

SCHEDULE 12
PROTECTIVE PROVISIONS

Articles [●] and [●]

PART 12
FOR THE PROTECTION OF HPUT A LIMITED AND HPUT B LIMITED

Application

1. For the protection of HPUT and persons deriving title from HPUT the following provisions, unless otherwise agreed in writing at any time between the undertaker and HPUT, have effect.

Interpretation

2. In this Part of this Schedule—

“Campus” means the land comprised in titles CB328220 and CB119083 registered at Land Registry on the date of this Order and shown for indicative purposes only edged red and blue respectively on the Campus plan;

“Campus access road” means the area tinted brown and labelled “Campus access road” on the Campus plan;

“Campus cable route corridor” means the land ~~tinted purple and [mauve dashed [green]~~ and labelled “Campus cable route corridor” ~~and “Campus cable route corridor and Campus laydown area overlap” respectively~~ on the Campus plan;

“Campus laydown area” means the land tinted yellow and ~~[—] and~~ labelled “Campus laydown area” ~~and “Campus cable route corridor and Campus laydown area overlap” respectively~~ on the Campus plan and which, for the avoidance of doubt, includes the Campus cable route corridor;

“Campus plan” means the drawing entitled [●] dated [2023] and given drawing reference [7005015-220301-WSP-PN-AAA-001-H-0 Rev 0] and certified by the Secretary of State as the Campus plan for the purposes of this Order;

“Campus works area” means the Campus cable route corridor and the Campus laydown area;

“HPUT” means—

- (a) HPUT A LIMITED, a company incorporated and registered in England and Wales with company registration number 09389098; and
- (b) HPUT B LIMITED, a company incorporated and registered in England and Wales with company registration number 09389118,

both having their registered office at 250 Bishopsgate, London EC2M 4AA and in their capacity as nominees for and on behalf of NatWest Trustee and Depositary Services Limited as trustee and depositary (and not otherwise) of Federated Hermes Property Unit Trust and their successors in title to the freehold of the Campus or any part of it;

“security fence” means the security ~~Notefence~~fence to be installed by the undertaker pursuant to paragraph 5 along the alignment indicated in purple and labelled “security fence” on the Campus plan for the purposes of preventing any access by the undertaker from the Campus works area into the remainder of the Campus;

“undertaker” includes—

- (a) any person to whom the benefit of any or all of the provisions of the Order is transferred or granted pursuant to Article 33 (Consent to transfer benefit of the Order) of the Order (whether the consent of the Secretary of State is required or not); and
- (b) any agents, contractors or subcontractors acting on behalf of the undertaker;

“vibration criterion VC-B” is set out in Figure B.2 and Table B.3 of British Standard BS 5228-2:2009+A1:2014 on the date of this Order;

“written agreement of HPUT” means a written agreement between (1) the undertaker and (2) HPUT from time to time;

“working day” means any day other than a Saturday, Sunday or English bank or public holiday.

Written Agreement of HPUT

3.—(1) Subject to sub-paragraph (2), the undertaker must not exercise any powers pursuant to this Order or the powers conferred by section 11(3) of the 1965 Act (powers of entry), and such powers have no effect, in respect of HPUT’s interests in the Campus, the interests of any person deriving title from HPUT in relation to the Campus and any other tenants or occupiers of the Campus or those interests which benefit any of the aforementioned interests, including all rights, wayleaves and easements enjoyed by HPUT, or any person deriving title from it, in relation to the Campus including pursuant to—

- (a) article [12] (*Access to works*);
- (b) article [14] (*Discharge of water*);
- (c) article [17] (*Authority to survey and investigate the land*);
- (d) article [18] (*Compulsory acquisition of land*);
- (e) article [20] (*Compulsory acquisition of rights*);
- (f) article [21] (*Private rights*);
- (g) article [24] (*Power to override easements and other rights*);
- (h) article [26] (*Rights under and over streets*);
- (i) article [27] (*Temporary use of land for carrying out the authorised development*);
- (j) article [28] (*Temporary use of land for maintaining the authorised development*); and/or
- (k) article [36] (*Felling or lopping trees and removal of hedgerows*),

unless the exercise of such powers is in accordance with the written agreement of HPUT^a.

(2) The undertaker must not exercise any powers pursuant to this Order or the powers conferred by section 11(3) of the 1965 Act (powers of entry) to which sub-paragraph (1) refers, and such powers have no effect—

- (a) in respect of any part of the Campus (which for the avoidance of doubt includes the Campus access road) except, on the terms of this Part of this Schedule, the Campus works area^b;
- (b) so far as they affect any rights of which HPUT, or any person deriving title from HPUT in relation to the Campus, has the benefit pursuant to the transfer dated 7 March 1994 made between Horseracing Forensic Laboratory Limited, Frances Delia Sidebottom and Harry Sidebottom unless otherwise with the written agreement of HPUT.

