



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

Cottam Solar Project

Examining Authority's Recommendation
to the
Secretary of State for
Energy Security and Net Zero

Examining Authority

Rory Cridland LLB (Hons), PGDip, Solicitor (Lead member of the Panel)

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5 June 2024

OVERVIEW

File Ref: EN010133

The application, dated 12 January 2023, was made under section 37 of the Planning Act 2008 and was received in full by the Planning Inspectorate on that date.

The Applicant is Cottam Solar Project Limited.

The application was accepted for Examination on 9 February 2023.

The Examination of the application began on 5 September 2023 and was completed on 5 March 2024.

The development proposed comprises the construction, operation, maintenance and decommissioning of 4 ground mounted solar photovoltaic generating stations each with a gross electrical output capacity of over 50MW, 4 onsite substations, a Battery Energy Storage System, a grid connection and associated infrastructure. The solar array sites and associated substations and energy storage are to be connected to the National Grid substation at Cottam Power Station.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.



The Planning
Inspectorate

ERRATA SHEET – Cottam Solar Project - Ref. EN010133

Examining Authority's Report of Findings and Conclusions and Recommendation
to the Secretary of State for Energy Security and Net Zero, dated 5 June 2024

Corrections agreed by the Examining Authority prior to a decision being made

| Page No. | Paragraph | Error | Correction |
|----------|-----------|--------------------|---------------|
| 10 | 1.5.4 | “an request” | a request |
| 65 | 3.7.2 | “CA” | CoA (line 6) |
| 87 | 3.8.36 | “to be to be” | to be |
| 137 | 3.13.31 | “to enable to the” | to enable the |
| 151 | 5.2.39 | “..” | . |
| 151 | 5.2.41 | “enable to the” | enable the |

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1. INTRODUCTION

1.1. BACKGROUND TO THE EXAMINATION

- 1.1.1. An application (“the application”) for the Cottam Solar Project (the Proposed Development) was submitted by Cottam Solar Project Limited (the Applicant) to the Planning Inspectorate on 12 January 2023 and was accepted for Examination under section (s) 55 of the Planning Act 2008 (as amended) (PA2008) on 9 February 2023 [[PD-002](#)]. This recommendation sets out the Examining Authority’s (ExA) findings, conclusions and recommendations to the Secretary of State (SoS) for Energy Security and Net Zero (ESNZ).
- 1.1.2. The Proposed Development is for the construction, operation, maintenance and decommissioning of four ground mounted solar photovoltaic (PV) generating stations each with a generating capacity of more than 50 megawatts (MW). As such, it falls within s14(1) and s15(2) of the PA2008 and requires development consent in accordance with s31 of the PA2008.
- 1.1.3. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the SoS for the Department for Levelling Up, Housing and Communities (DLUHC) in its decision to accept the application for Examination in accordance with s55 of the PA2008.
- 1.1.4. The [Examination Library](#) provides a record of all application documents and submissions to the Examination, each of which is given a unique reference number eg [APP-001]. The reference numbers are used throughout this Recommendation and hyperlinks are included to allow the reader to access them directly.
- 1.1.5. This Recommendation does not contain extensive summaries of all documents and representations received, although full regard has been had to them and all important and relevant matters arising. Key written sources are set out further below.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 3 March 2023 Mr Stuart Cowperthwaite and Mr Darren Hendley were appointed as the ExA for the application under s78 and s79 of the PA2008 [[PD-004](#)].
- 1.2.2. Following the resignation of Mr Stuart Cowperthwaite under s66(3) of the PA2008, Mr Rory Cridland was appointed under s69(2) of the PA2008 as lead panel member with effect from Wednesday 17 May 2023 [[PD-005](#)].

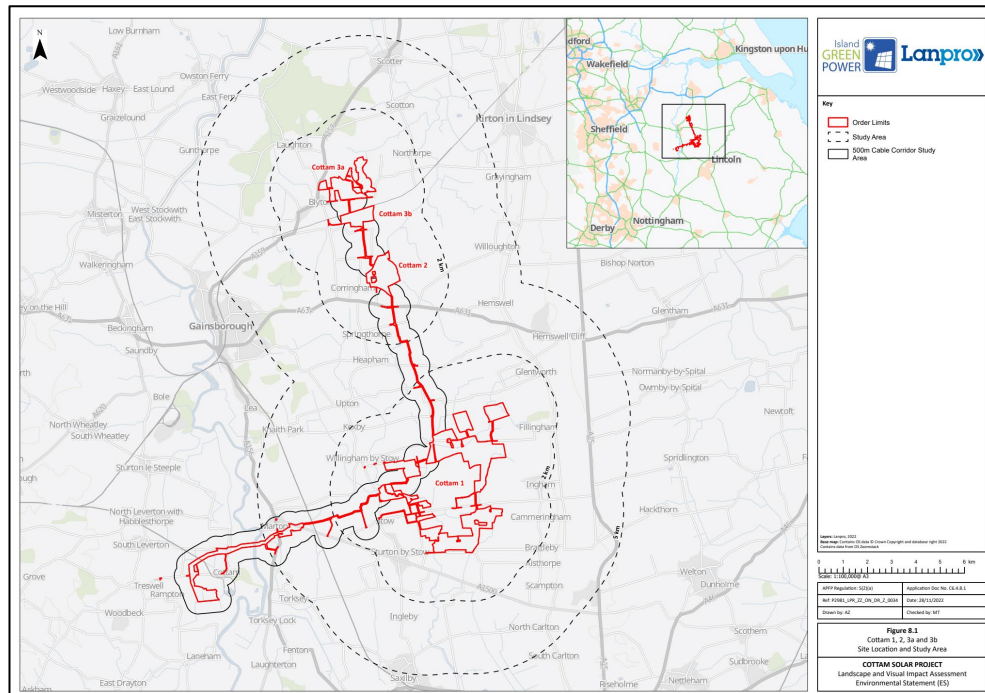
1.3. THE APPLICATION

Location of the Proposed Development

- 1.3.1. The location of the Proposed Development is shown on the Location Plan [[AS-043](#)] and the final versions of the Land Plans [[REP4-004](#)]. An extract

showing its approximate location is shown Figure 1 below. In summary, the Order Limits comprise approximately 1451 hectares (ha) of mostly flat, agricultural land located across 4 separate sites (known as *Cottam 1*, *Cottam 2*, *Cottam 3a* and *Cottam 3b*).

