



Little Crow

Solar Park

Little Crow Solar Park, Scunthorpe

DCO CHANGES TRACKER

DEADLINE 7

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Eversheds Sutherland
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AUG-21	DEADLINE 5 VERSION D	ISSUED	UPDATED DOCUMENT SUBMITTED FOR DEADLINE 5 (9 AUGUST 2021)
AUG-21	DEADLINE 6 VERSION E	ISSUED	UPDATED DOCUMENT SUBMITTED FOR DEADLINE 6 (31 AUGUST 2021)
AUG-21	DEADLINE 7 VERSION F	ISSUED	UPDATED DOCUMENT SUBMITTED FOR DEADLINE 7 (20 September 2021)

Planning Act 2008

INFRASTRUCTURE PLANNING

The Little Crow Solar Park Order 202[]

Document 3.5F LC DCO

DCO Changes Tracker – Deadline 7

Schedule of changes made to the draft Development Consent Order submitted by the Applicant.

This schedule explains changes made to the draft Development Consent Order (dDCO) (now Document 3.1G LC DCO) submitted with the application at Deadline 6 (31 August 2021) (Document 3.1F LC DCO) tracked and clean.

NB: Minor typographical changes are not covered in this Schedule.

AMENDMENTS AT DEADLINE 7

Article/Schedule	Comments/Explanation	Amendment
Article 2	<p>The definition of 'archaeological management plan' has been amended for consistency</p> <p>The definition for the Outline BSMP has been amended to be consistent with the approach taken in defining other outline management plans.</p>	<p>“archaeological management plan” means the document certified as the archaeological management plan for the purposes of this Order under in accordance with article 14 (certification of plans and documents etc);</p> <p>“outline BSMP battery safety management plan” means the plan certified by the Secretary of State as the battery safety management plan for the purposes of this Order under article 14;</p>

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Article 8	The column references in Article 8 have been amended to comply with the columns in Schedule 3 .	<p>Temporary closure and diversion of public footpath</p> <p>8.—(1) The undertaker may, during the construction and decommissioning of the authorised development, temporarily close public footpath 214 as specified in column (32) of Schedule 3 (public footpath to be temporarily closed and diverted) to the extent specified in column (54) of Schedule 3, and must provide the temporary substitute public footpath specified in column (65) of Schedule 3 for the period during which the footpath is temporarily closed.</p>
Article 10	The amendment made assists the clarity of the Article.	<p>10. —</p> <p>(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.</p>
Article 14	<p>"outline storage battery safety management plan has been amended to "outline BSMP" in line with the change at Article 2 above</p> <p>The Applicant has relocated items (f) - (k) to (b)(xi) - (xvi) to keep the Environmental Statement references together.</p>	<p>Certification of plans, etc.</p> <p>14. —(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the—</p>

		<p>(a) archaeological exclusion zone – whole area plan (document reference 2.22 LC DRW);</p> <p>(b) environmental statement (document reference 6 LC ES CH (Chapters 1-11) as submitted on 4 December 2020, as updated by the following documents:</p> <ul style="list-style-type: none"> (i) 6.4A LC ES CH 4 (Development Proposal) (9 August 2021); (ii) 6.6B LC ES CH 6 (Landscape and Visual Impact) (9 August 2021); (iii) 6.7A LC ES CH 7 (Ecology) (9 August 2021); (iv) 6.10A LC ES CH 10 (Agriculture) (9 August 2021); (v) 6.11A LC ES CH 11 (8 April 2021); (vi) 7.12C LC TA 4.5 Air Quality and Carbon Assessment (31 August 2021); (vii) 7.16A LC TA 4.9 Noise Impact Assessment (24 May 2021); (viii) 7.21B LC TA 6.5 Detailed Landscape Proposals (9 August 2021); (ix) 7.29B LC TA 7.9 Habitats Regulation Statement – No Significant Effects report (NSER) (9 August 2021); (ix) (x) Flood Risk Assessment and Drainage Strategy (document reference 7.3 LC TA3.1); and (xi) 7.35A LC TA 9.1 Transport Statement (11 January 2021);
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		<p>(xii) outline BSMP (environmental statement technical appendix 7.14 LC TA4.7);</p> <p>(xiii) outline CEMPs (environmental statement technical appendix 7.8D LC TA4.1 (31 August 2021) & 7.27 LC TA7.7);</p> <p>(xiv) outline CTMP (environmental statement technical appendix 7.36 LC TA9.2);</p> <p>(xv) outline soil management plan (environmental statement technical appendix 7.11 LC TA4.4);</p> <p>(xvi) outline decommissioning strategy (environmental statement technical appendix 7.9C LC TA4.2 (31 August 2021); and</p> <p>(xvii) outline LEMP (environmental statement technical appendix 7.28D LC TA7.8)(31 August 2021);</p> <p>(e) flood risk assessment and drainage strategy (document reference 7.3 LC TA3.1);</p> <p>(d)(c) hedgerow plan (document reference 2.40 LC DRW);</p> <p>(e)(d) land plan including Order limits (document reference 2.1 LC DRW);</p> <p>(f) outline battery safety management plan (environmental statement technical appendix 7.14 LC TA4.7);</p> <p>(g) outline CEMPs (environmental statement technical appendix 7.8D LC TA4.1 (31 August 2021) & 7.27 LC TA 7.7);</p> <p>(h) outline CTMP (environmental statement technical appendix 7.36 LC TA9.2);</p>
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		<p>(i) outline soil management plan (environmental statement technical appendix 7.11 LC TA 4.4);</p> <p>(j) outline decommissioning strategy (environmental statement technical appendix 7.9C LC TA 4.2)(31 August 2021);</p> <p>(k) outline LEMP (environmental statement technical appendix 7.28D LC TA 7.8)(31 August 2021);</p> <p>(l) <u>(e)</u> proposed temporary diversion of public footpath 214 plan (document reference 2.39 LC DRW);</p> <p>(m) <u>(f)</u> works details – Key B2 - sheet 5 of 7 (document reference 2.15 LC DRW);</p> <p>(n) <u>(g)</u> works plan (document reference 2.8 LC DRW);</p> <p>(o) <u>(h)</u> archaeological management plan (document reference 9.42 LC OTH)</p> <p>for certification that they are true copies of the documents referred to in this Order.</p> <p>(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.</p>
<p>Schedule 2 Part 1, Requirement 1 Interpretation</p>	<p>The definition of 'LEMP' has been deleted to avoid duplication because it is set out in Article 2.</p>	<p>"LEMP" means landscape and ecological management plan;</p>

Schedule 2 Part 1, Requirement 5	Requirement 5(2) Phases of authorised development - has been amended to make it more precise	5. (1) ... (2) The scheme authorised development must be implemented as in accordance with the approved phasing scheme <u>approved phasing scheme</u> must be implemented as approved.
Schedule 2 Part 1, Requirement 6 - Detailed Design Approval	Requirement 6(1) and (2) have been amended to aid precision and enforcement	6(1)— No phase of the authorised development may <u>is to</u> be commenced until written details of the following for that phase have been submitted to and approved by the local planning authority— (a) layout; (b) scale; ... (2)The details <u>to be submitted for approval</u> must accord with— (a) the principles and assessments set out in the environmental statement; and
Schedule 2 Part 1, Requirement 7 Battery Safety Management	Requirement 7 has been amended to ensure that the heading and requirement correspond with the definition in Part 1 of Schedule 2 and to make this consistent with the format for other management plans.	Battery <u>S</u>safety <u>M</u>management <u>P</u>lan (BSMP) 7. —(1) Prior to the commencement of either Work No. 2A or Work No. 2B as notified to the local planning authority under Article 3(4) a Battery Safety Management Plan ("BSMP") must be submitted to and approved by the local planning authority.

