3) No part of the authorised development comprised in Work No. 2 may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with the highway authority, approved by the relevant planning authority—

- (a) construction access;
- (b) operational access;
- (c) vehicle parking; and
- (d) haul routes.

(4) No part of the authorised development comprised in Work No. 3 may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, in respect of sub-paragraphs (a), (d) and (e) after consultation with the highway authority, approved by the relevant planning authority—

- (a) hard standings, laydown and open storage areas;
- (b) contractor compounds and construction staff welfare facilities;
- (c) gatehouse;
- (d) vehicle parking and cycle storage facilities; and
- (e) the internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities, cycle parking and routes, and pedestrian facilities and routes.

(5) No part of the authorised development comprised in Work Nos. 4 and 5, save for the permitted preliminary works, may commence until details of the following for that part have been submitted to and, after consultation with National Grid, approved by the relevant planning authority—

- (a) the route and method of installation of the gas pipeline; and
- (b) the route and method of electrical connection works comprising overground electrical cables, and control systems and cables.

(6) No part of the authorised development comprised in Work No. 6 may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with the Environment Agency and Anglian Water, approved by the relevant planning authority—

- (a) the route and method of construction of any utilities and services connections including water pipes, connections, pumps, tanks, structures and ancillary equipment; telecommunications cables and equipment; electrical cables, connections and ancillary equipment; and control systems and cables; and
- (b) water connection works, comprising underground and overground pipes, plant apparatus, enclosures and structures, and supply cables, transformers and control system cables.

(7) Work Nos. 1, 2, 3, 4, 5 and 6 must be carried out in accordance with the approved details unless otherwise agreed with the relevant planning authority.

### **Biodiversity enhancement and management plan**

6.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a biodiversity protection plan for that part has been submitted to and, after consultation with Natural England, approved by the relevant planning authority.

(2) The plan submitted and approved pursuant to sub-paragraph (1) must include details of—

- (a) measures to protect existing shrub and tree planting that is to be retained; and
- (b) biodiversity and habitat impact avoidance.

(3) The plan submitted and approved pursuant to sub-paragraph (1) must be implemented as approved throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

(4) Prior to the date of final commissioning a biodiversity enhancement and management plan must be submitted to and approved by the relevant planning authority.

(5) The plan submitted and approved pursuant to sub-paragraph (4) must include details of—

- (a) measures to protect existing shrub and tree planting that is to be retained;
- (b) measures to enhance biodiversity and habitats;
- (c) an implementation timetable; and
- (d) biodiversity management and maintenance.

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

(7) The plan submitted and approved pursuant to sub-paragraph (4) must be in accordance with the principles of the framework biodiversity enhancement and management plan.

(8) The plan must be implemented as approved during the operation of the authorised development unless otherwise agreed with the relevant planning authority.

### **External lighting**

7.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a scheme for all external lighting to be installed during construction for that part has been submitted to and approved by the relevant planning authority.

(2) No part of the authorised development may be commissioned until a scheme for all permanent external lighting to be installed has been submitted to and approved by the relevant planning authority.

(3) The schemes submitted and approved pursuant to sub-paragraphs (1) and (2) of this requirement must be in accordance with the indicative lighting strategy and include measures to minimise and otherwise mitigate any artificial light emissions during the construction and operation of the authorised development.

(4) The schemes must be implemented as approved unless otherwise agreed with the relevant planning authority.

### Highway accesses

8.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until details of the siting, design and layout (including visibility splays and construction specification) of any new or modified means of access between any part of the Order limits and the public highway to be used by vehicular traffic during construction, and the means of reinstating any such means of access after construction has, for that part, been submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(2) The highway accesses approved pursuant to sub-paragraph (1) must be constructed in accordance with the approved details prior to the start of construction of the relevant part of the authorised development (other than the accesses), and where temporary, reinstated prior to the date of final commissioning, unless otherwise agreed with the relevant planning authority.

(3) Prior to the date of final commissioning details of the siting, design and layout (including visibility splays and construction specification) of any new or modified permanent means of access to a highway to be used by vehicular traffic, must be submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(4) The highway accesses approved pursuant to sub-paragraph (3) must be constructed in accordance with the details approved unless otherwise agreed with the relevant planning authority.

### Means of enclosure

9.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a programme for the removal of all temporary means of enclosure for any construction areas or sites associated with the authorised development has, for that part, been submitted to and approved by the relevant planning authority.

(2) Any construction areas or sites associated with the authorised development must remain securely fenced at all times during construction and commissioning of the authorised development.

(3) Any temporary fencing must be removed by the end of three months beginning with the date of completion of construction of the authorised development (or such other period as the relevant planning authority may approve).

(4) Prior to the date of final commissioning details of any proposed permanent means of enclosure must be submitted to and approved by the relevant planning authority.

(5) Any permanent means of enclosure approved pursuant to sub-paragraph (4) must be completed prior to the date of final commissioning.

(6) The authorised development must be carried out in accordance with the approved details unless otherwise agreed with the relevant planning authority.

(7) In this requirement, “means of enclosure” means fencing, walls or other means of boundary treatment and enclosure.

### Surface water drainage

10.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until details of the temporary surface water drainage systems, including means of pollution control in accordance with the construction environmental management plan submitted pursuant to requirement 14 and a management and maintenance plan to ensure that the systems remain fully operational throughout the construction of the relevant part of the authorised development have, for that part, been submitted to, and after consultation with the lead local flood authority and North East Lindsey Internal Drainage Board, approved by the relevant planning authority.

(2) The scheme approved pursuant to sub-paragraph (1) must be implemented as approved and maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

(3) Details of the permanent surface water drainage systems, including a programme for their implementation, must be submitted to, and after consultation with the Environment Agency, the lead local flood authority, Anglian Water and North East Lindsey Internal Drainage Board, approved by the relevant planning authority prior to the start of construction of any part of those systems.

(4) The details submitted and approved pursuant to sub-paragraphs (1) and (3) of this requirement must be in accordance with the principles set out in chapter 12 (surface water, flood risk and drainage) of the environmental statement and the flood risk assessment.

(5) The scheme approved pursuant to sub-paragraph (3) must be implemented as approved and maintained throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.

### **Flood risk mitigation**

**11.**—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a scheme for the mitigation of flood risk during construction, has, for that part, been submitted to and approved by the relevant planning authority.

(2) The scheme approved pursuant to sub-paragraph (1) must be implemented as approved and maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

(3) No part of the authorised development may commence until a scheme for the mitigation of flood risk during operation has, for that part, been submitted to and, after consultation with the Environment Agency and North East Lindsey Internal Drainage Board, approved by the relevant planning authority.

(4) The schemes submitted and approved pursuant to sub-paragraphs (1) and (3) of this requirement must be in accordance with the principles set out in chapter 12 (surface water, flood risk and drainage) of the environmental statement and the flood risk assessment.

(5) The scheme approved pursuant to sub-paragraph (3) must be implemented as approved and maintained throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.

(6) The authorised development must not be commissioned until the flood risk mitigation has been implemented and a flood emergency response and contingency plan has been submitted to, and after consultation with North East Lindsey Internal Drainage Board, approved by the relevant planning authority.

(7) The plan approved pursuant to sub-paragraph (6) must be implemented throughout the commissioning and operation of the authorised development unless otherwise agreed with the relevant planning authority.

### **Contaminated land and groundwater**

**12.**—(1) No part of the authorised development may commence, save for geotechnical surveys and other investigations for the purpose of assessing ground conditions, until a scheme to deal with the contamination of land, including groundwater, which is likely to cause significant harm to persons or pollution of controlled waters or the environment, has, for that part, been submitted to and, after consultation with the Environment Agency, approved by the relevant planning authority.

(2) The scheme submitted and approved must be in accordance with the principles set out in chapter 11 (ground conditions and hydrogeology) of the Environmental Statement and with the construction environmental management plan submitted pursuant to requirement 14.

(3) The scheme must include a risk assessment, supported by site investigation data, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a materials management plan, which sets out long-term measures with respect to any contaminants remaining on the site.

(4) The authorised development, including any remediation, must be carried out in accordance with the approved scheme unless otherwise agreed with the relevant planning authority.

(5) Should any remediation be required a verification report demonstrating the completion of works set out in the approved scheme and the effectiveness of the remediation must be submitted to, and approved, by the relevant planning authority prior to the date of final commissioning. The report must include results of sampling and monitoring carried out in accordance with the approved scheme to demonstrate that the site remediation criteria have been met.

### **Archaeology**

**13.—**(1) No part of the authorised development may commence until a written scheme of investigation for that part has been submitted to and, after consultation Historic England, approved by the relevant planning authority.

(2) The scheme submitted and approved must be in accordance with chapter 13 (cultural heritage) of the environmental statement and the framework written scheme of investigation.

(3) The scheme must identify whether any further archaeological investigations are required and, if investigations are deemed to be required, the nature and extent of the investigations in order to preserve by knowledge or in-situ any archaeological features that are identified.

(4) The scheme must provide details of the measures to be taken to protect, record or preserve any significant archaeological features that may be found.

(5) Any archaeological investigations implemented and measures taken to protect, record or preserve any identified significant archaeological features that may be found must be carried out—

- (a) in accordance with the approved scheme; and
- (b) by a suitably qualified person or organisation approved by the relevant planning authority unless otherwise agreed with the relevant planning authority.

### **Construction environmental management plan**

**14.—**(1) No part of the authorised development may commence, save for the permitted preliminary works, until a construction environmental management plan has been submitted to and, after consultation with Natural England, approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the framework construction environmental management plan and incorporate—

- (a) a code of construction practice, specifying measures designed to minimise the impacts of construction works;
- (b) a scheme for the control of emissions of dust;
- (c) a soil management plan;
- (d) a sediment control plan;
- (e) a scheme for environmental monitoring and reporting during the construction of the authorised development, including measures for undertaking any corrective actions;
- (f) a scheme for the notification of any significant construction impacts on local residents and for handling any complaints received from local residents relating to such impacts during the construction of the authorised development; and
- (g) a requirement that the detail of the fencing and protection of asset A6 is in accordance with the strategy set out in the framework written scheme of investigation.

(3) All construction works associated with the authorised development must be carried out in accordance with the approved construction environmental management plan unless otherwise agreed with the relevant planning authority.

(4) The plan submitted must include information on the proposed piling methods, their approximate duration and timing, the likely sound power levels, and any necessary management measures or mitigation to ensure, taking into account the information in the statement to inform appropriate assessment, that there will be no adverse impact on any qualifying species of the Humber Estuary Special Protection Area and Ramsar Site.

### **Protection of highway surfaces**

**15.—**(1) No part of the authorised development may commence, save for the permitted preliminary works, until details for undertaking condition surveys of the relevant parts of Rosper Road which are maintainable at the public expense and which are to be used during construction have been submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(2) The condition surveys must be undertaken in accordance with the approved details and a schedule of repairs required due to use by construction traffic for the authorised development, including a programme for undertaking any such repairs and their inspection, must, following the completion of the post-construction condition surveys, be submitted to, and after consultation with the highway authority, approved by the relevant planning authority.

(3) The schedule of repairs must be carried out as approved unless otherwise agreed with the relevant planning authority.

### **Construction traffic management plan**

**16.—**(1) No part of the authorised development may commence, save for the permitted preliminary works, until a construction traffic management plan has been submitted to and, after consultation with North East Lincolnshire Council, Highways England and the highway authority, approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with chapter 7 (traffic and transport) of the environmental statement and the framework construction traffic management plan.

(3) The plan submitted and approved must include—

- (a) details of the routes to be used for the delivery of construction materials and any temporary signage to identify routes and promote their safe use, including details of the access points to the construction site to be used by light goods vehicles and heavy goods vehicles;
- (b) details of the routing strategy and procedures for the notification and conveyance of abnormal invisible loads, including agreed routes, the numbers of abnormal loads to be delivered by road and measures to mitigate traffic impact; the construction programme; and
- (c) any necessary measures for the temporary protection of carriageway surfaces, the protection of statutory undertakers' plant and equipment, and any temporary removal of street furniture.

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

(5) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Construction workers travel plan**

**17.—**(1) No part of the authorised development may commence, save for the permitted preliminary works, until a construction workers travel plan has been submitted to and, after consultation with North East Lincolnshire Council, Highways England and the highway authority, approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with chapter 7 (traffic and transport) of the environmental statement and the framework construction worker travel plan.

(3) The plan submitted and approved must include—

- (a) measures to promote the use of sustainable transport to and from the authorised development by construction staff;

- (b) provision as to the responsibility for, and timescales of, the implementation of those measures;
- (c) details of parking for construction personnel within the construction sites; and
- (d) a monitoring and review regime.

(4) The approved plan must be implemented prior to commencement of the authorised development, save for the permitted preliminary works, and must be maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

### **Construction hours**

**18.**—(1) Construction work relating to the authorised development must not take place on bank holidays or otherwise outside the hours of—

- (a) 0700 to 1900 hours on Monday to Friday; and
- (b) 0800 to 1800 hours on a Saturday.

(2) Delivery or removal of materials, plant and machinery must not take place on bank holidays nor outside the hours of 0700 to 1900 hours on Monday to Saturday.

(3) The restrictions in sub-paragraphs (1) and (2) do not apply to construction work or the delivery or removal of materials, plant and machinery, where these—

- (a) do not exceed a noise limit measured at the Order limits which has been agreed with the relevant planning authority;
- (b) are carried out with the prior approval of the relevant planning authority; or
- (c) are associated with an emergency.

(4) The restrictions in sub-paragraph (2) do not apply to the delivery of abnormal indivisible loads, which are—

- (a) associated with an emergency; or
- (b) carried out with the prior approval of the relevant planning authority.

(5) Sub-paragraph (1) does not preclude—

- (a) a start-up period from 0630 to 0700 and a shut-down period from 1900 to 1930 Monday to Friday and a start-up period from 0730 to 0800 and a shut-down period from 1800 to 1830 on a Saturday; or
- (b) maintenance at any time of plant and machinery engaged in the construction of the authorised development.

(6) In this requirement—

“shut down period” means the period during which construction workers may return to the site office to return safety and other equipment, attend debrief sessions, change clothing and prepare to leave site; and

“start-up period” means the period during which construction workers may arrive at site, sign in, don personal protective equipment, attend safety and other briefings and mobilise on site.

### **Control of noise - operation**

**19.**—(1) Prior to the date of final commissioning a scheme for the management and monitoring of noise during operation of the authorised development must be submitted to and approved by the relevant planning authority.

(2) The scheme submitted pursuant to sub-paragraph (1) must include the results of daytime and night time baseline noise monitoring that has been carried out by the undertaker for the purposes of this requirement as agreed with the relevant planning authority.

(3) Noise (in terms of the BS4142:2014 rating level) from the operation of the authorised development must be no greater than 3dB higher than the defined representative background

sound level during each of the daytime and the night time, adjacent to the nearest residential properties at locations agreed with the relevant planning authority.

(4) The scheme must be implemented as approved unless otherwise agreed with the relevant planning authority.

(5) In this requirement—

- (a) “daytime” means the period from 0700 to 2300 and “night time” means the period from 2300 to 0700; and
- (b) “defined representative background sound level” means the sound level measured during the monitoring secured by sub-paragraph (2).

### **Piling and penetrative foundation design**

**20.**—(1) No part of the authorised development comprised within Work No. 1 may commence, save for the permitted preliminary works, until a written piling and penetrative foundation design method statement, informed by a risk assessment, for that part, has been submitted to and, after consultation with the Environment Agency, approved by the relevant planning authority.

(2) All piling and penetrative foundation works must be carried out in accordance with the approved method statement unless otherwise agreed with the relevant planning authority.

### **Waste management on site - construction wastes**

**21.**—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a construction site waste management plan for that part has been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the principles set out in the framework construction environmental management plan.

(3) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Restoration of land used temporarily for construction**

**22.**—(1) Prior to the date of final commissioning a scheme for the restoration of any land within the Order limits which has been used temporarily for construction must be submitted to and approved by the relevant planning authority.

(2) The land must be restored within three years of the date of final commissioning (or such other period as the relevant planning authority may approve), in accordance with the restoration scheme approved in accordance with sub-paragraph (1).

### **Employment, skills and training plan**

**23.**—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction and employment opportunities during operation of the authorised development has been submitted to and, after consultation with North East Lincolnshire Council, approved by the relevant planning authority.

(2) The approved plan must be implemented and maintained during the construction and operation of the authorised development unless otherwise agreed with the relevant planning authority.

### **Decommissioning**

**24.**—(1) Within 12 months of the date that the undertaker decides to decommission the authorised development, the undertaker must submit to the relevant planning authority for their approval a decommissioning environmental management plan.



(2) No decommissioning works may be carried out until the relevant planning authority has approved the plan.

(3) The plan submitted and approved must include details of—

- (a) the buildings to be demolished;
- (b) the means of removal of the materials resulting from the decommissioning works;
- (c) the phasing of the demolition and removal works;
- (d) any restoration works to restore the land to a condition agreed with the relevant planning authority;
- (e) the phasing of any restoration works; and
- (f) a timetable for the implementation of the scheme.

(4) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Foul water drainage**

**25.**—(1) No part of the authorised development may commence, save for the permitted preliminary works, until full details of a scheme, for the connection, conveyance, treatment and disposal of mains foul water drainage on and off site has been submitted to, and after consultation with the Environment Agency and Anglian Water, approved by the relevant planning authority.

(2) If it is demonstrated as part of the information submitted pursuant to sub-paragraph (1) that it is not practicable or reasonable to connect to a mains system, an alternative strategy for the provision and implementation of wastewater treatment must be submitted to and, after consultation with the Environment Agency and Anglian Water, approved by the relevant planning authority. Any non-mains drainage proposal must include a management and maintenance plan to ensure that it will not cause pollution to the water environment.

(3) The schemes approved pursuant to sub-paragraph (1) and (where relevant) sub-paragraph (2) must be implemented and maintained throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.

### **Requirement for written approval**

**26.** Where under any of the above requirements the approval or agreement of the relevant planning authority or another person is required, that approval or agreement must be provided in writing.

### **Approved details and amendments to them**

**27.**—(1) All details submitted for approval of the relevant planning authority under these requirements must be in accordance with the parameters of the environmental statement and reflect the principles set out in the documents certified under article 39 (certification of plans etc.).

(2) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority, the approved details are to be taken to include any amendments that may subsequently be approved by the relevant planning authority.

### **Amendments agreed by the relevant planning authority**

**28.**—(1) Where the words “unless otherwise agreed with the relevant planning authority” appear in the above requirements, any such approval or agreement may only be given in relation to non-material amendments and where it has been demonstrated to the satisfaction of the relevant planning authority that the subject matter of the approval or agreement sought will not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(2) In cases where the requirement or the relevant sub-paragraph requires consultation with specified persons, any approval or agreement must not be given without the relevant planning authority having first consulted with those persons.

## SCHEDULE 3

Articles 8, 9 and 12

## STREETS SUBJECT TO STREET WORKS

Table 1

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to street works</i>	<i>(3)</i> <i>Description of the street works</i>
In the District of North Lincolnshire	Rosper Road	Works to repair and resurface the access and to maintain visibility splays in the areas cross hatched in red and blue at the point marked C on sheet 1 of the access and rights of way plans
In the District of North Lincolnshire	Rosper Road	Works to repair and resurface the access and to maintain visibility splays in the area cross hatched in red at the point marked A on sheet 1 of the access and rights of way plans
In the District of North Lincolnshire	Rosper Road	Works for the installation and maintenance of Work No. 6 in the area cross hatched in blue at the point marked B on sheet 1 of the access and rights of way plans

## SCHEDULE 4

Article 10

## ACCESS

## PART 1

THOSE PARTS OF THE ACCESSES TO BE MAINTAINED BY THE HIGHWAY  
AUTHORITY**Table 2**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Description of relevant part of access</i>
In the District of North Lincolnshire	Rosper Road	That part of the access in the area cross hatched in blue at the point marked C on sheet 1 of the access and rights of way plans

## PART 2

THOSE PARTS OF THE ACCESSES TO BE MAINTAINED BY THE STREET  
AUTHORITY**Table 3**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street</i>	<i>(3)</i> <i>Description of relevant part of access</i>
In the District of North Lincolnshire	Rosper Road	That part of the access cross hatched in red at the point marked A on sheet 1 of the access and rights of way plans
In the District of North Lincolnshire	Rosper Road	That part of the access cross hatched in red at the point marked C on sheet 1 of the access and rights of way plans

## SCHEDULE 5

Article 11

TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF  
STREETS**Table 4**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Streets subject to temporary prohibition or restriction of use</i>	<i>(3)</i> <i>Extent of temporary prohibition or restriction of use of street</i>
In the District of North Lincolnshire	Rosper Road	Temporary closure of the part of the street cross hatched in blue at the point marked B on sheet 1 of the access and rights of way plans

## SCHEDULE 6

Article 21

## LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

Table 5

<i>(1)</i> <i>Class of compulsory acquisition and the creation of rights and the imposition of restrictions for the installation and use of the authorised development</i>	<i>(2)</i> <i>Means of all rights and restrictions necessary for the undertaker and/or those authorised by the undertaker</i>
(a)	To pass and repass on foot, with or without vehicles, plant and machinery
(b)	To construct, maintain, improve and protect access routes
(c)	To install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve an underground and overground gas pipeline up to 600 millimetres (nominal internal diameter), control systems and cables and any other ancillary apparatus and any other works as necessary
(d)	To install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve an overground electrical connection of up to 400 kilovolt, control systems and any other ancillary apparatus and any other works as necessary
(e)	To install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve water pipes, connections, structures and ancillary equipment; telecommunications cables and equipment; compressed air connections and ancillary equipment; electrical cables, connections and ancillary equipment; control systems and cables; closed circuit television and security system connections; and any other ancillary apparatus and any other works as necessary
(f)	To retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve an underground gas pipeline, control systems and cables and any other ancillary apparatus and any other works as necessary
(g)	To install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve water pipes, connections, structures and ancillary equipment and any other ancillary apparatus and any other works as necessary
(h)	To install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve security fencing, gates, boundary treatment and any other ancillary apparatus and any other works as necessary

(i)	To install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve gatehouses and weighbridges and any other ancillary apparatus and any other works as necessary
(j)	Restrictions on erecting buildings or structures, altering ground levels, planting trees or carrying out operations or actions which may obstruct, interrupt or interfere with the exercise of rights

**Table 6**

<i>(1)</i> <i>Plot</i>	<i>(2)</i> <i>Class of rights listed in Table 5 applicable to the plot</i>
2	(a), (b), (h), (i) and (j)
6	(a) and (g)
7	(a) and (g)
8	(a), (b), (h), (i) and (j)
9	(a), (b), (h), (i) and (j)
10	(a), (b), (h), (i) and (j)
12	(a), (e) and (j)
14	(a), (e), (b), (h), (i) and (j)
15	(a), (b), (h), (i) and (j)
16	(a), (c) and (j)
17	(a), (d), (e), (c) and (j)
18	(a), (e) and (j)
20	(a), (b), (c), (h), (i) and (j)
21	(a), (b), (h), (i) and (j)
22	(a), (b), (e), (h), (i) and (j)
23	(a), (b), (c), (d), (e), (h), (i) and (j)
24	(a), (d) and (j)
25	(a), (b), (h), (i) and (j)
26	(a), (b), (h), (i) and (j)
27	(a), (e) and (j)
28	(a), (b), (c), (e), (h), (i) and (j)
29	(a), (b), (c), (e), (h), (i) and (j)
30	(a), (b), (d), (h), (i) and (j)
31	(a), (b), (h), (i) and (j)
32	(a), (e), (b), (h), (i) and (j)
34	(a), (b), (h), (i) and (j)
35	(a), (b), (c) (h), (i) and (j)
33, 37-111	(a) and (f)

## SCHEDULE 7

Article 21

**MODIFICATION OF COMPENSATION AND COMPULSORY  
PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS  
AND IMPOSITION OF NEW RESTRICTIVE COVENANTS**

*Compensation enactments*

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

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

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

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

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

(2) In section 5A(5A) (relevant valuation date) of the 1961 Act, for (a) and (b) substitute—

- “(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 7 to the Immingham Open Cycle Gas Turbine Order 2020; and
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 7 to the Immingham Open Cycle Gas Turbine Order 2020 to acquire an interest in the land, and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

*Application of Part 1 of the 1965 Act*

**4.** Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 25 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the acquisition of land under article 18 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 21 (compulsory acquisition of rights etc.)—

- (a) with the modification specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

**5.—**(1) The modifications referred to in paragraph 4(a) are as follows.

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(a) 1973 c.26.



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

- (a) the right acquired or to be acquired, or the restrictive covenant imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restrictive covenant is or is to be enforceable.

(3) For section 7 of the 1965 Act there is substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (persons without powers to sell their interests);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

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

(5) Section 11 (powers of entry) of the 1965 Act is modified as to secure that, where the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 18, it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(a) (powers of entry: further notices of entry), 11B(b) (counter-notice requiring possession to be taken on a specified date), 12(c) (unauthorised entry) and 13(d) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

(6) Section 20(e) (tenants at will etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 25(3) (modification of Part 1 of the Compulsory Purchase Act 1965) is also modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

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

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- (a) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).
  - (b) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016 (c.22).
  - (c) Section 12 was amended by section 56(2) of and part 1 of Schedule 9 to, the Courts Act 1971 (c.23).
  - (d) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c.15).
  - (e) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c.34) and S.I. 2009/1307.

## “SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

### **Introduction**

1.—(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act (execution of declaration) as applied by article 23 of the Immingham Open Cycle Gas Turbine Order 2020 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) in respect of the land to which the notice to treat relates.

(2) But see article 24(3) of the Immingham Open Cycle Gas Turbine Order 2020 (acquisition of subsoil only) which excludes the acquisition of subsoil only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

### **Counter-notice requiring purchase of land**

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

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

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

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

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

6. The authority must serve notice of their decision on the owner within the period of three months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

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

### **Determination by Upper Tribunal**

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

**11.** In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

**12.** If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

**13.** If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

**14.—(1)** If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

## SCHEDULE 8

Article 27

## LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

Table 7

<i>(1)</i> <i>Plot</i>	<i>(2)</i> <i>Purpose for which temporary possession may be taken</i>
01	Temporary use as a construction and laydown area to facilitate construction and commissioning of Work No.1, Work No.2, Work No.4, Work No.5 and Work No.6
03	Temporary use as a construction and laydown area to facilitate construction and commissioning of Work No.1, Work No.2, Work No.4, Work No.5 and Work No.6
04	Temporary use as a construction and laydown area to facilitate construction and commissioning of Work No.1, Work No.2, Work No.4, Work No.5 and Work No.6
11	Temporary use as a construction and laydown area to facilitate construction and commissioning of Work No.1, Work No.2, Work No.4, Work No.5 and Work No.6
13	Temporary use as a construction and laydown area to facilitate construction and commissioning of Work No.1, Work No.2, Work No.4, Work No.5 and Work No.6
19	Temporary use as a construction and laydown area to facilitate construction and commissioning of Work No.1, Work No.2, Work No.4, Work No.5 and Work No.6

SCHEDULE 9  
PROTECTIVE PROVISIONS

Article 37

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE  
UNDERTAKERS

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

2. In this Part—

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

“apparatus” means—

- (a) in the case of a utility undertaker within paragraph (a) of the definition of that term, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that utility undertaker;
- (b) in the case of a utility undertaker within paragraph (b) of the definition of that term, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a utility undertaker within paragraph (c) of the definition of that term—
  - (i) mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and
  - (ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A (agreement to adopt water main or service pipe at future date) of the Water Industry Act 1991;
- (d) in the case of a utility undertaker within paragraph (d) of the definition of that term—
  - (i) any drain or works vested in the utility 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) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act, and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

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

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 (electricity supply) of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986;

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(a) 1989 c.29.