Figure 1: Plan showing the approximate location of the Proposed Development



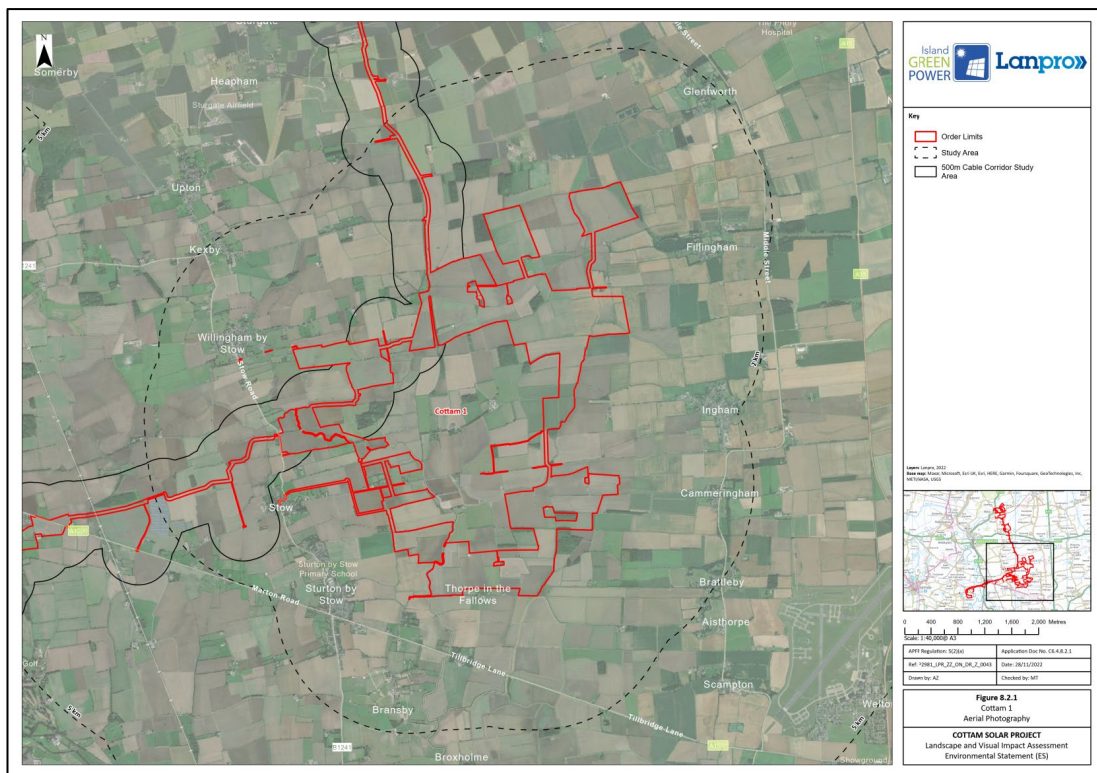
(Source: ES Chapter 3 (The Order Limits) [APP-038])

- 1.3.2. The Proposed Development lies within the administrative areas of West Lindsey District Council (WLDC), Bassetlaw District Council (BDC), Lincolnshire County Council (LCC) and Nottinghamshire County Council (NCC) and is wholly within England. A full description of the Order Limits and its surroundings can be found in ES Chapter 3 (The Order Limits) [APP-038].
- 1.3.3. In summary, the Proposed Development would be located within a 19km radius of the point of connection at the former Cottam Power Station. The wider area is mostly rural with a scattering of small settlements and villages. The main highway routes are the A1500 which runs broadly east to west to the south of Cottam 1, the A631 which runs broadly east to west to the south of the settlement of Cottam, the B1205 running broadly east to west in the vicinity of Cottam 3a and 3b, and the A15 running in a broadly north to south alignment to the east of the sites.
- 1.3.4. The different sites and their relationship to each other can be seen in the Aerial Flyover footage [REP4-104]. In summary:
 - Cottam 1 is approximately 894ha of agricultural land comprised of a discontinuous ring of sites that are located around the small settlement of Coates. It crosses the River Till and contains a number of Public Rights of Way (PRoW). It includes existing farm access

tracks and field accesses, and is bounded and crossed by a number of local roads. It is also crossed in part by 33kV overhead power lines. A plan showing the Cottam 1 site has been reproduced in Figure 2 below.

- Cottam 2 lies to the north of Cottam 1 and to the east of the village of Corringham. It is approximately 132ha of agricultural land bounded by local watercourses and contains a number of field accesses. It is crossed in places by overhead power lines. A plan showing the Cottam 2 site has been reproduced in Figure 3 below.
- Cottam 3a lies north of Cottam 3b (see below) and is located to the north-east of the village of Blyton. It consists of approximately 168ha of agricultural land with some areas in the south-west used for the storage of farm related goods. It includes parts of a former airfield and contains an access, via the entrance to the adjacent Blyton Driving Centre, as well as field accesses. Overhead lines up to 132kV cross parts of the site.
- Cottam 3b lies north of Cottam 2, to the east of the village of Pilham and south of Cottam 3a. It consists of around 73ha of agricultural land. The northern boundary is formed by a railway line and it contains a number of field accesses. Public footpath Pilh/20/1 transects the site and runs from Pilham to Bonsdale Farm in an east to west orientation. A plan showing the Cottam 3a and 3b sites has been reproduced in Figure 4 below.

Figure 2: Plan showing the Cottam 1 site



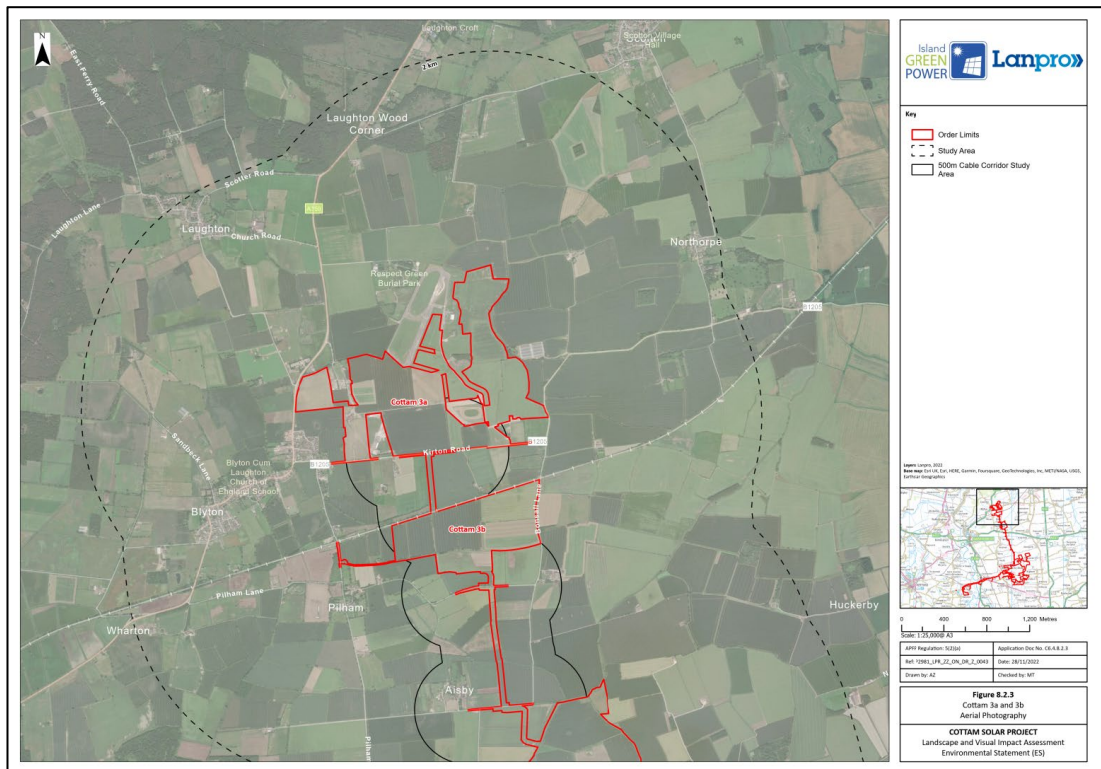
(Source: ES Figure 8.2.1 (Cottam 1 Aerial Photography) [[APP-162](#)])

Figure 3: Plan Showing the Cottam 2 site



(Source: ES Figure 8.2.2 (Cottam 2 Aerial Photography) [APP-163])

Figure 4: Plan showing the Cottam 3a and Cottam 3b sites



(Source: ES Figure 8.2.3 (Cottam 3a and 3b Aerial Photography) [APP-164])