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<p>Schedule 2 Part 1, Requirement 8 Construction Environmental Management Plans (CEMPs)</p>	<p>Requirement 8 has been amended to aid precision and enforcement.</p> <p>The reference to lighting in sub-paragraph 8(2)(c) has been deleted because this duplicated part of the provisions of paragraph 8(2)(g).</p>	<p>8—(1) No phase of the authorised development is to may be commenced until a CEMP for that phase has been submitted to and approved by the local planning authority. Any The approved CEMP submitted for approval must be in accordance with the outline CEMPs and any approved CEMP must be adhered to for the duration of the throughout—works—in the at phase of the authorised development to which the CEMP relates</p> <p>(2) The CEMP for each phase of the authorised development must provide details of—</p> <ul style="list-style-type: none"> (b) community liaison; (c) complaints procedures; (d) nuisance management including measures to avoid or minimise the impacts of construction works (covering dust, noise, and vibration and lighting); ...
<p>Schedule 2 Part 1, Requirement 9 Construction Traffic Management Plan (CTMP)</p>	<p>Requirement 9 has been amended to aid precision and enforcement.</p>	<p>9.—(1) No phase of the authorised development is to may be commenced until a CTMP covering that phase and in accordance with the outline CTMP has been submitted to and approved by the local planning authority.</p> <p>(2) The CTMP must include details of— ...</p> <ul style="list-style-type: none"> (a) ...; (b) ...; ; and

		(c) a condition survey for any road which will be affected by <u>undertaking</u> that phase of <u>the</u> authorised development and a further condition survey following that phase of the construction works. I and in the event that any defects are identified in that condition ...
Schedule 2 Part 1, Requirement 10 Landscape and Ecological Management Plans (LEMP)	Requirement 10 has been amended to aid precision and enforcement.	<p>10. (1) No phase of the authorised development <u>is to</u> may be commenced until a LEMP covering that phase <u>which and in accordance</u> and with the outline LEMP has been submitted to and approved by the local planning authority.</p> <p>(2) The LEMP must include—</p> <ul style="list-style-type: none"> (a) ...; (b) ...; (c) details of ongoing management including seasonal grazing regime and other measures shown in table 7.5 at chapter 7 of the environmental statement including the annual review of the need for any additional mitigation planning work, during the lifetime of the <u>authorised development</u> scheme; (d) a timetable for the landscape management of the land within the Order limits during the lifetime of the <u>authorised development</u> scheme; and <p>...</p>

Schedule 2 Part 1, Requirement 11 Construction Hours	Requirement 11 has been amended to aid precision. The 'tailpiece' has been deleted.	<p>11. — (1) Subject to sub-paragraph (2), no construction works are to take place except between <u>the hours of</u> —</p> <p>(a) 07:00 and 18:00 Monday to Friday; and</p> <p>(b) 08:00 and 13:30 on Saturday7</p> <p>unless otherwise agreed by the local planning authority.</p>
Schedule 2 Part 1, Requirement 12 Surface and Foul Water Drainage	Requirement 12(1) has been amended to aid precision.	<p>12. —(1) No phase of the authorised development <u>is to</u> may be commenced until written details of the surface and foul water drainage system for that phase have been submitted to and approved by the local planning authority.</p>
Schedule 2 Part 1, Requirement 13 Archaeology	Requirement 13 (2), (4), (6) (7) and (8) have been amended to aid precision.	<p>13. —(1) The authorised development must be carried out in accordance with the archaeological management plan.</p> <p>(2) No phase of the authorised development <u>is to</u> may be commenced until the archaeological exclusion zone around Gokewell Priory shown on the Archaeological Exclusion Zone – Whole Area Plan (document reference 2.22 LC DRW) has been installed as shown on the works plan.</p> <p>(3) 7.2.2.2</p> <p>(4) No phase within the authorised development <u>is to</u> may be commenced until a written scheme for the investigation of areas of archaeological interest within that phase has been submitted to and approved by the local planning authority.</p>

		<p>(5) ...</p> <p>(6) Any archaeological works or programme of archaeological investigation carried out under the approved scheme <u>for investigation</u> must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.</p> <p>(7) Any archaeological works or programme of archaeological investigation must be carried out in accordance with the approved-scheme <u>approved under sub-paragraph (4)</u>.</p> <p>(8) Within six months of the commencement of the authorised development the undertaker <u>must</u> shall submit a scheme <u>...</u></p>
Schedule 2 Part 1, Requirement 14 Protected Species	Requirement 14 (1)(2) and (3) have been amended to aid precision.	<p>14—(1) No work, including site preparation works, shall be commenced in any phase <u>of the authorised development</u> until final pre-construction survey work has been carried out for that phase to establish whether a protected species is present on any of the land affected, or likely to be affected, by the authorised development or in any of the trees to be lopped or felled as part of that phase.</p> <p>(2) Where a protected species is shown to be present, <u>the authorised</u> development must not <u>be commenced</u> within that phase until a scheme of protection and mitigation measures has been submitted to and approved by the local planning authority in consultation with Natural England.</p>

		<p>(3) The authorised development must be carried out in accordance with any the approved scheme approved under sub-paragraph (2).</p> <p>(4) ...</p>
Schedule 2 Part 1, Requirement 15 Operational Noise	Requirement 15 (1) and (2) have been amended to aid precision.	<p>15.—(1) No phase of the authorised development is to may commence until an operational noise assessment containing details of how the design of the authorised development has incorporated mitigation to ensure the operational noise rating levels as set out in the environmental statement are to be complied with for that phase has been submitted to and approved by the local planning authority.</p> <p>(2) The authorised development must be implemented and operated for its duration in accordance with the approved operational noise assessment design as described in the operational noise assessment must be implemented as approved.</p>
Schedule 2 Part 1, Requirement 16 Temporary Diversion to Public Footpath	Requirement 16 (1)(2) and (3) have been amended to aid precision.	<p>16.—(1) No phase of the authorised development is to may be commenced and no decommissioning will may be undertaken until a public rights of way management plan for the phase incorporating any that any that part of public footpath 214 shown and proposed shown and proposed to be temporarily closed and diverted on the temporary diversion of public footpath plan has been submitted to and, approved by the local planning authority.</p>

		<p>(2) The public rights of way management plan must include details of— ...</p> <p>(3) Prior to the commencement of any phase of the authorised development and of any decommissioning the public rights of way management plan must be implemented as approved.</p>
<p>Schedule 2 Part 1, Requirement 18 Amendments to approved details</p>	<p>Requirement 18 (1)(2) and (3) have been amended to have regard to the fact that the local planning authority would be responsible for discharging the Requirements contained within Part 1 of Schedule 2, in the first instance, there would be no other person/organisation approving amendments to previously approved details which is why the references to other/another person have been removed.</p>	<p>18—(1) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the local planning authority or another person, the approved details must be carried out as approved unless an amendment or variation has previously been approved agreed in writing by the local planning authority or that other person in accordance with sub-paragraph (2).</p> <p>(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 immaterial changes where it has been demonstrated to the satisfaction of the local 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 effect from those assessed in the environmental statement.</p> <p>(3) The approved details must be taken to include any amendments that may subsequently be approved in writing by the local planning authority or that other person.</p>

<p>Schedule 2, Part 2, Procedure for discharge of requirements</p>	<p>Paragraph 22 has been amended to substitute 'applicant' with 'undertaker'</p>	<p>Appeals</p> <p>22—(1) Where the undertakerapplicant makes an application to a discharging authority, the undertakerapplicant may appeal to the Secretary of State in the event that—</p> <p>(a) ...—</p> <p>(i) ...</p> <p>(ii) ...</p> <p>(b) ...;</p> <p>(c) on receipt of a request for further information pursuant to paragraph 21 of this Part of this Schedule, the undertakerapplicant 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</p> <p>(d) on receipt of any further information requested, the discharging authority notifies the undertakerapplicant that the information provided is inadequate and requests additional information which the undertakerapplicant considers is not necessary for consideration of the application.</p> <p>(2) The appeal process is as follows—</p>

		<p>(a) any appeal by the undertakerapplicant must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) the expiry of the time period set out in paragraph 20(1), giving rise to the appeal referred to in sub-paragraph (1);</p> <p>(b) the undertakerapplicant must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the discharging authority and any consultee specified under the relevant requirement contained in Part 1 of this Schedule;</p> <p>(c) ...;</p> <p>(d) ...;</p> <p>(e) the undertakerapplicant must make any counter-submissions to the appointed person within ten business days of receipt of written representations pursuant to sub-paragraph (d) above; and</p> <p>(f) ...</p> <p>(3) ...</p> <p>(4) ...</p> <p>(5) ...</p> <p>(6) ...</p> <p>(7) ...</p> <p>(8) ...</p> <p>(9) ...</p> <p>(10) If an approval is given by the appointed person pursuant to this Part of this Schedule, it is deemed to</p>
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		<p>be an approval for the purpose of Part 1 of this Schedule 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) is not to be taken to affect or invalidate the effect of the appointed person's determination.</p> <p>(11)(10) Save where a direction is given pursuant to sub-paragraph (112) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person are to be met by the applicant.</p> <p>(12)(11) On application by the discharging authority or the undertakerapplicant, the appointed person may give directions as to the costs of the appeal and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to relevant the guidance on costs in the Planning Practice Guidance website or any official circular or guidance which may from time to time replace it.</p>
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<p>Schedule 3 Public footpath to be temporarily closed and diverted</p>	<p>Column (2) The version of the plan submitted with the application showing the proposed temporary diversion of public footpath 214 should be revision G 1 rather than D [Examination reference APP-043 and application document 2.39]. The reference has been amended to correct this error.</p> <p>Column (6) The letters C and D are amended as they were transposed in Column 6 when compared with the lettering shown on the footpath diversion plan [APP-043].</p>	<p>Table 1, Column (2) Plan</p> <p>As shown indicatively on Drawing P17-0718-30 REV: G1 - PROW (document reference 2.39 LC DRW)</p> <p>Column (6) - Extent of temporary Diversion</p> <p>From A-CD-DC-B as shown with a dashed black line on the proposed temporary diversion to public footpath 214 plan</p>
<p>Schedule 6 Protective Provisions Part 1</p>	<p>The introduction to Part 1 has been amended to refer to the introduction of the protective provisions for Northern Powergrid.</p>	<p>Application</p> <p>1.For the protection of the affected undertakers referred to in this Part of this Schedule (save for Anglian Water which is protected by Part 2 of this Schedule, and Northern Powergrid which is protected by Part 4 of this Schedule) the following provisions have effect, unless otherwise agreed in writing between the undertaker and the affected undertaker concerned.</p>