- (c) water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 (preliminary) of the Water Industry Act 1991,

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

### **Precedence of the 1991 Act in respect of apparatus in the streets**

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

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 11 (temporary prohibition or restriction of use of streets), a utility undertaker is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

### **No acquisition etc. except by agreement**

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

### **Removal of apparatus**

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

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

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 42 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in

sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

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

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

7.—(1) Where, in accordance with the provisions of this Part, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 42.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained Apparatus**

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

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

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

(4) If a utility undertaker in accordance with sub-paragraph (1) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

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

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

### Expenses and costs

**9.—**(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

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

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 42 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 utility undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 6(2); and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**10.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 6(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

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

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



(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

### **Enactments and agreements**

**11.** Nothing in this Part affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaking in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## **PART 2**

### **FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS**

**12.—**(1) For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

(2) In this Part—

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

“electronic communications apparatus” has the same meaning as set out in paragraph 5 of the electronic communications code;

“the electronic communications code” has the same meaning as set out in section 106 (application of the electronic communications code) of the 2003 Act(**b**);

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 of that code;

“network” means—

(a) so much of a network or infrastructure system provided by an operator as is not excluded from the application of the electronic communications code by a direction under section 106(5) of the 2003 Act; and

(b) a network which the Secretary of State is providing or proposing to provide; and

“operator” means a person in whose case the electronic communications code is applied by a direction under section 106(5) of the 2003 Act and who is an operator of a network.

**13.** The exercise of the powers of article 29 (statutory undertakers) is subject to Part 10 of Schedule 3A (the electronic communications code) of the 2003 Act.

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

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

(b) there is any interruption in the supply of the service provided by an operator, the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that

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(a) 2003 c.21 as amended by the Digital Economy Act 2017 (c.30).

(b) Added by Schedule 1 of the Digital Economy Act 2017 (c.30).

operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

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

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 42 (arbitration).

**15.** This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

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

## PART 3

### FOR THE PROTECTION OF NATIONAL GRID AS ELECTRICITY AND GAS UNDERTAKER

#### **Application**

**17.** For the protection of National Grid referred to in this Part of this Schedule the following provisions, unless otherwise agreed in writing between the undertaker and National Grid, have effect.

#### **Interpretation**

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

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

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply,

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

“authorised development” has the same meaning as in article 2 (interpretation) of this Order and includes any associated development authorised by the Order and (unless otherwise specified) for the purposes of this Part of this Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

“commence” has the same meaning as in article 2 (interpretation) of the Order and commencement is to be construed to have the same meaning save that for the purposes of this Part only the term commence and commencement include any below ground surveys, monitoring or operations or receipt and erection of construction plant and equipment within 15 metres of any apparatus;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

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

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, will require the undertaker to submit for National Grid’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” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of the undertaker including construct, use, repair, alter, inspect, renew or remove the apparatus;

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

“National Grid” means—

- (a) National Grid Electricity Transmission plc (company number 2366977) whose registered office is at 1-3 Strand, London WC2N 5EH; and
- (b) National Grid Gas plc (company number 200600) whose registered office is at 1-3 Strand, London WC2N 5EH,

as the context requires; and

“specified works” means any of the authorised development or activities undertaken in association with the authorised development 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 23(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 23(2) or otherwise; and/or
- (c) includes in relation to gas apparatus any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Grid’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/SSW/22”).

## **On Street Apparatus**

19. Except for paragraphs 20 (apparatus of undertakers in streets subject to temporary prohibition or restriction), 25 (retained apparatus: protection), 27 (expenses) and 28 (indemnity) of

this Schedule which will apply in respect of the exercise of all or any powers under this Order affecting the rights and apparatus of National Grid, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of undertakers in streets subject to temporary prohibition or restriction**

**20.** Notwithstanding a temporary prohibition or restriction under the powers of article 11 (temporary prohibition or restriction on the use of streets), National Grid will be at liberty at all times to take all necessary access across any street and/or to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

### **Protective works to buildings**

**21.—(1)** The undertaker, in the case of the powers conferred by article 33 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid 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 National Grid or any interruption in the supply of electricity and/or gas, as the case may be, by National Grid is caused, the undertaker must bear and pay on demand the cost reasonably incurred by National Grid in making good such damage or restoring the supply; and, subject to sub-paragraph (2), must—

- (a) pay compensation to National Grid for any loss sustained by it; and
- (b) indemnify National Grid against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by that 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 an undertaker or its contractors or workmen; and National Grid will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof may be made by National Grid, 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**

**22.—(1)** Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to this Order, the undertaker may not appropriate or acquire or take temporary possession of any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid otherwise than by agreement, such agreement not to be unreasonably withheld.

(2) As a condition of agreement between the parties in paragraph 22(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of National Grid and/or affect the provision of any enactment or apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variation by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid and/or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(4) Any agreement or consent granted by National Grid under paragraph 25 or any other paragraph of this Part of this Schedule, must not be taken to constitute agreement under sub-paragraph (3).

### **Removal of apparatus**

**23.**—(1) If, in the exercise of the agreement reached in accordance with paragraph 22 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of an 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 National Grid in question in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works comprised in the authorised development in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to National Grid to its satisfaction (taking into account paragraph 24(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation must not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

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

**24.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National

Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker and agreed with National Grid under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid 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 in the matter will be referred to arbitration under paragraph 32 (arbitration) of this Part of this Schedule and the arbitrator may make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection of gas undertaker**

**25.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan and, if reasonably required by National Grid, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

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

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until National Grid has given written approval of the plan so submitted.

(4) Any approval of National Grid required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, National Grid 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 convenient means of access to any apparatus.

(6) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(7) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and National Grid must give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If National Grid in accordance with sub-paragraphs (5) or (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 17 to 19 and 22 to 24 apply as if the removal of the apparatus had been required by the undertaker under paragraph 23(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 authorised development, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

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

- (a) comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with National Grid'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 HSE'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 save that National Grid retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 28.

#### **Retained apparatus: protection of electricity undertaker**

**26.—**(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity tower foundations.

(2) In relation to works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; 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 (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;

- (d) details of 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) assessment of earth rise potential if reasonably required by National Grid'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 (2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraphs (2) or (3)—

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

(6) In relation to any work to which sub-paragraph (2) or (3) apply, National Grid 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 convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grids' satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and National Grid must give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 17 to 19 and 22 to 24 apply as if the removal of the apparatus had been required by the undertaker under paragraph 23(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 authorised development, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

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

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

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



## Expenses

27.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to National Grid on demand all charges, costs and expenses reasonably anticipated or incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid—
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 23(3); and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 42 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will 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 will be borne by the undertaker.

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

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

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid 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**

**28.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

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

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

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

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents; and
- (b) any part of the authorised development and/or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of National Grid with the benefit of this Order pursuant to section 156 of the Planning Act 2008 (benefit of order granting development consent) or article 7 (consent to transfer benefit of order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised development yet to be executed and not falling within this sub-paragraph (3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 28.

(4) National Grid must give the undertaker reasonable 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 considering their representations.

(5) National Grid must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under this paragraph 28 applies where it is within National Grid’s reasonable gift and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid’s control.

### **Enactments and agreements**

29. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid 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**

30.—(1) Where in consequence of the proposed construction of any of the authorised development, the undertaker or an undertaker requires the removal of apparatus under paragraph 23(2) or an undertaker makes requirements for the protection or alteration of apparatus under paragraph 27, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and each undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

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

### **Access**

31. If in consequence of the agreement reached in accordance with paragraph 22(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

32. Save for differences or disputes arising under paragraphs 23(2), 23(4), 24(1), 25 and 27(5) any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 42 (arbitration).

### **Notices**

33. The plans submitted to National Grid by the undertaker pursuant to paragraphs 25(1) and 26(1) must be sent to National Grid Plant Protection at [plantprotection@nationalgrid.com](mailto:plantprotection@nationalgrid.com) or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **PART 4**

### **FOR THE PROTECTION OF PHILLIPS 66 LIMITED**

#### **Benefit of protective provisions**

34. For the protection of P66, the following provisions, unless otherwise agreed in writing between the undertaker and P66, have effect.

#### **Interpretation**

35. In this Part of this Schedule—

“applicable legislation” means European Union directives and regulations, statutes, regulations or subordinate or local legislation or notices or other requirements or directions of any relevant body (including any public body or agency or other authority) and any formal guidance notes or codes of conduct issued by or under the same, and common law but only in so far as the same are valid and have the force of law relating to—

- (a) the use of or any activity on the VPI pipeline corridor; or
- (b) any process, conduct or activity (including without limit treatment, transport, storage, disposal or re) involving any hazardous material on under above in or about the VPI pipeline corridor; or
- (c) the health and safety of employees, visitors, contractors and other persons at or in the vicinity of the VPI pipeline corridor; or
- (d) the exercise of the specified rights; or
- (e) otherwise the protection of the environment; or
- (f) any requirement pertaining to reporting, notification or disclosure of information to any body or person concerning any matter referred above;

“affected assets” means apparatus owned or operated by P66 on or above ground which in the reasonable opinion of P66 would have the potential to be physically affected by the relevant works;

“apparatus” means any part of the pipelines and includes—

- (a) any structure existing at the time when a particular action is to be taken under this Part of this Schedule in which apparatus is or is to be lodged or which will give access to apparatus;
- (b) any cathodic protection, coating or special wrapping of the apparatus; and
- (c) all ancillary apparatus properly appurtenant to the pipelines, that would be treated as being associated with a pipe or systems of pipes under section 65(2) of the Pipe-Lines Act 1962(a), as if the pipelines were a “pipe-line” in section 65(1) of that Act;

“CHP land” means the land on which the VPI Immingham CHP power station is sited as at the date of this Order, at Rosper Road, near Immingham;

“contamination” means any contamination by hazardous material which harms or damages or otherwise adversely affects or presents a significant risk of harm or damage or other adverse effects or a significant possibility of such harm or damage or other adverse effects to the environment or in relation to controlled waters the presence of substances which cause or are likely to cause pollution of controlled waters;

“controlled waters” has the meaning given to it in Section 104 of the Water Resources Act 1991;

“damage” includes all damage including in relation to a pipeline leakage and the weakening of the mechanical strength of a pipeline;

“decision” means the decision of the relevant local planning authority (or of an inspector appointed by the Secretary of State to decide an appeal lodged against the local planning authority’s decision) to grant or refuse (as the case may be) a P66 planning permission;

“described land” means any land owned by or acquired by P66 as lies within the limits of lateral deviation authorised by a P66 planning permission;

“development” has the meaning given to it by section 55 of the Town and Country Planning Act 1990;

“development plan” means the development plan or a local plan operative in respect of any part of the described land following adoption of it by the local planning authority;

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(a) 1962 c.58. Section 65 was amended by section 89(1) of, and paragraphs 1 and 2 Schedule 2 to, the Energy Act 2011 (c.16), S.I. 2000/1937 and S.I. 2011/2305.

“diversion route” means the route to be agreed or determined in accordance with paragraph 98 of this Part of this Schedule;

“engineer” means an engineer appointed by P66 for the purposes of this Order;

“existing gas pipeline” means that part of the existing underground gas pipeline within the Order land which connects the VPI Immingham CHP power station as at the date of this Order, at Rosper Road, near Immingham, to the National Grid Feeder No.9 located to the west of South Killingholme;

“good industry practice” means the standards and practice which would reasonably and ordinarily be expected from a skilled and experienced operator of the relevant apparatus or infrastructure in the United Kingdom;

“hazardous material” means any substance (whether in solid, liquid or gaseous form) which alone or in combination with others is capable of polluting the environment or capable of causing significant harm to the environment;

“HOR” means the Humber Oil Refinery which at the date of this Order is owned and operated by P66;

“local planning authority” means the planning authority responsible for determining an application for P66 planning permission;

“P66” means Phillips 66 Limited (Company number 00529086) and any subsequent owner of the pipelines or HOR;

“P66 address” means the postal address details to be provided pursuant to paragraph 103;

“P66 email” means the email address details to be provided pursuant to paragraph 103;

“P66 land” means any interest in land owned by P66 on the date of this Order and within the Order land;

“P66 planning permission” means a planning permission within the meaning of Section 336 of the 1990 Act;

“pipelines” means the 3 pipelines located in the pipeline corridor crossing the Order limits which at the date of this Order are owned and operated by P66 for the passage of multipurpose hydrocarbon fuels and all ancillary apparatus including such works and apparatus properly appurtenant to the pipelines as are specified by section 65(2) of the Pipe-lines Act 1962;

“pipeline corridor” means the corridor within the Order land within which the pipelines are located;

“planning application” means an application for a P66 planning permission;

“protected land” means such parts of the Order land as fall within the pipeline corridor;

“relevant plan provision” means a policy or provision contained in a development plan restricting development or to the effect that no development may be carried out in some part of the described land where either—

- (a) the policy or provision is included for any reason related to the position of the VPI apparatus; or
- (b) the decision to apply the policy or provision to that part of the described land was made for any reason related to the position of the VPI apparatus;

“relevant work” means a work which may have an effect on the operation, maintenance, abandonment of or access to any of the pipelines;

“scheme of works” means such works designed to investigate, rectify, remove and/or treat and render harmless contamination and its effects including making good any damage caused in so doing;

“specified asset” means any asset owned and operated by P66 and forming part of the P66 land which would be physically affected by the specified works;

“specified rights” means the rights as may be acquired by the undertaker in any part of the P66 land pursuant to the powers in Part 5 of this Order;

“specified work” mean any work carried out pursuant to the specified rights;

“VPI apparatus” means gas pipes, water pipes, electricity cables and other conducting media and associated supports, gantries, bridges, ladders, steps, gantries, walkways, cables, poles and stays, security cameras and ancillary equipment necessary for conducting steam, heat, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities for the transport of all or any utilities;

“VPI pipeline corridor” means the corridor of land along the existing gas pipeline within which the undertaker acquires specified rights; and

“works details” means the following—

- (a) a description of the proposed works together with plans and sections of the proposed works where such plans and sections are reasonably required to describe the works concerned or their location;
- (b) details of the undertaker and their principal contractors’ management of change procedures;
- (c) details of the traffic management plan, which plan must include details of vehicle access routes for construction and operational traffic and which must assess the risk from vehicle movements and include safeguards to address identified risks;
- (d) details of the electrical design of the authorised works in sufficient detail to allow an independent specialist to assess whether AC interference from the authorised development may cause damage to any of the pipelines;
- (e) details of the means by which the pipelines can be properly inspected and if necessary repaired during the construction and operation of the authorised development;
- (f) details of the emergency response plan as prepared in consultation with local emergency services and P66;
- (g) details of the assessment and monitoring work to be undertaken both prior to the construction of the authorised development and during the operation of the authorised development to ascertain any change or damage to any pipeline cathodic protection system and the proposed remedial works;
- (h) any further particulars provided in accordance with paragraph 36(3) or 53(1);
- (i) a description of the land upon which the proposed works will be carried out including a written record of the ground conditions of the land and details of any historic land contamination; and
- (j) a description of any trees that will be removed pursuant to the carrying out of the proposed works.

#### **Authorisation of works details affecting pipelines or protected crossings**

**36.**—(1) Before commencing any part of a relevant work the undertaker must submit the works details to P66 in accordance with paragraph 103.

(2) The works details submitted under sub-paragraph (1) will be treated as having been received by P66 on the date—

- (a) that the undertaker obtains written acknowledgement of receipt from P66; or
- (b) two clear working days following the date that the work details were submitted under sub-paragraph (1),

whichever is earliest.

(3) The undertaker must as soon as reasonably practicable provide such further particulars as P66 may, within 60 days from the receipt of the works details under sub-paragraph (2), reasonably require.

**37.** No part of a relevant work is to be commenced until one of the following conditions has been satisfied—

- (a) the works details supplied in respect of that relevant work under paragraph 36 have been authorised by P66; or

- (b) the works details supplied in respect of that relevant work under paragraph 36 have been authorised by an expert under paragraph 39(3); or
- (c) authorisation is deemed to have been given in accordance with paragraph 39(1).

**38.**—(1) Any authorisation by P66 required under paragraph 37(a) must not be unreasonably withheld but may be given subject to such reasonable conditions as P66 may require to be made for—

- (a) the continuing safety and operation or viability of the affected asset; and
- (b) the requirement for P66 to have—
  - (i) uninterrupted and unimpeded emergency access with or without vehicles to the affected asset at all times; and
  - (ii) reasonable access with or without vehicles to inspect, repair, replace and maintain and ensure the continuing safety and operation or viability of the affected asset.

(2) Where P66 can reasonably demonstrate that the authorised development will significantly adversely affect the safety of the pipelines it is entitled to withhold its authorisation until the undertaker can demonstrate to the reasonable satisfaction of P66 that the authorised development will not significantly adversely affect the safety of the pipelines.

(3) The authorised development must be carried out in accordance with the works details authorised under paragraph 37 and any conditions imposed on the authorisation under sub-paragraph (1).

(4) Where there has been a reference to an expert in accordance with paragraph 39(2) and the expert gives authorisation, the authorised development must be carried out in accordance with the authorisation and conditions contained in the award of the expert under paragraph 39(3).

**39.**—(1) In the event that—

- (a) no response has been received to the submission of the works details under paragraph 36(1) within 60 days of receipt by P66 under paragraph 36(2) and no further particulars have been requested under paragraph 36(3); or
- (b) authorisation has not been given within 45 days of receipt by P66 of the further particulars supplied under paragraph 36(3),

approval of the works details is to be deemed to be given and the relevant works may commence.

(2) In the event that—

- (a) the undertaker considers that P66 has unreasonably withheld its authorisation under paragraph 38(1); or
- (b) the undertaker considers that P66 has given its authorisation under paragraph 38(1) subject to unreasonable conditions,

the undertaker may refer the matter to an expert for determination under paragraph 102.

(3) Where the matter is referred to an expert under paragraph 39(2) the expert is to determine whether or not authorisation should be given and, if so, the conditions which should reasonably be attached to the authorisation under sub-paragraphs (a) and (b) of paragraph 38(1).

(4) Where the undertaker considers that P66 has unreasonably withheld its authorisation under paragraph 38(2) then the matter may be referred to an expert on the application of either party (after giving notice in writing to each other) appointed by the secretary of the United Kingdom Onshore Pipeline Association for determination under paragraph 102.

### **Notice of works**

**40.** The undertaker must provide to P66 a minimum of 28 days' notice prior to commencing any relevant work in order that an engineer can be made available to observe the relevant works and, when required, advise on the necessary safety precautions.

### Further provisions about relevant works

41. Before carrying out a relevant work the undertaker must—

- (a) provide P66 with baseline data for any existing cathodic protection of the affected asset; and
- (b) carry out a pipeline settlement and stress analysis to demonstrate any potential pipeline movement will not present an integrity risk to the affected asset.

### Monitoring for damage to pipelines

42.—(1) When carrying out the relevant work the undertaker must monitor the relevant affected assets to establish whether damage has occurred.

(2) Where any damage occurs to an affected asset as a result of the relevant work, the undertaker must immediately cease all work in the vicinity of the damage and must notify P66 to enable repairs to be carried out to the reasonable satisfaction of P66.

(3) If damage has occurred to an affected asset as a result of relevant work the undertaker will, at the request and election of P66—

- (a) afford P66 all reasonable facilities to enable it to fully and properly repair and test the affected asset and pay to P66 its costs incurred in doing so including the costs of testing the effectiveness of the repairs and cathodic protection and any further works or testing shown by that testing to be reasonably necessary; or
- (b) fully and properly repair the affected asset as soon as reasonably practicable, in which case the repairs must be properly tested by the undertaker and be shown to the satisfaction of P66 to have effectively repaired the affected asset before any backfilling takes place.

(4) If in the course of carrying out repairs under sub-paragraph (3)(a) or (3)(b) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which existing apparatus was, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the repairs 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 would be payable to P66 under sub-paragraph (3)(a), or incurred by the undertaker under sub-paragraph (3)(b), by virtue of paragraph (3) will be reduced by the amount of that excess.

(5) Where testing has taken place under sub-paragraph (3)(b), the undertaker must (except where P66 agrees otherwise in writing) provide it with a copy of the results of such testing prior to any backfilling.

(6) Following the completion of a relevant work if damage is found to have occurred to an affected asset as a result of the relevant work, sub-paragraphs (2) to (4) of this paragraph apply to that damage.

(7) In relation to the approved assessment and monitoring work to be undertaken both prior to the construction of the authorised development and during the operation of the authorised development to ascertain any change or damage to any pipeline cathodic protection system, the undertaker must undertake any necessary remedial work.

(8) In the event that the undertaker does not carry out necessary remedial work in a timely manner then P66 is entitled, but not obliged, to undertake the necessary remedial work and recover the cost of doing so from the undertaker.

43.—(1) If any damage occurs to a pipeline causing a leakage or escape from a pipeline, all work in the vicinity must cease and P66 must be notified immediately.

(2) Where there is leakage or escape of gas, the undertaker must immediately—

- (a) remove all personnel from the immediate vicinity of the leak;



- (b) inform P66;
- (c) prevent any approach by the public, extinguish all naked flames and other sources of ignition for at least 350 metres from the leakage; and
- (d) assist emergency services as may be requested.

#### **Compliance with requirements, etc. applying to the protected land**

**44.**—(1) Subject to sub-paragraph (2), in undertaking any works in relation to the protected land or exercising any rights relating to or affecting owners of the protected land, the undertaker must comply with such conditions, requirements or regulations relating to health, safety, security and welfare as are operated in relation to access to or activities in the protected land.

(2) The undertaker is not bound by any condition, requirement or regulation that is—

- (a) introduced after the date on which notice of the works was given under paragraph 40; or
- (b) determined by the expert following a determination under paragraph 102 to unreasonably—
  - (i) create significant engineering, technical or programming difficulties; or
  - (ii) materially increase the cost of carrying out the works.

(3) Sub-paragraph (2) does not apply if the condition, requirement or regulation was introduced by way of legislation, direction or policy of the government, a relevant government agency, a local authority (exercising its public functions) or the police.

#### **Restriction on exercising powers**

**45.** The undertaker must in the exercise of the powers conferred by this Order at all times act so as to minimise, as far as reasonably practicable, any detrimental effects on P66, including any disruption to access and supplies of utilities and other services that are required by P66 in order to carry out its operations.

#### **Insurance**

**46.**—(1) Before carrying out any part of the authorised development on the protected land, the undertaker must put in place a policy of insurance with a reputable insurer against its liabilities under paragraph 48 in accordance with the terms and level of cover notified under sub-paragraph (2) or, in the case of dispute, in accordance with the terms and level of cover determined by an expert under paragraph 102, and evidence of that insurance must be provided on request to P66.

(2) Not less than 30 days before carrying out any part of the authorised development on the protected land or before proposing to change the terms of the insurance policy, the undertaker must notify P66 of details of the terms of the insurance policy that it proposes to put in place, including the proposed level of the cover to be provided.

(3) The undertaker must maintain insurance in relation to the authorised development affecting P66 during the construction, operation, maintenance, repair and decommissioning of the authorised development in the terms and at the level of cover specified in sub-paragraph (2) or at such level as may otherwise be determined by an expert under paragraph 102.

**47.** If P66 has a dispute about the proposed insurance (including the terms or level of cover) to be provided under paragraph 46—

- (a) P66 may refer the matter to an expert for determination under paragraph 102; and
- (b) the undertaker may put in place an insurance policy it considers to be appropriate and continue with the authorised development at its own risk whilst the determination under paragraph 102 is complete, following which the undertaker must adjust the insurance policy if necessary to accord with the determination.

## Costs

**48.**—(1) The undertaker must repay to P66 all reasonable fees, costs, charges and expenses reasonably incurred by them in relation to these protective provisions in respect of—

- (a) authorisation of works details submitted by the undertaker under paragraph 36 and the imposition of conditions under paragraph 38;
- (b) the engagement of an engineer and their observation of the authorised works affecting the pipelines and the provision of safety advice under paragraph 40;
- (c) the repair and testing of a pipeline or protected crossing under paragraph 42; and
- (d) considering the adequacy of the terms and level of cover of any insurance policy proposed or put in place by the undertaker under paragraph 46,

including the reasonable costs incurred by P66 in engaging and retaining such external experts, consultants and contractors as may be reasonably necessary to P66 to carry out its functions under these protective provisions.

(2) The undertaker must indemnify and keep P66 indemnified against all reasonable costs, charges, damages and expenses, and against consequential loss and damage which may be occasioned or reasonably incurred by P66—

- (a) by reason of the construction, operation, maintenance, repair and decommissioning of the authorised development or the failure of it; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the construction, operation, maintenance, repair and decommissioning of the authorised development,

and the fact that any act or thing may have been done by P66 on the protected land on behalf of the undertaker or in accordance with plans approved by or on behalf of P66 or in accordance with any requirement of the engineer appointed by P66 or under his supervision does not (if it was done without negligence on the part of P66 or of any person in their employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(3) P66 must give the undertaker reasonable notice of any claim or demand under sub-paragraph (2) and no settlement or compromise of such a claim or demand is to be made without the prior consent of the undertaker.

(4) P66 must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made under this Part of this Schedule.

(5) In the assessment of any sums payable to P66 under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by, or any agreement entered into by, P66 if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

## Further protection in relation to the exercise of powers under the Order

**49.** The undertaker must give written notice to P66 of the terms and level of cover of any guarantee or alternative form of security put in place and any such notice must be given no later than 28 days before any such guarantee or alternative form of security is put in place specifying the date when the guarantee or alternative form of security comes into force.

**50.** The undertaker must give written notice to P66 if any application is proposed to be made by the undertaker for the Secretary of State's consent under article 7 (consent to transfer benefit of Order), and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;

- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**51.** The undertaker must, when requested to do so by P66, provide it with a complete set of the documents submitted to and certified by the Secretary of State in accordance with article 39 (certification of plans etc.) in the form of a computer disc with read only memory or such other format as may be agreed between the relevant parties.

**52.** Prior to the commencement of the authorised development the undertaker must prepare an emergency response plan following consultation with the local emergency services and provide a copy of that plan to P66.

### **Exercise of the specified rights**

**53.—**(1) Before commencing any part of a specified work the undertaker must submit the works details to P66.

(2) The works details submitted under sub-paragraph (1) will be treated as having been received by P66 on the date—

- (a) that the undertaker obtains written acknowledgement of receipt from P66; or
- (b) two clear working days following the date that the work details were submitted under sub-paragraph (1),

whichever is earliest.

(3) The undertaker must as soon as reasonably practicable provide such further particulars as P66 may, within 60 days from the receipt of the works details under sub-paragraph (2), reasonably require.

**54.** No part of a specified work is to be commenced until one of the following conditions has been satisfied—

- (a) the works details supplied in respect of that specified work under paragraph 53 have been authorised by P66; or
- (b) the works details supplied in respect of that specified work under paragraph 53 have been authorised by an expert under paragraph 56(3) or
- (c) authorisation is deemed to have been given in accordance with paragraph 56(1).

**55.—**(1) Any authorisation by P66 required under paragraph 54(a) must not be unreasonably withheld but may be given subject to such reasonable conditions as P66 may require to be made for—

- (a) the continuing safety and operation or viability of the specified asset; and
- (b) the requirement for P66 to have—
  - (i) uninterrupted and unimpeded emergency access with or without vehicles to the specified asset at all times; and
  - (ii) reasonable access with or without vehicles to inspect, repair, replace and maintain and ensure the continuing safety and operation or viability of the specified asset.

(2) Where P66 can reasonably demonstrate that the authorised development will significantly adversely affect the safety of the HOR it is entitled to withhold its authorisation until the undertaker can demonstrate to the reasonable satisfaction of P66 that the authorised development will not significantly adversely affect the safety of the HOR.

(3) The authorised development must be carried out in accordance with the works details authorised under paragraph 54 and any conditions imposed on the authorisation under sub-paragraph (1).