Description of the Proposed Development

- 1.3.5. Schedule 1 of the Applicant's final draft Development Consent Order (dDCO) [[REP5-005](#)] sets out the formal description of the various elements of the Proposed Development. These are summarised below and their locations are shown on the Works Plans [[REP4-005](#)]. Further detail can be found in ES Chapter 4 (Scheme Description) [[REP-012](#)].
- 1.3.6. In summary, the Proposed Development comprises the construction, operation and decommissioning of:
- **Work No. 1** – four ground mounted solar photovoltaic generating stations each with a gross electrical output capacity of over 50MW including solar modules fitted to mounting structures, Direct Current (DC) electrical cabling and combiner DC boxes, conversion units including inverters, transformers, switchgear, and monitoring and control systems and electrical and communications cabling connecting Work No. 1 to Work No. 4 together with associated development within the meaning of section 115(2) of the PA2008;
 - **Work No. 2** – an energy storage facility comprising battery energy storage cells with an automatic fire suppression system or dry pipe sprinkler system, together with a protecting structure (being either one container or multiple containers joined to each other and mounted on a reinforced concrete foundation slab or concrete piling), interconnection units including heating, ventilation and air conditioning or liquid cooling systems and temperature management systems, conversion units (including inverters, transformers, switchgear and an energy management system), monitoring and control systems, electrical cabling, surface water drainage, a water storage facility for the purposes of firefighting and associated infrastructure to contain used firewater.
 - **Work No. 3** – an energy storage facility comprising battery energy storage cells with an automatic fire suppression system or dry pipe sprinkler system, together with a protecting structure (being either one container or multiple containers joined to each other and mounted on a reinforced concrete foundation slab or concrete piling), interconnection units including heating, ventilation and air conditioning or liquid cooling systems and temperature management systems, conversion units (including inverters, transformers, switchgear and an energy management system), monitoring and control systems, electrical cabling, surface water drainage, a water storage facility for the purposes of firefighting and associated infrastructure to contain used firewater.
 - **Work No. 4** – four sets of works in connection with onsite substations each comprising a substation of up to 400kV along with associated transformer bays, feeder bays, transformers, switchgear buildings and ancillary equipment including reactive power units. In addition, each set of works includes a control building (or container relay rooms with associated offices), storage and welfare facilities,

monitoring and control systems, a maintenance compound, electrical cabling and earthworks, including soil stripping and site levelling.

- **Work No. 5** - works to the National Grid substation to facilitate connection of the Proposed Development to the National Grid including busbars and connectors, circuit breakers, transformers, isolation switches, cabling along with a stand-alone building to house duplicate feeder protection systems, commercial metering systems, protection and control equipment and user remote control and data acquisition apparatus.
- **Work No. 6** – works in connection with electrical cabling including works to lay high voltage electrical cables, the laying down of access tracks, ramps, footpaths, roads (including the laying and construction of drainage infrastructure, signage and information boards), tunnelling, boring and drilling works, temporary construction and decommissioning laydown areas.
- **Work No. 7** - works including the erection of fencing, gates, boundary treatment and other means of enclosure, works for the provision of security and monitoring measures (including CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure, and perimeter fencing), landscaping and biodiversity mitigation and enhancement measures, the improvement, maintenance and use of existing private tracks and the laying down of internal access tracks and other means of access. It also includes the provision of sustainable drainage and irrigation systems, acoustic barriers, electricity and telecommunications connections and temporary construction and decommissioning laydown areas.
- **Work No. 8** – up to four temporary construction and decommissioning laydown areas including areas of hardstanding, car parking, site and welfare offices and workshops, security infrastructure (including cameras, perimeter fencing and lighting), areas to store materials and equipment, site drainage/waste management infrastructure (including sewerage) and electricity, water, waste water and telecommunications connections.
- **Work No. 9** – works to facilitate permanent and temporary access including the creation of accesses from the public highway, visibility splays, works to alter the layout of streets and offsite works adjacent to highways land for the facilitation of movement of abnormal indivisible loads.
- **Work No. 10** - works to create and maintain habitat management areas, including fencing, gates, boundary treatment and other means of enclosure, earth works (including bunds, embankments, ponds, trenching and swales), landscaping and biodiversity mitigation and enhancement measures (including planting) together with means of access and drainage.

- **Work No. 11** - creation of a permissive footpath from Normanby Road, Stow to Fleets Lane, Stow Pastures including fencing, gates, boundary treatment and other means of enclosure, landscaping, biodiversity mitigation and enhancement measures including planting.
- Further associated development within the Order Limits as may be necessary or expedient for the purposes of or in connection with the Proposed Development.

1.3.7. Work Nos. 2 and 3 are alternative locations for the proposed energy storage facility. The area corresponding to the Work No. that would not be used for energy storage would form part of the 'Cottam 1' ground mounted solar photovoltaic generating station.

Relevant Planning History

1.3.8. The relevant planning history of the land within the Order Limits and adjacent land is relatively limited due to the predominantly agricultural use of the land. A number of applications and permissions relate to this use. The Applicant submitted a summary of planning applications and permissions in each of the respective local authority areas as part of the Planning Statement [[REP4-039](#)]. The local authorities also provided details of applications and permissions in their respective Local Impact Reports (LIR). The following is a summary of key permissions that are considered important and relevant to the Examination, which, where appropriate, are discussed in Chapter 3 of this Recommendation.

Blyton Park Driving Centre

1.3.9. An Automotive Research and Development Centre including, garaging, circuit viewing facilities, 2 no. wind turbines and ground mounted solar panels being variation of condition 4 of planning permission 142855 re: changes to the drainage scheme, at Blyton Driving Centre (Council ref: 145015). Dated 30 May 2022. Granted planning permission subject to conditions.

Cottam Power Station and vicinity

1.3.10. Approved construction of an underground foul water rising main at land to the west of Cottam Power Station (Council ref: 22/01031/CDM). Dated 26 July 2022.

1.3.11. A request for Lawful Development Certificate with respect to the Cottam Power Station site and the proposed installation of a replacement Cooling Water Make-Up and Purge Water Supplies for the Cottam Development Centre (Council ref: 20/01723/CTP). Dated 18 December 2022. Granted a Certificate of Lawful Existing Use and Development

1.3.12. Approved County Matter applications related to variation of conditions concerning the restoration of Rampton Quarry, Land fronting Torksey Ferry Road (Council refs: 15/01688/CDM, 15/00019/CDM and 14/00906/CDM).

Land adjacent to West Farm, Normanby Road, Normanby by Stow

- 1.3.13. Approved planning application for barn conversion to form 4no. new dwellings and associated external works. Dated 7 March 2022 (Council ref: 144540).

1.4. THE EXAMINATION

Start of the Examination

- 1.4.1. The Preliminary Meeting (PM) took place on 5 September 2023 [[EV-005](#)]. The ExA's Procedural Decisions (PD) and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [[PD-010](#)], dated 19 September 2023.
- 1.4.2. The Examination began on 5 September 2023 and concluded on 5 March 2024. The principal components of, and events around, the Examination can be seen in the Examination Timetable and are summarised below.
- 1.4.3. The following persons who were not already Interested Parties (IPs) requested that the ExA should enable them to join the Examination at or after the PM:
- Ms Clare Booth
 - Ms Catherine Booth
 - Mr Stephen Booth
- 1.4.4. The ExA accepted these requests [[PD-007](#), [PD-008](#) and [PD-009](#)]. Once the Examination had commenced no IPs withdrew from it.