Schedule 6 Protective Provisions Part 4	Protective provisions have been agreed with Northern Powergrid and these are added to Schedule 6 at Part 4	A copy of protective provisions agreed are set out in Appendix 1 to this document. This text has been inserted into the Order in full.
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AMENDMENTS AT DEADLINE 6

Article/Schedule	Comments/Explanation	Amendment
Article 2	"Outline" is being removed from the archaeological management plan and this necessitates alphabetic reordering and a consequential change to the definition of 'environmental statement'.	<p><u>"archaeological management plan" means the document certified as the archaeological management plan for the purposes of the Order in accordance with article 14 (certification of plans and documents etc);</u></p> <p>"environmental statement" means the document certified by the Secretary of State as the environmental statement for the purposes of this Order under article 14 (certification of plans and documents etc);</p> <p>"outline archaeological management plan" means the document certified as the outline archaeological</p>

		management plan for the purposes of the Order in accordance with article 14;
Article 14	Article 14 requires updating to capture the amendments made to the certified documents at this deadline	<p>Certification of plans, etc.</p> <p>15.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the—</p> <p>(a) archaeological exclusion zone – whole area plan (document reference 2.22 LC DRW);</p> <p>(b) environmental statement (document reference 6 LC ES CH (Chapters 1-11) as submitted on 4 December 2020, as updated by the following documents:</p> <p>(i) 6.4A LC ES CH 4 (Development Proposal) (9 August 2021);</p> <p>(ii) 6.6B LC ES CH 6 (Landscape and Visual Impact) (9 August 2021);</p> <p>(iii) 6.7A LC ES CH 7 (Ecology) (9 August 2021);</p> <p>(iv) 6.10A LC ES CH 10 (Agriculture) (9 August 2021);</p> <p>(v) 6.11A LC ES CH 11 (8 April 2021);</p> <p>(vi) 7.12CB LC TA 4.5 Air Quality and Carbon Assessment (31 August 24 May 2021);</p> <p>(vii) 7.16A LC TA 4.9 Noise Impact Assessment (24 May 2021);</p>

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		<ul style="list-style-type: none"> (viii) 7.21B LC TA 6.5 Detailed Landscape Proposals (9 August 2021); (ix) 7.29B LC TA 7.9 Habitats Regulation Statement – No Significant Effects report (NSER) (9 August 2021); and (x) 7.35A LC TA 9.1 Transport Statement (11 January 2021); (c) flood risk assessment and drainage strategy (document reference 7.3 LC TA3.1); (d) hedgerow plan (document reference 2.40 LC DRW); (e) land plan including Order limits (document reference 2.1 LC DRW); (f) outline battery safety management plan (environmental statement technical appendix 7.14 LC TA4.7); (g) outline CEMPs (environmental statement technical appendix 7.8DE LC TA4.1 (31 August 7 July 2021) & 7.27 LCTA 7.7); (h) outline CTMP (environmental statement technical appendix 7.36 LC TA9.2); (i) outline soil management plan (environmental statement technical appendix 7.11 LC TA4.4); (j) outline decommissioning strategy (environmental statement technical appendix 7.9CB LC TA 4.2)(31 August 7 June 2021); (k) outline LEMP (environmental statement technical appendix 7.28DE LC TA 7.8)(31 August 7 July 2021); (l) proposed temporary diversion of public footpath 214 plan (document reference 2.39 LC DRW);
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		<p>(m) works details – Key B2 - sheet 5 of 7 (document reference 2.15 LC DRW);</p> <p>(n) works plan (document reference 2.8 LC DRW);</p> <p>(o) outline–archaeological management plan (document reference f9.42 LC OTH→)</p> <p>for certification that they are true copies of the documents referred to in this Order.</p> <p>(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.</p>
Requirement 13, in part 1 of Schedule	Requirement 13(1) secures the carrying out of the authorised development in accordance with the archaeological management plan and 13(4) has been amended to exclude reference to the word 'outline' from the archaeological management plan.	<p>Archaeology</p> <p>13.–(1) <u>The authorised development must be carried out in accordance with the archaeological management plan;...</u></p> <p>(2)(1)...</p> <p>(3)(2)...</p> <p>(4)(3) ...</p> <p>(54) The scheme approved under sub-paragraph (43) must be in accordance with the outline–archaeological management plan and identify any areas where a programme of archaeological investigation is required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.</p> <p>(65)...</p> <p>(76)...</p> <p>(87)...</p>

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AMENDMENTS AT DEADLINE 5

Article/Schedule	Comments/Explanation	Amendment
Article 14	Article 14 requires updating to capture the amendments made to the certified documents as part of a consistency review.	<p>Certification of plans, etc.</p> <p>14.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the—</p> <p>(a) archaeological exclusion zone – whole area plan (document reference 2.22 LC DRW);</p> <p>(b) environmental statement (document reference 6 LC ES CH (Chapters 1-11) as submitted on 4 December 2020, as updated by the following</p>

		<p>documents subject to the substitutions set out below:</p> <p>(i) <u>6.4A LC ES CH 4 (Development Proposal) (9 August 2021);</u></p> <p>(ii) <u>6.6BA LC ES CH 6 (Landscape and Visual Impact including figures 6.1, 6.2, 6.3, 6.4, and 6.5) (9 August 8 April 2021);</u></p> <p>(iii) <u>6.7A LC ES CH 7 (Ecology) (9 August 2021);</u></p> <p>(iv) <u>6.10A LC ES CH 10 (Agriculture) (9 August 2021);</u></p> <p>(#) (v) <u>6.11A LC ES CH 11 (8 April 2021);</u></p> <p>(##) (vi) <u>7.12BA LC TA 4.5 Air Quality and Carbon Assessment (24 May 2021);</u></p> <p>(iv) (vii) <u>7.16A LC TA 4.9 Noise Impact Assessment (24 May 2021);</u></p> <p>(v) (viii) <u>7.21BA LC TA 6.5 Detailed Landscape Proposals (24 May 9 August 2021);</u></p> <p>(vi) (ix) <u>7.29BA LC TA 7.9 Habitats Regulation Statement – No Significant Effects report (NSER) (9 August 8 April 2021);</u> and</p> <p>(vii) (x) <u>7.35A LC TA 9.1 Transport Statement (11 January 2021);</u></p> <p>(c) flood risk assessment and drainage strategy (document reference 7.3 LC TA3.1); ...</p> <p>for certification that they are true copies of the documents referred to in this Order.</p>
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Schedule 1 - Authorised Development	Work No. 6A has been amended to include internal access tracks. It was noted on a review of the Works Plan that the internal access track passes into the perimeter buffer and runs along the western edge of the Order limits	<p>Work No. 6 - perimeter development buffer comprising— (b)<u>(c)</u> security fencing, boundary treatment and other means of enclosure; (e)<u>(d)</u>.....</p> <p>(h) swale buffer; (i) mitigation planting and maintenance corridor;and (j) planting and ecological works incorporating the biodiversity objectives and management prescriptions set out in the LEMP; <u>(k) internal access tracks.</u></p> <p>15.</p>

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AMENDMENTS AT DEADLINE 4

Article/Schedule	Comments/Explanation	Amendment
Article 2	The definition of Requirement has been clarified	"requirement" means those matters set out in Part 1 of Schedule 2 (requirements) and a reference to a numbered requirement is a reference to the requirement set out in the paragraph of that Part of that Schedule with the same number;
Article 12	Article 12(1) has been deleted and the reference to "specified land" has been amended to Order limits throughout the Article. This is to remove the need for an additional definition.	<p>Removal of human remains</p> <p>15,16.—In this article "the specified land" means the land within Order limits.</p> <p>(2)(1) Before the undertaker carries out any development or works which will or may disturb any human remains within the Order limitsspecified land it must remove those human remains from the Order limitsspecified land, or cause them to be removed, in accordance with the following provisions of this article.</p> <p>(3)(2) Before any such remains are removed from the Order limitsspecified 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—</p> <p>(a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and</p> <p>(b) displaying a notice in a conspicuous place within or near to the Order limitsspecified land.</p>