(4) Where there has been a reference to an expert in accordance with paragraph 56(2) and the expert gives authorisation, the authorised development must be carried out in accordance with the authorisation and conditions contained in the award of the expert under paragraph 56(3).

**56.—(1)** In the event that—

- (a) no response has been received to the submission of the works details under paragraph 53(1) within 60 days of receipt by P66 under paragraph 53(2) and no further particulars have been requested under paragraph 53(3); or
- (b) authorisation has not been given within 45 days of receipt by P66 of the further particulars supplied under paragraph 53(3),

approval of the works details is to be deemed to be given and the relevant works may commence.

(2) In the event that—

- (a) the undertaker considers that P66 has unreasonably withheld its authorisation under paragraph 55(1); or
- (b) the undertaker considers that P66 has given its authorisation under paragraph 55(1) subject to unreasonable conditions,

the undertaker may refer the matter to an expert for determination under paragraph 102.

(3) Where the matter is referred to an expert under sub-paragraph (2) the expert is to determine whether or not authorisation should be given and, if so, the conditions which should reasonably be attached to the authorisation under sub-paragraphs (a) and (b) of paragraph 55(1).

(4) Where the undertaker considers that P66 has unreasonably withheld its authorisation under sub-paragraph (2) then the matter may be referred to an expert on the application of either party (after giving notice in writing to each other) appointed by the secretary of the United Kingdom Onshore Pipeline Association for determination under paragraph 102.

**57.** In the exercise of the specified rights the undertaker must—

- (a) take all reasonable and proper precautions to ensure that damage to property located on any part of the P66 land is minimised or avoided so far as reasonably practicable including to any structures in, on or under that land or to any drains or other conducting media on or under it;
- (b) cause the least practicable disturbance to or interference with the business and operations of P66;
- (c) ensure that all maintenance work is carried out under the supervision of an engineer acting on behalf of the undertaker who will appoint a local representative to supervise the execution of the works and to maintain contact with P66;
- (d) provide P66 with the name, address and telephone number of the person appointed under sub-paragraph (c); and
- (e) accept responsibility for the actions and omissions of its contractors and of their subcontractors and of all persons employed in connection with works, except for actions carried out or omissions directed expressly at the request of P66.

**58.** The undertaker must with all practicable speed reinstate and put any part of the P66 land opened or broken up in the exercise of the specified rights into as good a condition in all respects so far as is reasonably practicable as it was in before it was opened or broken up.

**59.** The undertaker must following a written request by P66 replace or restore any growing crops, trees, hedges, bushes or plants removed in the exercise of the specified rights, except where in the reasonable opinion of the undertaker they may cause damage to the VPI apparatus.

**60.** The undertaker must keep the VPI apparatus in good and substantial repair and condition in accordance with good industry practice.

**61.** In exercising the specified rights the undertaker must at its own cost comply with all applicable legislation.

**62.** The undertaker must as soon as reasonably practicable following a written request from P66 provide written information in relation to the VPI apparatus, the VPI pipeline corridor, compliance with applicable legislation, or the exercise of the specified rights or any activity incidental thereto, in each case as P66 may reasonably require.

**63.** The undertaker must indemnify P66 against losses incurred or sustained directly as a consequence of or in connection with any breach of any of obligations on the part of the undertaker in this Part of this Schedule or any act or omission of the undertaker, its employees, contractors or agents or any person acting expressly or impliedly with the undertaker's authority or permission including all costs and expenses incurred by P66 in connection with any steps it may take to remedy any breach by the undertaker under this Part of this Schedule.

**64.** The undertaker must permit P66 and its agents, contractors and workmen and others authorised by P66 with all necessary plant, machinery and equipment at all times in cases of emergency and otherwise at any reasonable times on reasonable prior written notice to enter the VPI pipeline corridor for such period as is reasonably necessary to examine the VPI pipeline corridor;

**65.** P66 must take all reasonable and proper precautions to ensure that in undertaking any examination pursuant to paragraph 64 any damage to the VPI apparatus is avoided or minimised.

**66.** P66 must—

- (a) not erect construct or place any building or structure, carry out any excavation or plant or suffer to be planted or otherwise permit to subsist any trees on the VPI pipeline corridor without the written consent of the undertaker;
- (b) not materially raise or lower the existing level of the surface of the VPI pipeline corridor without the written consent of the undertaker;
- (c) not undermine or damage the VPI apparatus, the VPI pipeline corridor or take such other action as may interfere with the use and free flow and passage of the relevant media through the VPI apparatus or to do anything which would reasonably foreseeably inhibit or prevent the undertaker from complying with this Part of this Schedule;
- (d) on all occasions when P66 may suffer any loss or anticipate or receive any third party claim against it resulting from any action by the undertaker or in any way arising out of the existence of the VPI apparatus P66 will use all reasonable endeavours to mitigate its losses; and
- (e) have due regard in the light of information made available in writing by the undertaker and to the safety and integrity of the VPI apparatus in carrying out operations on any part of the P66 land.

**67.** The undertaker must take all reasonable precautions to ensure that other than authorised discharges no hazardous material leaks, spills or escapes are discharged from the VPI apparatus and that no contamination will occur as a result of the use by the undertaker of the pipeline corridor or the exercise of its specified rights.

**68.—(1)** The undertaker must indemnify and keep P66 indemnified from and against all losses incurred in respect of any contamination in or on the VPI pipeline corridor or which escapes or migrates from the VPI pipeline corridor to the HOR which relates to the exercise of the specified rights.

(2) The undertaker is not liable under sub-paragraph (1) in respect of any contamination unless P66 gives written notice to the undertaker providing reasonable particulars of the basis of its claim including an estimate of the amount of such claim.

(3) P66 must give written notice under sub-paragraph (2) as soon as reasonably practicable.

**69.—(1)** If during the exercise of the specified rights it appears to the undertaker that there is contamination in or on the VPI pipeline corridor the undertaker must give written notice of such contamination to P66.

(2) On receipt of such written notice under sub-paragraph (1) the undertaker and P66 may jointly instruct environmental consultants in terms agreed between the parties to produce and implement a scheme of works.

**70.** P66 must use its reasonable endeavours to comply at the cost of the undertaker and (save in the case of emergency) upon notice with all reasonable written requests of the undertaker in relation to the use of the VPI pipeline corridor that are requested for the safety and protection of the VPI apparatus.

**71.—(1)** Subject to sub-paragraph (2) P66 must not make any admission of liability to a third party making or bringing a claim, demand or proceedings or settle or compromise it without the consent in writing of the undertaker, such consent not be unreasonably withheld or delayed.

(2) Sub-paragraph (1) does not apply to the extent that such conduct is contrary to what is required by law or by any authority or compliance with the sub-paragraph would have an adverse effect on the liabilities or goodwill of P66.

(3) The undertaker is entitled, with the consent of P66 (such consent not to be unreasonably withheld or delayed unless to give such consent might reasonably be considered likely to have a materially adverse effect on the liabilities or goodwill of P66), to negotiate a settlement of any claim, demand or proceedings against P66 and to conduct on behalf of P66 any litigation which may arise in respect of the claim, demand or proceedings.

**72.** The undertaker is not required to comply with this Part of this Schedule in a case of emergency but in that case it must give to P66 notice as soon as is reasonably practicable of the emergency and must comply with this Part of this Schedule in so far as is reasonably practicable in the circumstances.

**73.** Any information or data obtained by the undertaker from carrying out activities under this Part of this Schedule must be treated by the undertaker as confidential and must only be disclosed to a third party who is connected with the undertaker's activities and who needs the relevant information or data, or it may be disclosed with the consent of P66 or where the undertaker is required to disclose information or data by law or by a court of law or other competent authority.

**74.** Where any trees are removed by the undertaker in carrying out a specified work, all timber will remain the property of P66 and will be cut and disposed of in accordance with the reasonable requirements of P66.

**75.** Where timber is cut and disposed of by the undertaker pursuant to paragraph 74 the undertaker will compensate P66 for any loss thereby properly and reasonably incurred.

**76.** Unless otherwise agreed between the undertaker and P66, any fencing required for the purposes of exercising the specified rights will comprise of a demarcation fence of posts and wire provided that where necessary such fencing complies with any requirement of any statutory or other body or pursuant to any statute or other obligation.

**77.** All temporary fencing will be maintained in position during the carrying out of any specified work and until reinstatement and will then be removed by and at the cost of the undertaker (unless otherwise agreed with P66).

**78.** In exercising the specified rights, and if reasonably required by P66—

- (a) topsoil excavated during a specified work will be kept apart from all other excavated material and will not be run over by any machinery and all cultivated turf will be carefully reinstated or replaced with turf of equivalent quality;
- (b) all trenches dug during a specified work will be backfilled as soon as reasonably practicable and care will be taken to ensure that backfill material is properly consolidated in accordance with good industry practice;
- (c) excavated material will be replaced with topsoil uppermost so as to restore the working area to its former condition so far as is reasonably practicable and no large stones are left on the surface after reinstatement of the trench;

- (d) large stones and any surplus subsoil will be removed by the undertaker where specifically requested by P66 and where deemed by the undertaker to be necessary;
- (e) all construction debris, tools, equipment, temporary work and litter will be removed from the working area around a specified work as soon as reasonably practicable;
- (f) the topsoil of agricultural land will be left in a loose and workable condition to its full depth; and
- (g) compacted subsoil will be loosened with a cultivator where the topsoil has been removed and before it is replaced.

**79.** Where the undertaker is to relay or move any length of the existing gas pipeline it will be laid to contour at a depth of not less than 1.1 metres from the ground surface to the top of the pipeline and where this depth cannot reasonably be achieved by the undertaker it will give written details of this to P66.

**80.** Wherever the exercise of the specified rights may reasonably require it, temporary underpinning, supports and other protective measures for buildings, structures and apparatus in or adjacent to the pipeline trench will be of proper design and sound construction and will be securely placed to the reasonable satisfaction of P66 and in accordance with good industry practice.

**81.** Where the existing gas pipeline crosses below a ditch or stream it will be protected by a concrete slab and the pipe will be located at such a depth so as to provide at least 1.1 metres cover from the true cleaned bottom of the ditch or stream to the top of the pipe. All ditches, open drains or watercourses interfered with by the exercise of the specified rights will be maintained in effective condition during works by the undertaker and restored to as good a condition as before the commencement of the works.

**82.** With the assistance of P66 in locating water supplies, the undertaker will use all reasonable endeavours to ensure that existing water supplies, drainage systems and any other services are not interrupted or detrimentally affected during the exercise of the specified rights, failing which the undertaker will make good all damage caused to the reasonable satisfaction of P66 or make available an adequate and unpolluted alternative supply or system as the case may require. Supplies of water to stock will not be completely withdrawn without the written consent of P66. The undertaker will take all reasonable practicable steps to prevent the pollution of water supplies or watercourses. In the event of such pollution occurring because of the exercise of the specified rights, the undertaker will pay compensation to P66 in respect of any costs, claims, damage or expenses arising.

**83.** Particular care will be taken to ensure that minimum damage or disturbance to land drains is caused by the exercise of the specified rights. The position of all land drains cut or disturbed during excavation will be prominently marked by pegs at both sides of the trench immediately following their location. Such land drains will also be logged and a subsequent land drainage record kept by the undertaker for future reference. The undertaker will engage a land drainage expert to design appropriate pre-construction drainage, where necessary, and also any necessary land drainage reinstatement. The methods to be employed in repairing damage to field drainage systems will be agreed with P66 and, failing agreement, will be referred to an expert in accordance with paragraph 103.

**84.** The installation of marker posts or cathodic protection marker posts will wherever reasonably practicable be sited by agreement between the undertaker and P66. As far as is reasonably practicable marker posts will be sited in or adjacent to hedges or fences. If P66 so requires, marker posts will be placed on both sides of fences or hedges. All marker posts will be properly maintained and the undertaker will take all reasonable steps to ensure that marker posts remain visible at all times.

**85.—(1)** The undertaker must ensure that the existing gas pipeline is cathodically protected against corrosion and any buildings and structures within HOR likely to be affected will be suitably protected provided reasonable facilities are given by P66 for this to be done.

(2) Sub-paragraph (1) does not require the undertaker to do anything in respect of pipes, cables or like apparatus or any building or structure laid or constructed after the existing gas pipeline was first laid.

**86.** During the course of the exercise of the specified rights, the undertaker must regard fossils, coins or other articles of value which are discovered as being the property of P66 and will acknowledge that P66 will not be deemed to have surrendered (whether to the undertaker or its contractors) any right to any reward under the Treasure Act 1996. The undertaker will make all reasonable efforts to comply with the reasonable requirements of P66 with respect to such objects (and will oblige its contractors to do so) provided that P66 will pay any costs reasonably incurred by the undertaker in so doing.

**87.** In exercising the specified rights, the undertaker must provide specific instructions to the contractor to notify them that the contractors workers cannot trespass outside the working area or any access to it.

**88.** In the event that the undertaker decides to abandon the whole or any part of the existing gas pipeline through the HOR, the undertaker must purge the relevant part of the existing gas pipeline and otherwise render it permanently safe and harmless, and must provide reasonable details of the works undertaken to P66.

**89.** The undertaker must not permit caravans or huts to be brought on to the VPI pipeline corridor for sleeping accommodation and will ensure that all workmen leave the VPI pipeline corridor at the conclusion of their duties each day.

**90.** A specified work will normally cease at or before dusk but in the event of work continuing beyond dusk P66 will be notified in writing in advance.

**91.** The undertaker will not light fires on the VPI pipeline corridor without the consent of P66.

**92.** Whenever the undertaker intends to use explosives in connection with the exercise of the specified rights, reasonable notice of such intention must be given to P66 of the working area including notice of the timing of blasting operations.

### **Diversion Provisions**

**93.** In the following provisions of this Part of this Schedule the described land excludes the CHP land unless and until P66 has permanent occupational control of the CHP land (excluding land in which rights have been acquired by the undertaker under article 21 of the Order).

**94.** If P66 wishes to carry out any development of the described land it must—

- (a) supply to the undertaker full details of the proposed development in writing as soon as reasonably possible and in any event not less than two months before the submission of the planning application for the proposed development and keep the undertaker reasonably informed in writing of the progress of the planning application;
- (b) have due regard to any reasonable proposals of the undertaker for the purpose of safeguarding the VPI apparatus and minimising the interference to the VPI apparatus and its use; and
- (c) use its reasonable endeavours with the assistance (if requested) of the undertaker (whose assistance is to be at no cost to P66) to arrange the development so as to avoid the diversion of the VPI apparatus, and must consult with the undertaker and have due regard to the undertaker's comments and representations.

**95.** P66 must submit a copy to the undertaker of any P66 planning permission for development in on over or under the described land within a period of 28 days of receipt of the decision.

**96.—(1)** If following consultation under paragraph 94—

- (a) a P66 planning permission is granted but the development is prevented for any reason relating to the presence or position of the VPI apparatus or by such P66 planning



permission being made subject to a condition which prevents the development for any reason related to the position of the VPI apparatus or renders it unviable; or

- (b) a P66 planning permission for the development is refused for any reason related to the position of the VPI apparatus or the existence or effect of a relevant plan provision,

then P66 must give written notice to the undertaker.

(2) Any notice given pursuant to sub-paragraph (1) must state whether P66—

- (a) intends to submit a further planning application, planning appeal or other representation to the relevant planning authority which seeks to address the reason that is preventing the development or rendering it unviable or that has otherwise resulted in the refusal of the P66 planning permission (insofar as such reason relates to the position of the VPI apparatus); or
- (b) requires the diversion of the VPI apparatus or part of the VPI apparatus.

(3) Where P66 gives written notice that it intends to submit a further planning application, planning appeal or other submission to the local planning authority—

- (a) the undertaker must use reasonable endeavours to assist P66 so far as matters relate to the VPI apparatus; and
- (b) P66 must comply with the requirements under paragraph 94.

(4) Any diversion of the VPI apparatus pursuant to sub-paragraph (1) must be only the extent of diversion that is required in order to ensure that the development notified by P66 to the undertaker pursuant to paragraph 94 is not prevented.

(5) Following receipt of the notice under sub-paragraph (1) the undertaker must confirm in writing to P66 within three months of the date of receipt of the notice whether it will either—

- (a) carry out such works to the VPI apparatus as may be necessary so that the position of the VPI apparatus does not materially affect the development; or
- (b) divert the VPI apparatus or part of it along the diversion route.

**97.**—(1) If P66 obtains a P66 planning permission for the development but does not give notice in accordance with paragraph 96 it must nevertheless notify the undertaker that a P66 planning permission has been obtained and provide a copy of it to the undertaker.

(2) If following receipt of the notice under sub-paragraph (1) the undertaker is of the reasonable opinion that the development would be likely to cause damage to the VPI apparatus or any interference with the exercise of the specified rights it may at its sole cost and expense divert the VPI apparatus or part thereof along the diversion route or carry out any such works as are described in paragraph 96(5)(a).

(3) Where the undertaker elects to carry out works under sub-paragraph (2) it is not required to implement any such works before the expiry of the period of six months from the date of the notice under sub-paragraph (1).

**98.** The diversion route must be within the described land and must be agreed between P66 and the undertaker.

**99.** If the VPI apparatus is to be diverted under any paragraph of this Part then P66 must grant the necessary rights to the undertaker to carry out the diversion, and to maintain and use the relevant diverted VPI apparatus.

**100.** Subject to paragraph 97(3), where the undertaker elects to carry out works under paragraph 96(5) it must use its reasonable endeavours to carry out such works as soon as reasonably practicable.

**101.** If there is a dispute about the diversion route or the rights to be granted pursuant to paragraph 98 then either party may refer the matter to an expert for determination under paragraph 102 of this Part of this Schedule.

### **Expert determination**

**102.**—(1) Except as provided in sub-paragraph (7), article 42 (arbitration) does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 28 days of the notification of the dispute.

(4) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;
- (c) issue a decision within 42 days of receipt of the submissions under paragraph (b); and
- (d) give reasons for the decision.

(6) The expert must consider where relevant—

- (a) the development outcome sought by the undertaker;
- (b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;
- (c) the nature of the power sought to be exercised by the undertaker;
- (d) the nature of any operation or development undertaken or proposed to be undertaken by any party other than the undertaker;
- (e) the ability of any party other than the undertaker to undertake a relevant operation or development in a timely and cost-effective manner, while giving consideration to any restriction or limitation which might be caused to the ability of any party to carry out their statutory or regulatory duties, requirements or obligations;
- (f) the effects of the undertaker's proposals on any party other than the undertaker and the effects of any operation or development undertaken by any party other than the undertaker;
- (g) whether this Order provides any alternative powers by which the undertaker could reasonably achieve the development outcome sought in a manner that would reduce or eliminate adverse effects on any party other than the undertaker;
- (h) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;
- (i) the constructability notes; and
- (j) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 42.

### **Service of Notices**

**103.**—(1) P66 must as soon as reasonably practicable following a written request from the undertaker provide details of the P66 address and P66 email.

(2) A notice or other document required or authorised to be served on P66 under this Part of the Schedule (except under sub-paragraph (1)) must be served—

- (a) by post to the P66 address; and
- (b) by electronic transmission to the P66 email,

or to such other postal or electronic mail address which P66 may from time to time notify to the undertaker.

(3) In the event that P66 does not provide the P66 address and P66 email within 14 days of the undertaker's request pursuant to sub-paragraph (1) then sub-paragraph (2) does not apply and the undertaker must—

- (a) serve any notice or document on P66 at its registered office; and
- (b) send a copy of such notice or document to the HOR marked for the attention of the refinery manager.

## PART 5

### FOR THE PROTECTION OF ANGLIAN WATER

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

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

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

“apparatus” means—

- (a) any works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;
- (b) any drain or works vested in Anglian Water under the Water Industry Act 1991; and
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102 (4) of the Water Industry Act 1991 or an agreement to adopt made under section 104 of that Act,

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

“functions” includes powers and duties;

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

“plan” includes sections, drawings, specifications and method statements.

**106.** The undertaker must not interfere with, build over or near to any apparatus within the Order land or carry out the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or carry out any filling around the apparatus (where the apparatus is laid in a trench) within the standard protection strips which are the strips of land falling the following distances to either side of the medial line of any relevant pipe or apparatus—

- (a) 2.25metres where the diameter of the pipe is less than 150 millimetres;
- (b) 3 metres where the diameter of the pipe is between 150 and 450 millimetres;
- (c) 4.5 metres where the diameter of the pipe is between 450 and 750 millimetres; and
- (d) 6 metres where the diameter of the pipe exceeds 750 millimetres,

unless otherwise agreed in writing with Anglian Water, such agreement not to be unreasonably withheld or delayed, and such provision being brought to the attention of any agent or contractor responsible for carrying out any work on behalf of the undertaker in writing.

**107.** The alteration, extension, removal or re-location of any apparatus must not be implemented until—

- (a) any requirement for any permits under the Environmental Permitting (England and Wales) Regulations 2016 or other legislation and any other associated consents are obtained by the undertaker, and any approval or agreement required from Anglian Water on alternative outfall locations as a result of such re-location are approved, such approvals from Anglian Water not to be unreasonably withheld or delayed; and
- (b) the undertaker has made the appropriate application required under the Water Industry Act 1991 together with a plan and section of the works proposed and Anglian Water has agreed all of the contractual documentation required under the Water Industry Act 1991, such agreement not to be unreasonably withheld or delayed; and such works to be carried out only in accordance with the plan and description submitted and in accordance with such reasonable requirements as may be made by Anglian Water for the alteration or otherwise for the alteration or otherwise for the protection of the apparatus, or for securing access to it.

**108.** In the situation, where in exercise of the powers conferred by the Order, the undertaker acquires any interest in any land in which apparatus is placed and such apparatus is to be relocated, extended, removed or altered in any way, an alteration or extension must not take place until Anglian Water has established to its reasonable satisfaction, contingency arrangements in order to conduct its functions for the duration of the works to relocate, extend, remove or alter the apparatus.

**109.** Regardless of any provision in this Order or anything shown on any plan, the undertaker must not acquire any apparatus otherwise than by agreement with Anglian Water, and before extinguishing any existing rights for Anglian Water to use, keep, inspect, renew and maintain its apparatus in the Order land, the undertaker must, with the agreement of Anglian Water, create a new right to use, keep, inspect, renew and maintain the apparatus that is reasonably convenient for Anglian Water such agreement not to be unreasonably withheld or delayed, and to be subject to arbitration under article 42 (arbitration).

**110.** If in consequence of the exercise of the powers conferred by the Order the access to any apparatus is materially obstructed the undertaker must provide such alternative means of access to such apparatus as will enable Anglian Water to maintain or use the apparatus no less effectively than was possible before such obstruction.

**111.** If in consequence of the exercise of the powers conferred by the Order, previously unmapped sewers, lateral drains or other apparatus are identified by the undertaker, notification of the location of such assets will immediately be given to Anglian Water and afforded the same protection as other Anglian Water apparatus.

**112.** If for any reason or in consequence of the construction of any of the works referred to in paragraphs 107 to 109 and 111 above 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 Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good any damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by Anglian Water.

**113.** Anglian Water must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, penalties and costs to which the provisions of this Part 5 apply. If requested to do so by the undertaker, Anglian Water shall provide an explanation of how any claim has been minimised. The undertaker shall only be liable under paragraph 112 for claims reasonably incurred by Anglian Water.

## PART 6

### FOR THE PROTECTION OF CLH PIPELINE SYSTEM (CLH-PS) LTD

**114.** For the protection of CLH Pipeline System (CLH-PS) Limited, the following provisions, unless otherwise agreed in writing between the undertaker and CLH Pipeline System (CLH-PS) Ltd, have effect.

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

“CLH” means CLH Pipeline System (CLH-PS) Ltd (company number 09497223); and

“the pipeline” means the pipeline crossing the Order limits owned and operated by CLH used at various times for the passage of multi-purpose hydrocarbon fuels and all ancillary apparatus including such works and apparatus properly appurtenant to the pipeline as are specified by section 65(2) (meaning of “pipe-line”) of the Pipe-lines Act 1962.

**116.** Before commencing any part of the authorised development which would have an effect on the operation or maintenance of the pipeline and access to it, the undertaker must submit to CLH plans and sections of the proposed works and such further particulars as CLH may, within 28 days from the day on which plans and sections are submitted under this paragraph, reasonably require.

**117.** No works comprising any part of the authorised development which would have an effect on the operation, maintenance or abandonment of the pipeline and access to it are to be commenced until plans and sections in respect of those works submitted under paragraph 116 have been approved by CLH.

**118.** Any approval of CLH required under paragraph 117 must not be unreasonably withheld or delayed but may be given subject to such reasonable requirements as CLH may require to be made for—

- (a) the continuing safety and operational viability of the pipeline; and
- (b) the requirement for CLH to have uninterrupted and unimpeded access to the pipeline at all times.

## PART 7

### FOR THE PROTECTION OF CENTRICA STORAGE LIMITED

**119.** For the protection of Centrica Storage Limited, the following provisions, unless otherwise agreed in writing between the undertaker and Centrica Storage Limited, have effect.

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

“Centrica” means Centrica Storage Limited (company number 03294124); and

“the pipeline” means the pipeline crossing the Order limits owned and operated by Centrica used at various times for the passage of stabilised liquid condensate and all ancillary apparatus including such works and apparatus properly appurtenant to the pipeline as are specified by section 65(2) (meaning of “pipe-line”) of the Pipe-lines Act 1962.

**121.** Before commencing any part of the authorised development which would have an effect on the operation or maintenance of the pipeline and access to it, the undertaker must submit to Centrica plans and sections of the proposed works and such further particulars as Centrica may, within 28 days from the day on which plans and sections are submitted under this paragraph, reasonably require.

**122.** At the same time as providing the plans and sections to Centrica pursuant to paragraph 121, the undertaker must also provide a copy of the construction traffic management plan and the construction environmental management plan, in each case being the document approved by the relevant planning authority pursuant to the requirements or where no such approval has been given at that time, the draft of the relevant document.

**123.** No works comprising any part of the authorised development which would have an effect on the operation, maintenance or abandonment of the pipeline and access to it are to be commenced until plans and sections in respect of those works submitted under paragraph 121 have been approved by Centrica.

**124.** Any approval of Centrica required under paragraph 123 must not be unreasonably withheld or delayed but may be given subject to such reasonable requirements as Centrica may require to be made for—

- (a) the continuing safety and operational viability of the pipeline; and
- (b) the requirement for Centrica to have uninterrupted and unimpeded access to the pipeline at all times.

**125.—**(1) Subject to sub-paragraphs (2) to (5), 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 the pipeline (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 Centrica; or
- (b) there is any interruption in the supply of the service provided by Centrica,

the undertaker must bear and pay the cost reasonably incurred by Centrica in making good such damage or restoring the supply and make reasonable compensation to Centrica for any other direct expenses, loss, damages, penalty or other direct costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Centrica, its officers, servants, contractors or agents.

(3) Centrica must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) The total liability of the undertaker in respect of this paragraph 125 shall be limited to the sum of ten million pounds (£10,000,000) for any one event or series of connected events.

(5) Any difference arising between the undertaker and the Centrica under this Part of this Schedule must be referred to and settled by arbitration under article 42 (arbitration).

## PART 8

### FOR THE PROTECTION OF ABLE HUMBER PORTS LIMITED

**126.** For the protection of Able Humber Ports Limited (company no. 107029) as referred to in this Part of this Schedule the following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Able.

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

“Able” means Able Humber Ports Limited (company no. 107029) whose registered office is at 44 Esplanade, St Helier, Jersey JE4 9WG;

“the Able authorised development” means the development authorised by the Able Order;

“the Able Order” means the Able Marine Energy Park Development Consent Order 2014(a);

“the Able Order land” means the Order land (as defined in the Able Order) or any part of it;

“the Able Order limits” means the Order limits as defined in the Able Order;

“the OCGT authorised development” means the development authorised by this Order; and

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(a) S.I. 2014/2935

“the respective authorised developments” means the OCGT authorised development and the Able authorised development.