Limits on the authorised development within the Campus

4.—(1) The undertaker must not carry out any of the authorised development within the Campus save within—

- (a) the Campus ~~eable route corridor~~ laydown area on the terms of this Part of this Schedule provided that ~~no permanent above ground, subject to paragraph (b), any~~ works or structures ~~may be~~ placed within it ~~[save for the access hatch to a single fibre bay]~~ are removed in accordance with ~~sub paragraph (2)]~~ paragraph [] (Reinstatement) of this Part of this Schedule;

^a [Note to Sunnica: The option agreement will provide appropriate rights in the usual manner, subject to contract, for Sunnica’s access rights to use the land during construction etc.]

^b [Note to Sunnica: Work 9 will need to be removed from the works plans and DCO schedule; Plots 16-05 and 16-06 and the relevant part of 16-04 will need to be removed from the land plans/BoR. Even so, clarity that the Campus access road is not to be interfered with is of such importance to LGC and FHPUT that this is referred to in a number of provisions even once it is clear it is to fall outside of the Order limits.]

~~X~~ ~~{Sunnica to confirm}~~

- (b) the Campus ~~laydown area~~ cable route corridor on the terms of this Part of this Schedule provided that ~~any only below-ground~~ works or structures ~~placed within it for the purposes of the construction of~~ comprised in the authorised development ~~are removed following the completion of the construction works carried out in~~ may remain within it, [save for the access hatch to a single fibre baya in accordance with sub-paragraph (2)], following reinstatement of the Campus cable route corridor: in accordance with paragraph [] (Reinstatement) of this Part of this Schedule;

(2) The undertaker must not place the [fibre bay] within the Campus cable route corridor until it has submitted written details of the proposed [fibre bay] to HPUT (including its proposed location and dimensions not to exceed 2 metres by 2 metres wide and 2 metres deep) and the details have been approved by HPUT (such approval not to be unreasonably withheld or delayed and in any event to be given or refused no later than 2840 working days ~~eff~~following receipt of the written details); and the undertaker must comply with the approved details.

Campus security

5. —(1) The undertaker must install the security fence to the reasonable satisfaction of HPUT before either—

- (a) commencement of any of the authorised development and the beginning of any permitted preliminary works on the Campus works area (excluding the ~~works~~security fence);
- (b) the undertaker enters the Campus works area (except in connection with installation of the security fence).

(2) The undertaker must not submit details of the proposed security fence to the relevant planning authority under requirement 11 until it has submitted to HPUT written details of—

- (a) the proposed security fence ~~to HPUT~~; and
- (b) any measures on the Campus works area with which the undertaker must comply during installation of the proposed security fence,

and the details have been approved by HPUT (such approval not to be unreasonably withheld or delayed and in any event to be given or refused no later than 2840 working days ~~eff~~following receipt of the written details); and the undertaker must comply with the details to which paragraph (a) refers as approved by the relevant planning authority under requirement 11 and with the details approved by HPUT to which paragraph (b) refers.

(3) The undertaker must not at any time with or without vehicles enter upon any part of the Campus (which for the avoidance of doubt includes the Campus access road) except, on the terms of this Part of this Schedule, the Campus works area. ~~29e~~

Work dates

6. The undertaker must not carry out any of the authorised development on the Campus works area until it has proposed and agreed the dates with HPUT (such agreement not to be unreasonably withheld or delayed and in any event given or refused no later than 2840 working days ~~eff~~following receipt of the written request) on which the authorised development on the Campus works area is to be carried out; and—

- (a) the undertaker must not carry out the authorised development on the Campus works area (which includes there being no on-site presence by any personnel of the undertaker)—
- (i) other than on the agreed dates; and
- (ii) before a period of 2820 working days has passed after the dates have been agreed;
- (b) the number of working days comprised in such dates, unless otherwise agreed in writing with HPUT (such agreement not to be unreasonably withheld or delayed), shall not exceed **45b**.

a [Sunnica to confirm]

b [Note to Sunnica: Taken from Sunnica tabular “Responses to HPUT” document.]

Construction method and management scheme

7.—(1) The undertaker must submit a detailed construction method and management scheme in respect of that part of the authorised development to be carried out within the Campus works area no later than 5640 working days prior to commencing it and must not carry out any part of the authorised development within the Campus works area until the scheme has been approved by HPUT (such approval not to be unreasonably withheld or delayed and in any event to be given or refused no later than 2840 working days following receipt of the scheme); and the undertaker must comply with the approved scheme.