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	<p>(4)(3) As soon as reasonably practicable after the first publication of a notice under paragraph (23) the undertaker must send a copy of the notice to North Lincolnshire Council.</p> <p>(5)(4) At any time within 56 days after the first publication of a notice under paragraph (23) any person who is a personal representative or relative of any deceased person whose remains are interred within the Order limits specified land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.</p> <p>(6)(5) Where a person has given notice under paragraph (45), and the remains in question can be identified, that person may cause such remains to be—</p> <ul style="list-style-type: none"> (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, <p>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+).</p> <p>(7)(6) If the undertaker is not satisfied that any person giving notice under paragraph (45) 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.</p> <p>(8)(7) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.</p>
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		<p>(9)<u>(8)</u> If—</p> <ul style="list-style-type: none"> (a) within the period of 56 days referred to in paragraph (45) no notice under that paragraph has been given to the undertaker in respect of any remains <u>within</u> the <u>Order limits</u>specified land; or (b) such notice is given and no application is made under paragraph (67) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or (c) within 56 days after any order is made by the county court under paragraph (67) 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, <p>subject to paragraph (910) 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 are to 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.</p> <p>(10)<u>(9)</u> If the undertaker is satisfied that any person giving notice under paragraph (45) 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.</p>
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		<p>(11)(10) On the re-interment or cremation of any remains under this article—</p> <p>(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</p> <p>(b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (89) must be sent by the undertaker to the local authority mentioned in paragraph (34).</p> <p>(12)(11) No notice is required under paragraph (23) before the removal of any human remains where the undertaker is satisfied—</p> <p>(a) that the remains were interred more than 100 years ago; and</p> <p>(b) that no relative or personal representative of the deceased is likely to object to the remains being removed in accordance with this article.</p> <p>(13)(12) In this article—</p> <p>(a) references to a relative of the deceased are to a person who—</p> <p>(i) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased; or</p> <p>(ii) is, or is a child of, a brother, sister, uncle or aunt of the deceased; or</p> <p>(iii) is the lawful executor of the estate of the deceased; or</p>
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		<p>(iv) is the lawful administrator of the estate of the deceased.</p> <p>(14)<u>(13)</u> 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.</p> <p>(15)<u>(14)</u> Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.</p> <p>(16)<u>(15)</u> Section 25 of the Burial Act 1857⁽¹⁾ (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) is not to apply to a removal carried out in accordance with this article.</p> <p>(17)<u>(16)</u> The Town and Country Planning (Churches, Places of Religious Worship and Burial Ground) Regulations 1950⁽²⁾ do not apply to the authorised development.</p> <p>17.</p>
Article 14	Article 14 requires updating to ensure that there is clarity in respect of the updated versions of the documents to be certified.	<p>Certification of plans, etc.</p> <p>1.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the—</p> <p>(a) archaeological exclusion zone – whole area plan (document reference 2.22 LC DRW);</p>

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		<p>(b) environmental statement (document reference 6 LC ES CH (Chapters 1-11) as submitted on 4 December 2020, subject to the substitutions set out below:</p> <ul style="list-style-type: none"> (i) 6.6A LC ES CH 6 (including figures 6.1, 6.2, 6.3, 6.4 and 6.5 (8 April 2021); (ii) 6.11A LC ES CH 11 (8 April 2021); (iii) 7.12A LC TA 4.5 Air Quality and Carbon Assessment (24 May 2021); (iv) 7.16A LC TA 4.9 Noise Impact Assessment (24 May 2021); (v) 7.21A LC TA 6.5 Detailed Landscape Proposals (24 May 2021); (vi) 7.29A LC TA 7.9 Habitats Regulation Statement – No Significant Effects report (NSER) (8 April 2021); and (vii) 7.35A LC TA 9.1 Transport Statement (11 January 21); <p>(c) flood risk assessment and drainage strategy (document reference 7.3 LC TA3.1);</p> <p>(d) hedgerow plan (document reference 2.40 LC DRW);</p> <p>(e) land plan including Order limits (document reference 2.1 LC DRW);</p> <p>(f) outline battery safety management plan (environmental statement technical appendix 7.14 LC TA4.7);</p> <p>(g) outline CEMPs (environmental statement technical appendix 7.8A LC TA4.1 (7 July 2021) & 7.27 LCTA 7.7);</p>
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		<p>(h) outline CTMP (environmental statement technical appendix 7.36 LC TA9.2);</p> <p>(i) outline soil management plan (environmental statement technical appendix 7.11 LC TA4.4);</p> <p>(j) outline decommissioning strategy (environmental statement technical appendix 7.9EA LC TA 4.2). (7 June 2021);</p> <p>(k) outline LEMP (environmental statement technical appendix 7.28CA LC TA 7.8). (7 July 2021);</p> <p>(l) proposed temporary diversion of public footpath 214 plan (document reference 2.39 LC DRW);</p> <p>(m) works details – Key B2 - sheet 5 of 7 (document reference 2.15 LC DRW);</p> <p>(n) works plan (document reference 2.8 LC DRW);</p> <p>(n) (o) outline archaeological management plan (document reference []);</p> <p>for certification that they are true copies of the documents referred to in this Order.</p>
Article 18	This article has been amended to correct the cross- reference to Part 2 Schedule 2 which should say Part 1 Schedule 2_	<p>Requirements, appeals, etc.</p> <p>1.—(1)</p> <p>(2) Part 2 (procedure for discharge or requirements) of Schedule 2 (Requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements in Part 1² of that Schedule.</p>

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Schedule 1 AUTHORISED DEVELOPMENT	<p>The references to gross electrical output in Part 1 of Schedule 1 (Authorised Development) of the dDCO (Document reference 3.1C LC DCO, PINS reference REP3-003) should be '... 50 megawatts' and the dDCO is amended accordingly.</p> <p>The term 'megawatts peak' is used in relation to installed capacity as explained in the Applicant's Technical Guide (Document Reference 9.20 LC OTH, PINS Reference REP1-011).</p>	<p>In the administrative area of North Lincolnshire</p> <p>2. The construction, operation, maintenance and decommissioning of a nationally significant infrastructure project as defined in sections 14(l) and 15 of the 2008 Act with associated development under section 115(1)(b) of the 2008 Act.</p> <p>3. The nationally significant infrastructure project comprises a generating station with a gross electrical output of over 50 megawatts peak comprising all or any of the work numbers in this Schedule or any part of any work number in this Schedule—</p> <p>Work No. 1 - a generating station comprising: arrays of ground-mounted solar panels with a gross electrical output of over 50 megawatts peak comprising—...</p>
Interpretation, Schedule 2	<p>Part</p> <p>Definitions of 'landowner' and 'substation operator' have been added at Requirement 1 to clarify requirement 4.</p> <p>The outline archaeological management plan added to Article 14 has been defined.</p>	<p><u>"landowner" means the freehold owner of the land within the Order limits on which the relevant part of Work No. 5 is constructed;</u></p> <p><u>"substation operator" means the operator of the substation from time to time constructed as part of Work No. 4."</u></p> <p><u>"outline archaeological management plan" means the document certified as the outline archaeological management plan for the purposes of the Order in accordance with article 14;</u></p>

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Requirement 4 in Part 1 of Schedule 2	<p>In subparagraph (2)(a) in the interests of clarity, the bracketing of 'with the exception of ... by the substation operator' has been deleted and replaced with a comma after 'authorised development' in the first line.</p> <p>In subparagraph (3) in the interests of clarity the existing wording has been amended to say that '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'.</p>	<p>Decommissioning and site restoration</p> <p>4.4.—(1) ...</p> <p>(2) The decommissioning and site restoration scheme(s) must include provision for—</p> <p>(a) removal of all above-ground elements of the relevant part of the authorised development, with the exception of the access tracks (Work No.5) where its retention is required by the landowner <u>has confirmed to the undertaker that it requires their retention</u> and the substation (Work No. 4) where its retention is required by the substation operator <u>has confirmed to the undertaker that its retention is required</u>; ...</p> <p>(3) The decommissioning of the authorised development and the restoration of the land affected by the authorised development must be <u>undertaken completed</u> in accordance with, and within the <u>time</u> period set out in, the approved decommissioning and site restoration scheme(s).</p> <p>5.</p>