### **Co-operation during construction**

**128.** The undertaker must not exercise the powers granted under this Order so as to hinder or prevent—

- (a) the construction, operation, use or maintenance of the Able authorised development; or
- (b) access to all parts of the Able authorised development,

otherwise than with the prior written consent of Able.

**129.** If the undertaker proposes to alter the layout of the existing highway access points within plots 2, 8 or 9, it must not submit written details for numbered work 2 so far as it is within those plots for approval to the relevant planning authority in accordance with requirement 5(3) or requirement 8(1) without first obtaining the written consent of Able in respect of the design and layout of the relevant part of numbered work 2.

**130.** The undertaker must not submit written details for numbered work 6 so far as it is within plots 6 or 7 for approval to the relevant planning authority in accordance with requirement 5(6) without first obtaining the written consent of Able in respect of the siting, design and layout of the relevant part of numbered work 6.

**131.**—(1) The undertaker must not exercise the powers under any of the articles of the Order specified in sub-paragraph (2) over or in respect of the Able Order land otherwise than with the prior written consent of Able.

(2) The articles referred to in sub-paragraph (1) are—

- (a) article 8 (power to alter layout etc. of streets);
- (b) article 9 (street works);
- (c) article 10 (construction and maintenance of new or altered means of access);
- (d) article 11 (temporary prohibition or restriction of use of streets);
- (e) article 12 (access to works);
- (f) article 14 (traffic regulation);
- (g) article 16 (authority to survey and investigate the land);
- (h) article 18 (compulsory acquisition of land);
- (i) article 19 (power to override easements and other rights);
- (j) article 21 (compulsory acquisition of rights etc.);
- (k) article 22 (private rights);
- (l) article 26 (rights under or over streets);
- (m) article 27 (temporary use of land for carrying out the authorised development);
- (n) article 28 (temporary use of land for maintaining the authorised development); and
- (o) article 29 (statutory undertakers).

(3) In the event that Able withholds its consent pursuant to sub-paragraph (1) it must notify the undertaker in writing of the reasons for withholding such consent and (if applicable) the time period during which such consent will be withheld.

**132.**—(1) Wherever in this Part of this Schedule provision is made with respect to the approval or consent of Able, that approval or consent must be in writing (and subject to such reasonable terms and conditions as Able may require), and must not be unreasonably withheld or delayed.

(2) In the event that Able does not respond in writing to a request for approval or consent within 28 days of receipt of such a request, Able is deemed to have given its consent, without any terms or conditions.

**133.**—(1) Insofar as the construction of the OCGT authorised development is or may be undertaken concurrently with the Able authorised development, the undertaker must—

- (a) co-operate with Able with a view to ensuring—
  - (i) the co-ordination of construction programming and the carrying out of works; and
  - (ii) that access for the purposes of constructing the respective authorised developments is maintained for the undertaker and Able and their respective contractors; and
- (b) use reasonable endeavours to avoid any conflict arising from the carrying out of the respective authorised developments.

### **Arbitration**

**134.** Any difference or dispute arising between the undertaker and Able under this Part of this Schedule will, unless otherwise agreed in writing between the undertaker and Able, be referred to and settled by arbitration in accordance with Article 42 (Arbitration).

## **PART 9**

### **FOR THE PROTECTION OF TOTAL LINDSEY OIL REFINERY LIMITED**

**135.** For the protection of Total Lindsey Oil Refinery Limited, the following provisions, unless otherwise agreed in writing between the undertaker and Total Lindsey Oil Refinery Limited, have effect.

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

“the pipelines” means the pipelines crossing the Order limits owned and operated by TLOR used at various times for the passage of multi-purpose hydrocarbon fuels and all ancillary apparatus including such works and apparatus properly appurtenant to the pipelines as are specified by section 65(2) (meaning of “pipe-line”) of the Pipe-lines Act 1962; and

“TLOR” means Total Lindsey Oil Refinery Limited (company number 00564599).

**137.** Before commencing any part of the authorised development which would have an effect on the operation or maintenance of the pipelines and access to them, the undertaker must submit to TLOR plans and sections of the proposed works and such further particulars as TLOR may, within 28 days from the day on which plans and sections are submitted under this paragraph, reasonably require.

**138.** No works comprising any part of the authorised development which would have an effect on the operation, maintenance or abandonment of the pipelines and access to them are to be commenced until plans and sections in respect of those works submitted under paragraph 137 have been approved by TLOR.

**139.** Any approval of TLOR required under paragraph 138 must not be unreasonably withheld or delayed but may be given subject to such reasonable requirements as TLOR may require to be made for—

- (a) the continuing safety and operational viability of the pipelines; and
- (b) the requirement for TLOR to have uninterrupted and unimpeded access to the pipelines at all times.

## **PART 10**

### **FOR THE PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED**

**140.** The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail.



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

“Network Rail” means Network Rail Infrastructure Limited (company registration number 02904587) whose registered office is at 1 Eversholt Street, London NW1 2DN and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 (meaning of “subsidiary” etc) of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993(a)) or station lease; and

“railway property” means railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail for the purposes of such railway or works, apparatus or equipment.

**142.—**(1) The undertaker must not exercise the powers conferred by—

- (a) article 18 (compulsory acquisition of land);
- (b) article 19 (power to override easements and other rights);
- (c) article 21 (compulsory acquisition of rights etc.);
- (d) article 22 (private rights);
- (e) article 24 (acquisition of subsoil only);
- (f) article 27 (temporary use of land for carrying out the authorised development);
- (g) article 28 (temporary use of land for maintaining the authorised development,

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 (extinguishment of rights of statutory undertakers: preliminary notices) or 272 (extinguishment of rights of electronic communications code operators: preliminary notices) of the 1990 Act, or article 29 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over any railway property except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld or delayed but may be given subject to reasonable conditions and such consent is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

**143.** Any difference or dispute arising between the undertaker and Network Rail under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Network Rail, be determined by arbitration in accordance with article 42 (arbitration).

**144.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993.

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(a) 1993 c.43.

## PART 11

### FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER

#### **Application**

**145.** For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

#### **Interpretation**

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

“acceptable insurance” means a third party liability insurance effected and maintained by the undertaker and/or its contractor(s) to a level as may be approved by Cadent in writing or in the case of dispute in accordance with the terms and level of cover determined by an expert under paragraph 158. Such insurance shall be maintained for the maintenance period of any specified works and arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters whose security/credit rating meets the same requirements as an “acceptable credit provider”, such policy shall include (but without limitation)—

- (a) Cadent as a Co-Insured;
- (b) a cross liabilities clause; and
- (c) contractors’ pollution liability for third party property damage and third party bodily
- (d) damage arising from a pollution/contamination event with cover of £10,000,000.00 (ten million pounds) per event or £20,000,000.00 (twenty million pounds) in aggregate;

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

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by Cadent for the purposes of gas distribution together with any replacement apparatus and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“Cadent” means Cadent Gas Limited and/or its successors in title and/or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

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

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

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

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

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“maintenance activity” means the diversion, replacement, relaying, removal, refurbishment, reconstruction or improvement of the high pressure gas pipeline which supplies gas to the authorised development by the undertaker, or any works which would include the breaking of the ground within 15 metres in any direction of any apparatus;

“maintenance period” means the period of time from the commencement of the maintenance activity to the completion of the maintenance activity;

“Order land” has the same meaning as is given to the term “Order land” in article 2 of this Order;

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

“rights” shall include rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“specified works” means any intrusive activities undertaken by the undertaker within the Order land pursuant to the powers in article 19 (Power to override easements and other rights), article 21 (Compulsory acquisition of rights etc.), article 22 (Private rights) and article 29 (Statutory undertakers) 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 150(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 150(2) or otherwise; and/or
- (c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (Cadent’s policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of Cadent High pressure Gas pipelines and associated installation requirements for third parties GD/SP/SSW/22”); and

“undertaker” means the undertaker as defined in article 2 of this Order.

### **On Street Apparatus**

**147.**—(1) Except for paragraphs 148 (apparatus of Cadent in stopped up streets), 150 (removal of apparatus) in so far as sub-paragraph (2) applies, 151 (facilities and rights for alternative apparatus) in so far as sub-paragraph (2) below applies, 152 (retained apparatus: protection of Cadent), 153 (expenses) and 154 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Cadent, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraph 150 and 151 of this Schedule shall apply to diversions even where carried out under the 1991 Act, in circumstances where any Apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

(3) Notwithstanding article 30 (apparatus and rights of statutory undertakers in streets) or any other powers in the Order generally, section 85 of the 1991 Act in relation to cost sharing and the regulations made thereunder shall not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

### **Apparatus of Cadent in stopped up streets**

**148.**—(1) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 11 (temporary prohibition or restriction of uses of streets), Cadent will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary stopping up or diversion in respect of any apparatus which at the time of the stopping up or diversion was in that highway.

(2) The protective provisions in this Part of this Schedule apply and take precedence over article 30 (apparatus and rights of statutory undertakers in streets) of the Order which shall not apply to Cadent.

### **Acquisition of land**

**149.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of Cadent otherwise than by agreement.

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

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and/or other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by Cadent under paragraph 152 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

### **Removal of apparatus**

**150.**—(1) If, in the exercise of the agreement reached in accordance with paragraph 149 or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the

undertaker must afford to Cadent to its satisfaction (taking into account paragraph 152(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraphs (2) or (3) have been afforded to Cadent to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

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

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

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's opinion) then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 158 (Arbitration) of this Part of this Schedule and the arbitrator shall make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection of Cadent**

**152.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

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

- (a) the exact position of the works;

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

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until Cadent has given written approval of the plan so submitted.

(4) Any approval of Cadent required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, Cadent may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) and (2) or as relevant sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 145 to 147 and 150 to 151 apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 150(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 will apply to and in respect of the new plan.

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

- (a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (11) at all times.

(11) At all times when carrying out any specified works the undertaker must comply with Cadent's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of Cadent High pressure Gas pipelines and associated installation requirements for third parties SPGD/SP /SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to any specified works the undertaker shall implement an appropriate ground mitigation scheme save that Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 153.

## Expenses

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

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the negotiation or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 150(3) if it elects to do so; and/or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any specified works;
- (g) any watching brief pursuant to paragraph 152(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

- (a) apparatus of 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 42 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

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

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

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

### **Indemnity**

**154.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of any specified works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the specified works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such specified works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the specified works) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

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

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

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

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and
- (b) any specified works carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (consent to transfer benefit of order) subject to the proviso that once such works become apparatus (“new apparatus”), any specified works yet to be executed and not falling within this sub-section (3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 154.

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) Cadent must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies and if reasonably requested to do so by the undertaker Cadent must provide an explanation of how the claim has been minimised.

(6) The undertaker must not commence any maintenance activity (and must not permit the commencement of such maintenance activity) unless and until Cadent is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker or its contractor has procured acceptable insurance (and provided evidence to Cadent that it shall maintain such acceptable insurance for the maintenance period) and Cadent has confirmed the same in writing to the undertaker.



(7) In the event that the undertaker fails to comply with sub-paragraph (6), nothing in this Part of this Schedule shall prevent Cadent from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

(8) The undertaker is not required to comply with sub-paragraph (6) where it needs to carry out emergency works as defined in the 1991 Act.

### **Enactments and agreements**

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

### **Co-operation**

**156.**—(1) Where in consequence of the specified works, the undertaker or Cadent requires the removal of apparatus under paragraph 150(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 152, the undertaker shall 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 specified works and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent shall use its best endeavours to co-operate with the undertaker for that purpose.

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

### **Access**

**157.** If in consequence of the agreement reached in accordance with paragraph 149(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**158.** Any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 42 (arbitration).

### **Notices**

**159.** The plans submitted to Cadent by the undertaker pursuant to paragraph 152(1) must be sent to Cadent Gas Limited Plant Protection at [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker.

## PART 12

### FOR THE PROTECTION OF HIGHWAYS ENGLAND COMPANY LIMITED

#### **Application**

**160.** For the protection of Highways England Company Limited (Company No. 04346363) as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Highways England.

#### **Interpretation**

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

“the contractor” means any contractor or sub-contractor appointed by the undertaker to construct the HE works;

“the detailed design information” means details of the following where applicable to the HE works—

- (a) site clearance details;
- (b) boundary and mitigation fencing;
- (c) road restraints systems and supporting road restraint risk appraisal process assessment;
- (d) drainage and ducting and supporting drainage calculations;
- (e) earthworks including supporting geotechnical assessments and any required strengthened earthworks appraisal form certification;
- (f) kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) traffic signal equipment and associated signal phasing and timing detail;
- (i) road lighting (including columns and brackets) and supporting lighting calculations;
- (j) electrical work for road lighting, traffic signs and signals;
- (k) highway structures and any required structural approval in principle;
- (l) landscaping;
- (m) proposed departures from DMRB requirements;
- (n) utilities diversions;
- (o) topographical survey;
- (p) site waste management plan;
- (q) maintenance and repair strategy in accordance with Designing for Maintenance Interim Advice Note 69/15 or any replacement or modification of it;
- (r) asbestos survey;
- (s) regime of core testing and sampling of existing trunk road pavement construction;
- (t) site investigation survey;
- (u) health and safety information; and
- (v) other such information used to inform the detailed design of the HE works that may be required by Highways England;

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

“the estimated costs” means the estimated costs in respect of any HE works agreed pursuant to paragraph 164 of this Part of this Schedule;

“the Existing Gas Pipeline” means the existing gas pipeline the location of which is shown shaded blue within the Order Land but outside the Order Limits as shown on sheets the Land Plans;

“the HE works” means any works carried out by the undertaker on the strategic road network for to maintain, alter, inspect, repair, renew, replace, decommission or remove in whole or in part the Existing Gas Pipeline;

“Highways England” means the Highways England Company Limited with company number 04346363 and whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ;

“the nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during construction of the HE works, as notified to Highways England from time to time;

“the programme of works” means a document setting out the sequence and timetabling of the HE works; and

“utilities” means any pipes, wires, cables or other equipment belonging to any person or body having power or consent to undertake street works under the 1991 Act.

### **Prior approvals**

**162.**—(1) The HE works must not commence until—

- (a) the detailed design of the HE works comprising of the following details has been submitted to and approved by Highways England—
  - (i) the detailed design information;
  - (ii) the programme of works;
  - (iii) details of proposed road space bookings;
  - (iv) a scheme of traffic management; and
  - (v) the identity of the contractor and nominated persons;
- (b) all necessary temporary traffic regulation measures have been made by the undertaker under article 11(1) or 14(3), or all necessary temporary traffic regulation orders have been made by Highways England;
- (c) at least 28 days’ notice of the commencement date of the HE works has been given to Highways England in writing, unless otherwise agreed by Highways England.

(2) Highways England must use its best endeavours to notify the undertaker of its approval or, as the case may be, of its disapproval and the grounds of disapproval, within 42 days of the information required by sub-paragraphs (1)(a)(i) to (1)(a)(v) being received by Highways England. Highways England must give reasons for any disapproval and shall not unreasonably delay its approval to the undertaker.

(3) In the event of any disapproval, the undertaker may re-submit the information required by sub-paragraphs (1)(a)(i) to (1)(a)(v) with modifications and Highways England must use its best endeavours to notify the undertaker of its approval or, as the case may be, of its disapproval and the grounds of disapproval, within 42 days of the revised detailed design information being received by Highways England. Highways England must give reasons for any further disapproval and must not unreasonably withhold or delay consent.

(4) The documents and programmes approved under sub-paragraphs (1) and (2) may be subsequently amended by agreement between the undertaker and Highways England from time to time, both parties acting reasonably and without delay.

(5) Within 28 days of receipt of a written request by the undertaker and in any event prior to the commencement of the HE works, Highways England must inform the undertaker of the identity of the person who will act as the point of contact on behalf of Highways England for consideration of the information required under sub-paragraph (1).

### **Construction of the HE works**

**163.**—(1) The HE works must be constructed to the satisfaction of Highways England acting reasonably and in accordance (where relevant) with—

- (a) the information approved under paragraph 162(1) or as subsequently varied by agreement between the undertaker and Highways England;
- (b) the DMRB and the Specification for Highway Works (contained within the Manual of Contract Documents for Highways Works) together with all other relevant standards as required by Highways England (to include all relevant interim advice notes, the Traffic Signs Manual 2008 and any amendment to or replacement of such standards for the time being in force), save to the extent that exceptions to those standards apply which have been approved by Highways England under paragraph 162(1) in respect of the HE works;
- (c) the Traffic Signs Regulations and General Directions 2016 or any amendment to or replacement of them; and
- (d) all aspects of the Construction (Design and Management) Regulations 2015 or any amendment to or replacement of them.

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

(3) The undertaker must permit and must require the contractor to act upon any reasonable request made by Highways England in relation to the construction of the HE works as soon as reasonably practicable provided such a request is not inconsistent with and does not fall outside the contractor's obligations under its contract with the undertaker or the undertaker's obligations under this Order.

(4) If any part of the HE works is constructed otherwise than in accordance with the requirements of this Part of this Schedule, Highways England may by notice in writing require the undertaker, at the undertaker's own expense, to comply with the requirements of this Part of this Schedule.

(5) If within 28 days of the date on which a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to take the steps required by that notice. Highways England may carry out works to reinstate the highway and other land and premises of Highways England, and Highways England may recover from the undertaker any expenditure reasonably incurred by it in so doing.

(6) If during construction of the HE works the undertaker causes any damage to the strategic road network then Highways England may by notice in writing require the undertaker, at the undertaker's own expense, to remedy the damage.

(7) If within 28 days of the date on which a notice under sub-paragraph (6) is served on the undertaker, the undertaker has failed to take steps to comply with the notice. Highways England may carry out the steps required of the undertaker and may recover from the undertaker any expenditure reasonably incurred by Highways England in so doing.

(8) Nothing in this Part of this Schedule prevents Highways England from carrying out any work or taking such action as it reasonably believes to be necessary as a result of the construction of the HE works without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and Highways England may recover from the undertaker any reasonable expenditure incurred by Highways England in so doing.

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

### **Payments**

**164.**—(1) The undertaker must fund the full cost of the HE works and any incidental and amended works approved under this Part of this Schedule and must also pay to Highways England

in respect of the HE works a sum equal to the whole of any costs and expenses which Highways England reasonably incurs (including costs and expenses for using internal or external staff) in relation to—

- (a) the checking and approval of the information required by paragraph 162(1)(a);
- (b) the supervision of the HE works;
- (c) all legal and administrative costs in relation to sub-paragraphs (a) and (b) above;
- (d) any costs incurred by Highways England in undertaking any necessary statutory procedure required as a result of construction of the HE works, and in preparing and bringing into force any traffic regulation order necessary to construct or implement the HE works, provided that this paragraph will not apply to the making of any orders which duplicate traffic regulation measures contained in, or which may be made by the undertaker under, this Order; and
- (e) any value added tax which is payable by Highways England in respect of the costs incurred pursuant to paragraphs (a) to (e) which Highways England cannot otherwise recover from HM Revenue and Customs,

sub-paragraphs (a) to (e) together comprising “the estimated costs”.

(2) The undertaker and Highways England must, acting reasonably, agree a schedule of the estimated costs prior to the commencement of the HE works and once that schedule is agreed the undertaker must pay to Highways England the estimated costs in line with the agreed schedule.

(3) Highways England is not entitled to costs or expenses incurred under any limb of sub-paragraph (1) if those costs or expenses are included as part of the estimated costs under any other limb of that sub-paragraph.

### **Indemnity**

**165.**—(1) Subject to sub-paragraphs (2) and (3) the undertaker must in relation to the construction of the HE works indemnify Highways England from and against all costs, expenses, damages, losses and liabilities arising from any claim, demand, action or proceedings resulting from damage caused by the construction of the HE works.

(2) Sub-paragraph (1) does not apply if the costs, expenses, damages, losses and liabilities were caused by or arise out of the act, neglect or default of Highways England or its officers, servants, agents, contractors or any person or body for whom it is responsible.

(3) In no circumstances is the undertaker liable to Highways England under this Part of this Schedule for any indirect or consequential loss or loss of profits.

(4) If any person makes a claim or notifies an intention to make a claim against Highways England which may reasonably be considered likely to give rise to a liability under this paragraph then Highways England must—

- (a) as soon as reasonably practicable give the undertaker reasonable notice of any such third party claim or demand, specifying the nature of the indemnity liability in reasonable detail;
- (b) not make any admission of liability, agreement or compromise in relation to the indemnity liability without first consulting the undertaker and considering their representations.

(5) The undertaker acknowledges that Highways England may receive statutory compensation claims and that Highways England may not be able to comply with sub-paragraph (4) above in respect of such claims.

(6) Where Highways England considers that sub-paragraph (5) applies to any claim or demand it must give notice of that view as part of the relevant notice provided pursuant to sub-paragraph (4)(a) above.

(7) Highways England must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under this paragraph applies where it is within Highways England’s reasonable gift and control to do so and

which expressly excludes any obligation to mitigate liability arising from third parties which is outside of Highways England's control. If reasonably requested to do so by the undertaker, Highways England must provide an explanation of how any claim has been mitigated or minimised or where mitigation or minimisation is not possible an explanation as to why.

### **Arbitration**

**166.** Any difference or dispute arising between the undertaker and Highways England under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Highways England, be determined by arbitration in accordance with article 42 (arbitration).

### **Notices**

**167.** A notice or other document required to be served on Highways England under this Part of the Schedule must be served by post to Antony Firth, Head of Planning and Development, Operations, Yorkshire and the North East Region, Highways England, Lateral, 8 City Walk, Leeds, LS11 9AT or such other postal address which Highways England may from time to time notify to the undertaker.

## **PART 13**

### **FOR THE PROTECTION OF NORTHERN POWERGRID (YORKSHIRE) PLC**

**168.** For the protection of Northern Powergrid the following provisions have effect, unless otherwise agreed in writing between the undertaker and Northern Powergrid.

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

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

“apparatus” means electric lines or electrical plant (as defined in the Electricity Act 1989), belonging to or maintained by Northern Powergrid;

“functions” includes powers and duties;

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

“Northern Powergrid” means Northern Powergrid (Yorkshire) Plc (company number 04112320) whose registered office is at Lloyds Court, 78 Grey Street, Newcastle Upon Tyne, NE1 6AF.

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

**171.** Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 11 (temporary prohibition or restriction of use of streets), Northern Powergrid is at entitled at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

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

**173.—(1)** If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that Northern Powergrid's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Northern Powergrid to maintain that apparatus in that land and to gain access to it must not be extinguished, until

alternative apparatus has been constructed and is in operation, and access to it has been provided by virtue of an easement for a tenure no less than exists to the apparatus being relocated or diverted, all to the reasonable satisfaction of Northern Powergrid in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give Northern Powergrid written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Northern Powergrid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Northern Powergrid the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, Northern Powergrid must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable and at the cost of the undertaker (subject to prior approval by the undertaker of its estimate of costs of doing so) use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Northern Powergrid and the undertaker or in default of agreement settled by arbitration in accordance with paragraph 185.

(5) Northern Powergrid must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with paragraph 185, and after the grant to Northern Powergrid of any such facilities and rights as are referred to in sub-paragraph (2) or (3) proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to Northern Powergrid that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by Northern Powergrid, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Northern Powergrid.

(7) Nothing in sub-paragraph (6) authorises the undertaker to place, install, bed, pack, remove, connect or disconnect any apparatus, or any fill around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

**174.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Northern Powergrid facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Northern Powergrid or in default of agreement settled by arbitration in accordance with paragraph 185.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Northern Powergrid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Northern Powergrid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

**175.**—(1) Not less than 90 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 173(2), the undertaker must submit to Northern Powergrid a plan, section and description of the works to be executed.

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

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

(4) If Northern Powergrid in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 168 to 174 apply as if the removal of the apparatus had been required by the undertaker under paragraph 173(2).

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

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

**176.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Northern Powergrid the reasonable expenses incurred by Northern Powergrid—

- (a) in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 173(2); and
- (b) in assessing and preparing a design for its apparatus to address and accommodate the proposals of the undertaker whether or not the undertaker proceeds to implement those proposals or alternative or none at all,

provided that if it so prefers Northern Powergrid may abandon apparatus that the undertaker does not seek to remove in accordance with paragraph 173(2) having first decommissioned such apparatus.

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal and, if the apparatus removed under the provisions of this Part of this Schedule has no value, no sum is to be deducted from the amount payable under sub-paragraph (1).

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 185 to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule



exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Northern Powergrid by virtue of sub-paragraph (1) is to be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type capacity or dimensions of apparatus or to lay it at the same depth as the existing apparatus being replaced in which case the full costs are to 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 is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 173(2); and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Northern Powergrid in respect of works by virtue of sub-paragraph (1) is to be reduced by the amount which represents that benefit if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier so as to confer on Northern Powergrid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course.

**177.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 173(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 Northern Powergrid, or there is any interruption in any service provided by Northern Powergrid, the undertaker must—

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

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

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Northern Powergrid, its officers, servants, contractors or agents.

(3) Northern Powergrid must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

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

**179.**—(1) Without prejudice to the generality of this Part of this Schedule, Northern Powergrid must from time to time submit to the undertaker estimates of reasonable costs and expenses it expects to incur in relation to the implementation of any diversions or relocation of apparatus contemplated under this Part of this Schedule including without limitation—

- (a) in assessing and preparing a design for its apparatus to address and accommodate the proposals of the undertaker under paragraph 176;
- (b) costs incurred in fulfilling its obligations in paragraph 173(3);
- (c) fees incurred in settling and completing and registering any documentation to secure rights for its diverted or relocated apparatus; and
- (d) costs and expenses of contractors required to undertake any works for which Northern Powergrid is responsible and of purchasing the necessary cabling and associated apparatus,

provided that Northern Powergrid must use reasonable endeavours to minimise to a proper and reasonable level any charges, costs, fees and expenses to the extent that they are incurred.

**180.** Northern Powergrid and the undertaker must use their reasonable endeavours to agree the amount of any estimates submitted by Northern Powergrid under paragraph 179 within 15 working days following receipt of such estimates by the undertaker. The undertaker must confirm whether it agrees to the amount of such estimates in writing and must not unreasonably withhold or delay such agreement. If the parties are unable to agree the amount of an estimate, the dispute must be dealt with in accordance with paragraph 185.

**181.** Work in relation to which an estimate is submitted must not be commenced by Northern Powergrid until that estimate is agreed with the undertaker in writing and a purchase order up to the value of the approved estimate has been issued by the undertaker to Northern Powergrid and an easement for the routes of the apparatus has been granted to Northern Powergrid under paragraph 173(1) for the benefit of its statutory undertaking.

**182.** If Northern Powergrid at any time becomes aware that an estimate agreed is likely to be exceeded, it must forthwith notify the undertaker and must submit a revised estimate of the relevant costs and expenses to the undertaker for agreement.

**183.** Northern Powergrid may from time to time, and at least monthly, from the date of this Order issue to the undertaker invoices for costs and expenses incurred up to the date of the relevant invoice, for the amount of the relevant estimate agreed. Invoices issued to the undertaker for payment must—

- (a) specify the approved purchase order number; and
- (b) be supported by timesheets and narratives that demonstrate that the work invoiced has been completed in accordance with the agreed estimate.

**184.** The undertaker is not responsible for meeting costs or expenses in excess of an agreed estimate, other than where agreed under paragraph 181 or determined in accordance with paragraph 185.

**185.** Any difference under the provisions of this Part of this Schedule, unless otherwise provided for, 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 an independent electrical engineer by or on behalf of the President for the time being of the Institute of Engineering and Technology.

## PART 14

### FOR THE PROTECTION OF HORNSEA 1 LIMITED

**186.** For the protection of Hornsea 1 referred to in this Part of this Schedule the following provisions shall, unless otherwise agreed in writing between the undertaker and Hornsea 1, have effect.

