

SCHEDULE 14

PART 15

PROVISIONS FOR THE PROTECTION OF NORFOLK COUNTY COUNCIL

Application

1. The provisions of this Part of this Schedule apply for the protection of Norfolk County Council in its capacity as the highway authority promoting the Norwich Western Link scheme and have effect unless otherwise agreed in writing between the undertaker and Norfolk County Council.

Interpretation

2.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2) below the terms in paragraph (2) below are to prevail.

(2) In this Part of this Schedule—

“crossing works” means any part of Work Nos. 12A and 13B shown on sheets 24 to 28 inclusive of the works plans (onshore);

“detailed design information” means such of the following drawings, specifications, information and calculations as are relevant to the crossing works—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) details of the proposed depth of the cable circuit and ducts comprised in the crossing works;
- (d) details of the load bearing capacity of the cable circuit and ducts comprised in the crossing works and any protective works;
- (e) details of any jointing bays or other underground structures comprised in the crossing works;
- (f) a condition survey of any highway structure, highway drainage system or environmental mitigation laid out by Norfolk County Council that may be affected by the crossing works;
- (g) details of proposals for the restoration of any excavations and site clearance following completion of the crossing works; and
- (h) other such information that may be reasonably required by Norfolk County Council to inform the design of the crossing works;

“highway structure” includes any earthwork, bridge or underpass, culvert, embankment or cutting related to a highway and includes any related highway surface or street furniture.

Regulation of the crossing works

3.—(1) The crossing works must not commence until the following, insofar as is relevant to the construction of the crossing works, has been submitted to and approved in writing by Norfolk County Council—

- (a) the proposed programme;
- (b) the detailed design information; and
- (c) a process for stakeholder liaison with key stakeholders to be identified and agreed between Norfolk County Council and the undertaker.

(2) The undertaker must not exercise the following provisions of the Order in relation to the crossing works without the written consent of Norfolk County Council—

- (a) article 4 (maintenance of the authorised development);
- (b) article 10 (temporary stopping up of streets);
- (c) article 11 (temporary stopping up of public rights of way);
- (d) article 14 (discharge of water);
- (e) article 15 (protective works to buildings);
- (f) article 16 (authority to survey and investigate land);
- (g) article 18 (compulsory acquisition of land);
- (h) article 20 (compulsory acquisition of rights);
- (i) article 26 (temporary use of land for carrying out the authorised project);
- (j) article 27 (temporary use of land for maintaining the authorised project); and
- (k) article 34 (felling and lopping trees or removal of hedgerows).

(3) Any approval of Norfolk County Council required under this paragraph—

- (a) must be given in writing; and
- (b) may be granted subject to any conditions as Norfolk County Council considers to be reasonably necessary.

(4) A request for the approval of Norfolk County Council required by this paragraph must be in writing and must state that it is a request for approval under this Part of this Schedule.

Approvals

4.—(1) The approval of Norfolk County Council under paragraph 3 must be given in writing and is not to be unreasonably withheld or delayed.

(2) Unless refused in writing by Norfolk County Council, a request by the undertaker for any approval of Norfolk County Council required by paragraph 3 is deemed to have been granted on the expiry of 56 days beginning with the occurrence of the latest of the following—

- (a) the receipt by Norfolk County Council of the request under paragraph 3; or
- (b) the receipt by Norfolk County Council of all of the information it reasonably requires to determine whether or not to grant its approval.

(3) The period of 56 days referred to in sub-paragraph (2) may be amended with the written agreement of Norfolk Council.

Construction of the crossing works

5.—(1) The undertaker must give not less than 30 days' notice in writing of the date on which the construction of the crossing works will start unless otherwise agreed with Norfolk County Council.

(2) The crossing works must be constructed by the undertaker to the reasonable satisfaction of Norfolk County Council in accordance with the details approved by Norfolk County Council under paragraph 3 and any conditions imposed under that paragraph.