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Requirement 7 in Part 1 of Schedule 2	In requirement 7 subparagraph (1) there should be a cross-reference to Article 3(4) rather than Article 3(4)(a).	<p>Battery Safety Management</p> <p>7.—(1) Prior to the commencement of either Work No. 2A or Work No. 2B as notified to the local planning authority under Article 3(4) (a) a Battery Safety Management Plan (“BSMP”) must be submitted to and approved by the local planning authority.</p>
Requirement 8 in Part 1 of Schedule 2	The introduction to this requirement has been amended as part of a consistency review	<p>Construction Environmental Management Plans (CEMPs)</p> <p>8—(1) Prior to the commencement of each No phase of the authorised development may be commenced until a CEMP for that phase has been is to be submitted to and approved by the local planning authority. The approved CEMP must be in accordance with the outline CEMPs and must be adhered to throughout works in that phase.</p>
Requirement 9 in Part 1 of Schedule 2	The introduction to this requirement has been amended as part of a consistency review	<p>Construction Traffic Management Plan (CTMP)</p> <p>9—(1) Prior to the commencement of each No phase of the authorised development may be commenced until a CTMP covering that phase of the authorised development and in accordance with the outline CTMP has been must be submitted to and approved by the local planning authority.</p>

Requirement 10, in part 1 of Schedule	<p>Requirement 10(1) has been amended as part of a consistency review</p> <p>10 (2)(d) has been amended to ensure that it is understood that the reference to 'long-term landscape management' means landscape management for the lifetime of the authorised development.</p>	<p>Landscape and Ecological Management Plan (LEMP)</p> <p>10—(1) No Prior to commencement of each phase of the authorised development may be commenced until as set out in the phasing plan, a LEMP covering that phase of authorised development and in accordance with the outline LEMP has been must be submitted to and approved by the local planning authority.</p> <p>...</p> <p>(2)(1) The LEMP must include—</p> <ul style="list-style-type: none"> (a) ...; (b) ...; (c) ...; (d) a timetable for the long term landscape management of the land within the Order limits <u>during the lifetime of the scheme</u>; and
Requirement 13, in part 1 of Schedule	<p>Requirement 13(1) has been amended as part of a consistency review.</p> <p>13(5) has been amended to include reference to the outline archaeological management plan that the Applicant has agreed to provide.</p>	<p>Archaeology</p> <p>13(1)— No phase of tThe authorised development may shall not be commenced until the archaeological exclusion zone around Gokewell Priory shown on the Archaeological Exclusion Zone – Whole Area Plan (document reference</p>

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		<p>2.22 LC DRW) has been installed as shown on the works plan;</p> <p>13—(5)... The scheme approved under sub-paragraph (3) must <u>be in accordance with the outline archaeological management plan and identify any areas where a programme of archaeological investigation is required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.</u></p>
Requirement 14, Part 1 Of Schedule 2	Requirement 14(2) has been amended to remove the need for additional consultation with the local planning authority.	<p>Protected Species</p> <p>14—(1) ...;</p> <p>(2) Where a protected species is shown to be present, development must not commence within that phase until a scheme of protection and mitigation measures has been submitted to and approved by the local planning authority <u>in consultation with Natural England</u>. Where appropriate the mitigation scheme will be informed by pre consultation with the local planning authority and /or Natural England depending upon the species affected.</p>
Requirement 16, Part 1 Of Schedule 2	Requirement 16(1) has been amended as part of a consistency review	<p>Temporary diversion to public footpath</p> <p>16(1)— No phase of the authorised development may not <u>not</u> be commenced in any phase and nor any</p>

		<p>decommissioning may be undertaken until a public rights of way management plan for the phase incorporating that part of public footpath 214 and proposed to be temporarily closed and diverted on the temporary diversion of public footpath plan has been submitted to and, approved by the local planning authority.</p>
<p>Schedule 2 Part 2 Procedure for Discharge of Requirements</p>	<p>References to Part 2 in Schedule 2, Part 2 have been amended to cross-refer to Part 1 which contains the Requirements</p> <p>Paragraph 19 has also been amended to remove the inclusion of s60 and 61 of the Control of Pollution Act 1974 from the Procedure for Discharge of Requirements. This has consequential amendments on the rest of Part 2 as shown.</p>	<p>Interpretation</p> <p>19.—(1) In this Part of this Schedule, “discharging authority” means—</p> <p>(a) anybody responsible for giving any consent, agreement or approval required by a requirement included in Part 12 of this Schedule, ...; or</p> <p>(b) the local authority in the exercise of its functions set out in sections 60 (control of noise on construction sites) and 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974 subsequently referred to as “the 1974 Act”.</p> <p>Applications made under requirements</p> <p>20.—(1) Where an application has been made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 12 of this Schedule, ...—</p>

		<p>(a) ...; or (b)</p> <p>(2) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 2 of this Schedule, the discharging authority may—</p> <p>(a) ...; or (b)</p> <p>Further information regarding requirements</p> <p>21.—(1)</p> <p>(2) If the discharging authority considers that further information is necessary and the requirement concerned contained in Part 12 of this Schedule does not specify that consultation with a consultee is required,...</p> <p>(3) If the requirement concerned contained in Part 2 of this Schedule specifies that consultation with a consultee is required,....</p> <p>(4)</p> <p>Appeals</p> <p>22.—(1) ...—</p>
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		<p>(a) ...—</p> <p>(i) a requirement contained in Part <u>12</u> of this Schedule; or</p> <p>(ii) a document referred to in any requirement contained in Part <u>12</u> of this Schedule;</p> <p>(b)...;</p> <p>(c) the discharging authority issues a notice further to sections 60 (control of noise on construction sites) or 61 (prior consent for work on construction sites) of the 1974 Act;</p> <p>(<u>ed</u>)...; or</p> <p>(<u>ed</u>)...</p> <p>(2) The appeal process is as follows—</p> <p>(a) ...;</p> <p>(b) ...and any consultee specified under the relevant requirement contained in Part <u>12</u> of this Schedule;</p> <p>(c) ...;</p> <p>(d) ...;</p> <p>(e) ...; and</p> <p>(f)</p> <p>(3)</p> <p>(4)</p> <p>(5)</p>
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		<p>(6) On an appeal under this paragraph, the appointed person may—</p> <p>(a) ...; or</p> <p>(b) ...;</p> <p>.</p> <p>(7)</p> <p>(8)</p> <p>(9)</p> <p>(10)) If an approval is given by the appointed person pursuant to this Part of this Schedule, it is deemed to be an approval for the purpose of Part <u>12</u> of this Schedule as if it had been given by the discharging authority.....</p>
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AMENDMENTS AT DEADLINE 3

Article/Schedule	Comments/Explanation	Amendment
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Contents	The name of Schedule 3 was changed at Deadline 1 and this picks up the corresponding amendment in the content list.	23.SCHEDULE 3 - PUBLIC FOOTPATH TO BE TEMPORARILY CLOSED STOPPED UP AND DIVERTED
Schedule 2 Part 1 Requirement 9	Requirement 9.(2)(c) is amended to add additional clarity in relation to the condition survey following the comments of the Council in its Local Impact Report.	24.9. (2)(c) a condition survey of any road which will be affected by that phase of authorised development <u>and a further condition survey following that phase of the construction works and in the event that any defects are identified in that condition survey that are directly attributable to that phase of the construction works of the authorised development, details of how those defects are to be remediated by the undertaker.</u>
Schedule 2 Part 1 Requirement 13	Requirement 13 (2) is amended to ensure the use of piled mounting frames is prohibited within the “no-dig zone”. The term ‘watching brief’ has been amended to ‘programme of archaeological investigation’ following the request in the Council’s Local Impact Report (see para 7.28, PINS Reference REP2-026). This better clarifies what will be undertaken.	25.13. Archaeology 26.—(1) ... 27.(2) No digging <u>or use of piled mounting frames</u> shall be undertaken within the archaeological “no-dig” zone identified on the Works Details – Key B2 - Sheet 5 of 7 (document reference 2.15 LC DRW). 28.(3)... 29.(4) The scheme approved under sub-paragraph (3) must identify any areas where a <u>programme of archaeological investigation</u> watching brief is required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.