#### **Interpretation**

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

“Hornsea 1” means Hornsea 1 Limited (registered number 07640868) and in substitution therefor their successors to Hornsea 1 Limited’s interests and/or the Hornsea 1 apparatus;

“Hornsea 1 apparatus” means any conduit cables ducts pipes or other apparatus or equipment belonging to or maintained by Hornsea 1 for the purposes of the transmission of electricity and includes any structure in which such apparatus is lodged and where such apparatus is or is to be maintained within plots 59, 60, 61, 62, 63, 64, 68, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 90, 91, and 92;

“Hornsea 1 Limited’s interests” means any interest or right held by Hornsea 1 or which Hornsea 1 has the right or power to obtain within plots 59, 60, 61, 62, 63, 64, 68, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 90, 91, and 92;

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

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

“protected area” means the area within 20 metres in all directions of each point from the Hornsea 1 apparatus or Hornsea 1 interests; and

“works” means any future works undertaken by or on behalf of the undertaker to install, maintain, alter, inspect, repair, renew, decommission or remove in whole or in part land or apparatus in the protected area.

### **Acquisition of land**

**188.** Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire or take temporary possession of any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or cables of Hornsea 1 other than by agreement, such agreement not to be unreasonably withheld.

### **Protection of Hornsea 1 from works**

**189.**—(1) Before any works are commenced the undertaker must submit to Hornsea 1 plans and sections of the proposed works and such further particulars as Hornsea 1 may, within 14 days from the day on which plans and sections are submitted under this paragraph, reasonably require.

(2) The undertaker must not commence any works to which sub-paragraph (1) applies until Hornsea 1 has given written approval of the plan so submitted.

(3) Any approval of Hornsea 1 required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions; and
- (b) must not be unreasonably withheld.

### **Costs**

**190.**—(1) The undertaker must repay to Hornsea 1 all reasonable fees, costs, charges and expenses properly and reasonably incurred by them in relation to these protective provisions, in respect of—

- (a) the consideration and approval of the works under paragraph 189; and
- (b) the attendance of a representative of Hornsea 1 during the undertaking of any works in the protected area.

(2) Hornsea 1 must provide the undertaker with such estimates of and evidence in relation to any fees, costs, charges or expenses to which sub-paragraph (1) does or may apply as the undertaker may reasonably request.

(3) The undertaker will indemnify and keep Hornsea 1 indemnified against all reasonable costs, charges, damages, expenses, loss, demands, proceedings, claims or penalty which may be reasonably incurred by Hornsea 1—

- (a) by reason of the works or the failure of them; and/or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the works.

(4) Hornsea 1 must give the undertaker reasonable notice of any claim or demand under sub-paragraph (3) and no settlement or compromise of such a claim or demand is to be made without the prior consent of the undertaker.

### **Access**

**191.** If in consequence of the powers granted under this Order the access to any Hornsea 1 apparatus is materially obstructed the undertaker must provide such alternative means of access to such apparatus as will enable Hornsea 1 to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Expert determination**

**192.—**(1) Except as provided in sub-paragraph (7), article 42 (arbitration) does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 28 days of the notification of the dispute.

(4) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;
- (c) issue a decision within 42 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(6) The expert must consider where relevant—

- (a) the development outcome sought by the undertaker;
- (b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;
- (c) the nature of the power sought to be exercised by the undertaker;
- (d) the nature of any operation or development undertaken or proposed to be undertaken by any party other than the undertaker;
- (e) the ability of any party other than the undertaker to undertake a relevant operation or development in a timely and cost-effective manner, while giving consideration to any restriction or limitation which might be caused to the ability of any party to carry out their statutory or regulatory duties, requirements or obligations;
- (f) the effects of the undertaker's proposals on any party other than the undertaker and the effects of any operation or development undertaken by any party other than the undertaker;
- (g) whether this Order provides any alternative powers by which the undertaker could reasonably achieve the development outcome sought in a manner that would reduce or eliminate adverse effects on any party other than the undertaker;
- (h) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;

- (i) the constructability notes; and
- (j) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 42.

## PART 15

### FOR THE PROTECTION OF HORNSEA 2 COMPANIES

#### **Application**

**193.** For the protection of Hornsea 2 referred to in this Part of this Schedule the following provisions shall, unless otherwise agreed in writing between the undertaker and Hornsea 2, have effect.

#### **Interpretation**

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

“Hornsea 2” means Optimus Wind Limited (registered number 07883284), Breesea Limited (registered number 07883217), Sonningmay Wind Limited (registered number 10722635) and Soundmark Wind Limited (registered number 10721881) and in substitution therefor their successors to Hornsea 2’s interests and/or the Hornsea 2 apparatus;

“Hornsea 2 apparatus” means any conduit cables ducts pipes or other apparatus or equipment belonging to or maintained by Hornsea 2 for the purposes of the transmission of electricity and includes any structure in which such apparatus is lodged and where such apparatus is or is to be maintained within plots 59, 60, 61, 62, 63, 64, 68, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 90, 91, and 92;

“Hornsea 2’s interests” means any interest or right held by Hornsea 2 or which Hornsea 2 has the right or power to obtain within plots 59, 60, 61, 62, 63, 64, 68, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 90, 91, and 92;

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

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

“protected area” means the area within 20 metres in all directions of each point from the Hornsea 2 apparatus or Hornsea 2 interests; and

“works” means any future works undertaken by or on behalf of the undertaker to install, maintain, alter, inspect, repair, renew, decommission or remove in whole or in part land or apparatus in the protected area.

#### **Acquisition of land**

**195.** Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire or take temporary possession of any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or cables of Hornsea 2 other than by agreement, such agreement not to be unreasonably withheld.

### **Protection of Hornsea 2 from works**

**196.**—(1) Before any works are commenced the undertaker must submit to Hornsea 2 plans and sections of the proposed works and such further particulars as Hornsea 2 may, within 14 days from the day on which plans and sections are submitted under this paragraph, reasonably require.

(2) The undertaker must not commence any works to which sub-paragraph (1) applies until Hornsea 2 has given written approval of the plan so submitted.

(3) Any approval of Hornsea 2 required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions; and,
- (b) must not be unreasonably withheld.

### **Costs**

**197.**—(1) The undertaker must repay to Hornsea 2 all reasonable fees, costs, charges and expenses properly and reasonably incurred by them in relation to these protective provisions, in respect of—

- (a) the consideration and approval of the works under paragraph 196; and
- (b) the attendance of a representative of Hornsea 2 during the undertaking of any works in the protected area.

(2) Hornsea 2 must provide the undertaker with such estimates of and evidence in relation to any fees, costs, charges or expenses to which sub-paragraph (1) does or may apply as the undertaker may reasonably request.

(3) The undertaker will indemnify and keep Hornsea 2 indemnified against all reasonable costs, charges, damages, expenses, loss, demands, proceedings, claims or penalty which may be reasonably incurred by Hornsea 2—

- (a) by reason of the works or the failure of them; and/or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the works.

(4) Hornsea 2 must give the undertaker reasonable notice of any claim or demand under sub-paragraph (3) and no settlement or compromise of such a claim or demand is to be made without the prior consent of the undertaker.

### **Access**

**198.** If in consequence of the powers granted under this Order the access to any Hornsea 2 apparatus is materially obstructed the undertaker must provide such alternative means of access to such apparatus as will enable Hornsea 2 to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Expert determination**

**199.**—(1) Except as provided in sub-paragraph (7), article 42 (arbitration) does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 28 days of the notification of the dispute.

(4) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;
- (c) issue a decision within 42 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(6) The expert must consider where relevant—

- (a) the development outcome sought by the undertaker;
- (b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;
- (c) the nature of the power sought to be exercised by the undertaker;
- (d) the nature of any operation or development undertaken or proposed to be undertaken by any party other than the undertaker;
- (e) the ability of any party other than the undertaker to undertake a relevant operation or development in a timely and cost-effective manner, while giving consideration to any restriction or limitation which might be caused to the ability of any party to carry out their statutory or regulatory duties, requirements or obligations;
- (f) the effects of the undertaker's proposals on any party other than the undertaker and the effects of any operation or development undertaken by any party other than the undertaker;
- (g) whether this Order provides any alternative powers by which the undertaker could reasonably achieve the development outcome sought in a manner that would reduce or eliminate adverse effects on any party other than the undertaker;
- (h) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;
- (i) the constructability notes; and
- (j) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 42.

## SCHEDULE 10

Article 38

## PROCEDURE FOR DISCHARGE OF REQUIREMENTS

**1. In this Schedule—**

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

“requirement consultee” means any body named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement; and

“start date” means the date of the notification given by the Secretary of State under paragraph 5(2)(b).

**Applications made under requirement**

**2.—**(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement the relevant planning authority must give notice to the undertaker of its decision on the application within a period of eight weeks beginning with the later of—

- (a) the day immediately following that on which the application is received by the authority; or
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 3,

or such longer period as may be agreed in writing by the undertaker and the relevant planning authority.

(2) Subject to paragraph 5, in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Any application made to the relevant planning authority pursuant to sub-paragraph (1) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement and if it will then it must be accompanied by information setting out what those effects are.

(4) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement included in this Order and the relevant planning authority does not determine the application within the period set out in sub-paragraph (1)—

- (a) and is accompanied by a report pursuant to sub-paragraph (3) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or
- (b) it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,

then the application is deemed to have been refused by the relevant planning authority at the end of that period.

---

(a) 1971 c.80.



### Further information and consultation

3.—(1) In relation to any application to which this Schedule applies, the relevant planning authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the relevant planning authority considers such further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required, the relevant planning authority must, within 14 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant planning authority must issue the consultation to the requirement consultee within five business days of receipt of the application, and must notify the undertaker in writing specifying any further information requested by the requirement consultee within five business days of receipt of such a request and in any event within 21 days of receipt of the application (or such other period as is agreed in writing between the undertaker and the relevant planning authority).

(4) In the event that the relevant planning authority does not give notification as specified in sub-paragraph (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

### Fees

4.—(1) Where an application is made to the relevant planning authority for written consent, agreement or approval in respect of a requirement, the fee prescribed under regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (as may be amended or replaced from time to time) is to apply and must be paid to the relevant planning authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of—

- (a) the application being rejected as invalidly made; or
- (b) the relevant planning authority failing to determine the application within nine weeks from the relevant date in paragraph 1 unless—
  - (i) within that period the undertaker agrees, in writing, that the fee is to be retained by the relevant planning authority and credited in respect of a future application; or
  - (ii) a longer period of time for determining the application has been agreed pursuant to paragraph 2 of this Schedule.

### Appeals

5.—(1) The undertaker may appeal in the event that—

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions;
- (b) the relevant planning authority is deemed to have refused an application pursuant to paragraph 2(3);
- (c) on receipt of a request for further information pursuant to paragraph 3 the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the relevant planning authority notifies the undertaker that the information provided is inadequate and requests additional

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(a) S.I. 2012/2920.

information which the undertaker considers is not necessary for consideration of the application.

(2) The steps to be followed in the appeal process are as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and the requirement consultee;
- (b) the Secretary of State must appoint a person to determine the appeal as soon as reasonably practicable after receiving the appeal documentation and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person's attention should be sent;
- (c) the relevant planning authority and the requirement consultee (if applicable) must submit written representations to the appointed person in respect of the appeal within ten business days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties must make any counter-submissions to the appointed person within ten business days of receipt of written representations pursuant to paragraph (c);
- (e) the appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 business days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (d); and
- (f) the appointment of the person pursuant to paragraph (b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(3) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal the appointed person must, within five business days of the appointed person's appointment, notify the appeal parties in writing specifying the further information required.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the undertaker to the appointed person, the relevant planning authority and the requirement consultee on the date specified by the appointed person (the "specified date"), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten business days of the specified date, but otherwise the process and time limits set out in paragraphs (c) to (e) of sub-paragraph (2) apply.

(5) The appointed person may—

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

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

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

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

(8) The decision of the appointed person on an appeal is to be final and binding on the parties, unless proceedings are brought by a claim for judicial review.

(9) If an approval is given by the appointed person pursuant to this Schedule, it is deemed to be an approval for the purpose of Schedule 2 (requirements) as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(10) Save where a direction is given pursuant to sub-paragraph (11) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(11) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the advice on planning appeals and award costs published on 3 March 2014 by what was then the Department for Communities and Local Government or any circular or guidance which may from time to time replace it.

## SCHEDULE 11

Article 39

## DOCUMENTS AND PLANS TO BE CERTIFIED

Table 8

<i>(1)</i> <i>Document name</i>	<i>(2)</i> <i>Document reference</i>	<i>(3)</i> <i>Revision number</i>	<i>(4)</i> <i>Date</i>
access and rights of way plans	4.4	4 (sheets 1, 2 and 3) 5 (key plan and sheet 4)	1 November 2019
book of reference	3.5	4	1 November 2019
commitments register	6.4.32	1	April 2019
environmental statement	Volume 1, 6.2 Volume 2, 6.3 Volume 3, 6.4	1 1 1	April 2019
flood risk assessment	6.4.26	1	April 2019
framework biodiversity enhancement and management plan	6.4.17	1	April 2019
framework construction environmental management plan	6.4.3	1	April 2019
framework construction traffic management plan	6.4.7	1	April 2019
framework construction worker travel plan	6.4.6	1	April 2019
framework written scheme of investigation	6.4.31	2	October 2019
indicative lighting strategy	5.6	1	April 2019
land plans	4.2	1 (sheets 1, 2 and 3) 2 (key plan and sheet 4)	1 November 2019 (key plan and sheet 4) 27 March 2019 (sheets 1 and 3) 28 March 2019 (sheet 2)
works plans	4.3	1	April 2019
statement to inform appropriate assessment	7.17	2	October 2019

SCHEDULE 12                      Schedule 2, Requirement 5  
DESIGN PARAMETERS

**Table 9**

(1) <i>Building or structure</i>	(2) <i>Maximum length (metres)</i>	(3) <i>Maximum width (metres)</i>	(4) <i>Maximum height (metres above 0 meters above ordnance datum)</i>	(5) <i>Maximum diameter (metres)</i>
Single gas turbine and generator	30	20	20	-
Gas turbine building	46	25	29	-
Exhaust stack	-	-	56	12
Air intakes	24	16	40	-
Fin-fan cooler	30	15	17	-
Control room, workshops, stores	35	20	16	-
Demineralised tank, firewater tank	-	-	32	24

## SCHEDULE 13

Article 41

**MODIFICATIONS TO THE ABLE MARINE ENERGY PARK  
DEVELOPMENT CONSENT ORDER 2014**

**Schedule 9 to the Able Marine Energy Park Development Consent Order 2014**

1. After paragraph 120 of Schedule 9 insert new Part 16—

**“PART 16****FOR THE PROTECTION OF VPI IMMINGHAM B LIMITED****Application**

**121.** For the protection of VPI Immingham B Limited (Company No. 10630563) as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and VPI.

**Interpretation**

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

“the OCGT authorised development” means the development authorised by the OCGT Order;

“the OCGT Order” means the Immingham Open Cycle Gas Turbine Order 2020;

“the OCGT Order land” has the same meaning as the term “Order land” in article 2(1) of the OCGT Order;

“the OCGT water connection” means that part of work number 2 of the OCGT authorised development which is to be carried out within plots 6 and 7 of the OCGT Order land;

“VPI” means VPI Immingham B Limited (Company No. 10630563) whose registered office is at 4th Floor, Nova South, 160 Victoria Street, London SW1E 5LB, or any person having the benefit of the OCGT Order pursuant to article 6 and/or 7 of it;

“the Order” means this Order; and

“the respective authorised developments” means the developments authorised by the Order and the OCGT Order respectively.

**Regulation of powers over Rosper Road**

**123.**—(1) Subject to VPI complying with paragraphs 59, 60, 61 and 64 of Part 8 of Schedule 9 to the OCGT Order the undertaker must not exercise the powers granted under this Order so as to hinder or prevent—

- (a) the construction, operation, use or maintenance of the OCGT water connection; or
- (b) access between all parts of the OCGT authorised development and Rosper Road,

otherwise than with the prior written consent of VPI.

(2) Wherever in this Schedule provision is made with respect to the approval or consent of VPI, that approval or consent must be in writing (and subject to such reasonable terms and conditions as VPI may require), but must not be unreasonably withheld or delayed.

(3) In the event that VPI does not respond in writing to a request for approval or consent within 28 days of receipt of such a request, VPI is deemed to have given its consent, without any terms or conditions.

**124.**—(1) The undertaker must not exercise the powers under any of the articles of the Order specified in sub-paragraph (2) over or in respect of the OCGT Order land otherwise than with the prior written consent of VPI.

(2) The articles referred to in sub-paragraph (1) are—

- (a) article 15 (street works);
- (b) article 16 (temporary stopping up of streets);
- (c) article 17 (access to works);
- (d) article 22 (authority to survey and investigate land);
- (e) article 30 (compulsory acquisition of land);
- (f) article 31 (power to override easements and other rights);
- (g) article 34 (compulsory acquisition of rights etc.);
- (h) article 35 (private rights of way);
- (i) article 39 (rights under or over streets);
- (j) article 40 (temporary use of land for carrying out the authorised development);
- (k) article 41 (temporary use of land for maintaining authorised development); and
- (l) article 42 (statutory undertakers).

(3) In the event that VPI withholds its consent pursuant to sub-paragraph (1) it must notify the undertaker in writing of the reasons for withholding such consent and (if applicable) the time period during which such consent will be withheld.

**125.** Insofar as the construction of the OCGT authorised development is or may be undertaken concurrently with the Able authorised development, the undertaker must—

- (a) co-operate with VPI with a view to ensuring—
  - (i) the co-ordination of construction programming and the carrying out of works; and
  - (ii) that access for the purposes of constructing the respective authorised developments is maintained for the undertaker and VPI and their respective contractors; and
- (b) use reasonable endeavours to avoid any conflict arising from the carrying out of the respective authorised developments.

### **Arbitration**

**126.** Any difference or dispute arising between the undertaker and VPI under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and VPI, be referred to and settled by arbitration in accordance with Article 57 (arbitration).”.

## EXPLANATORY NOTE

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

This Order authorises VPI Immingham B Limited (referred to in this Order as the undertaker) to construct, operate and maintain a gas fired electricity generating station. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the Order plans and the book of reference mentioned in this Order and certified in accordance with article 39 (certification of plans etc.) of this Order may be inspected free of charge during working hours at VPI Immingham Power Station, Rosper Road, South Killingholme, Lincolnshire, DN40 3DZ.

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**APPENDIX 9 THE GAME & WILDLIFE CONSERVATION TRUST REPORT 'THE SOIL AND WATER BALANCE'**

# THE SOIL AND WATER BALANCE

The Science Behind  
Soil Friendly Farming



Game & Wildlife  
CONSERVATION TRUST



# THE SOIL AND WATER BALANCE

*The Science Behind  
Soil Friendly Farming*



Game & Wildlife  
CONSERVATION TRUST

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## FOREWORD

*“The thin layer of soil covering the earth’s surface represents the difference between survival and extinction for most terrestrial life”*

- Doran and Parkin, 1994.

Despite this statement, the soil beneath our feet is often overlooked and undervalued.

Soil underpins human health and wellbeing, thanks to the diverse range of goods and services soils deliver to society. For example, the Food and Agriculture Organization of the United Nations state that over 97% of our food comes from soil. Global warming can be offset by storing carbon in soil. Flooding risks can be controlled when soils absorb heavy rainfall. These, and many other soil-derived benefits, are directly related to individual and national economic status.

As such, a better understanding of soils, and their properties, processes and functions is essential, if this vital, yet virtually finite component of natural capital is to be appreciated and protected. Over many years, the Allerton Project’s soils research programmes have contributed to much of this understanding. Collaborative research at Loddington continues to provide long-term, robust scientific evidence on soils and soil health, at field, farm and catchment scales. Importantly, this extensive knowledge is gathered in a real, working environment and supports the development, demonstration and adoption of effective, economically-viable and sustainable soil management policies and practices.

As well as generating this valuable evidence, the Allerton Project ensures soils research has real impact to many beneficiaries. The scientific knowledge and technical skills of Project staff are shared with a wide range of stakeholders, from school children to researchers to Government ministers. Working closely with

these key stakeholders ensures soil and soil management research at the Allerton Project continues to find appropriate solutions to the economic, regulatory and environmental uncertainties that farmers face now, and into the future.

Professor Jane Rickson,  
Chair in Soil Erosion and Conservation

Cranfield Soil and AgriFood Institute,  
Cranfield University, Cranfield, UK  
January 2018

## PREFACE

*“Man – despite his artistic pretension, his sophistication and his many accomplishments – owes his existence to a 15cm layer of topsoil and the fact that it rains” - Anon.*

Throughout the last century, farming has changed dramatically. A 1920s farmer would not recognise the modern, high-tech, high productivity environment of today’s farm. With these advances came enormous and much needed increases in yield from the post-war years to the latter part of the 20th century, however across the UK yields have been plateauing and even falling over the past 30 years. This shows that although the techniques that have allowed high output farming revolutionised the industry, they perhaps do not care sufficiently for the fundamental components that support us, such as the soil. Soil structure, organic matter and overall soil health have been in decline, and we must address these issues if we wish to achieve sustainable farming.

The challenge we now face is to maintain profitable and productive farming, whilst reversing these effects. There is much that can be done to benefit farm businesses whilst reducing the negative impact of modern agriculture on the environment when it comes to soil and water. Keeping the soil on the fields, preventing nutrients and chemicals from travelling into water courses and valuing soil structure are initial steps towards a more sustainable approach. With the knowledge we now have from our research, we can certainly make progress in improving these areas.

We know that many farmers are enthusiastic about these advances, and would be prepared to adjust their farming practices. However, where these adjustments come with a cost, increased uptake needs to be encouraged by financial support for such measures. Many are simple and cost-efficient enough to be included in agri-environment schemes, and supporting these through forward-looking policy will



encourage many more to take positive steps towards sustainable soil management.

The GWCT's Allerton Project has been involved in many research projects with many partners over the last 25 years. These examine water quality, soil health, impacts on crop yield, and how we might reduce the impact of modern farming methods on the environment, whilst maintaining food production and an economic business model for the farm. The knowledge gained from some of these studies has recently been brought together into our ongoing Water Friendly Farming project, which combines these separate threads into a practical, landscape scale demonstration. This document explores the main findings from our research projects, discusses what we have learnt, and considers how our findings might be applied in the future.

This report does not mark the end of our work. We have new projects underway that will yield further important results over the next five years. There is a lot that remains to be done, but after 15 years of scientific research into farming techniques at the GWCT's Allerton Project and elsewhere, we are in a stronger position to make responsible choices towards sustainable farming.

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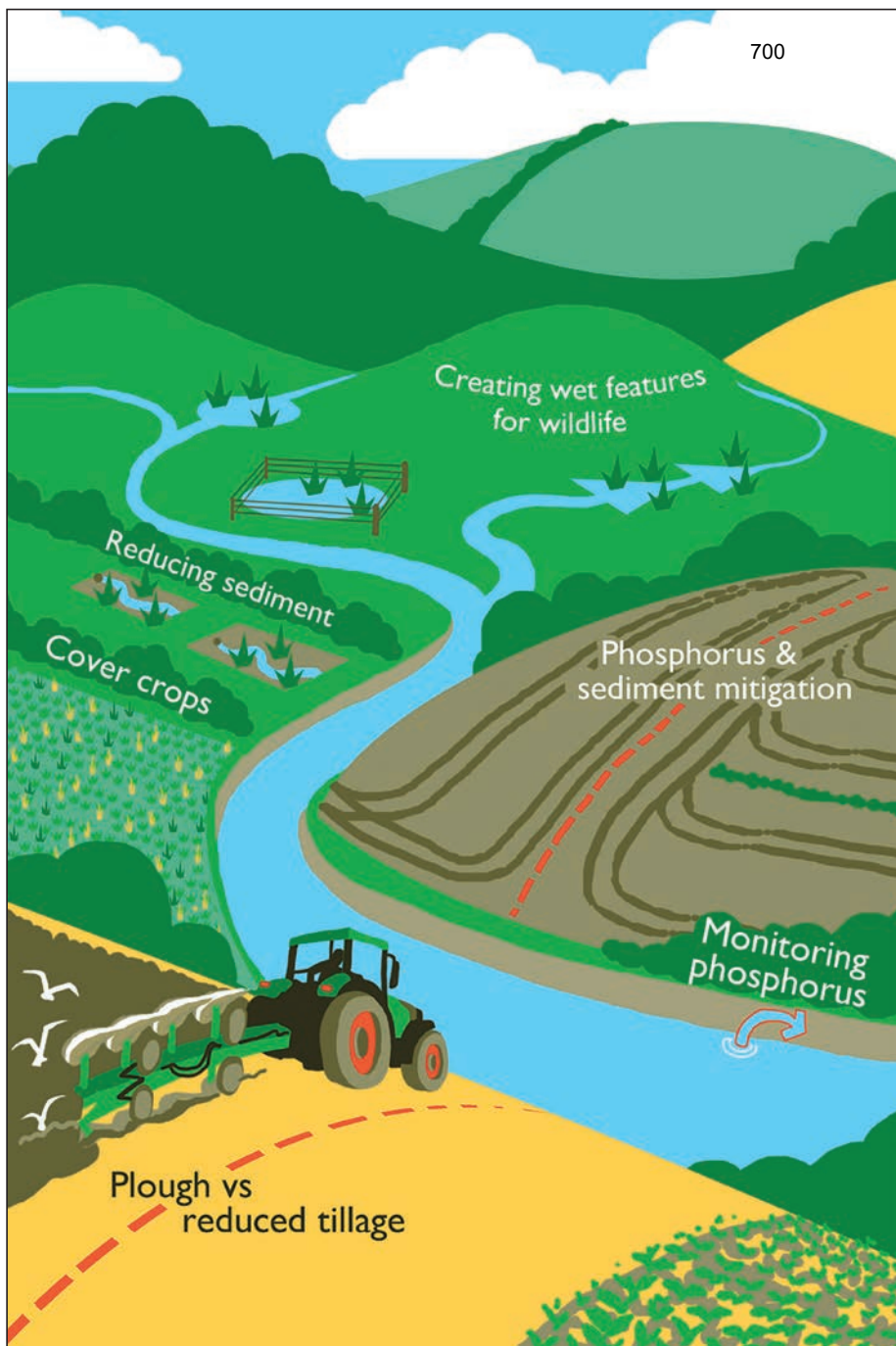
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## WHY IS SOIL RESEARCH SO IMPORTANT?