(2) The construction method and management scheme must include details in respect of—

- (a) a construction programme specific to the authorised development on the Campus works area;
- (b) plans showing the extent of any part of the Campus works area to be used at any time for the purposes of constructing the authorised development on it;
- (c) the storage of plant and materials;
- (d) the location and height of all plant and construction equipment;
- (e) the location and size of compounds and welfare facilities;
- (f) the management and mitigation of dust emissions and odour;
- (g) the disposal of waste and other materials arising from the construction programme;
- (h) security measures during the carrying out of the authorised development including any fencing (but not the security fence to ~~be approved under which~~ paragraph [5] (Campus security) instead applies) and any hoardings, any CCTV (including the location of cameras), any security lighting and a physical security presence where appropriate;
- (i) the lighting of works;
- (j) impacts on the Campus's services and utilities (including surface water and foul drainage) throughout the carrying out of the authorised development (including interruption and disruption periods and emergency procedures) and appropriate management and mitigation measures;
- (k) emergency protocols, including a 24-hour contact number for emergencies;
- (l) any other matters relevant to the Campus and its operation.

(3) The undertaker must not burn waste on the Campus works area at any time.

Noise and vibration

8.—(1) The undertaker must not carry out any part of the authorised development on the Campus works area until it has submitted a detailed noise and vibration management plan in respect of that part of the authorised development and the plan has been approved by HPUT (such approval not to be unreasonably withheld or delayed and in any event to be given or refused no later than 2840 working days following receipt of the plan) and the undertaker must comply with the approved plan.

(2) The plan must include—

- (a) a list of all equipment likely to be a source of noise or vibration affecting the Campus;
- (b) noise and vibration predictions for the Campus;
- (c) measures to reduce noise and vibration;
- (d) measures to monitor compliance with this paragraph 8;
- (e) the sharing of compliance monitoring information with HPUT (to be no less than weekly for the duration of the construction period for the works in the Campus works area);
- (f) the procedure to be followed in the event of complaints (including a 24-hour contact number so that the undertaker may be contacted in the event of any issues).

(3) The undertaker must not use vibrating rollers or impact-driven or vibro-hammer piling rigs on, and within 300 metres of, the Campus works area.

(4) Noise levels at 1m from any office or residential window at the Campus caused by the carrying out of the authorised development (including construction traffic) must not exceed 65 dB $L_{Aeq, 1hour}$ between the hours of 07:00 – 19:00 Monday to Saturday and 45 dB $L_{Aeq, 1hour}$ at other times.

(5) Levels of vibration caused by the carrying out of the authorised development must not exceed vibration criterion VC-B measured on the floor of any building or part of a building on the Campus.

Construction hours

9. —(1) Subject to paragraph 6 (*Work dates*) no part of the authorised development may be carried out on the Campus works area nor may any other powers pursuant to this Order be exercised on it—

- (a) other than between the hours of 07:00 and 19:00 on Mondays to Saturdays;
- (b) on Sundays and public holidays.

(2) Sub-paragraph (1) does not apply in relation to:

- (a) cases of emergency;
- (b) overnight traffic management measures; and
- (c) activities otherwise agreed by the undertaker with HPUT in advance (such agreement not to be unreasonably withheld or delayed),

provided that in respect of paragraph (a) the undertaker provides HPUT with details of the emergency within 3 working days of its occurrence, in respect of paragraph (b) the undertaker has provided HPUT with no less than 10 working days written notice and in respect of paragraph (c) the undertaker's request has been made in writing no less than 10 working days in advance.

Supervision

10.—

(1) The undertaker must carry out the authorised development on the Campus works area under HPUT's reasonable supervision (where given) and the undertaker must give HPUT all such access as it reasonably requires for those purposes.

Construction liaison

11.—(1) The undertaker must procure that a dedicated construction liaison officer will throughout the construction of the authorised development on the ~~campus~~Campus works area—

- (a) respond to telephone calls and emails from HPUT between 07:00 and 19:00 hours Mondays to Saturdays (and at any time in case of emergencies or for the purposes of paragraph 9(2) of this Part of this Schedule) in respect of the construction of the authorised development;
- (b) arrange and hold meetings with HPUT no less than once a week (unless otherwise agreed in writing between HPUT and the undertaker) in respect of the construction of the authorised development on the Campus works area throughout the construction of that part of the authorised development; and the officer must issue minutes of each meeting to HPUT no later than 5 working days after each meeting;
- (c) resolve on behalf of the undertaker reasonable concerns raised by HPUT ~~promptly~~promptly in respect of the construction of the authorised development,

and the undertaker must not construct any part of the authorised development on the Campus works area until it has provided HPUT in writing with the contact details of the officer.