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	<p>Subparagraph (7) has been added to the dDCO to secure the provision of two interpretative boards for the lifetime of the development following the Council's request but the wording proposed by the Council has been amended to increase clarity.</p>	<p>30.(5) Any archaeological works or <u>programme of archaeological investigation</u> watching brief carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.</p> <p>31.(6) Any archaeological works or <u>programme of archaeological investigation</u> watching brief must be carried out in accordance with the approved scheme.</p> <p>32.(7) <u>Within six months of the commencement of the authorised development the undertaker shall submit a scheme to the local planning authority detailing proposals for two interpretation boards explaining the significance of Gokewell Priory. The scheme shall include details of the proposed location, size, materials, content, means of fixing and maintenance of the proposed boards. The scheme shall be implemented as approved within six months following the completion of the authorised development or six months following the approval of the scheme whichever is the later.</u></p> <p>33.</p>
<p>Schedule 2 Part 1 Requirement 15</p>	<p>A new requirement has been added at 15. This follows the noise requirement for The Cleve Hill Solar Park Order 2020 and ensures that the local planning authority will be able to approve any plant required for the authorised development and that the impact of any noise the plant makes will be considered in terms of residential amenity.</p>	<p>34.<u>Operational noise</u></p> <p>35.15.—(1) <u>No phase of the authorised development may commence until an operational noise assessment containing details of how the design of the authorised development has incorporated mitigation to ensure the operational noise rating levels as set out in the environmental statement are to be complied with for that phase has been submitted to and approved by the local planning authority.</u></p>

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		<p><u>36.(2) The design as described in the operational noise assessment must be implemented as approved.</u></p>
Schedule 2 Part 1 Requirement 15 - 21	As a result of the addition of requirement 15 above the subsequent amendments are necessary as shown.	<p>37.165.</p> <p>38.176.</p> <p>39.187.</p> <p>40.198.</p> <p>41.2019—(1)...</p> <p>42.(a) the day immediately following that on which the application is received by the discharging authority; or</p> <p>43.(b) where further information is requested under paragraph 219 the day immediately following that on which the further information has been supplied</p> <p>44. Further information regarding requirements</p> <p>45.219.—(1) In relation to any application referred to in paragraph 2019, the discharging authority may request such further information from the undertaker as it considers necessary to enable it to consider the application.</p> <p>46.Appeals</p> <p>47.221.—(1) ...</p>

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		<p>48.(a) the discharging authority refuses an application for any consent, agreement or approval required by—</p> <p>49.(i) a requirement contained in Part 2 of this Schedule; or</p> <p>50.(ii) a document referred to in any requirement contained in Part 2 of this Schedule;</p> <p>51.(b) the discharging authority does not determine such an application within the time period set out in paragraph 20¹⁹(1), or grants it subject to conditions;</p> <p>52.(c) ...</p> <p>53.⁵³(d) on receipt of a request for further information pursuant to paragraph 21¹⁹ of this Part of this Schedule, the applicant considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application;</p> <p>54.(e) ...</p> <p>(2)The appeal process is as follows—</p> <p>(a) any appeal by the applicant must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) the expiry of the time period set out in paragraph 20¹⁹(1), giving rise to the appeal referred to in sub-paragraph (1);</p> <p>55.</p>
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AMENDMENTS AT DEADLINE 2

Article/Schedule	Comments/Explanation	Amendment
DCO Index	<p>The Index for Article 8 has been updated</p> <p>The index has been amended to reflect the addition of Schedule 6, Part 3</p>	<p>8. Temporary stopping-up <u>closure</u> and diversion of public footpath</p> <p><u>56.</u></p> <p>57.SCHEDULE 6 — PROTECTIVE PROVISIONS</p> <p>58.PART 1 — PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS</p> <p>59.PART 2 — FOR THE PROTECTION OF ANGLIAN WATER</p> <p><u>60.PART 3 —FOR PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS</u></p>
Article 14	Article 14 has been updated to take account of amended versions of the CEMP, LEMP and Outline Decommissioning Strategy	<p>14— (1) <u>(1)</u> The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the—</p> <p><u>61</u>(a) archaeological exclusion zone – whole area plan (document reference 2.22 LC DRW);</p> <p><u>(b)</u> environmental statement (document reference 6 LC ESCH (Chapters 1-</p>

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		<p>11)); <u>6 LC ESCHES CH (Chapters 1-11))</u> as submitted on 4 December 2020, subject to the substitutions set out below:</p> <p>(i) <u>6.6A LC ES CH 6 (including figures 6.1, 6.2, 6.3, 6.4 and 6.5 (April 21);</u></p> <p>(ii) <u>6.11A LC ES CH 11 (April 21);</u></p> <p>(iii) <u>7.12A LC TA 4.5 Air Quality and Carbon Assessment (May 21);</u></p> <p>(iv) <u>7.16A LC TA 4.9 Noise Impact Assessment (May 21);</u></p> <p>(v) <u>7.21A LC TA 6.5 Detailed Landscape Proposals (May 21);</u></p> <p>(vi) <u>7.29A LC TA 7.9 Habitats Regulation Statement – No Significant Effects report (NSER) (April 2021); and</u></p> <p>(vii) <u>7.35A LC TA 9.1 Transport Statement (Jan 21);</u></p> <p>(c) flood risk assessment and drainage strategy (document reference 7.3 LC TA3.1);</p> <p>(d) hedgerow plan (document reference 2.40 LC DRW);</p> <p>(e) land plan including Order limits (document reference 2.1 LC DRW);</p> <p>(f) outline battery safety management plan (environmental statement technical appendix 7.14 LC TA4.7);</p> <p>(g) outline CEMPs (environmental statement technical appendix 7.8A LC TA4.1 & 7.27 LCTA 7.7);</p> <p>(h) outline CTMP (environmental statement technical appendix 7.36 LC TA9.2);</p>
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		<p>(i) outline soil management plan (environmental statement technical appendix 7.11 LC TA4.4);</p> <p>(j) outline decommissioning strategy (environmental statement technical appendix 7.9A LC TA 4.2);</p> <p>(k) outline LEMP (environmental statement technical appendix 7.28A LC TA 7.8);</p> <p>(l) proposed temporary diversion of public footpath 214 plan (document reference 2.39 LC DRW);</p> <p>(m) works details – Key B2 - sheet 5 of 7 (document reference 2.15 LC DRW); <u>and</u></p> <p>(n) works plan (document reference 2.8 LC DRW);</p>
Schedule 2 Part 1 Requirement 6	Requirement 6(k) has been added to ensure that noise mitigation is secured	<p>6 (1) No phase of the authorised development may be commenced until written details of the following for that phase have been submitted to and approved by the local planning authority—</p> <p>(a)(b) layout;</p> <p>(b)(c) scale;</p> <p>(e)(d) proposed finished ground levels and elevations;</p> <p>(d)(e) external appearance;</p> <p>(e)(f) hard-surfacing materials;</p> <p>(f)(g) parking and circulation areas;</p> <p>(g)(h) refuse or other storage units, signs and lighting;</p> <p>(h)(i) power and communications cables and pipelines;</p> <p>(i)(j) fencing; and</p> <p>security measures; <u>and</u></p>

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			(j) (k) <u>any mitigation measures necessary to address operational noise impacts.</u>
Schedule 2 Part 1 Requirement 9	Requirement 9(2)(b) has been amended to clarify the term 'adjoining highway'		9(2)(b) The CTMP must include details of— (a)... (b) associated traffic movements; including delivery vehicles and staff/construction vehicle movements; traffic management requirements on the adjoining <u>public highway of the B1208, B1207 and the A18;</u> and (c)
Schedule 2 Part 1 Requirement 10	Requirement 10(2)(b) has been amended to clarify the term 'gapping up'		10(2)(b) details of habitat creation, including new native hedgerow planting adjacent to the proposed security fencing along the line of the existing footpath, gapping up <u>replanting of any breaks (gaps) in excess of 1 metre in</u> of existing native hedgerows within the Order limits adjacent to the footpath and sowing of wildflower seed along the margins between the footpath and the hedgerow/ security fence boundaries;
Schedule 2 Part 1 Requirement 14	Requirement 14 (1) has been amended for clarification and requirement 14 (2) has been amended to explain where, prior to a mitigation scheme being submitted for approval by North Lincolnshire Council, it would it be necessary for a pre-consultation to be undertaken with the Council as well as Natural England.		Protected Species 14 —(1) No work <u>including site preparation works shall be</u> to <u>commenced</u> in any phase until final pre-construction survey work has been carried out for that phase to establish whether a protected species is present on any of the land affected, or likely to be affected, by the authorised development or in any of the trees to be lopped or felled as part of that phase. (2) For the purpose of requirement 14(1) "commence" includes any site preparation works. (3) <u>(2)</u> Where a protected species is shown to be present, development must not commence within that phase until after consultation with Natural England and the local planning authority, a scheme of protection and mitigation

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		measures has been submitted to and approved by the local planning authority. Where appropriate the mitigation scheme will be informed by pre-consultation with the local planning authority and/or Natural England depending upon the species affected. (43)... (54)...