Procedural Decisions

- 1.4.5. The PDs taken by the ExA are recorded in the Examination Library referenced [PD-]. They detail the ExA's decisions relating to the procedure of the Examination and do not bear on the ExA's consideration of the planning merits of the Proposed Development.

Statements of Common Ground

- 1.4.6. By the end of the Examination, the following bodies had concluded and signed Statements of Common Ground (SoCG) with the Applicant:
- The Environment Agency [[REP5-044](#)]
 - NCC and BDC [[REP5-036](#)]
 - LCC [[REP6-006](#)]
 - WLDC [[REP5-040](#)]
 - Historic England [[REP5-042](#)]
 - National Highways [[REP-066](#)]
 - UK Health Security Agency [[REP-067](#)]
 - Upper Witham Internal Drainage Board [[REP-068](#)]
 - Lincolnshire Wildlife Trust [[REP-071](#)]
 - Natural England [[REP3-046](#)]
 - Nottinghamshire Wildlife Trust [[REP-073](#)]

- Gate Burton Energy Park, Tillbridge Solar Project and West Burton Solar Project [[REP2-066](#)]
 - Anglian Water [[REP2-068](#)]
 - Scunthorpe & Gainsborough Water Management Board [[REP5-049](#)]
- 1.4.7. The SoCGs with the following bodies remained unsigned at the end of the Examination:
- Network Rail [[REP5-046](#)]
- 1.4.8. The signed SoCGs have been taken fully into account by the ExA in all relevant sections of this Recommendation. The weight afforded to unsigned SoCGs is considered in the relevant sections of this Recommendation.

Written Questions, Site Inspections and Hearings

- 1.4.9. The ExA asked two rounds of written questions (ExQ1 [[PD-011](#)] and ExQ2 [[PD-015](#)]) and made one request for further information and comments under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 [[PD-017](#)].
- 1.4.10. The ExA carried out 3 Unaccompanied Site Inspections (USI) [[EV-001](#), [EV-001a](#) and [EV-045](#)] and visited a number of properties on an Access Required basis [[EV-045](#)].
- 1.4.11. Six Issue Specific Hearings were held: ISH1 [[EV-012](#), [EV-014](#) and [EV-016](#)], ISH2 [[EV-023](#) and [EV-025](#)], ISH3 [[EV-027](#)], ISH4 [[EV-029](#) and [EV-031](#)], ISH5 [[EV-041](#) and [EV-043](#)] and ISH6 [[EV-048](#)].
- 1.4.12. Two Compulsory Acquisition Hearings (CAH) were held: CAH1 [[EV-037](#) and [EV-039](#)] and CAH2 [[EV-048](#)].
- 1.4.13. Three Open Floor Hearings (OFH) were held: OFH1 [[EV-008](#) and [EV-010](#)] and OFH2 [[EV-033](#) and [EV-035](#)] and OFH3 [[EV-048](#)].

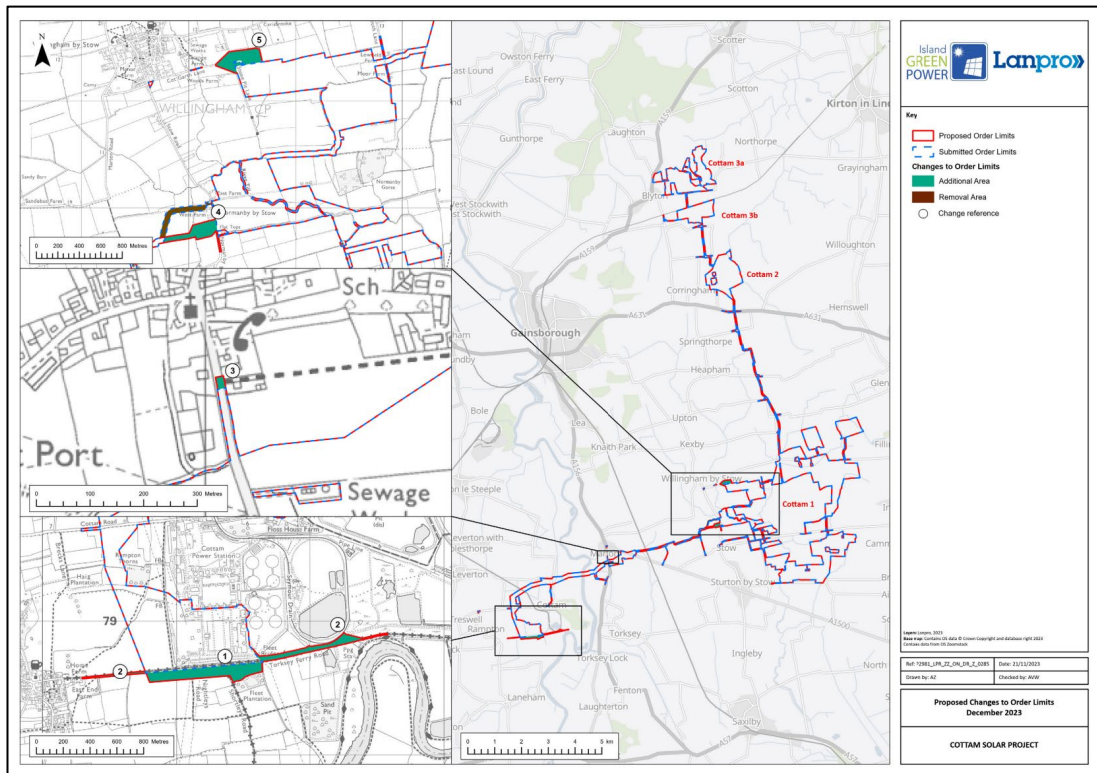
1.5. CHANGES TO THE APPLICATION

- 1.5.1. Changes to the key application documents, including the wording of the dDCO, were submitted and updated during the Examination. The changes sought to address points raised by IPs and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the Examination.
- 1.5.2. The Applicant's changes to the application documents, together with any additional information submitted, are detailed in the Application Guide submitted at Deadline 6 [[REP6-002](#)]. This provides a guide to all documents submitted as part of the application and was updated at each deadline when new or revised documents were submitted. It provides a full record of all documentation submitted into the Examination.
- 1.5.3. Unless otherwise stated, references in this Recommendation are to the most up-to date document submitted.

Change request

- 1.5.4. The Applicant submitted an request to make a number of changes to the application dated 8 December 2023 [[AS-063](#)].
- 1.5.5. In summary, the following five (5) changes were proposed:
- 1) An extension to the Order Limits immediately to the south of Torksey Ferry Road, for works to construct and operate the 400kV cable and associated development.
 - 2) An extension to the Order Limits to the east and west along Torksey Ferry Road to accommodate access during construction and (for some parts of the road) during operation.
 - 3) An extension to the Order Limits along A156 High Street, Marton in proximity to the north of the Cable Route Corridor (Work No. 6) to increase the size of the visibility splay for access AC108.
 - 4) A change to Order Limits to enable the route of the Cable Route Corridor (Work No. 6) to run to the south of West Farm, Normanby by Stow and for land to the west of Normanby Road to be removed from the Order Limits.
 - 5) An extension to the Order Limits to the east of Stone Pit Lane to allow for flexibility in the location of the construction access for the transportation of abnormal loads relating to the Cottam 1 substation.
- 1.5.6. As a result of the proposed changes, the Applicant required the inclusion of additional land which was affected by the Compulsory Acquisition (CA) powers being sought. As a result, the Applicant made a request under Regulation 5 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 ("the CA Regulations") to add this additional land to the application.
- 1.5.7. Figure 5 below shows the location of the changes proposed. Full details are set out in the Applicant's change request [[AS-063](#)] and supporting documentation [[AS-042 to AS-071](#)]. These include a Supporting Environmental Information Report (SEIR) which assesses the proposed changes and how they affect the findings of the content of the ES [[AS-064](#)].
- 1.5.8. Having had regard to the proposed changes, the guidance on the examination of applications for development consent, as well as the Planning Inspectorate's Advice Note 16: Requesting Changes, we decided that the changes proposed were material but that they did not substantially alter the substance of the scheme applied for and that accepting them would not result in a materially different project. We were also satisfied that there was sufficient time remaining for the proposed changes to be properly and fairly examined.