(2) If HPUT does not consider that the undertaker (or dedicated construction liaison officer on its behalf) has resolved its reasonable concerns in respect of the carrying out of the authorised development pursuant to this paragraph 11 it may require the matter to be settled in accordance with Article [39] (*Arbitration*).

Use of the Campus's facilities.

12. The undertaker may not use any of the Campus's facilities (including its power supply) other than on such terms as the undertaker and HPUT agree in advance from time to time.

Health and safety

13. The undertaker must make the health and safety file maintained in respect of the authorised development on the Campus ~~cable route corridor pursuant~~ works area pursuant to The Construction (Design and Management) Regulations 2007 available for inspection by HPUT at reasonable prior written notice.

Reinstatement

14.—(1) The undertaker must not ~~commence~~ carry -out any part of the authorised development within the Campus works area until it has submitted a schedule of condition of that area and the schedule has been approved by HPUT (such approval not to be unreasonably withheld or delayed and in any event to be given or refused no later than ~~28~~ forty working days ~~of~~ following receipt of the schedule).

(2) The restriction on carrying out any part of the authorised development within the Campus works area to which sub-paragraph (1) refers does not apply in respect of non-intrusive surveys reasonably required for the preparation of the schedule to which the sub-paragraph refers which have been approved in advance in writing by HPUT and are carried out in accordance with such approval (such approval not to be unreasonably withheld or delayed and in any event to be given or refused no later than forty working days following receipt of the schedule).

(3) ~~(4)~~ The undertaker must within 20 working days following the earlier of—

- (a) the authorised development on the Campus works area, once commenced, not having been carried out for more than 20 consecutive working days; or
- (b) completion of the authorised development on the Campus works area,

reinstate the Campus works area to the condition set out in the schedule of condition (unless otherwise agreed by HPUT and the undertaker acting reasonably) save for the single [fibre bay] to which paragraph 4 of this Part of this Schedule refers and which must be in accordance with the details agreed in writing between HPUT and the undertaker.

Maintenance and decommissioning

15.—(1) Subject to sub-paragraph (2), the undertaker must not carry out any maintenance and/or decommissioning of the authorised development on the Campus works area, or enter upon any part of it, until it has submitted details of the proposed maintenance and/or decommissioning activities and measures proposed to mitigate any resulting adverse impacts on the operation of the Campus and the details have been approved by HPUT (such approval not to be unreasonably withheld or delayed and in any event to be given or refused no later than ~~28~~ forty working days of receipt of the written details); and—

- (a) such details must (unless otherwise agreed in writing between HPUT and the undertaker) accord with the principles of the provisions in this Part of this Schedule where relevant for the purposes of maintenance and/or decommissioning;
- (b) the undertaker must comply with the approved details.

(2) The undertaker must not use or enter upon any part of the Campus (which for the avoidance of doubt includes the Campus access road) to carry out any maintenance and/or decommissioning of the authorised development except, on the terms of this Part of this Schedule, the Campus works area, unless otherwise agreed in writing between HPUT in its absolute discretion and the undertaker.

Expenses

16.—(1) The undertaker must pay HPUT the reasonable expenses reasonably incurred by it (including by its solicitors, surveyors or other relevant consultants) for, or in connection with, the carrying out of the authorised development and/or any action required of HPUT in this Part of this Schedule including—

- (a) considering and giving any agreement or approval pursuant to this Part of this Schedule or otherwise required by the undertaker;

- (b) considering and liaising with the undertaker in respect of any compliance monitoring information provided by the undertaker pursuant to this Part of this Schedule;
- (c) HPUT's reasonable supervision pursuant to paragraph 10 this Part of this Schedule;
- (d) attending meetings with the undertaker during the construction, maintenance and/or decommissioning of the authorised development,

and it shall be reasonable for HPUT to withhold its agreement or approval pursuant to the relevant provision of this Part of this Schedule if the undertaker does not in advance pay such expenses or provide a solicitor's undertaking (from a firm of reasonably sufficient covenant strength) in respect of them.

Reasonableness

17. The undertaker and HPUT must act reasonably in respect of any given term of this Part of this Schedule and, in particular, (without prejudice to generality) where any consent, approval or expression of satisfaction is required by this Part of this Schedule it must not be unreasonably withheld or delayed (save in each aforementioned case except in respect of agreement by HPUT pursuant to paragraph 15(2) (Maintenance and decommissioning)).

Summary report:	
Litera Compare for Word 11.3.0.46 Document comparison done on 12/01/2023 11:02:34	
Style name: Firm	
Intelligent Table Comparison: Active	
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