AMENDMENTS AT DEADLINE 1

Article/Schedule	Comments/Explanation	Amendment
Introduction page 3	It is now confirmed that the examination will take place with a single appointed person.	Square brackets have been removed from the introductory paragraphs.
Article 2 Definition: change "outline decommissioning plan" to "outline decommissioning strategy"	This is amended to correct an inconsistency and to avoid any confusion as to the document being referred to. Consequential changes will be made to reflect this in other documentation.	Definition changes as follows outline decommissioning strategy Plan
Addition of new definition	"outline soil management plan" is now defined	"outline soil management plan" means the document certified by the Secretary of State as the outline soil management plan for the purposes of this Order in accordance with article 14;

Article 6	Introduction of 6(2) to ensure that development carried out pursuant to a planning permission following implementation of the DCO would not be in breach of the DCO, ensuring no risk of criminal liability pursuant to section 161 of the 2008 Act. The paragraph encompasses any development authorised by a general development order as well as an express planning permission	6. <u>Disapplication</u> , application and modification of legislative provisions <u>6(2) Any development, or any part of a development within the Order limits which is constructed or used under the authority of a planning permission pursuant to Part 3 of the 1990 Act (whether express or otherwise) following the coming into force of this Order is to be disregarded at all times for the purposes of ascertaining whether or not an offence has been committed under the provisions of sections 160 (development without development consent) and 161 (breach of terms of order granting development consent) of the 2008 Act</u>
Article 7 Defence to Proceedings in respect of statutory nuisance	It has been noted that s65 Control of pollution Act 1974 has been repealed by the Deregulation Act 2015 c.20	7(1) (a) (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) or section 65 (noise exceeding registered level) ; of the Control of Pollution Act 1974(3); or
Article 8 Temporary stopping up and diversion of public footpath	It was noted during ISH1 that stopping up cannot be temporary.	Temporary closure stopping-up and diversion of public footpath 8 (1) The undertaker may, during the construction and decommissioning of the authorised development, temporarily close stop up public footpath 214 as specified

		in column (2) of Schedule 3 (public footpath to be temporarily closed stopped-up and diverted) to the extent specified in column (4) of Schedule 3, and must provide the temporary substitute footpath specified in column (5) of Schedule 3 for the period during which the footpath is temporarily closed stopped-up .
Article 14 - addition of outline soil management plan (environmental statement technical appendix 7.11 LC TA4.4);	This document needs to be inserted into requirement 8(2) so that it is secured as part of the CEMP. This means it needs to be a certified document as specified in article 14.	Article 14 addition at (i) of outline soil management plan (environmental statement technical appendix 7.11 LC TA 4.4) ; re-lettering of (i) (i) (j) (k) (k) (l) (l) (m) (m) (n) (n)
Article/Schedule	Comments/Explanation	Amendment
Schedule 2 Part 1 Requirement 3 (1)	Requirement 3 stated that the development consent will expire 35 years after first export date. This is not consistent with the requirements set out for decommissioning of the scheme as set out in the Outline Decommissioning Strategy [APP-078/7.9 LC TA4.2]. This has therefore been amended.	Schedule 2 Part 1 Requirement 3 (1) The authorised development must cease generating electricity on a commercial basis no later than the consent granted by this Order will expire-35th anniversary of years after the first export date from Work No.1.
Schedule 2 Part 1 Requirement 4 (1)	Requirement 4(1) required a decommissioning and site restoration scheme to be submitted to and approved by the local planning authority within 12 months of the expiry of development consent. In line with the change at requirement 3, and also to ensure consistency with the Environmental Statement this time limit has been amended. 4(2) is amended to clarify that the decision to retain the substation is for the the substation operator	Schedule 2 Part 1 Requirement 4 (1) Not less than 6 months 12 months before the 35th anniversary of the first export date expiry of the development consent granted by this Order , a decommissioning and site restoration scheme must be submitted ... 4(2) (a) removal of all above-ground elements of the relevant part of the authorised development (with the exception of the access tracks (Work No.5) unless otherwise agreed with the landowner and the substation

		(Work No. 4) where its retention is required by unless otherwise agreed with the substation operator);
Schedule 2 Part 1 Requirement 6 /10 – review for duplication	Requirement 6 relates to the phasing of the authorised development and 6(1) (j) and (k) refer to tree and hedgerow protection measures and new planting respectively. These are also covered by the LEMP which is secured by requirement 10. 10(2)(b) specifically refers to habitat creation and native hedgerow planting. These have therefore been deleted from requirement 6.	6(1) No phase of the authorised development may be commenced until ... (i) fencing; (j) tree and hedgerow protection measure; (k) new planting; and (i) security measures.
Schedule 2 Part 1 Requirement 7	This requirement has been amended to run chronologically and to clarify that additional consultation may be required if the outline BSMP is updated.	Battery Safety Management 7(1) Prior to the commencement of either Work No. 2A or Work No. 2B as notified to the local authority under Article 3 (4)(a) a The Battery Safety Management Plan ("BSMP") must be submitted to and approved by the local planning authority prescribe measures to facilitate safety during the construction, operation and decommissioning of either Work No. 2A or Work No. 2B. (2) The submitted Work No. 2A or Work No. 2B must not commence until confirmation has been provided to the local planning authority (a) that no amendments to the outline BSMP are necessary; or (b) where amendment is required, details of any changes or updates to the outline BSMP have been submitted to and approved by the local planning authority. (3) Any revised BSMP must either accord with the outline BSMP battery safety management plan or detail such changes as the undertakers considers are required. (3) In the event that the submitted BSMP proposes changes to the outline BSMP, the local planning authority must not approve the BSMP until it has consulted with the

		Health and Safety Executive and the Humberside Fire and Rescue Service. before determining an application for approval of the BSMP.
Schedule 2 Part 1 Requirement 8 (2)	(d) is deleted because dust management is referred to in (c). the outline soil management plan is added at (d) (f) is expanded to clarify how it is different to (h)	Schedule 2 Part 1 Requirement 8(2) The CEMP must provide details of: (a) community liaison (b) complaints procedures; (c) nuisance management including measures to avoid or minimise the impacts of construction works (covering dust, noise, vibration and lighting); (d) dust management measures; (e) site waste and materials management measures; (f) pollution control measures to prevent the introduction of any hazardous substances; (g) security measures and use of artificial lighting; (h) a protocol in the event that unexpected contaminated land is identified during ground investigation or construction; and (i) details of out of hours working procedures. (j) add in new 8 (d) a soil management plan which must accord with the outline soil management plan
Article/Schedule	Comments/Explanation	Amendment
Schedule 2 Part 1 Requirement 8 (h)	The Environment Agency has requested that it be specified as a consultee in relation to the identification of unexpected contaminated land.	Schedule 2 Part 1 Requirement 8 (h) a protocol requiring consultation with the Environment Agency in the event that unexpected contaminated land is identified...

Schedule 2 Part 1 Requirement 9	Change 'will' to 'must'	Schedule 2 Part 1 Requirement 9 (1) ... and in accordance with the outline CTMP will <u>must</u> be submitted to....
Schedule 2 Part 1 Requirement 12	Requirement 12 (3) specified that the surface and foul water drainage system must be construed in accordance with the approved details <i>unless otherwise agreed in writing by the local planning authority</i> . The wording in italics has been removed to provide certainty.	Schedule 2 Part 1 Requirement 12(3) The surface and foul water drainage system for the relevant part of the authorised development must be construed in accordance with the approved details. unless otherwise agreed in writing by the local planning authority.
Schedule 2 Part 1 Requirement 13	Requirement 13 (1) and (2) have been amended for clarity. 13(4) contains an incorrect cross-reference as it cross refers to paragraph 2. This needs to be amended to cross refer to paragraph 3.	Schedule 2 Part 1 Requirement 13 (1) The Not to commence the authorised development <u>shall not be commenced</u> until... (2) Not to permit digging <u>shall be undertaken within</u> the archaeological... (4) The scheme approved under sub-paragraph (2 <u>3</u>) must identify any areas...
Schedule 2 Part 1 Requirement 15	Requirement 15 (1) has been amended in the interests of precision and drafting consistency 15(2)(a) refers to the 'length' of any sections of the public right of way to be closed. It was not clear if this refers to distance or time or both. This has been amended to refer to distance.	Schedule 2 Part 1 Requirement 15 (1) The Not to commence any phase of the authorised development <u>must not be commenced in any phase</u> or any decommissioning <u>be undertaken</u> until.... 2) The plan must include details of – (a) measures to minimise the length <u>distance</u> of any sections of the public right of way to be temporarily closed....