- Soil is precious. It is critical for life. We are currently losing millions of tonnes of arable topsoil each year in the UK to erosion<sup>1</sup>, but we cannot replace it. The formation of even a centimetre of soil takes thousands of years. **p26.**
- As our soils degrade, our ability to grow food, support wildlife and store carbon and water are compromised.
- Healthy soil represents a very large store of carbon – the top 30cm alone is thought to contain more than twice as much carbon as there is in carbon dioxide in the atmosphere<sup>2</sup>. **p17.**
- The effects of erosion are often felt more severely at the site the soil is deposited, rather than where it is eroded from. This is one reason the problem is not prioritised. **p25.**
- Sediment is one the biggest problems facing freshwater bodies and fisheries in the UK. **p27.**
- Agriculture is thought to contribute 70% of the nitrogen and 28% of the phosphorus in UK waters<sup>3</sup>. **p39.**
- Up to 95% of water bodies in the UK have raised levels of nitrogen, and in agricultural areas the levels are high enough to be ecologically damaging in most streams<sup>4</sup>. **p39.**
- Raised levels of nutrients and sediment in rivers can have many consequences, including: sediment smothering fish eggs and depriving them of oxygen, sunlight not penetrating as far into water ecosystems, and waterways becoming choked with algae and weed. **Section 1.4.**

## WHAT HAVE WE LEARNT SO FAR?

- Ploughing disrupts natural soil structure and reduces organic matter, so reducing or avoiding ploughing can help preserve structure and preserve organic material in soil. **p20.**
- Reduced or no-tillage farming can decrease the amount of surface runoff and erosion (by up to 90% on some plots), improve soil structure and workability, and increase soil health and organic matter. However, it is not suitable everywhere – some crops, soil types, climates can be more challenging. **p46.**
- More runoff and erosion comes along field tramlines than from the cropped area. This can be reduced by using low pressure tyres, or methods to break up the soil surface in the tramline. Some capital grants are already available to support these techniques. **p54.**
- Cover crops protect and improve the soil, and add nutrients as “green manure”. In the right circumstances cover crops can reduce erosion by sheltering the soil, reduce weeds over winter and in the following crop, and improve soil organic matter content. **p50.**
- Conservation Agriculture combines reduced tillage, ground cover and good crop rotation. It can have many benefits for soil, biodiversity and the farmer, but there may be drawbacks. A change of farming practice requires planning, a good understanding of soils and technology as well as a change in mind-set. **p68.**
- Agriculture is the main overall source of phosphorus in rivers, but during the biologically sensitive times of spring, summer and early autumn, most phosphorus comes from domestic sources<sup>5</sup>. This could be addressed – 80% of septic tanks are probably working inefficiently<sup>6</sup>. **p66.**



**Ploughing vs reduced tillage** was studied in the *SOWAP* project, to examine the impact of reduced or no-tillage on many factors including soil health, soil erosion, nutrient loss from fields and biodiversity.

**Phosphorus** was monitored in the streams running through several different catchment areas in the *PARIS* project. These differed in farming practices, and we studied the impact of the farming itself and other factors such as sewage treatment on river phosphorus and biodiversity.

**Phosphorus and sediment mitigation** measures have been studied in two projects at Allerton. *MOPSI*, which looked for ways to reduce sediment and phosphorus loss using tramline management, beetle banks and reduced tillage. The *Tramlines* project followed on from this, and examined in more detail how tramlines can be managed to reduce sediment loss.

**Cover crops** were studied in the *SIP* project, which looked at the effect of different cover crop species on soil biology, chemistry and physics, and the effect on weed growth.

**Reducing sediment.** Field wetlands were studied for their ability to reduce sediment in field runoff water in the *MOPS2* project.

**Wet features for wildlife** were created in the wetting up *farmland for biodiversity* project, which examined the importance of such features for birds and insects in a farmland landscape

More detail about all these projects and their findings is shown in section 6.

*Illustration © Chris Heward*



# 1. THE PROBLEMS

## 1.1 SOIL HEALTH

Plants need soil, but soil is not just a matrix which supports them; much more is going on under our feet than meets the eye. The soil ecosystem itself has been called a life support system – made up of air, water, minerals, plants, animals and microbes all of which interact and work together. This dynamic system contains a wide range of soil creatures and microbes, all contributing to the maintenance and improvement of soil health and structure.

This ecosystem that exists in the soil is delicately balanced, as with many others in the world. We cannot expect it to survive and thrive if it is physically disrupted, exploited and depleted of its essential components. Many of our research projects have looked at ways we can address these problems to support soil health while maintaining farm productivity and profitability.

At the Allerton Project, we have been involved in many studies looking at the links between crop production, soil health and water quality over the past fifteen years. Most of this research is done in collaboration with others across the UK, often involving partners and study sites in other parts of Europe. The projects we have worked on are represented on page 12, and summarised in more detail in section 6, at the end of the book.



### **What are the challenges to soil and water from farming?**

The main challenges addressed in this document are as follows:

- Soil health – including compaction, biology and loss of organic matter
- Soil erosion – how it happens and how we can reduce it
- Sediment – the effects of soil in waterways
- Nutrient pollution

Many of these are linked; for example soil erosion leads to more sediment, and much of the phosphorus carried into surface waters when rivers are high is bound to sediment particles. Each will be discussed in its own section below.

### **“Healthy” soil – what does that mean?**

Healthy soil has a complex mix of soil particles, minerals, microorganisms such as bacteria and fungi, organic matter, nutrients, mesofauna (small invertebrates), and larger animals such as earthworms. Together these organisms contribute to maintaining soil health, the movement and retention of nutrients and plant growth. Soil health can be defined as “the continued capacity of soil to function as a vital living ecosystem that sustains plants, animals, and humans”<sup>7</sup>. Soil supports life, but it must be healthy in itself to be able to continue in this role.

### **Is our soil healthy?**

Unfortunately, large areas of soil in the UK are degraded. A study from 2015 calculated that erosion already affects around 17% of arable soils in England and Wales, with 40% at risk of erosion. It also estimated that 40% of agricultural land is liable to compaction, and that the costs of soil erosion, for example loss of crop yield, reduced carbon storage and drinking water quality, run to £1.2 billion per year in England and Wales alone<sup>8</sup>. Worldwide, almost two billion hectares of land are affected by human-induced soil degradation<sup>9</sup>.

**Why is this important?**

Degraded soil is less able to support life – either plants above ground, or the ecosystems that should exist within soil. Healthy soil also represents a very large store of carbon<sup>10</sup> – the top 30cm alone is thought to contain more than twice as much carbon as is found as carbon dioxide in the atmosphere<sup>2</sup>. When soil becomes degraded, more of this carbon is released into the air, rather than being locked away in the ground<sup>11</sup>. Carbon storage is a critical component of combating climate change, and healthy soil may have an important role, alongside other approaches<sup>12</sup>. The 2015 Convention on Climate Change in Paris agreed an initiative to increase soil carbon by 0.4% per year, to help reduce carbon emissions and tackle climate change<sup>13</sup>.

**Does soil health affect food production?**

Yes. It is thought to be a major factor limiting crop yield over the past decade or so. As well as soil being lost through erosion, growing crops in compacted soils with low organic matter limits rooting, nutrient uptake and access to water. In winter, poor quality soils are more prone to waterlogging, and crops on them are more susceptible to pests and competition from some weeds.

**Is soil health regulated?**

No. We rely on individual landowners to prioritise the health of their soil. Our knowledge of soil health is improving, and as we learn more we can help farmers to use sustainable techniques, which will benefit them as their soils improve. The EU drafted a framework to guide soil health, but it was not adopted by all countries. The GWCT have drafted proposals for UK agricultural policy after Brexit, which include soil measures to help improve soil health country-wide.

**How do we know if soil is healthy?**

We can measure soil bacteria, earthworms, organic matter and other characteristics of the soil, such as its structure, to tell us whether it is in good condition. Healthy soils are among the most diverse habitats on earth, with billions of individuals, and up to a million species of

bacteria alone living in each gram<sup>14,15</sup>.

### **What do soil microbes do?**

Soil microbes play a critical role in the health of soils and the plants they support. They are involved in the provision and recycling of nutrients, for example certain bacteria fix nitrogen from the atmosphere and make it accessible for plants to use. Their role in cycling nutrients means that they have a great impact on the diversity and productivity of plants<sup>16</sup>.

### **What can keep soil healthy?**

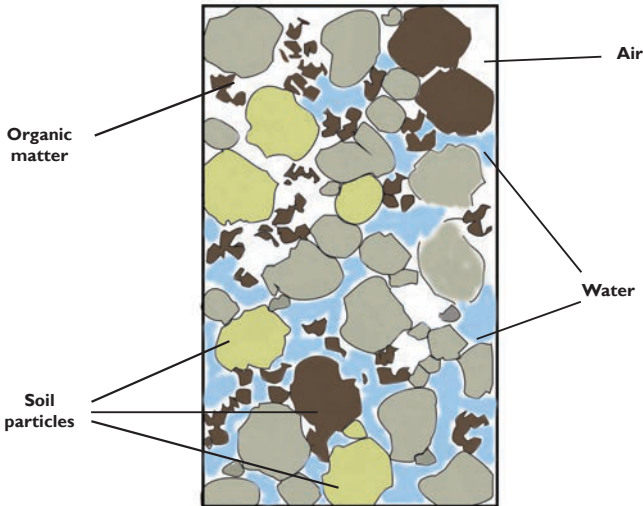
Traditionally, crop rotations and leaving land fallow were the approaches that maintained soil health, with what were called “exploitative” phases, when crops were grown, and “restorative” phases, when the soil was allowed to recover. However, modern methods have been developed that do not need these cycles – fertilisers and other treatments can give high yields without those rest periods, at least in the medium term.

### **What effect has this had?**

Research suggests that soil quality is falling with continuous agriculture. Increasingly it is thought that, for food production to be sustainable in the long term, we need to adjust agricultural techniques. One approach that may help us meet the goal of sustainable agriculture is called Conservation Agriculture, which combines several of the techniques discussed in this book (see section 3.1)<sup>17</sup>.

### **What is soil structure?**

Soil structure describes the arrangement of the soil particles themselves, and the spaces between them. It is determined by how soil particles clump and bind together, and gives the pattern of soil pores. Soil structure is very important for water and air movement, biological activity, root growth and seedling emergence.



*The combination of solids, water and air is critical for not only plant growth, but also surface strength. © GWCT*

### **How can we help preserve soil structure?**

Natural soil structure is disrupted by ploughing, so reducing or avoiding ploughing altogether helps preserve structure. Cover crops can be beneficial for soil structure, as can adding more organic matter to the soil.

### **What is organic matter?**

“Organic matter” comes from living plants and creatures, so “Soil Organic Matter” is that part of the soil that is made up of dead or decaying plants or animals and dead or live microorganisms such as bacteria and fungi. Compost is organic matter, and is often used to improve garden soils.

### **Is it important?**

Extremely. Organic matter is key for the storage of nutrients and improves fertility, as well as helping with aeration and good

structure. Organic matter also affects the speed with which water filters through the soil, and increases the amount of water it can store<sup>18</sup>. For every 1% increase in organic matter, the soil can hold over 200,000 more litres of water per hectare<sup>19</sup>.

### **How much should there be?**

Different soils have very different amounts of organic matter – for example, peat is almost entirely organic. For good crop growth as well as good soil function, a guide is around 4-5% organic matter, but this does depend on soil type.

### **How much is there?**

In baseline monitoring around the Allerton Project as part of the Water Friendly Farming study (discussed in section 3.2), soil organic matter varied between a low value of 2% and a healthy value of 5%, but with most at the lower end of the range.

### **What can we do to increase organic matter?**

Incorporate more! For example, cover crops that are returned to the soil in the spring can help, as can including a grass phase in the rotation, as well as adding organic material such as livestock manure, slurry, or the bio-fertiliser that can be produced from biodegradable processing of green waste (biodigestate).

### **What reduces organic matter?**

Continuous cultivation without enough time for the soil to recover between phases can reduce organic matter, as can removing crop residues such as cereal straw rather than allowing them to return to the soil. Where crop residues are removed as fodder or bedding for livestock, returning manure to the field will compensate. Ploughing can also reduce the soil's organic matter content.

### **Why does ploughing reduce organic matter?**

Turning the soil over brings organic material from underground up and into contact with the air, which allows it to break down

more quickly<sup>20</sup>. This means not only that organic matter is lost from the soil faster, but also more carbon is released into the air, rather than being stored in the soil.

### **Don't we need to plough for farming?**

Not necessarily. Non-inversion tillage avoids or reduces ploughing. The combination of very shallow cultivation and cover or mulching with crop residue helps to add organic matter to the upper soil layers. It improves soil structure and workability, reduces erosion and leaching, improves water holding capacity and creates good conditions for beneficial insects, fungi and earthworms (discussed in section 2.1).

### **Are earthworms important for soil?**

Yes, worms eat their own weight in organic material, soil and minerals every day, making compost which enriches the soil. Where soils are healthy, there can be a greater weight of earthworms living below ground than the livestock grazing above ground. Fields that have earthworm tunnels can absorb water four to ten times faster than fields without worm tunnels, which may be important for flood management. The benefits they can bring to the farmer are shown by the finding that, in farming systems with moderate nitrogen fertiliser use, where there is a healthy earthworm population (more than 400 per square metre), there is an increase in yields, compared areas without a healthy earthworm population<sup>21</sup>.

### **And ploughing affects earthworms?**

Yes. Traditional ploughing turns the soil and its inhabitants upside down, and this can greatly reduce earthworm numbers by damaging the worms themselves, destroying their tunnels and making them more vulnerable to predation. The impact on earthworm populations depends on which cultivation system is used; less intense soil disturbance is less harmful for earthworms<sup>22,23</sup>.



*Where soils are healthy, there can be a greater weight of earthworms living below ground than the livestock grazing above ground. © GWCT*

**Does reducing cultivation always help?**

Ploughing can disrupt the soil structure, reduce soil microbes and other animals such as earthworms, increase soil erosion and cause loss of organic matter and nutrients. It is costly in labour, time, energy and machinery. Cultivating with discs or tines, or drilling directly into stubble can allow soil to recover its structure and organic content and improve its function as an ecosystem. However, not all soil and crops are suited to reduced or no-till farming – it is important to assess local conditions, for example reduced tillage or direct drilling is harder to implement on clay soils. Ploughing can be a useful tool where black-grass is a problem, because burying the seeds when the plough turns the soil helps prevent it germinating. Reduced tillage and direct drilling are discussed further in section 2.1.

For more guidance on reduced tillage or direct drilling, please see our website: [www.gwct.org.uk/soilandwater](http://www.gwct.org.uk/soilandwater)

**What else can affect soil structure?**

Compaction is another common problem on many agricultural soils. Using heavy machinery, or over stocking with livestock, can squash the soil's air pores and spaces until the soil becomes packed hard into a dense layer<sup>24</sup>.

**What effect does compaction have on soil health?**

When soil is compacted it loses some or all of its ability to absorb water and air. This means that more water runs off its surface, it can be more prone to erosion and crops may not be able to grow as well because their roots cannot break through the hard-packed soil. Compaction can happen at the surface, or deeper underground below the level of the plough. Surface compaction can be remedied fairly easily, but deeper, subsoil compaction can be a difficult issue to address once it has happened<sup>18</sup>.





## 1.2 SOIL EROSION

Soil erosion is a natural process, which occurs to some extent even in environments that are free of human influence. Soil particles are mobilised by water and wind, and these processes have shaped the world around us for millennia. However, man's activities have accelerated the process enormously, to the extent that soil loss and its deposition elsewhere are a real problem in many areas of the world. Most soil erosion on UK farmland happens through being washed away by water, into water courses such as streams and rivers.

### **How much of a problem is soil erosion?**

Erosion rates differ widely across the country – depending on the landscape, soil type and land management. In some areas, it is a big problem. The amount of suspended sediment in surface runoff

water in the UK can be as much as eight grams per litre<sup>25</sup>. This is around one and a half teaspoons in each litre of water. Given the large amounts of water that can pass through a field each winter, a lot of soil can be washed away.

### **Is erosion a problem for the farm?**

Yes. Soil is an essential, and non-replaceable resource. The loss of soil from fields by erosion gradually reduces the depth of topsoil remaining, and this process reduces soil productivity. The on-farm effects of soil erosion in the UK are:

- Loss of soil fertility: fertility and productivity of eroded land are reduced. More fertiliser is needed to compensate for yield losses.
- Changes in crop yields: water erosion typically affects crop production through a decrease in plant rooting depth, as well as a removal of plant nutrients and organic matter.
- Water erosion can lead to uprooting of plants and/or trees locally, together with dissection of the terrain by rills and gullies<sup>26</sup>.

### **Is erosion a problem away from the farm?**

Yes. Although soil loss can be serious for farms, the effects of erosion are often more severe at the site where the soil is deposited, rather than the site it is eroded from.

### **What can the off-site effects be?**

The downstream effects can include: mud deposits after flood events, ecological damage in rivers and the need for dredging drainage channels to reduce flood risk, as well as wider impacts such as loss of carbon storage. The fact that the heaviest impacts of erosion are often felt in other locations is one reason that this problem is not being prioritised.

**How much soil is eroded?**

In 2000, the Soil Survey and Land Research Centre estimated that around 2.2 million tonnes of arable topsoil are eroded by water each year in the UK<sup>1</sup>. Other estimates range up to 2.9 million tonnes per year<sup>27</sup>. Across the UK, erosion estimates range from less than a tonne per hectare per year for most agricultural fields, to over twenty tonnes per hectare per year<sup>28</sup>. The rate is different in different places depending on land use and soil type, but in our Water Friendly Farming study area, we estimate that around half a tonne of soil is lost per hectare, per year<sup>29</sup>.

**Can erosion be reduced?**

Yes. Techniques to reduce erosion are well established – in a review from 2011 it was stated that “management practices to control or decrease erosion are well documented and demonstrated to be effective – yet they are frequently not applied. Although methods suited to local conditions are still being developed, it is the adoption of erosion control methods rather than their availability that is lacking.”<sup>2</sup>. A wide variety of erosion mitigation measures are available and have been studied, many of which can show real benefits. However, their effectiveness is highly dependent on local circumstances – for example soil type, slope, climate and crop<sup>28</sup>. The mitigation measures we have studied at the Allerton Project will be explored in more detail in section 2.



## 1.3 SEDIMENT

Sediment is soil that is washed from the fields into watercourses. It carries other things with it, such as nutrients and chemicals, but is also a pollutant in its own right, reducing the available light and oxygen levels. When sediment is high in streams and rivers it can settle out when the water flow slows downstream, and be deposited as silt on the bottom of the watercourse. Not only is this a loss for the field, it can be harmful for the stream, river or lake it ends up in.

### **How does eroded soil get into waterways?**

There are two main routes for soil to get into water courses – surface runoff, where the water runs over the ground and into ditches or streams, or sub-surface flow, normally from field drains, which also run into ditches or streams<sup>25</sup>.

### **How much sediment travels via field drains compared to surface runoff?**

There are not many studies looking at this, but it seems that, although surface runoff usually has a higher sediment concentration, much more water travels through the field drain network, meaning that most sediment actually comes through field drains. It is more dilute and has a smaller particle size, but there is a lot more of it. One study found that forty times more water came through field drains than surface runoff, carrying twenty times as much sediment overall<sup>25</sup>.

### **Can sediment cause problems when it gets into waterways?**

Yes. High levels of sediment can make rivers cloudy, which reduces the amount of light that enters the water, and how far it can penetrate. This can affect the plants and animals that live there, and change the ecosystem<sup>28,31</sup>.

## **Field Drains**

There are several kinds of field drains, which are buried, at various depths usually between around 0.75m and 1.5m under the surface, depending on the soil type and landscape<sup>30</sup>. They can be clay or plastic pipes, with holes pierced along them to allow water to enter, they can be gravel filled, or they can simply be tunnels through the soil itself ('mole drains'). A network of field drains connects underground to cover the whole field, and discharges water into a ditch or stream at the bottom of a field<sup>30</sup>.

It is thought that around 40% of lowland agricultural areas in the UK are under-drained in some way<sup>25</sup>. Field drains are used more on heavy clay soils, in arable areas. All the arable fields at Loddington, and in our Water Friendly Farming project study area, are under-drained.

**How does sediment affect river ecosystems?**

High levels of sediment in rivers can be harmful to aquatic invertebrates. These are small creatures that live in water such as insects, plankton, the larvae of many different species, worms and water snails. Invertebrates are critical as the building blocks of the ecosystem – they provide the food for many larger animals as well as consuming debris such as leaves. It is well known that they are affected by increased sediment, for example, many are filter feeders and their feeding structures can become clogged up with sediment so they cannot feed efficiently<sup>32</sup>. Lots of invertebrate species live on the bottom of river beds, and can become buried by deposits of sediment and algae (which is increased by the extra nutrients transported to the river by sediment).

**What effect can sediment have on fish?**

Sediment deposits on the gravel beds of rivers can clog and compact the gravel that fish spawn in. Fine silt particles can smother fish eggs, reduce water flow through the gravel bed and reduce the available oxygen<sup>33</sup>. Sediment also reduces the available spaces between gravel and cobbles, which young fish use to save energy by keeping out of the main river flow, as well as to hide from predators.

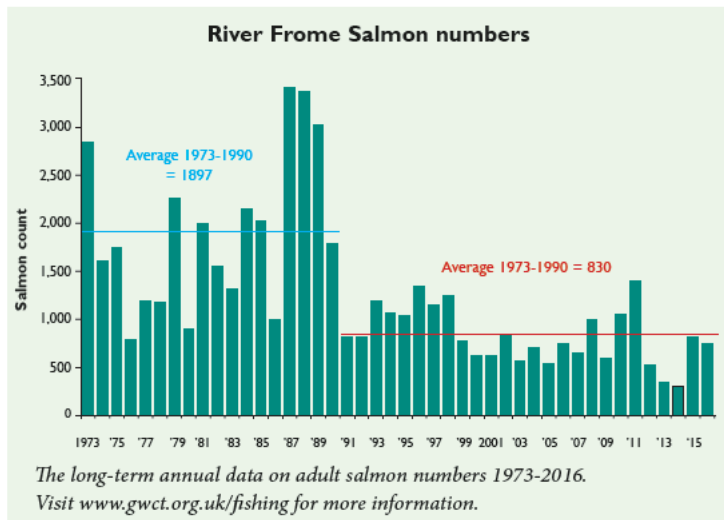
**What effect does this have?**

Breeding success for salmonids (the fish family that includes salmon and trout) is lower in spawning sites with high levels of fine sediment. This is for two reasons; firstly sediment can block the spaces between gravel where eggs are laid, and interrupt the water flow over the eggs, which reduces their oxygen supply. Secondly, depending on the organic content of the sediment, the sediment itself can use oxygen from the water, which further reduces its availability to eggs<sup>33-36</sup>.

**Does this have an effect on the overall population?**

It is generally accepted that increased levels of fine sediment in rivers has impacted breeding success, early mortality and many

other aspects of biology and behaviour for some fish species<sup>33</sup>. For example, for those that feed by sight, foraging for food is harder in a murky river. We know that sediment contributes to poor egg survival, but because of the complex interaction of lots of factors, it has not been conclusively shown that sediment has reduced salmonid populations overall.



### What can we do to help?

In this situation, prevention is certainly better than cure. Reducing soil erosion from agricultural soils is much easier than cleaning up rivers. Some farming practices, for example allowing livestock direct access to river banks, have been shown to increase erosion. GWCT research has shown that fencing river banks in areas with predominantly livestock farming can reduce erosion and increase river bank vegetation<sup>36,37</sup>.

**Can we clean up silted streams?**

Gravel cleaning is a technique used by some to remove sediment that has already settled on the gravel bed. It can improve the local conditions for spawning<sup>38</sup>, at the cost of a temporary reduction in some other aquatic species<sup>36</sup>. If the original cause of the sedimentation is an ongoing problem, the river bed will likely silt up again over time.

**How is gravel cleaning done?**

The most effective way of gravel cleaning uses a high pressure hose to spray a jet of water into the river bed, which disturbs the sediment, allowing it to wash downstream.

**Does this help?**

It can help locally, removing sediment enough for salmonid egg survival to be higher in the two years afterwards, but the river gradually silts up again, and survival drops by the third year<sup>39</sup>. The need for gravel to be cleaned is a sign that there is an underlying problem with erosion and sediment. Although gravel washing can help temporarily, it is not a substitute for reducing erosion in the long term.

**What other effects are caused by sediment?**

Silting in rivers and lakes can cause economic problems as well as ecological ones. It can also disrupt river flow, with consequences for flooding, and the river must be dredged. When high levels of sediment are found in streams this also shows that agricultural soil erosion is happening, which reduces both farm productivity and the water storage capacity of the landscape. The amount of water held in reservoirs for drinking water supply can also be reduced by sediment deposits, and sediment can transport other pollutants to the water<sup>3</sup>.

**What other pollutants can it carry?**

Sediment can carry many things into the water course with it, including



toxic metals, pathogens, nutrients, veterinary medicines and some pesticides, for example the weed killers propyzamide and glyphosate, and the active ingredient of some slug pellets, metaldehyde<sup>28</sup>.

### **What effects can nutrients have?**

Nutrients can have a large effect on surface waters, with high levels causing excess growth of aquatic plants. This may lead to toxic algal blooms, deoxygenation of water, and fish deaths<sup>40</sup>. This is discussed in section 2.4.



*The images above show the condition of the Trenant Brook before and after gravel washing in 2017 © GWCT*

**Where does most sediment come from?**

There are many sources of sediment across the countryside, but it is thought that up to 75% of the total amount of sediment carried into surface waters courses comes from agriculture<sup>11,41</sup>. Perhaps this is to be expected, as 75% of the UK is farmland, but it is important to identify the sources, and try to reduce this movement of soil from fields to rivers. Both because farmers need the soil on their fields, and because sediment can cause damage elsewhere.



*This satellite photograph of Great Britain shows soil escaping our rivers and into the sea.  
© NERC Satellite Receiving Station, Dundee University, Scotland [www.sat.dundee.ac.uk](http://www.sat.dundee.ac.uk)*





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## 1.4 NUTRIENT CONTAMINATION OF WATER

Although we tend to think of nutrients as being beneficial, they are naturally found at fairly low levels in fresh water. Human activities, like adding fertiliser to soil, can raise these levels. This process is called “eutrophication”. It can be harmful to fish and other aquatic creatures, and is one of many forms of pollution.

When nutrient levels are raised, ponds and lakes can become choked with algae or blanket weed which smothers the natural species.

### **Which nutrients can cause these problems?**

Nitrogen and phosphorus are the main nutrients we are concerned by, both because of drinking water contamination (which is covered by the Nitrates Directive) and the excessive growth of plant life they can cause - which can dramatically disrupt the ecosystem.

**What does this mean?**

Just as adding nutrients to the soil helps plants to grow on land, increased levels of nutrients in the water can allow increased plant growth, or excessive algae growth. Water can become cloudy from the algae, and sunlight cannot reach submerged plants. When plants and algae then die and decompose, the decomposition process uses oxygen from the water, reducing the oxygen available for other species. Without enough dissolved oxygen in the water, fish and other organisms can't survive. This disrupts the normal balance, and can lead to changes such as algal blooms and acidification of the water, where other species suffer. This process can occur locally, or much further downstream leading to degraded estuaries, lakes and reservoirs.

**How does phosphorus get into the water system?**

Phosphorus comes mainly from fertiliser, manure and sewage. Phosphorus is a useful example of the close link between soil and water management, as one of its forms – phosphates – binds very tightly to soil particles, and is therefore mainly transported to water courses by erosion.

**What forms are there?**

Phosphorus is usually thought of in two categories – that which is bound to sediment particles, particulate phosphorus, and that which is dissolved in the water itself. The soluble forms tend to be more “bioavailable”, meaning that plants can access it, and use it. This type of available phosphorus may have more impact than the phosphorus that is carried with the sediment from fields. For example, phosphorus can get into water from sewage treatment plants, septic tanks, and farmyards or animal manure, and this tends to be in a much more bioavailable form than particulate phosphorus. This is an important area of research that is ongoing.

**Has this been researched by the Allerton Project?**

Yes, the Allerton Project was part of a collaboration looking at phosphorus in the streams that run through farmland. Along with sites in Hereford and Hampshire, the river Welland was extensively studied in the five-year Defra funded PARIS study (Phosphorus from Agriculture: Riverine Impacts Study)<sup>5,42</sup>.

**What did PARIS find?**

PARIS showed that in terms of the total amount of phosphorus of all forms across the year in the study catchments, agriculture was the main source, being responsible for 67-99%<sup>42</sup>. However, other sources were also important. For example, phosphorus coming from farmland is highest in winter – when storms wash sediment and phosphorus from fields. Other sources such as domestic septic tanks, waste water from buildings, animal waste from farmyards and sewage works (called “point” sources) discharge phosphorus more steadily throughout the year, even though the total annual amount is lower<sup>5,42,43</sup>.

**Is this important?**

It is very important, because during the spring, summer and early autumn, when ecosystems are more sensitive to nutrient changes, most phosphorus is coming from domestic sources. In fact, they are the main source of phosphorus for more of the year than farmed land. This is an important discovery of our research.