Figure 5: Plan showing the Applicant's proposed changes to the Order Limits



(Source: SEIR, Appendix A [AS-064])

1.5.9. Consequently, the changes were accepted [PD-014] in accordance with Regulation 6 of the CA Regulations and alterations were made to the Examination Timetable in order to ensure they were fully and robustly examined.

1.6. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

1.6.1. During the Examination, some IPs confirmed that they had reached private agreements with the Applicant regarding protection of their assets and/ or interests. These are referred to, where relevant, in subsequent sections of this Recommendation.

1.6.2. These undertakings, obligations and/ or agreements (other than unsigned or incomplete ones) have been taken fully into account by the ExA in all relevant sections of this Recommendation.

1.7. OTHER CONSENTS

1.7.1. In addition to the consents required under the PA2008, the Applicant would require other consents to construct, operate and maintain the Proposed Development. These are identified by the Applicant in the Other Consents and Licences document submitted at Deadline 4 [REP4-037].

1.8. STRUCTURE OF THIS RECOMMENDATION

1.8.1. The structure of the remainder of this Recommendation is as follows:

- [Section 2](#) identifies the planning issues and summaries the key legislation and policy context.
- [Section 3](#) sets out the findings and conclusions in relation to the planning issues that arose from the application and during the Examination.
- [Section 4](#) provides a summary of the Habitats Regulations Assessment (HRA).
- [Section 5](#) sets out the balance of planning considerations arising from Chapters 3 and 4 in the light of important and relevant factual, legal and policy considerations.
- [Section 6](#) sets out the ExA's examination of land rights and related matters.
- [Section 7](#) considers the implications of the matters arising from the preceding chapters for the DCO.
- [Section 8](#) summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.8.2. This Recommendation is supported by the following appendices:

- [Annex A](#) – Key Legislation and Policy
- [Annex B](#) – List of Abbreviations.
- [Annex C](#) – The Recommended DCO.
- [Annex D](#) – LVIA Supporting Documents

2. HOW THE APPLICATION IS DETERMINED

2.1. INTRODUCTION

2.1.1. This section identifies the key legislation, policy context and LIRs that the ExA's recommendations are made against.

2.2. LEGISLATION AND POLICY

2.2.1. This section identifies the key legislation and policy that the ExA considers to be important and relevant to its findings and recommendations to the SoS. More detail is provided in [Annex A](#) to this Recommendation.

2.2.2. The Applicant has set out the policies that it considers relevant to the consideration of the application in the Planning Statement [[REP4-039](#)].

2.3. KEY LEGISLATION

Planning Act 2008

2.3.1. The PA2008 provides for two different decision-making procedures for NSIP applications; firstly, where a relevant National Policy Statement (NPS) has been designated and has effect (s104) and secondly, where there is no designated NPS or there is a designated NPS, but it does not have effect (s105).

2.3.2. As there is no designated NPS that has effect with regard to the consideration of the proposed solar arrays (see section 2.4 below), the application therefore falls to be determined under s105 of the PA2008.

2.3.3. In deciding this application s105(2) of the PA2008 requires the Secretary of State to have regard to:

- any local impact report (within the meaning given by section 60(3)) submitted to the SoS before the deadline specified in a notice under section 60(2);
- any matters prescribed in relation to development of the description to which the application relates; and
- any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.

2.3.4. This Recommendation sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying s105 of the PA2008.

2.3.5. A full list of relevant legislation, including details of the Equality Act 2010, Human Rights Act 1998 and the Climate Change Act 2008 (as amended), can be found in [Annex A](#) of this Recommendation.

2.4. NATIONAL POLICY STATEMENTS

- 2.4.1. NPSs set out Government policy on different types of national infrastructure development. The six energy NPSs are intended to provide the primary policy for the examination and determination of energy NSIP applications.
- 2.4.2. However, for reasons explained below, the 2011 NPSs, most particularly NPS EN-1 and NPS EN-5, of themselves have only formed part of the policy context for the Examination of the submitted application, with the revised NPSs which were designated in 2024, the National Planning Policy Framework 2023 (NPPF), the associated Planning Practice Guidance (PPG), the adopted development plan policies and other relevant policies also having been considered as important and relevant matters.

The 2011 NPSs

- 2.4.3. The Proposed Development would principally involve the use of solar arrays for generating electricity. Solar generation was excluded from the scope of 2011 NPS EN-1 and the coverage of 2011 NPS EN-3 and there is no designated NPS that has effect with regard to the consideration of the proposed solar arrays.
- 2.4.4. However, 2011 NPS EN-1 does set out general principles and generic impacts to be taken into account in considering applications for all energy NSIPs. The ExA therefore considers it is an important and relevant matter to be taken into consideration by the SoS in determining the application.
- 2.4.5. Furthermore, to facilitate the export of the generated electricity to the grid, the Proposed Development includes the installation of substations, which would be associated development for the purposes of section s115 of the PA2008. The provision of substations as associated development does come within the scope of 2011 NPS EN-1 and the coverage of 2011 NPS EN-5.
- 2.4.6. Furthermore, the Proposed Development would also include a battery energy storage system (BESS) which has also been identified as associated development for the purposes of the PA2008. As BESSs store electricity to address the intermittency of renewable energy generation, the ExA considers 2011 NPS EN-1 is a matter that is important and relevant when consideration is being given to the BESS.

The 2024 NPSs

- 2.4.7. The energy NPSs were first designated in 2011. In the 2020 Energy White Paper a review of the energy NPSs was announced which resulted in a number of amendments. These were designated on 17 January 2024, during the Examination. However, these revised energy NPSs have effect only in relation to applications accepted for examination after their designation.

- 2.4.8. Nevertheless, any emerging draft NPSs (or those designated but not yet having effect) are capable of being important and relevant considerations in the decision-making process. The extent to which they are relevant is a matter for the relevant Secretary of State to consider within the framework of the PA2008 and with regard to the specific circumstances of each DCO application.
- 2.4.9. The 2024 NPSs extend the coverage of generating technologies to include solar energy generation and provide explicit policy support for the provision of large scale, ground mounted solar generation. As such, the ExA considers that the 2024 NPSs EN-1, EN-3 and EN-5 are important and relevant matters for the SoS to consider when determining the application. They provide the most up to date expression of Government policy in relation to the provision of large-scale ground mounted solar generation and we consider they should be afforded very great weight.