Schedule 2 Part 2 Paragraph 20	Paragraph 20 (2) refers to 'business days'. This is undefined so the time has been extended and a total number of days has been specified to avoid any ambiguity.	Schedule 2 Part 2 Requirement 20 (2) If the discharging authority considers that further information is necessary.....the discharging authority must, within fourteen ten-business days of receipt of the application, and notify the undertaker in writing specifying any further information requested by the consultee within seven five-business days of receipt of such a request.
Schedule 2 Part 2 Paragraph 21	Paragraph 21(1) refers to 'a person'. This is unnecessary and has been removed.	Schedule 2 Part 2 Requirement 21(1) Where a person (the applicant) makes an application
Schedule 3 Public footpath to be temporarily stopped up and diverted	This is a consequential amendment following the change in terminology referred to in relation to Article 8 above.	Public footpath to be temporarily closed -stopped up- and diverted Column (3) Public footpath to be temporarily closedstopped up- and diverted Column (5) Extent of temporary closurestopping up
Schedule 6 Part 2 For the Protection of Anglian Water	These protective provisions are now agreed between the parties and the amendment to paragraphs 12 (previously unnumbered) and the addition of paragraph 14 reflect the agreed position. There is a cross-reference amendments to para 17 because of the changing paragraph references.	<u>"Water main" means the 21 inch iron water main (asset number 7293912) within the Order Limits.</u> <u>12.</u> The undertaker must not interfere with, build over or near to any apparatus within the Order limits 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) either- within the standard protective on strip which is the strip of land falling 6 metres either side of the water main within the Order limits <u>(including any accessories to it) or 3 metres either side of any apparatus uncovered by the</u>

		<p><u>undertaker during construction or so as to require any or outside the protection strip but in such proximity that safe working within the protection strip is prevented or possible only with special measures that are outside industry standard measures</u> other than in accordance with paragraph 16.5, below <u>unless otherwise agreed with Anglian Water, such agreement not to be unreasonably withheld or delayed</u>, with such provision being brought to the attention of any agent or contractor responsible for carrying out any work on behalf of the undertaker.</p> <p>12.13.</p> <p><u>14. 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.</u></p> <p>13.15.</p> <p>14.16.</p> <p><u>(3) Any reasonable requirements made by Anglian Water 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 and where no requirements are specified within 21 days, approval of the plan, specification and description is deemed to have been given.</u></p>
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		<p><u>(4) Nothing in this paragraph 16 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.</u></p> <p>(3)(5)</p> <p>15.17. ...any of the works referred to in paragraphs 132 or 164 ...</p> <p>16. 18.</p> <p><u>19. For the avoidance of doubt any difference under any provision of this Part 2 of Schedule 6, unless otherwise provided for, shall be referred to and settled by arbitration in accordance with the rules at Schedule 5 (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.</u></p>
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Appendix 1

FOR THE PROTECTION OF NORTHERN POWERGRID (YORKSHIRE) PLC

Application

28. For the protection of Northern Powergrid (Yorkshire) PLC (“Northern Powergrid”), the following provisions will have effect, unless otherwise agreed in writing between the undertaker and Northern Powergrid.

29. In this Part of this Schedule—

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than “A-” if the rating is assigned by Standard & Poor’s Ratings Group or “A3” if the rating is assigned by Moody’s Investors Services Inc. (or an equivalent credit rating from an equivalent organisation in the event that such organisation or ratings are no longer applicable);

“acceptable insurance” means a policy of public liability/ third party liability insurance effected and maintained by the undertaker or its contractor(s) to a level that may be approved by Northern Powergrid in writing and in any event with insurance cover of not less than £10,000,000 (ten million pounds) per event for the construction period of the onshore works pursuant to this Order with an internationally recognised insurer of repute operating in the London and worldwide insurance market, and such policy shall include (but without limitation)—

- (a) that Northern Powergrid is named as an insured party under the policy;
- (b) a cross liabilities clause; and
- (c) a waiver of subrogation in favour of Northern Powergrid;

“acceptable security” means either—

- (a) evidence provided to Northern Powergrid’s reasonable satisfaction that the undertaker has a tangible net worth of not less than £100,000,000 (one hundred million pounds) (or an equivalent financial measure); or
- (b) a parent company guarantee from the undertaker’s ultimate parent company such company having a tangible net worth of not less than £100,000,000 (one hundred million pounds) (or an equivalent financial measure) in favour of Northern Powergrid to cover the undertaker’s liability to Northern Powergrid to a cap of not less than £10,000,000 (ten million pounds) per asset per event up to a total liability cap of £25,000,000 (twenty-five million pounds) in a form satisfactory to Northern Powergrid in its reasonable opinion; or
- (c) a bank bond or letter of credit from an acceptable credit provider in favour of Northern Powergrid to cover the undertaker’s liability to Northern Powergrid for an amount of not less than £10,000,000 (ten million pounds) per asset per event up to a total liability cap of £25,000,000 (twenty-five million pounds) in a form satisfactory to Northern Powergrid in its reasonable opinion;

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

“apparatus” means electric lines or electric plant (as defined in the 1989 Act), belonging to or maintained by Northern Powergrid;

“functions” included 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 being a licence holder within the meaning of Part 1 (electricity supply) of the 1989 Act for the area of the authorised development and in relation to any apparatus belonging to it or maintained by it;

No interference

30. Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference, the undertaker shall not interfere with any communications cables or equipment used by Northern Powergrid in relation to its apparatus or interfere with any rights or interests supporting the use, maintenance

or renewal of such equipment otherwise than by agreement of Northern Powergrid (such agreement not to be unreasonably withheld or delayed).

Removal of apparatus

31.—(1) 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 Northern Powergrid 56 days 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 Northern Powergrid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (2) , 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.

(2) 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 (1), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the affected 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.

(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—

- (a) the undertaker shall in the first instance use reasonable endeavours to acquire all necessary land interests or rights as Northern Powergrid may reasonably require for the relocation and construction of alternative apparatus and shall procure all necessary rights to access and maintain Northern Powergrid's apparatus and alternative apparatus thereafter the terms of such access and maintenance to be agreed by Northern Powergrid (acting reasonably); and
- (b) in the event the undertaker is not able to procure the necessary land interests or rights referred to in sub-paragraph 3(a) Northern Powergrid 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 save that this obligation shall not extend to the requirement for Northern Powergrid 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 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 article 17 (arbitration).

(5) Northern Powergrid must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 17 (arbitration) and after the grant to Northern Powergrid of any such facilities and rights as are referred to in subparagraph (1) or (2), 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 56 days advance 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 subject to the undertaker providing Northern Powergrid with plans and details including a material statement describing—

- (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 and alternative apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) evidence of acceptable insurance.

(7) The undertaker shall not commence the construction or renewal of any works to which sub-paragraph (6) applies until—

- (a) Northern Powergrid has given written approval of the plans so submitted;
- (b) Northern Powergrid has confirmed in writing that it is satisfied in its reasonable opinion that the undertaker has provided acceptable security for the construction period of the works authorized by the Order; and
- (c) Northern Powergrid has confirmed in writing that it is satisfied in its reasonable opinion that the undertaker has procured acceptable insurance and provided evidence that it shall maintain such acceptable insurance for the construction period of the works authorised by the Order;

(8) 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

32.—(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 article 17 (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 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.

Retained apparatus

33.—(1) Not less than 56 days before starting the execution of any works of the type referred to in paragraph 31 (1) that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 31(1), 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 30 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 (2) to (6) apply as if the removal of the apparatus had been required by the undertaker under paragraph 31(1).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 35 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 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

34.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Northern Powergrid within 30 days receipt of a valid invoice all charges costs and expenses reasonably incurred by Northern Powergrid 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 authorised by this Order including without limitation—

- (a) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus in the event that Northern Powergrid elects to use compulsory purchase powers to acquire any necessary rights under paragraph 31(3) all costs incurred as a result of such action;
- (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 Schedule).

(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 of this Schedule, 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;

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 17 (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 Northern Powergrid by virtue of sub-paragraph (1) must be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs shall 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; 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.

35.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in this Order, 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 it) in the course of carrying out such works, including without limitation works carried out by the undertaker or Northern Powergrid under 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 those works) or property of Northern Powergrid, or there is any interruption in any service provided, or in the supply of any goods, by Northern Powergrid, or Northern Powergrid becomes liable to pay any amount to a third party 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) indemnify Northern Powergrid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs reasonably incurred by or recovered from Northern Powergrid, by reason or in consequence of any such damage or interruption or Northern Powergrid becoming liable to any third party.

(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 may be made without the consent of the undertaker which, if it withholds such consent, will have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Enactments and agreements

36. Nothing in this Part of this Schedule affects the provisions of 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.

Co-operation

37. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Northern Powergrid requires the removal of apparatus under paragraph 31 or otherwise or Northern Powergrid makes requirements for the protection or alteration of apparatus under paragraph 33, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the need to ensure the safe and efficient operation of Northern Powergrid's undertaking taking into account the undertaker's desire for the efficient and economic execution of the authorised development and the undertaker and Northern Powergrid shall use reasonable endeavours to co-operate with each other for those purposes.

Access

38. If in consequence of an agreement reached in accordance with paragraph 4 or the powers granted under this Order the access to any apparatus or alternative apparatus is materially obstructed, the undertaker shall use all reasonable endeavours to provide such alternative means of access to such apparatus or alternative apparatus as will enable Northern Powergrid to maintain or use the said apparatus no less effectively than was possible before such obstruction.