**What sort of phosphorus comes from these sources?**

Most phosphorus from animal and human waste is in a dissolved, bioavailable form – approximately 90% of the phosphorus in septic tank effluent entering streams was bioavailable in the PARIS project<sup>43</sup>. The phosphorus coming from farmland was found to be 10-20% bioavailable, with most of it particulate bound<sup>43</sup>.

**Does this mean that we shouldn't worry about phosphorus attached to sediment?**

No. It is important, but the picture is very complex. Sediment itself can be harmful. We need the soil to remain on the fields, and when eroded it can carry other substances that we should strive to keep out of rivers. The PARIS project concentrated on streams, where water flows quickly. Further downstream, larger rivers flow more slowly and sediment may be even more likely to settle out, so it is possible that the effect of sediment and phosphorus from farmland may in fact be felt more keenly further away.

**Does it mean that phosphorus from farming is not important?**

No, not at all. For example, PARIS also showed that livestock farming on clay soils near to water courses can lead to the highest phosphorus concentrations. It is important to reduce pollution from farmland as far as possible, but it is also important to recognise other sources that might be damaging and reduce these as well<sup>43</sup>.

**What can be done about point sources?**

Many septic tanks are old, not well maintained, and emptied too infrequently, therefore releasing more pollution than they should<sup>6</sup>. A report to Natural England in 2010 found that 80% of septic tanks are probably working inefficiently<sup>6</sup>. Each individual one may not contribute very much, but overall their contribution to pollution is likely to be much larger than we had realised. For large settlements, sewage treatment works have improved in recent years with respect to nutrient losses, although more can be done, and in small rural settlements, phosphorus discharges can be substantial<sup>29</sup>.

**What about nitrogen?**

Nitrogen is often added to soil in the form of fertilisers to help crops grow in the spring or summer, but any excess which remains can later be leached away to water courses when the heavier rains of winter fall on bare soil. Farming is the main source of nitrogen pollution in waterways, and efforts should be made to reduce

nitrogen discharge. Much of England has have been designated as “Nitrate Vulnerable Zones” (NVZs), with the aim of reducing nitrate loss from agriculture.

**Does all nutrient pollution come from farming?**

No, but it is a major source. Agriculture is thought to contribute 70% of the nitrogen and 28% of the phosphorus load to UK waters<sup>3</sup>.

**How widespread a problem is nitrogen pollution?**

It had long been thought that nitrogen was less of a concern than phosphorus in water bodies, however evidence now suggests that it is more important than we realised. Despite a long-term, gradual decrease in stream nitrogen concentrations, nitrogen is still more widely present than phosphorus in water bodies. Up to 95% of water bodies in the UK have raised levels of nitrogen and most streams in agricultural areas have nitrogen levels high enough to be considered ecologically damaging, even though they may be below the drinking water limit<sup>4,43</sup>.

**What is a Nitrate Vulnerable Zone?**

An area where nitrate might exceed the limit set for water, which is 50mg per litre. This can be for groundwater, surface water or where bodies of water may become eutrophic.

**Why is the limit set at 50mg/l?**

The evidence for the limit is not clear, and several groups have expressed concerns about this. Natural England suggested to an investigation by the House of Commons Environmental, Food and Rural Affairs Committee in 2008 that the limit had no ecological relevance.

**How does being in an NVZ affect farming?**

To try and reduce nitrate pollution, there are extra rules about how farmers can use and store nitrogen-based fertilisers, manures, slurry etc. Farmers must produce a plan of fertiliser use, and keep their usage of nitrogen within strict limits. They need to consider the



risks of run-off contaminating water, how much nitrogen their crops need, how much is in the soil and how much will be added in the fertiliser/manure/slurry. There are strict restrictions about where nitrogen cannot be added – for example, within 2 metres of a water course or established hedge, as well as periods in the year when different kinds of fertiliser must not be spread. Detailed records must be kept of all nitrogen use for 5 years, and may be inspected.

### **What governs water quality in the UK?**

The EU's Water Framework Directive (WFD) currently governs much of the work in managing and protecting our rivers, lakes, coastal waters and estuaries.

### **What does the Water Framework Directive say?**

The WFD was introduced in 2000, and aimed for all surface and ground water to be in “good” chemical and ecological condition by 2015. It provides a framework for all EU countries to improve water quality, and although this aim was not achieved by 2015, the WFD and other measures such as the Groundwater Directive and the Nitrate Directive are thought to have had a positive impact on water across the EU<sup>44</sup>.

### **Is UK water clean?**

Most water bodies in lowland UK have raised levels of phosphorus, nitrogen or both, but pockets of clean water do remain. Baseline measurements taken by the Freshwater Habitats Trust at the beginning of our Water Friendly Farming project (described in section 3.2) showed that on average only 7% of water bodies would be thought of as “clean” in terms of nutrients<sup>4</sup>. This project was carried out in a lowland agricultural landscape in Leicestershire, typical of large areas of the country. This highlights the work that needs to be done in such environments, but a higher fraction of water bodies are still clean in other areas of the UK, particularly those less affected by farming, effluents from sewage works and runoff from urban areas.



*Most water bodies in the UK have raised levels of phosphorus, nitrogen or both, but pockets of clean water do remain. © GWCT*



## 2. FINDING SOLUTIONS

Problems with soil health, soil function, and water quality are widespread, and it is imperative that we do our best to reduce the effects we are having on these essential resources. Many approaches have been suggested and trialled, and we concentrate here on those that we have studied at the GWCT's Allerton Project.



*Reduced tillage can reduce erosion, particularly where soils are prone to it. © GWCT*



## 2.1 REDUCED OR NO-TILL FARMING

Used to:

- Reduce crop establishment costs
- Reduce erosion
- Improve soil structure
- Increase organic matter
- Retain nutrients

### **What is reduced or no-tillage?**

Tillage is preparing the ground for growing crops, and is traditionally done with a plough. Conservation tillage uses either no ploughing, with direct planting of seeds into the residue from the previous crop, or non-inversion (reduced) cultivation where ground is not turned over, and preparation is kept to a minimum. The surface can be scratched with tines or discs, rather than turning over with a

traditional plough.

**What does tillage do?**

Tillage prepares the ground for sowing seed, by breaking up the soil and turning it over. This provides a clean, fine tilth for sowing into. Turning over with the plough also buries the seeds of some weed species, making it harder for them to germinate which helps with weed control. It gives the crops an edge over the weeds in the competition for growth.

**Why do we not want to do these things?**

Turning over the soil also comes with disadvantages: it can damage soil structure, expose the soil to erosion, reduce organic matter in soil, and reduce the number of earthworms, other soil creatures and microbes<sup>20,45-48</sup>. Although ploughing is often helpful to the farmer in the short term, these things that are damaged by ploughing are important for healthy functioning of the soil in the long term.

**Why is this important?**

Sustainability in farming is becoming more and more important. Many soils are gradually degrading after decades of cultivation, and this is having an impact not only on farming but also on the environment more widely. Looking after our soils, and therefore our water quality and water courses, is an essential part of farming for the future.

**Can reduced or no-tillage help?**

Many studies have looked at reduced or no-till farming across the world in recent decades, and many advantages have been shown including; increased earthworm abundance, improved soil structure, reduced erosion, lower nutrient losses and reduced crop establishment costs<sup>2,20,47,49-52</sup>.

**What effect does this have on the farming system?**

No-till is a different approach, that will take some time to adjust

to. For example, drilling directly into crop residue is not as easy as drilling into a ploughed field, conditions need to be right, and machinery may need to be adjusted accordingly. As ploughing can help control some weeds, weed pressure can be higher in the transition period to no-till farming, with an increased reliance on herbicides for control. However, no-till brings many benefits that can offset these challenges.

### **Are yields affected?**

For some crops, yields are lower initially with reduced tillage. Reduced tillage is also not suitable for all soil types and climates – it tends to be more beneficial on sandy or loamy soils than clay. However, a large study looking at the effect of tillage on yields across Europe concluded that, because costs were lower (mostly because of lower fuel bills and labour costs), reduced tillage was on average more profitable despite reduced yields for maize and winter crops. Reduced tillage gave 4.5% lower yields, and no-till 8.5% lower<sup>53</sup>.

### **Has reduced tillage been studied by the Allerton Project?**

Yes, the Allerton Project was involved in a large international research project called the SOil and WAtER Protection project (SOWAP), which set out to compare the traditional ploughing approach to conservation tillage (CT). Conservation tillage is the minimum soil disturbance required to establish a crop, and can refer to a range of different techniques but in most cases discs or tines were used to cultivate the soil before planting.

### **What did SOWAP look at?**

SOWAP looked at the environmental impacts of conservation tillage on a broad scale, including soil quality, soil microbes, earthworms, soil porosity, erosion and water quality, as well as crop yields and overall economic performance.

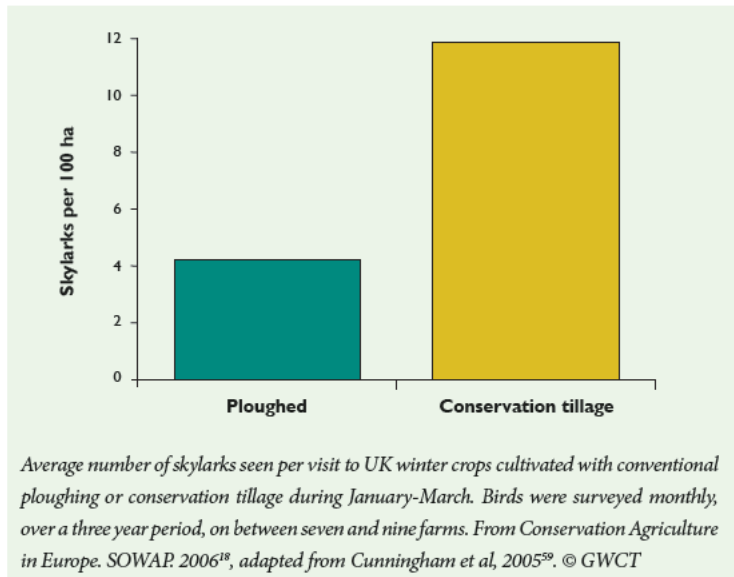
### **What did SOWAP find?**

SOWAP clearly showed that reduced tillage can reduce erosion,

particularly where soils are prone to it. On some reduced tillage plots, surface runoff was lower by 90%, and on some sites that were prone to it, erosion dropped by up to 95%<sup>49</sup>.

In general, reduced tillage also reduced water runoff, soil erosion, loss of nutrients and carbon loss from the majority of plots in which it was implemented. It was also shown to decrease nitrogen losses, and in some cases phosphorus losses, but this was not as consistent<sup>18,49,58</sup>.

Higher levels of soil nitrogen were found on reduced tillage plots than conventional tillage plots, perhaps because nitrogen is held in the soil better, rather than being washed away. The results were heavily influenced by soil type, with reduced tillage being more beneficial on lighter, sandier soils. An increase in organic carbon content, and increased soil moisture content in reduced tillage soils were also shown<sup>49,58</sup>. Reduced tillage created a better environment for earthworms than conventional ploughing<sup>18</sup>.







*The increased ground cover caused by reduced tillage provided an extended nesting period for skylarks © David Mason*

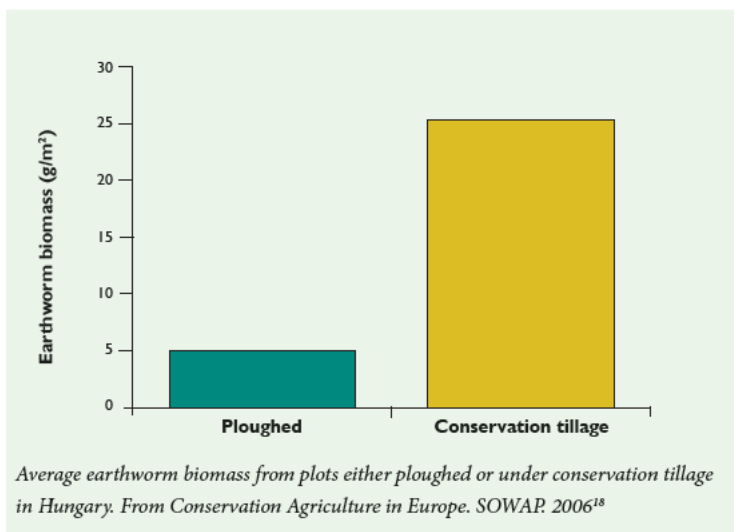
### **What effect does reduced tillage have for biodiversity?**

SOWAP studied the effect of reduced tillage on biodiversity and found many benefits<sup>18</sup>, including:

- Increased ground cover was helpful for ground-nesting birds. For example, extending the nesting period for skylarks<sup>54</sup>
- More diversity in cropping gave a wider range of feeding and nesting opportunities for birds<sup>18</sup>
- More weed seeds and grain were left on the soil surface, which can help feed animals in winter<sup>55</sup>
- Ploughing reduces the number of earthworms in the soil, so not ploughing allowed them to recover and increase<sup>56</sup>
- A wider range and abundance of soil microbes compared to conventional tillage<sup>57</sup>
- Reduced sediment and nutrient loads entering water courses was better for aquatic life<sup>58</sup>

### Is reduced tillage widely practiced?

The amount of land that is traditionally ploughed is gradually falling. In Europe as a whole, about 15% of arable land is thought to be under conservation tillage, with less than 1% in no-till and 14% minimally tilled (where non-inversion tillage is carried out with discs or tines). In the UK this is higher: in 2006 almost half of all arable land was under conservation tillage, and 3% under no-till<sup>18</sup>. It has been adopted more rapidly and more widely in the Americas than in Europe, but it seems to be rising across the world.





## 2.2 COVER CROPS

Used to:

- Reduce erosion
- Improve soil structure
- Retain nutrients
- Increase organic matter

### **What are cover crops?**

Cover crops are planted to protect the soil between the harvest of one crop and planting of the next, when the soil would otherwise be left fallow or bare. This can either be for a short period in summer (around 2 months), or 6-8 months over the autumn/winter prior to a spring crop<sup>60</sup>.

**Why are cover crops used?**

Cover crops can protect the soil, reduce erosion from wind and water, improve soil structure and take up nutrients, reducing their leaching from the soil<sup>61-63</sup>. Our own research at the Allerton Project shows that some cover crop species can suppress weeds in winter, and carry this benefit through to reduce weeds in the following crop<sup>60</sup>.

**How do cover crops affect nutrient loss?**

Cover crops take up nutrients through the winter, capturing them and holding them within the plants. These can then be returned to the soil as “green manure” in time for the planting of crops in spring. These nutrients are then available for the spring crop just as the seeds germinate, rather than being lost from the soil to streams over the winter. This can retain nutrients, particularly nitrogen, cycling it within the field and reducing the amount which leaches away from the bare soil over winter.

**How do they reduce erosion?**

Cover crops give a protective layer over the soil, rather than leaving it bare. This absorbs some of the force that rain drops have when they hit the surface (rain splash erosion), and shelters the soil. Cover crops are also thought to improve soil structure, which makes soil more resistant to erosion.

**Has the Allerton Project looked at cover crops?**

Yes. As part of the Sustainable Intensification research Platform (SIP), we were part of a series of Defra studies aiming to identify and develop farm management techniques to help improve the sustainability of agriculture<sup>63</sup>.

**What did we study?**

At the Allerton Project, we compared different species of cover crops to each other, and to bare stubble, for their effect on soil health, earthworms, weed burden over winter, and weed burden and yield in the following crop. The soils at the Allerton Project

are a heavy clay, where the benefits of cover crops are thought to be smaller than on other soils.

**What did it show?**

It showed that cover crops could be used over winter without harming the following crop, and in fact some species of cover crops can benefit the crop that is grown afterwards<sup>60</sup>.

**How do they help?**

Fields planted with certain species of cover crops had fewer weeds in winter and there were fewer weeds and a higher yield in the spring-sown crop that followed. They can also have subtle effects on soil chemistry, biology and structure; for example some crops had increased earthworm numbers<sup>60</sup>.

**How do cover crops suppress weeds?**

They compete for the same resources that weeds need. For example, when the cover crop has germinated and is providing ground cover, it is also blocking some of the light that weed seedlings would otherwise be able to use.

**Do all cover crops have these effects?**

No, it is important to choose the species carefully so that it suits your environment, soil type and aims. On the clay soil at Allerton, the SIP showed that a cover crop mix of 4:1 oats to radish reduced the number of weeds over winter, that earthworms increased with radish cover crops, and phosphorus levels increased with phacelia or vetch<sup>60,63</sup>.

**What species are used for cover crops?**

A range of species can be used, including legumes (peas, beans etc), cereals and brassicas. Different species perform different roles, including capturing nitrogen from the atmosphere, capturing and mobilising phosphorus and improving soil physical structure. They have different rooting structures, grow at different rates and

so on, so the choice of species depends on the task that is required. A mix can be more beneficial than a single species, for example, oat, radish and phacelia.

### **Are cover crops always helpful?**

Not necessarily, it depends what the farmer wants to use them for. The benefits can also be different on different soil types – for example, on clay soils there is usually a less pronounced effect. A good knowledge of how and when to use cover crops and which species to plant is essential to make best use of the benefits they can give. Cover crops are a fairly recent addition to the farming toolkit, and many farmers have reported possible benefits of incorporating them. Some of these are confirmed by scientific research and others are still under investigation, but overall it seems that cover crops may have much to offer in the right conditions.

### **Are there drawbacks to using cover crops?**

Cover crops can slow the warming of the soil in spring, as they shade the surface from the sun. Also, there are costs associated with buying and drilling the seed. Where managed correctly, in the right conditions, these are usually offset by the benefits, but this highlights why increased knowledge and planning is required when adopting a new technique.



## 2.3 TRAMLINE MANAGEMENT

© GWCT

Used to:

- Reduce runoff
- Reduce erosion
- Reduce nutrient loss

### **How can we help to reduce surface runoff?**

One of the studies the Allerton Project has been involved in was called MOPS – Mitigation Options for Phosphorus and Sediment. One of the many important findings was that most of the soil being carried away over the surface of a field comes from the tramlines<sup>64</sup>.

### **Why do tramlines contribute to soil erosion?**

They provide an easy route for surface water to run along, carrying with it eroded soil, rather than the water soaking into the surface.

In the MOPS project, significantly more water, sediment and phosphorus ran off areas of a field with tramlines, compared to areas without. Across the three farms that were part of the project, there was between two and 200 times more sediment coming from study plots with tramlines, than from plots without. At the Allerton Project, runoff from tramline plots was three times higher than that from plots without tramlines<sup>64</sup>, and 80% of sediment came from areas of the field with tramlines<sup>65</sup>.



© GWCT

## Tramlines

Tramlines are the compacted, unseeded tyre tracks that tractors drive along in fields. They act as a guide for farmers to ensure that the whole crop is evenly and efficiently treated, whilst minimizing crop damage from tractor wheels.



**What can we do to reduce this?**

MOPS tested different ways to reduce surface runoff and erosion, and found several options, with the best depending on the location of the farm and field.

Contour cultivation, which means planting and managing your fields across the slope rather than up-and-down the slope, is very effective for reducing erosion, especially on clay soils with a moderate slope. If the slope is shallow enough, this change has no effect on income, but can dramatically reduce runoff and erosion (a suitable slope is less than around 5 degrees – a general guide is that at this angle, a ball does not roll down the slope). However, in most landscapes there are few suitable fields, as most fields slope in different directions and the tramlines cannot follow the slope all the way across the field. The project also found an association between beetle banks along the contour and lower rates of erosion, but this also needs to follow an even slope to be effective, and has the same problem where slopes are complex<sup>65</sup>.

**What if you can't cultivate across the slope?**

If the slope is too steep, slopes in many directions, or it doesn't suit your field for other reasons, there are alternatives. At sites with sandy or silty loam soils, using tines to disrupt the surface of the soil on tramlines allowed water to soak in, and was the best way of reducing tramline runoff and erosion<sup>64</sup>. Reduced or no-till farming are of increasing interest for many reasons, including lower erosion and runoff than traditional cultivations as well as improved soil health and reduced nutrient loss.

Following the initial findings from MOPS, a five-year Defra funded tramlines project was started at the Allerton Project and three other sites across the UK to look at the best ways to reduce runoff, erosion and nutrient loss from tramlines.



© GWCT

## Beetle Banks

A beetle bank is a raised strip running across the field, around 2m wide and 0.5m high, disconnected from the field edge to allow normal agricultural operations. It is planted with a range of tussocky grasses, to provide cover and shelter for wildlife. They are beneficial for integrated pest control, allowing pest eating insects over-winter shelter away from the field edge, have advantages for biodiversity and are supported by agri-environment schemes.

### What did the tramlines research study?

This study focussed on how to adjust practices for autumn spraying. Driving along tramlines at this time of year, when soils are wet and easy to compact, can contribute the most to runoff, soil erosion and phosphate losses. The tramlines study looked at and compared tramlines from conventional tyres with:

1. **Low pressure tyres**, inflated to around half the pressure normally used in agricultural vehicles. These spread the load and reduce compaction, making it easier for water to soak in, rather than runoff (tyres used were Michelin Agribib and Xeobib agricultural tyres).
2. A **rotary harrow** attached to the tractor to break up the surface tramlines behind the wheels after the tractor passes.
3. A “**surface profiler**”, which disrupts the soil in tramlines, and then shapes it so that the soil is raised in a curved shape behind the tractor, rather than the usual gullies that water can drain down. When water lands on this raised ridge, it should run back into the cropped area and soak in, rather than running down the tramlines and away, carrying soil with it.
4. **Drilling (planting) tramlines**, rather than leaving them bare. Autumn spraying operations were then guided with GPS, rather than following the tramlines to guide spraying.

#### **What did it show?**

Overall, options 1-3 could be effective. Drilling tramlines did not seem to help. Surface runoff can be reduced by up to 75% using low pressure tyres, 95% using a rotary harrow, and 85% using a surface profiler<sup>66</sup>.

#### **Were these results consistent?**

Results varied at different sites because of different local conditions such as soil type, slope, rainfall etc. Results also varied year-to-year. For example, low rainfall in winter 2010/11 meant that sediment and phosphate losses were low from the clay soils at the Allerton Project, so no effect was seen from the tests that year, whereas effects were seen at the other three sites and in other years.

**Which were the best?**

The low-pressure tyres and rotary harrow were the most promising techniques in years one and two of the study and were examined in more detail, both separately and together, in year three (2011/12). This was a much wetter year, and results showed that both were helpful for reducing runoff, sediment and phosphorus loss, and were even more effective when used together<sup>66</sup>.

Computer modelling was used to predict which techniques would be the most effective under different conditions. This showed that the rotary harrow is best in all scenarios except for clay soils, where the low-pressure tyres are more effective. However, both approaches are very effective, each reducing sediment loss by more than half compared to conventional techniques<sup>66</sup>.

**Are these techniques expensive?**

Low pressure tyres, also called “very flexible” tyres are more expensive to buy than standard agricultural tyres, but they have a longer expected lifespan. Taking both factors into account, they can give a £2 per hectare saving on a 300-hectare farm. The rotary harrow costs around £12 per hectare if only applied to 20% of a 300-hectare farm, but these costs are likely to fall as it is becoming clear that they can also be used across other crop rotations. Some Agri-Environment schemes now have capital grants available for tramline management<sup>66</sup>.

**Is tramline management the whole answer?**

Tramline management is one tool that can be used to reduce erosion and water runoff. Other options can be used in conjunction with this, for example cover crops, in-field barriers or buffer strips<sup>64</sup>.



## 2.4 IN-FIELD WETLANDS

Used to:

- Trap sediment
- Reduce nutrient transfer to streams

### **What are in-field wetlands?**

In-field wetlands are unlined basins, excavated either in field margins or other unproductive, naturally wet areas of the field. In a project called MOPS2, three designs were tested to see if they could reduce the sediment in water flowing off arable fields by slowing it down and allowing the sediment to settle out before the water entered the stream. Different designs were compared, including shallow wetlands, deep wetlands and some arranged in pairs. Wetlands were placed so that they could intercept water from different sources: surface runoff, field drains, ditches and streams<sup>67</sup>.

**What did MOPS2 show?**

On the right soil type, in-field wetlands can effectively reduce sediment in water. The concentration of sediment in water can be up to 60% lower when it leaves a wetland than when it entered. The effectiveness of wetlands is heavily influenced by local conditions, particularly the type of soil. Wetlands work better at sandy soil sites than clay soil sites such as Loddington where very little sediment accumulated over the three years of the project<sup>67</sup>.

**Why do they work better at sandy sites?**

The particles in sandy soils are larger, and can settle out more quickly. Clay soils are made up of very fine particles, which take a long time to settle out, so field wetlands are much less effective in these areas.

**How much sediment can they remove?**

The total amount of sediment trapped was very different between sites because of these soil type differences. However, at the Whinton Hill site, 26 tonnes of sediment was trapped by a single wetland in one year during 2009/10, which would otherwise have flowed into local watercourses<sup>67</sup>.

**Does MOPS2 agree with other research?**

Yes. Defra published a thorough review of whether wetlands can reduce agricultural pollution, and concluded “The overall finding of the review was that all wetland types are very effective at reducing major nutrients and suspended sediments”<sup>68</sup>. Despite the finding by MOPS2 that they are less effective on clay, overall field wetlands are a useful tool to reduce sedimentation.

**Do on-farm wetlands have any other role?**

Farmland has become a much drier place in recent decades, so we thought that these wetlands could also be important for birds and farmland biodiversity. We set up a separate Defra-funded research project called “Wetting up Farmland for Biodiversity” to see if this is the case.

### What did Wetting up Farmland for Biodiversity look at?

The project looked at different types of water feature in the farmed landscape. The effect on farmland biodiversity was recorded by counting the number of visits from birds, and the number of aquatic insects that emerged at each feature throughout the year.

### What did it show?

Dammed ditches and field corner paired ponds were wet all year round, and had more visits from birds than the reference areas. A wide variety of birds visited the sites, where they were seen drinking, feeding, bathing and displaying territorial behaviours. The number of insects emerging was also higher in dammed ditches, especially those with more wet mud exposed and less shade<sup>69</sup>.



*The creation of farmland ditches and ponds resulted in an increased number of visits from many birds, including wren, tree sparrow, yellowhammer and dummock. © Laurie Campbell/GWCT*

**How much do in-field wetlands cost?**

It is difficult to calculate a cost for each tonne of sediment removed, because it depends on soil type, rainfall, location in the country, and location within a farm. However, the costs of making and maintaining the wetlands in this study were between £280 and £3100 - low enough to be supported through an agri-environment scheme, perhaps with capital payments for reducing sediment or phosphorus pollution to water courses. Ongoing costs of dredging, needed approximately every 4 years for dammed ditches, are estimated at £10 per ditch per year<sup>70</sup>. The wetlands were placed on field edges or unproductive areas, and therefore represent little loss to agricultural production<sup>67</sup>.



*The effectiveness of wetlands is heavily influenced by local conditions, particularly the type of soil. © GWCT*





## 2.5 BUFFER STRIPS AND BARRIERS

Used to:

- Reduce sediment transfer to streams
- Reduce nutrient transfer to streams

The measures discussed above to reduce soil erosion will help to keep soil on fields, and this will therefore reduce sediment in water courses<sup>28</sup>. However, once soil has been eroded from fields and is suspended in water, it is still possible to intercept the transport of that sediment from the field into streams, for example with in-field barriers and field-edge buffer strips.

### **What are barriers and buffer strips?**

An in-field barrier is a slightly raised strip along the contour of the slope, planted with vegetation. One form of these, the beetle bank, is already

funded by agri-environment schemes for the benefit of biodiversity and becoming widely used. Positioning them along contours – across the slope, rather than up and down, means they can also act as a barrier for water and sediment. They slow the flow of water, and give it more of a chance to soak into the ground, instead of running quickly over the surface. A buffer strip is a vegetated area along the lower edge of the fields and against a watercourse. These have been shown to reduce sediment and nutrient losses from surface runoff, as well as being good for biodiversity.