2.5. OTHER RELEVANT NATIONAL POLICIES

2.5.1. Other relevant Government policy has been taken into account by the ExA, including the following:

- The National Planning Policy Framework.
- Net Zero: The UK's Contribution to Stopping Global Warming Emissions.
- Ten Point Plan for a Green Industrial Revolution.
- Energy White Paper: Powering our Net Zero Future.
- Industrial Decarbonisation Strategy (HM Government, 2021).
- Net Zero Strategy: Build Back Greener.
- British Energy Security Strategy (2022).
- Powering up Britain (DESNZ, 2023).
- Carbon capture, usage and storage net zero investment roadmap, 2023.

2.5.2. [Annex A](#) provides further detail on the relevance of each of the above policies to the Proposed Development.

2.6. LOCAL IMPACT REPORTS

2.6.1. LIRs were submitted into the Examination by the following local authorities:

- WLDC [[REP-091](#)]
- LCC [[REP-085](#)]
- BDC [[REP-080](#)]
- NCC [[REP-086](#)]

2.6.2. The following issues were raised:

- Planning policy
- The principle of development, including need
- Landscape and visual impact
- Ecology and biodiversity
- Socio-economics, tourism, and recreation (including PRoW)

- Transport and access
- The Historic Environment
- Residential amenity
- Soils and agriculture
- Climate change
- Noise and vibration
- Glint and glare
- Ground conditions and contamination
- Hydrology, flood risk and drainage
- Air quality
- Waste
- Minerals
- Cumulative impacts

2.6.3. The issues raised are considered in further detail in relation to relevant planning issues in [Section 3](#) of this Recommendation. Annex B sets out the individual local development plan policies that are relevant to the Proposed Development.

2.7. **ENVIRONMENTAL IMPACT ASSESSMENT**

2.7.1. On 27 January 2022, the Applicant submitted a Scoping Report to the SoS under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) which included notification under Regulation 8(1)(b) that it proposed to provide an Environmental Statement (ES) in respect of the Proposed Development.

2.7.2. On 9 March 2022, the Planning Inspectorate issued a Scoping Opinion on the SoS's behalf. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development and the application is accompanied by an ES.

2.7.3. On 23 February 2023, the Applicant provided the Planning Inspectorate with certificates confirming that s56 of the PA2008 and Regulation 16 of the EIA Regulations had been complied with.

2.7.4. Consideration has been given to the adequacy of the ES more generally and matters arising from it including the measures proposed to mitigate the likely significant effects identified by the Applicant. While we are cognisant that various updates were made to the ES during the Examination, including in respect of the Applicant's change request (see [Section 1.5](#) of this Recommendation), we do not consider these individually or cumulatively undermine the scope and assessment of the ES.

2.7.5. Overall, the ExA considers that the ES, as supplemented with additional information during the Examination, is sufficient to enable the SoS to take a decision in compliance with the EIA Regulations.

2.7.6. [Section 3](#) of this Recommendation will summarise the environmental effects under each topic section.

2.8. HABITATS REGULATION ASSESSMENT

- 2.8.1. The SoS is the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). The Habitats Regulations were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.
- 2.8.2. The Proposed Development is one that has been identified as giving rise to the potential for likely significant effects (LSE) on European sites and hence is subject to a Habitats Regulations Assessment (HRA). As is the convention and to inform SoS decisions prepared under the PA2008, a separate record of considerations relevant to HRA can be found in [Section 4](#) of this Recommendation.

2.9. TRANSBOUNDARY EFFECTS

- 2.9.1. A transboundary screening under Regulation 32 of the EIA Regulations was undertaken on behalf of the SoS on 28 March 2022 following the Applicant's request for an EIA Scoping Opinion. No significant affects were identified which could impact on another European Economic Area member state in terms of extent, magnitude, probability, duration, frequency or reversibility. The same conclusion was reached on 28 April 2023 following the submission of the Environmental Statement.
- 2.9.2. The Regulation 32 duty is an ongoing duty, and on that basis, the ExA has considered whether any facts have emerged to change these screening conclusions, up to the point of closure of the Examination. No mechanisms whereby any conceivable transboundary effects could occur have emerged.

3. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES

3.1. INTRODUCTION

- 3.1.1. This section sets out our findings and conclusions on the planning issues. The section is structured to firstly examine the matters of principle, including need and alternatives, followed by generic topic headings. The order in which all these section headings are presented should not be taken to imply any order of merit.
- 3.1.2. In each section, we report on the main issues for each topic. Findings and conclusions are then drawn for each topic along with whether the effects carry a little weight, moderate weight, great weight, or very great weight for/ against the making of the Development Consent Order (DCO).

Initial Assessment of Principal Issues

- 3.1.3. As required by section (s) 88 of the PA2008 and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010, we carried out an Initial Assessment of Principal Issues (IAPI) arising from the application in advance of the PM. This formed an initial assessment of the issues based on the application documents and submitted Relevant Representations (RR). The list of issues relates to all phases of the Proposed Development. The IAPI was raised at the PM and no other key topics were identified during the Examination. The IAPI can be found in Annex D of the Rule 6 letter [[PD-006](#)].
- 3.1.4. We consider the issues raised by IPs were broadly in line with the IAPI and were subject to written and oral questioning during the Examination. We have nevertheless had regard to all submissions from IPs.

3.2. THE PRINCIPLE OF DEVELOPMENT

Introduction

- 3.2.1. For the reasons set out in [Section 2](#) above, we consider the 2011 NPSs, form only part of the policy context for the Examination, with the 2024 NPSs, the NPPF, the associated PPG, the adopted development plan policies and other relevant policies also having been considered as important and relevant matters.
- 3.2.2. In that context, this section sets out our findings in relation to the need for the Proposed Development, the overall change in greenhouse gas (GHG) emissions that may arise from the construction, operation and decommissioning phases of the Proposed Development, the consideration of alternatives and whether the Proposed Development represents good design.
- 3.2.3. The assessment of flood risk, including increases in rainfall rates due to climate change are discussed in [Section 3.11](#) below.

Policy Context

Need

2011 NPS EN-1

- 3.2.4. 2011 NPS EN-1 sets out the case for both the need and urgency for new energy infrastructure to be consented and built as soon as possible. Notwithstanding the exclusion of solar from its coverage/ scope, it makes clear that applications for development consent for the types of infrastructure covered should be assessed on the presumption that there is a need for those types of infrastructure. It also advises that substantial weight is to be given to the contribution which projects would make towards satisfying this need when considering applications under the PA2008.
- 3.2.5. 2011 NPS EN-1 also notes that it is for industry to propose new energy infrastructure projects within the strategic framework set by Government, and planning policy should not set targets for, or limits on, different technologies.
- 3.2.6. It also recognises that there are a number of technologies which can be used to compensate for the intermittency of renewable generation, such as electricity storage. It points to the likelihood that increasing reliance on renewables will mean that we need more total electricity capacity than we have now, with a larger proportion being built only or mainly to perform back-up functions.
- 3.2.7. Given the level and urgency of the identified need, it advises that the consideration of applications for development consent should start with a presumption in favour of granting consent unless more specific and relevant policies in the related NPSs and/ or any other matters that the decision maker thinks are both important and relevant to the decision clearly indicate that consent should be refused.
- 3.2.8. Guidance is also given on the importance of a grid connection noting that while it is for an Applicant to ensure that there will be the necessary infrastructure and capacity within a transmission or distribution network to accommodate the electricity generated, the SoS will need to be satisfied that there is no obvious reason why a grid connection would not be possible.