(3) The undertaker must permit at all reasonable times persons authorised by Norfolk County Council (whose identity must have been previously notified to the undertaker by Norfolk County Council) to gain access to the crossing works for the purposes of inspection and supervision of the crossing works.

(4) If any part of the crossing works is constructed other than in accordance with the requirements of this Part of this Schedule Norfolk County Council may by notice in writing require the undertaker, at the undertaker's own expense, to comply with the requirements of this Part of this Schedule or remedy any defect notified to the undertaker under this Part of this Schedule, to the reasonable satisfaction of Norfolk County Council.

(5) If within 28 days on which a notice under sub-paragraph (4) is served on the undertaker the undertaker has failed to take the steps required by that notice, Norfolk County Council may carry out the steps required of the undertaker and may recover any expenditure reasonably incurred by Norfolk County Council in so doing, such sum to be payable within 30 days of demand.

Expenses

6.—(1) The undertaker must pay to Norfolk County Council a sum equal to the whole of any costs and expenses which Norfolk County Council reasonably incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the crossing works, including—

- (a) any determinations made under paragraph 3;
- (b) the supervision of the crossing works; and
- (c) all legal and administrative costs and disbursements incurred by Norfolk County Council in connection with the crossing works,

together comprising the “expenses”.

(2) Norfolk County Council must within 14 days of receipt of the information supplied pursuant to paragraph 3 provide the undertaker with a schedule showing its estimate of the expenses.

(3) The undertaker must within 30 days of receipt of the notice pursuant to sub-paragraph (2) pay to Norfolk County Council the estimate of the expenses.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable Norfolk County Council reasonably believes that the expenses will exceed the estimated expenses notified pursuant to sub-paragraph (2) it may give notice to the undertaker of the amount that it believes the expenses will exceed the estimated expenses (the “excess”).

(5) The undertaker must within 30 days of receipt of the notification pursuant to sub-paragraph (4) pay to Norfolk County Council the amount equal to the excess.

(6) Norfolk County Council must give the undertaker a final account of the expenses as a fully itemised invoice within 30 days of the undertaker notifying Norfolk County Council that the crossing works have been completed.

(7) Within 30 days of issue of the final account—

- (a) if the final account shows a further sum due to Norfolk County Council the undertaker must pay to Norfolk County Council the sum due to it; and
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the expenses incurred by Norfolk County Council, Norfolk County must refund the difference to the undertaker.

Completion of the crossing works

7.—(1) The undertaker must within 28 days of completion of the crossing works submit to Norfolk County Council for its approval a re-survey of any highway structures, highway drainage or environmental mitigation surveyed under paragraph 3.

(2) If the re-surveys carried out pursuant to paragraph 7(1) indicates that any damage has been caused to a highway structure or to a highway drainage system, the undertaker must submit a scheme and programme for the remedial works to Norfolk County Council for its approval in writing and the undertaker must carry out the remedial works at its own costs and in accordance with the approved scheme and programme.

(3) If the undertaker fails to carry out the remedial work in accordance with the approved scheme and programme Norfolk County Council may carry out the steps required of the undertaker and may recover from the undertaker any expenditure it reasonably incurs in so doing.

(4) Norfolk County Council may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to paragraph 7(1) give notice in writing that Norfolk County Council will

remedy any damage identified in the re-surveys and Norfolk County Council may recover any expenditure it reasonably incurs in so doing.

Maintenance of the crossing works

8.—(1) The undertaker must, prior to the commencement of any works of maintenance to the crossing works, give Norfolk County Council 28 days' notice in writing of the date on which those works will start unless otherwise agreed in writing by Norfolk County Council.

(2) The undertaker must comply with any reasonable requirements that Norfolk County Council may notify to the undertaker, such requirements to be notified to the undertaker not less than 7 days' in advance of the planned commencement date of the maintenance works.

Disputes

9. Any difference or dispute between the undertaker and Norfolk County Council arising from this Part of this Schedule is to be determined in accordance with article 43 (arbitration) of the Order.