**How wide are they?**

Buffer strips along the edge of water courses must be a minimum of 2m wide to comply with “cross-compliance” regulations governing basic farming techniques. These must be adhered to in order to receive the basic farm payment. In-field barriers are generally a similar width, but are raised to create a narrow ridge around 40cm high. Modelling of Water Friendly Farming project data suggests that wider buffer strips are more effective for reducing sediment<sup>29</sup>.

**How effective are they?**

Results from our work in the MOPS1 project showed that at Allerton, a beetle bank located along the field contour could reduce sediment and phosphorus by 9-97%. This is a wide range, but shows that they have the potential to be effective, at modest cost.

**Do they have other benefits?**

All the measures discussed above to reduce soil erosion and catch sediment will also reduce phosphorus pollution, as phosphates are carried into water courses bound to sediment<sup>28</sup>. These features also have important benefits for biodiversity on the farm, providing habitat for invertebrates, birds and small mammals.



### **Domestic impact: Septic Tank Systems**

Many rural communities in the UK are not connected to main sewage systems, and the majority of these rely on septic tank systems (STS) to manage their sewage output. Many are old, and as there is no registration system for them, their design, operation and distribution are not known. In particular, soakaways are often ineffective on clay soils, leading to direct discharge to watercourses. A report to Natural England in 2010 estimated that over 80% of septic tanks in the UK are probably not working efficiently<sup>6</sup>.

Although agriculture is often assumed to be the main source of freshwater nutrient pollution, a study carried out by the GWCT, the University of Bangor and the Centre for Ecology and Hydrology, looked at the effect of septic tanks on the streams they discharge into. This showed that septic tanks should be a real concern for water quality in rural areas. They deliver varying but generally high concentrations of potentially toxic nutrients to the stream network, especially in summer<sup>5</sup>.

It is very important that septic tanks are installed and maintained correctly so that they function properly. The combined factors of increasing rural populations and climate change are likely to exacerbate these pressures on freshwater systems, and the impact of septic tanks may increase.

### 3. BRINGING IT TOGETHER

These individual techniques which address certain areas of concern can be combined into broader farming systems which have soil health, conservation and water quality at their heart. The use of several principles together can magnify the advantages of these individual techniques and lead to greater gains on a larger scale across the countryside.



*Monitoring soil quality is a vital tool in understanding the impact of different agricultural practices © GWCT*



### 3.1 CONSERVATION AGRICULTURE

Conservation Agriculture (CA) is a combination of three principles:

- Reduced or no-tillage
- Permanent ground cover
- Crop rotation

CA is becoming increasingly more common in recent years, particularly in the Americas, but also in Europe. There are many suggested benefits of the approach, both for the farmer and for the environment. Reduced tillage was discussed in section 2.1, but the combination with two other important principles makes up the broader approach of Conservation Agriculture.

**What is permanent ground cover?**

Permanent ground cover is provided either by leaving crop residue (such as stubble) from the previous harvest rather than ploughing it in, or by planting green cover like cover crops for the purpose. It protects the surface of the soil in winter from erosion, as well as improving soil structure and organic matter. Crop residues provide benefits including surface protection and addition of organic matter, but cover crops can perform extra services such as capturing nitrogen.

**What is a good crop rotation?**

Crop rotation is the cornerstone of sustainable farming, and it means alternating the crop grown in one place, rather than growing the same crop again and again on the same land. Growing a minimum of four different crops in a cycle is usual - although more would be better. It builds soil fertility and reduces pests and diseases. Including livestock in the rotation is beneficial as it recycles nutrients and organic matter to the soil. The crops within a rotation will depend on local conditions, markets and prices, but there are some broad principles:

- Crops that build soil fertility (e.g. peas/beans/clover and grass) should be alternated with those that reduce fertility (e.g. cereals, potatoes and sugar beet).
- The sequence of crops should be used to control grass weeds in broad-leaf crops and broad-leaf weeds in cereals.
- Keep insect pests under control by making sure no single type or group of crops are grown in succession.
- A mixture of winter- and spring-sown crops is best. Large blocks of a single crop should be avoided.
- Diverse crop rotations spread farm workload, reduce the risk of poor incomes and minimise the impact of any one crop on the environment.

The mosaic of different crops gives more diversity for wildlife, and some species benefit from the shifting pattern of crops from year to year. Varied crop rotations can also help improve soil structure<sup>71</sup>.

### **What are the benefits of CA?**

Suggested benefits include: reduced labour costs and reduced fuel usage, with the associated environmental benefits. Retention of crop residue at the surface (rather than ploughing it in), or cover crops reduce soil erosion by protecting the soil, as well as potentially providing winter food for birds. Less intense cultivation, and leaving crop residue at the surface can improve soil organic matter, and earthworm populations – whose activity can improve the porosity and drainage of the soil<sup>45,51,54,59,72–74</sup>.

### **Are these benefits well recognised?**

Yes. Some of the early work into conservation agriculture, called LIFE (Less Intensive Farming and Environment) study, ran from 1989 to 1994 and demonstrated reduced costs, as well as fertiliser and herbicide inputs<sup>75</sup>. In 1998 the Integrated Arable Crop Production Alliance produced a report looking at the forerunner to conservation agriculture<sup>50</sup>, which concluded that integrated farming with minimum tillage:

- Reduced energy inputs
- Reduced nitrogen losses
- Improved physical properties of soil
- Allowed different weed control strategies
- Reduced the risk of soil erosion
- Increased beneficial plants and animals (biodiversity)
- Reduced the time to sow a crop by 52 minutes per hectare

Since 1998, much more research has been done into the effects of minimum/no tillage and conservation agriculture<sup>51</sup>, and one study suggests that the benefits may be even greater when CA is applied on a wider scale than the results of smaller experiments

can show. The improvements seem to be scale-dependent – larger areas under CA can give even larger improvements for soil erosion and water runoff than smaller areas<sup>76</sup>.

### **How does CA save time?**

Without ploughing, fewer passes across the field are needed, meaning less labour and less diesel. In a comparison of seven farms, five using non-inversion planting (CA), and two using a traditional mouldboard plough, on average the non-plough farms saved 52 minutes per hectare. This is equivalent to 6½ weeks work for a single man on a 300-hectare farm, with the accompanying lower fuel usage<sup>49</sup>.

### **Why does CA reduce erosion?**

For several reasons. We have observed at the Allerton Project that when soil is ploughed to a fine tilth (small, regular grains ideal for sowing crops), many small, free soil particles are formed, and these can easily be washed away, making their way to the drains through cracks in the soil. The reduced tillage component of CA eases this problem, and increases microbial soil health and earthworm abundance, which improves soil structure<sup>57</sup>. Cover crops reduce the impact with which rainfall hits the soil surface and reduce runoff<sup>61</sup>.

### **Can we restore degraded soil to a good condition?**

Usually yes, although it takes time. Incorporating organic material such as green manures and crop residues, introducing long crop rotations including a grass phase, planting cover crops in winter and reducing or eliminating ploughing, will help the soil to recover.

### **Does conservation agriculture have other effects on soil health?**

Yes. SOWAP also provided strong evidence that soil microbes are often found in higher numbers with CA, compared to a conventional plough approach. The same kind of microbes are found, but there are more of them. Importantly, results from



SOWAP also suggested for the first time that improved microbial communities in soil can reduce the likelihood of soil erosion and improve moisture retention in summer<sup>57</sup>.

### **Does this agree with other research?**

Yes. It is widely accepted that no-till agriculture results in a better balance of microbes and other organisms, and therefore a healthier soil<sup>17,51,77</sup>. It is difficult to separate the effects of tillage alone from the other important components of CA, as they are often practiced together to give maximum benefits.

### **Is it easy to change to CA?**

When planned properly it can be, but there can be pitfalls if the transition is not well managed – cultivation cannot be thought of in isolation, it is part of a greater management plan for the farm. Therefore, if cultivation management changes, other associated practices will need to be adjusted as well to match the new approach. For more details on planning a conversion to CA, refer to our website [www.gwct.org.uk/soilandwater](http://www.gwct.org.uk/soilandwater) for useful resources.

### **Are there drawbacks to CA?**

CA systems can have lower yields for some crops, and generally have increased weed pressure, at least when first established. CA is unsuitable for root crops and potatoes. Greater herbicide use may be needed to control weeds in the early years of conversion to CA, which often (but not always) eases as the new management systems become established. Despite reduced yields for some crops, operating costs are also reduced, therefore profit per hectare is similar<sup>53</sup>. Crop residues on the surface can lead to increased pressure from slugs, but there is evidence that sowing seed a little deeper than usual (around 4cm) can help reduce slug damage<sup>78</sup>. On a more general note, a conversion requires adaptability and attention to detail, combined with a good understanding of soils and technology, as well as a change in mindset.

**So is CA the right approach?**

CA can have many benefits, but it is important to choose a farming system that is suitable for local conditions, crops and climate. For example, adopting conservation agriculture on clay soils can be challenging.

**Conservation Agriculture: Pros and Cons****Benefits:**

- Improved soil structure
- Reduced water runoff
- Reduced erosion
- Improved soil biodiversity
- Increased number of earthworms
- Benefits to farmland birds
- Reduced fuel costs
- Reduced labour costs

**Drawbacks:**

- Planning a conversion – whole farm management approach that needs careful thought
- Increased pressure from weeds, especially reported in the early years after conversion
- Therefore, possible increased dependence on and cost of herbicides
- Yields of some crops are lower, although usually more than offset by reduced inputs
- CA is not always a suitable approach, and this is heavily affected by soil type

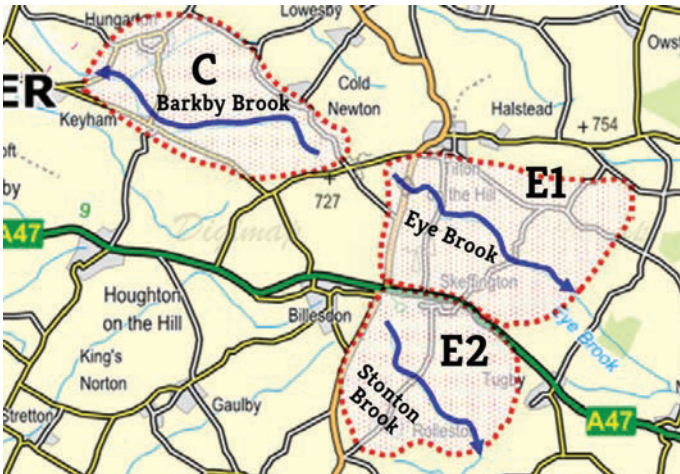


## 3.2 WATER FRIENDLY FARMING

The Water Friendly Farming project was designed to bring together the strands of knowledge described in this book, gained from many individual studies, applying it on a larger scale across the landscape, and investigate its effectiveness. It looks at a range of mitigation measures to reduce the impact of rural land use on ponds, streams and rivers, whilst not impacting the profitability of the farming business.

### **What is being done in Water Friendly Farming?**

Water Friendly Farming is a large study conducted over three catchment areas in Leicestershire. They are all around 10km<sup>2</sup> in size, contain similar farming systems, soil types and landscape, and are drained by the Barkby Brook, the Eye Brook and the Stonton Brook. The study area is typical of a large part of the UK lowland farmed environment.



*The Water Friendly Farming project is being conducted over three catchment areas in Leicestershire © GWCT*

### **Why are there three study areas?**

The Barkby Brook area was included for reference, where management was not changed. The other two catchments introduced methods to reduce the impacts of farming on water quality. These were designed to hold back sediments, nutrients and water, and increase the variety and abundance of freshwater wildlife across the study area.

### **What is Water Friendly Farming studying?**

The project wants to answer three main questions:

1. Can we reduce diffuse water pollution?
2. Can we protect and increase freshwater biodiversity without reducing farm profitability?
3. Can we hold back water to help reduce downstream flooding?

### **Why is Water Friendly Farming important?**

Water Friendly Farming is different to previous studies, because it looks at ways to reduce the impact of farming across whole catchments, rather than at a small (field or experimental plot) scale, as had previously been done. WFF also uses a robust experimental design, being what is known as a BACI, a Before-After-Control-Impact study. This means that three years of baseline data were collected on the study area before the interventions were put in place. There is also a “control”, or reference site that is not altered to compare to, and this allows us to thoroughly assess the impact of the experiment. In other words, what do the interventions do collectively? It is an on-going project, giving enough time to assess the impact of what we are testing, despite weather variations.

### **What is measured in the Water Friendly Farming catchments?**

Water quality in the streams at the base of each catchment is measured including phosphorus levels, nitrogen levels, and the amount of suspended sediment and pesticides.

### **What else is measured?**

In 239 ponds, streams and ditches across the study areas, biodiversity is measured with surveys of wetland plants, freshwater invertebrates and water chemistry. Water flow is also monitored at the base of each of the three catchments.

### **What did the background monitoring show?**

The baseline monitoring work was helpful in itself, revealing that:

- Ponds support the widest variety of freshwater species, despite representing the smallest area of water
- However, only about 10% of them were in good condition, with the majority either poor or very poor
- These ponds support some rare and sensitive freshwater plants, which are not found in any other water bodies in the region. One concern is that these plants showed

an apparent decline over the three monitoring years 2010-2013

- Streams in the study area have variable water quality. In each catchment there are sections of waterway that are “high” quality, meaning that they are clean, and sections that are moderate or poor quality
- Although all catchments had some patches of “clean” water, pollution was widespread, affecting around 95% of waterbodies
- Around 30% of waterbodies had low phosphorus levels, close to the natural background level
- Only around 5% of waterbodies had nitrogen levels that were near natural levels

### **What experimental methods are being tested?**

Water management in the Eye Brook and Stonton Brook catchments has been altered to see if it improved water quality. No changes have been made to management in the Barkby Brook area. All catchments already had several buffer strips, mainly within agri-environment stewardship schemes. Dams and wetland interceptors in ditches were constructed in the Eye Brook catchment. These were also established in the Stonton Brook area, along with the additional creation of new clean water ponds (with surrounding buffers), and debris dams in some streams. More recently, permeable dams have been installed in the Eye Brook catchment to test the effect on flood risk downstream. These are log dams that do not affect water flow at normal levels, but will hold back excess flow during storm events when the water rises. An example is shown on the following page.

### **What do these techniques aim to do?**

Buffer strips were added to slow and filter the water entering waterways from fields, trapping sediment and other pollutants before the water joined the stream/pond.

Dams, wetland interceptors and debris dams aim to slow the flow of water from ditches or field drains. With these features in place, there will be more time for sediment and associated nutrients to settle out before passing into the stream. Permeable dams are intended to trap flood water at times of extreme rainfall, aiming to reduce the downstream flow of water and reduce flood risk.



*Permeable dams provide a simple, low-cost method of holding back excess flow during storm events © GWCT*

### **If sediment is settling in these features, won't they fill up?**

Yes, this is a sign that they are working, and the more sediment they are trapping, the faster they fill up. When they are full they can be dredged, and the sediment returned to the field.

### **What has Water Friendly Farming found so far?**

#### *Ponds*

We knew from baseline monitoring that ponds are important for biodiversity, but that they are also more variable in terms of water quality than streams – because they are isolated, they can be very clean or very polluted, whereas because the water in streams is mixed, they tend to be less variable. WFF showed that establishing

new ponds improved freshwater biodiversity across the landscape<sup>29</sup>. This benefit for freshwater species was visible within a year of new ponds being established, giving a very quick improvement.

#### *Buffer Strips*

Buffer strips along or around water bodies can be effective for reducing sediment runoff, and computer modelling of WFF data suggested that buffer strips ten metres wide can reduce sediment loss by 30%, compared to standard buffer strips that are two metres wide<sup>29</sup>.

#### *Sediment loss*

Computer models predicting the effect of farming techniques on erosion have shown that sediment loss could drop by 35-40% by switching to reduced or no-till farming<sup>29</sup>.

#### *Nutrient loss*

Nitrogen and Phosphorus levels have shown trends across the three catchments that look mainly related to external factors, such as the weather. Phosphorus has shown a gradual increase and nitrogen a gradual decrease over the study<sup>29</sup>.

#### *Sewage works*

All three of the project areas have small sewage works, as well as domestic septic tanks. Sewage treatment works dominate the phosphorus concentration at the base of the main catchments during normal conditions, for much of the year<sup>42</sup>. In small tributaries without sewage treatment works, the effect of land management can be seen more easily.

#### *Flood risk*

The study area is an arable landscape on clay soils, and very large volumes of water would need to be stored in the countryside to reduce flood risk. The features we installed can hold around 3000 cubic metres (this is a little more than one Olympic sized



swimming pool). Our computer analysis has suggested that this has had only a very slight effect on the amount of water flowing in rivers during wet weather. It also suggested that installing a network of 'permeable dams' could reduce the 1 in 100-year flood peak by 20%, and this work is currently underway in the area<sup>29</sup>.

### *Pesticides*

As well as picking up sediment and nutrients on its journey through farmland, water can also become contaminated with other chemicals, for example pesticides, that are used to treat crops. WFF looked at certain pesticides to understand this problem further and to provide a focus for discussion of broader issues with the participating farmers<sup>79</sup>.

#### **What is the most concerning pesticide for drinking water?**

The most widespread threats to drinking water quality from pesticides comes from the active ingredient of slug pellets, metaldehyde and the herbicide propyzamide, which is used for control of black-grass within oil seed rape.

#### **Do the water management techniques for reducing runoff and erosion also reduce metaldehyde in the water?**

No. The measures we have tested have not had any real impact on concentrations in water, and we encourage farmers to substitute for a different product, ferric phosphate.

#### **Do other pesticides contaminate watercourses?**

Yes, as part of the Water Friendly Farming project, streams were also monitored for propyzamide and carbetamide. Propyzamide is a herbicide used for the control of black-grass. Results showed regular contamination of streams from November onwards. Carbetamide is also used to control grass weeds, but is much less widely used than propyzamide.

**Is there an alternative treatment for black-grass?**

There is no viable alternative herbicide for black-grass control in oil seed rape – propyzamide is the only effective herbicide for these crops. We have observed in some early work that buffer strips can help reduce propyzamide by up to 50%, but this needs further study (not yet published). Because burying black-grass seed underground for three years helps to control it, in some areas arable land is being sown to grass leys because of persistent problems. This has been a key driver for conversion of some fields to rotational grass at the Allerton Project.

**Are there other measures for keeping propyzamide out of water?**

Propyzamide binds to soil particles and often moves to water with soil, so reducing soil disturbance also reduces propyzamide runoff. Buffer strips, reducing the oilseed rape area, and increasing crop diversity also reduce propyzamide concentrations in water.

**Discussion group**

We recently used this herbicide as a focus for discussion of wider catchment and soil management issues with farmers<sup>79</sup>. Farmers were accepting of the need for buffer strips and identified benefits of vigorous hybrid barley for black-grass control, but identified the pitfalls associated with reducing the oilseed rape area across farms at the catchment scale. The discussion also highlighted the constraints on adopting a no-till system, including reduced yield, short-term tenure arrangements, continuing uncertainty about methods on clay soils, capital requirements, and political and economic uncertainty. Continuing research at Loddington is designed to understand and address some of these issues.



## 4. ONGOING WORK AT THE ALLERTON PROJECT

The continued research effort undertaken at Allerton and elsewhere has helped contribute much to our understanding soil and water on farms, how to reduce the impact of agriculture on these vital resources and how to move forward more sustainably. However, continued research is needed to fill in the gaps, and bring it all together. How do we farm profitably whilst encouraging healthy soils, clean water and biodiversity on farmland? Several projects are new or ongoing at Allerton to help with this picture:

*Water Friendly Farming:* The work described here is ongoing, giving time for the measures to become better established and allowing us to assess the true benefits and challenges of this landscape scale approach.

*SoilCare:* This is an EU Horizon 2020 funded project in which we are one of sixteen study sites across Europe, assessing how soil improving cropping systems improve the environmental and economic sustainability of soil management. Our local farmer network has played an important role in prioritising topics for research. We will be investigating methods for alleviating compaction, potential multiple benefits of grass leys, and the use of digestate from an anaerobic digestion plant for improving soil health and crop performance.

*Soil Biology and Soil Health:* This project is funded by AHDB (Agriculture and Horticulture Development Board) and the BBRO (British Beet Research Organisation) over five years, forming a partnership across sectors to focus on research and knowledge exchange. It is designed to help farmers and growers maintain and improve their productivity through a better understanding of soil biology and soil health. The Allerton Project is one of the study sites within the partnership where we will test the effect of ploughing

long-term no-till land on soil biology and soil health as well as crop performance. This is an issue which visiting farmers who are considering no-till have raised with us as being a concern because of a possible need for periodic ploughing to control weeds.

For more information about our ongoing research, please visit [www.gwct.org.uk/allerton](http://www.gwct.org.uk/allerton)



## 5. SUMMARY – KEY POINTS

- Deteriorating soil health is one of the biggest challenges facing farming, today and in the future
- Soil degradation is common and can occur because of erosion, compaction, loss of organic matter or contamination
- Water quality can be affected by contamination with nutrients, pesticides or sediment, and this is more likely where soil health is poor
- Current farming techniques can contribute to these problems, but scientific research is helping to find solutions that can ease the pressure on soils and water, whilst maintaining economically viable farming
- The Allerton Project has been a key player in soil and water research over the last 15 years
- Projects have examined individual techniques to reduce the impact of farming on soil and water, and help guide us into a more sustainable future for soils
- Ongoing projects follow on from this research, investigating sustainable solutions for the future, and combining several techniques into a landscape-scale demonstration.

## 6. RESEARCH PROJECTS

The Allerton Project has been involved in many research projects over the past 15 years, while maintaining and running a profitable farm business.

### **SOWAP (2003-2006)**

*Partners:* Syngenta, Cranfield University, Freshwater Habitats Trust, RSPB

*Aims:* Examine the three main principles of conservation agriculture (CA) – reduced tillage, permanent soil cover and appropriate crop rotations. Assessed results achieved with both methods.

*Findings:* Conservation tillage reduced soil losses in areas that are vulnerable to erosion, and also reduced nitrogen runoff. CA was good for soil health – earth-worm and soil microbe populations generally increased, and birds preferred CA fields to conventional fields (although birds preferred overwinter stubbles even more). When looking at the effect of CA on the aquatic environments, results were very variable and we could not draw firm conclusions, but sediment loads were lower in streams draining CA areas. Yields for some crops were similar for both farming approaches, but for others, yields were lower from CA fields. This was often offset by lower costs with CA, so that profit remained comparable.

### **PARIS (2003-2008)**

*Partners:* ADAS, CEH Wallingford, University of Leicester

*Aims:* Studying the concentration of nutrients in the stream passing through Loddington, and the Eye brook, running through pasture. Looking at bio-diversity in the stream with respect to nutrients, particularly phosphorus.

*Findings:* In terms of the total amount of phosphorus of all forms across the year in the study catchments, agriculture was the main source, being responsible for 67-99%, but other sources were also important. Phosphorus coming from farmland is highest in winter – when storms

wash sediment and phosphorus from fields. Other sources such as septic tanks, wastewater from buildings, animal waste from farm-yards and sewage works (called “point” sources) discharge phosphorus more steadily throughout the year, and have a greater ecological impact, even though the total annual amount is lower.



*Aquatic insects such as damselfly benefited from dammed ditches and ditch-fed ponds © GWCT*

## **WETTING UP FARMLAND FOR BIODIVERSITY (2004-2007)**

*Partners:* RSPB, Freshwater Habitats Trust

*Aims:* Examining the importance for birds and other wildlife (e.g. insects) of wetland features on farmland: dammed drainage ditches, ditch-fed ponds, surface scrapes and waterlogged areas in livestock fields.

*Findings:* Dammed ditches and ditch-fed ponds were most effective, leading to production of more aquatic insects and visits from more birds.



### **MOPS<sub>1</sub> (2005-2007)**

*Partners:* Lancaster University

*Aims:* Investigate in-field approaches to reducing sediment and phosphorus losses from fields.

*Findings:* Tramlines are main source of sediment and phosphorus loss. Disrupting them reduced this in some areas, cultivating across the slope rather than up/down, and no-till farming did so in others.

### **WETTING UP FARMLAND FOR BIODIVERSITY – PHASE 2 (2008-2010)**

*Partners:* RSPB, Freshwater Habitats Trust

*Aims:* Further studying the benefits of small scale wetland features on farmland, and examining the economic implications of these.

*Findings:* Field wetlands are beneficial for insects and birds on farmland. Larger features such as paired ponds are more effective than smaller ones. Dammed ditches need to be dredged approximately every 4 years. Dredging costs are estimated at approximately £10 per ditch per year.

### **MOPS<sub>2</sub> (2009-2011)**

*Partners:* Lancaster University

*Aims:* Investigate field wetlands for reducing sediment losses.

*Findings:* Field wetlands can trap a substantial amount of sediment in some circumstances on sand and silt soils, but are much less effective on clay soils.

### **TRAMLINES (2009-2013)**

*Partners:* ADAS, Lancaster University, HGCA, NFU

*Aims:* To study the best way to reduce loss of water, sediment and nutrients along tramlines during autumn spraying operations. Sites at four farms across the UK with different soils.

*Findings:* Low pressure tyres and a rotary harrow fixed behind the tractor wheels to break up the surface of the soil are the most effective ways to reduce losses from tramlines. The harrow is most effective on all soils except for clay, where low pressure tyres are most effective. Using both approaches together is better still.

## **WATER FRIENDLY FARMING (2011-2021)**

*Partners:* Freshwater Habitats Trust, York University

*Aims:* Combine individual measures into a landscape-scale water management approach. Assess whether these techniques reduce the impact of farming on water quality.

*Findings:* Freshwater ponds are very important for biodiversity. Establishing new ponds quickly improved freshwater biodiversity across the landscape. Most water features across the landscape had raised nutrient levels. In areas with sewage works, these were the main source of phosphorus for most of the year. Current features will have little effect on downstream flood risk, so a network of permeable dams is being installed and tested.

## **SUSTAINABLE INTENSIFICATION RESEARCH PLATFORM (SIP) (2014-2017)**

*Partners:* NIAB, Nottingham University, York University

*Aims:* Studying techniques to improve sustainability in farming. Identify and develop farm management interventions for sustainably intensive agriculture.

*Findings:* At the Allerton Project, we studied the effect of different cover crop mixes compared to a bare stubble control. We looked at the chemistry, biology and physics of the soil, and the weed burden during the cover crop period and in the following crop. There were no differences between cover crop species for the soil analysis, but the cover crop species had a marked effect on earthworms and weed burden, with fewer weeds in radish. This weed suppression effect carried over into the subsequent crop, which gave a higher yield than in the absence of a previous cover crop. The project also enabled us to improve our understanding of the role of sward minerals in improving livestock performance on pasture and grass leys introduced into arable rotations to meet multiple objectives. Within the Water Friendly Farming project, the SIP enabled us to use a herbicide as a focus for discussion about practical opportunities and constraints for catchment management with participating farmers.



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## ABOUT GWCT

### THE HOME OF WORKING CONSERVATION

The Game & Wildlife Conservation Trust is the home of working conservation. We believe that wildlife can thrive if we focus on integrating it alongside other land uses.

From producing food to providing space for nature, we understand these need to happen in the same place. To balance these needs we use our outcomes approach, and its importance is growing. We live on a small busy island and the demands we place on our countryside increase as our population grows and we add new outcomes, such as recreation and clean air.

Gamekeepers became the unexpected champions of the outcomes approach as farming modernised to meet the post-war demand for food. The GWCT carefully studied how they began to use their range of tools, from trapping to growing small strips of cover crop, to maintain their bird numbers without hindering farm production. Today these gamekeeping techniques are vital conservation tools – because they support wildlife into a working countryside.

Find out more about the GWCT and support us at  
[www.gwct.org.uk](http://www.gwct.org.uk).





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