2011 NPS EN-5

- 3.2.9. NPS EN-5 supplements NPS EN-1 and relates to electricity networks infrastructure. It covers the long-distance transmission system (400kV and 275kV lines) and the lower voltage distribution system (132kV to 230V lines from transmission substations to the end-user) and associated infrastructure.
- 3.2.10. Work Nos. 4 to 6 include four new substations, works to the National Grid Cottam Substation (Work No. 5) as well as a cable connection. This would provide the electrical connection point to the National Grid and

facilitate the import and export of electricity to and from the proposed solar array sites. These elements of the Proposed Development, as associated development forming part of the Proposed Development, would come within the scope of NPS EN-5.

3.2.11. Similar provisions can be found in 2024 NPS EN-5.

2024 NPS EN-1

3.2.12. The general principles set out in NPS EN-1 are relevant to all energy infrastructure and are carried forward into 2024 NPS EN-1 which notes that there is an urgent need for new electricity generating capacity and that:

"...a secure, reliable, affordable, Net Zero consistent system in 2050 is likely to be composed predominantly of wind and solar".

3.2.13. Furthermore, it recognises the strategic importance of solar generation in the UK's energy generation mix noting the requirement for sustained growth in the capacity of solar generation in the next decade. It goes further than NPS EN-1 and explicitly includes solar generation within its scope, recognising the urgent need for such technology and the contribution it can make to achieving net zero, providing security of supply and an affordable, reliable system.

3.2.14. Moreover, 2024 NPS EN-1 recognises the increased flexibility provided by new electricity storage and its role in achieving net zero. In particular, it notes its ability to help maximise the useable output from intermittent low carbon generation, including solar, and to provide balancing services to the grid.

2024 NPS EN-3

3.2.15. Unlike 2011 NPS EN-3, 2024 NPS EN-3 covers solar PV generation above 50MW and includes a new section setting out detailed policy considerations for this type of generating technology. In summary, it recognises the Government's commitment to sustained growth in this area as well as the benefits of solar generation including in terms of cost and speed of delivery.

3.2.16. While acknowledging the scale of development involved will inevitably have impacts, particularly if sited in rural areas, it lists the key considerations involved in the siting of solar farms including irradiance and site topography, proximity to dwellings, capacity and the importance of a grid connection on the commercial feasibility of a development proposal.

3.2.17. It also provides advice on the key technical considerations including in terms of land use, biodiversity and nature conservation, water management, residential amenity, cultural heritage and traffic and transport impacts. These matters are considered further in the individual planning issues set out below.

NPPF and Local Development Plan Policies

- 3.2.18. Chapter 14 of the NPPF indicates that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change.
- 3.2.19. Paragraph 158 advises that when determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy; and should approve the application if its impacts are (or can be made) acceptable.
- 3.2.20. Furthermore, the PPG makes clear that while there are planning considerations that relate to large scale solar farms, increasing the amount of energy from renewable sources, including solar, will help ensure the UK has a secure energy supply, will reduce GHG emissions, slow down climate change and stimulate investment in new jobs and businesses.
- 3.2.21. Likewise, Policy S14 of the Central Lincolnshire Local Plan (2023) (CLLP) supports proposals for renewable technology where the benefits outweigh the harm caused and it is demonstrated that any harm will be mitigated as far as is reasonably possible.
- 3.2.22. Policy DM10 of the Bassetlaw Core Strategy & Development Management Policies DPD (2011) (BCSDM) supports proposals that seek to utilise renewable and low carbon energy, subject to detailed consideration of their impacts.

Alternatives and Site Selection

- 3.2.23. Neither 2011 NPS EN-1 nor 2024 NPS EN-1 contains a general requirement to consider alternatives or to establish whether the proposed project represents the best option. However, applicants are required to include in their ES information about the main alternatives they have studied and include an indication of the main reasons for the choice made, taking into account the environmental, social and economic effects including technical and commercial feasibility.
- 3.2.24. Furthermore, both 2011 NPS EN-1 and 2024 NPS EN-1 advise that given the need for new energy infrastructure, the consideration of alternatives should be carried out in a proportionate manner. 2024 NPS EN-1 also makes clear that the SoS should only consider those alternatives that can meet the objective need for the proposed development and have a realistic prospect of delivering the same capacity in the same timescale.
- 3.2.25. Moreover, it advises that the SoS should not refuse an application because there would be fewer adverse impacts from developing similar infrastructure on another suitable site. In addition, it makes clear that alternatives not considered by an applicant should only be considered to the extent that the SoS considers them to be both important and relevant to the decision.

- 3.2.26. 2024 NPS EN-1 also indicates that where an alternative is first put forward by a third party after an application has been made, the SoS may place the onus on the person proposing the alternative to provide the evidence for its suitability and the SoS should not necessarily expect the applicant to have assessed it.

Good Design

- 3.2.27. Both the 2011 NPSs and the 2024 NPSs make clear that good design is a means by which many policy objectives in the NPSs can be met, for example in terms of siting and use of appropriate technologies to help mitigate impacts.
- 3.2.28. Furthermore, 2024 NPS EN-1 also makes clear that applicants should consider how good design can be applied to a project during the early stages of the project lifecycle. It does, however, also acknowledge that the nature of energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area.
- 3.2.29. In addition, 2024 NPS EN-3 notes that applicants will take into account several factors when considering the design and layout of sites, including proximity to available grid capacity, orientation, topography, previous land use, and ability to mitigate environmental impacts and flood risk.
- 3.2.30. In terms of decision making, 2024 NPS EN-1 advises that the SoS needs to be satisfied that energy infrastructure developments are sustainable and, having regard to regulatory and other constraints are as attractive, durable and adaptable as they can be.

Climate Change and Greenhouse Gas Emissions

- 3.2.31. The Climate Change Act 2008 (CCA2008) sets a legally binding target for the UK to reduce its net GHG emissions from 1990 levels. This target is currently set at 100% by virtue of the Climate Change Act 2008 (2050 Target Amendment) Order 2019.
- 3.2.32. Furthermore, the UK is a signatory to the Paris Agreement under the United Nations Framework Convention on Climate Change. This provides a framework to keep global warming below 2°C, pursuing efforts to limit the temperature increase to 1.5°C.
- 3.2.33. Section 4.8 of EN-1 advises that the resilience of the project to climate change should be assessed in the ES accompanying an application and that applicants for new energy infrastructure should demonstrate that they have taken into account the potential impacts of climate change using the latest UK Climate Projections available at the time the ES was prepared. It makes clear that applicants should assess the impacts on, and from, their proposed energy project across a range of climate change scenarios, in line with appropriate expert advice and guidance available at the time. This is reiterated in Section 4.10 of the 2024 NPS EN-1.

- 3.2.34. Both 2011 NPS EN-1 and 2024 NPS EN-1 make clear that applications do not need to be assessed in terms of carbon emissions against carbon budgets. However, 2024 NPS EN-1 does require proposals for energy infrastructure projects to include a GHG assessment as part of their ES.
- 3.2.35. Furthermore, the 2024 NPS EN-1 recognises that the Energy White Paper and British Energy Security Strategy both emphasise the importance of the government's net zero commitment and efforts to fight climate change, as well as the need to maintain a secure and reliable energy system.
- 3.2.36. While all steps should be taken to reduce and mitigate climate change impacts, it is accepted that there will be residual emissions from energy infrastructure, particularly during the economy wide transition to net zero, and potentially beyond.
- 3.2.37. Similar guidance can be found in the NPPF, the PPG as well as the Local Development Plans of the Host Authorities, all of which seek to minimise carbon dioxide emissions and ensure new development is resilient to the impacts of climate change.

The Application

Need

- 3.2.38. The Applicant's needs case is set out in its Statement of Need [[APP-350](#)]. It recognises that solar generation is not specifically referred to in 2011 NPS EN-1 but acknowledges that it is an important and relevant matter to which the SoS should have regard when determining the application.
- 3.2.39. The Applicant also draws attention to section 3.3 of 2024 NPS EN-1 which explains, amongst other things, that large capacities of low-carbon generation will be required to ensure there is sufficient electricity supply to meet demand. Moreover, it points to 2024 NPS EN-3 and the Government's commitment to sustained growth in solar capacity as a key part of its strategy for low-cost decarbonisation of the energy sector.

Consideration of alternatives and good design

- 3.2.40. The Applicant's consideration of alternatives is set out in ES Chapter 5 (Alternatives and Design Evolution) [[APP-040](#)]. This explains how the Applicant followed a systematic process, considering alternative sites, technologies, layouts, substation locations, cable routes and connection points before deciding on the Proposed Development.
- 3.2.41. It explains that site selection was driven by the need for an available grid connection, with connection points at West Burton, High Marnham and Cottam considered. The Cottam connection point was chosen due to the need for fewer upgrades to infrastructure. The Applicant then went on to consider sites that could accommodate a development of the size proposed, taking into account a range of planning, environmental and spatial criteria.

- 3.2.42. Full details of the site selection exercise undertaken by the Applicant can be found in ES Appendix 5.1: Site Selection Assessment [[APP-067](#)]. Annex E of that document provides a comparison of the Proposed Site against other sites based on various criteria.

Climate Change and greenhouse gas emissions

- 3.2.43. ES Chapter 7 (Climate Change) [[REP-014](#)] sets out the Applicant's findings in relation to climate change. It evaluates the whole life impact of GHG emissions arising from the construction, operation and decommissioning of the Proposed Development in line with the Institute of Environmental Management and Assessment (IEMA) guidance for the assessment of GHGs, climate change resilience and adaptation in EIAs.
- 3.2.44. It assesses both direct and indirect emissions and takes into account embodied carbon within construction materials. Furthermore, it considers the Proposed Development's resilience to the impacts of climate change as well as the combined impact of the Proposed Development and future climate change on the receiving environment.
- 3.2.45. In summary, ES Chapter 7 identifies that the greatest source of GHG emissions would arise during the construction stage as a result of embodied carbon from products: with the PV panels and batteries making the largest contribution.
- 3.2.46. It estimates that worst case GHG emissions from construction activities would be around 222,237 tonnes of carbon dioxide equivalent (tCO₂e) annualised, with replacement batteries accounting for around 80% to 90% of operational GHG emissions and replacement PV panels accounting for between 5% and 9% [Tables 7.27 and 7.28 of ES Chapter 7, [REP-014](#)].
- 3.2.47. It also indicates that GHG savings from displacement would result in the offsetting of construction emissions within 4 years of operation [Table 7.30, ES Chapter 7, [REP-014](#)]. This would result in a considerable reduction in emissions over the Proposed Development's 60 year lifetime.
- 3.2.48. While there is some uncertainty over the total estimate of GHG emissions produced as a result of decommissioning, Table 7.31 of ES Chapter 7 [[REP-014](#)] indicates that it would be broadly similar to the construction phase (although it would be mostly as a result of worker transportation).
- 3.2.49. Furthermore, it notes (at paragraph 7.7.4) that measures will be developed prior to the decommissioning phase to encourage the use of lower-carbon and more climate change resilient methods. Such measures would be included in the Decommissioning plan secured by Requirement 21, which must be substantially in accordance with the outline Decommissioning Statement (oDS) provided as part of the application [[REP3-014](#)].
- 3.2.50. In order to ensure that the overall impact of GHG emissions is reduced, the Applicant proposes a number of embedded design mitigation measures including:

- the segregation of construction waste to increase its recyclability;
- adopting the Considerate Constructors Scheme;
- minimising the creation of waste;
- maximising the use of materials with lower levels of embodied carbon;
- minimising the number of Heavy Goods Vehicles (HGVs) and other vehicles on the local road network;
- minimising the use of natural resource; and
- encouraging the use of lower carbon modes of transportation.

3.2.51. Further details of the embedded mitigation measures can be found in paragraph 7.7.2 of ES Chapter 7 and are identified in the outline Construction Environmental Management Plan (oCEMP) [[REP5-020](#)] and outline Construction Traffic Management Plan (CTMP)) [[REP5-016](#)]. These are secured by Requirement 13 (Construction Environmental Management Plan (CEMP)) and Requirement 15 (Construction Traffic Management Plan (CTMP)) of the dDCO.

3.2.52. Overall, the Applicant considers that during construction and decommissioning there would be a minor adverse effect on the climate which is not significant in EIA terms. During operation it predicts a major significant beneficial effect would occur, largely as a result of the displacement of fossil fuel forms of generation.

Cumulative effects

3.2.53. Section 7.11 of ES Chapter 7 [[REP-014](#)] considers the cumulative GHG emissions from the Proposed Development together with other committed and planned development and identifies no likely significant adverse effects. Furthermore, it concludes that the cumulative effect on climate change resilience would be major beneficial given that the combined effects of multiple solar developments would serve to counter the effects of climate change.

3.2.54. While the Applicant recognises that there may be some cumulative effects from combined GHG emissions during construction, it considers the offset from reduced GHG emissions during the operational phase of the Proposed Development (when compared to other fossil fuel sources of generation) would considerably outweigh them [[REP-014](#)].

Issues considered during the Examination

Need

3.2.55. All of the Host Authorities (LCC, NCC and WLDC) acknowledged the need for large scale solar projects was established by the 2024 NPSs [[REP-085](#), [REP-086](#) and [REP-091](#)] and agreed with the overarching need case for the deployment of low carbon energy generation infrastructure [[REP5-036](#), [REP5-040](#) and [REP6-006](#)]. We agree with this conclusion.

3.2.56. A number of concerns were raised by IPs in their RRs. Further, detailed concerns were raised by 7000 Acres as part of its written submissions (detailed summaries of which, together with the Applicant's responses,

can be found in [[REP-049](#)] and [[REP-117](#), [REP2-090](#), [REP3-064](#), [REP3-067](#) and [REP6-016](#)]). However, many of these centre around concerns with the viability of solar energy in the UK and the role it can, and indeed should, play in the UK's energy mix.

- 3.2.57. While we acknowledge that there are various limitations to solar generation including its intermittency and potential for curtailment, as both the 2011 and the 2024 NPSs make clear, it is for industry to propose new energy infrastructure projects that they assess to be viable within the strategic framework set by government. Furthermore, both the principle and viability of large-scale ground mounted solar is explicitly recognised in 2024 NPS EN-1 and has been accepted by the SoS in previous NSIP applications (see Cleve Hill Solar Park, Little Crow Solar Park, and Longfield Solar Farm).
- 3.2.58. Moreover, even though we acknowledge that other forms of low-carbon generation may provide different, and in some cases increased, benefits, it is clear that solar generation of various sizes forms part of the Government's preferred approach to energy generation and security of supply moving forward.
- 3.2.59. Indeed, we consider that large scale solar generation is essential to support the urgent need to decarbonise the electricity sector, to provide resilience to the system as well as providing security of supply. While we acknowledge the intermittency of this form of generation, we nevertheless recognise that the Proposed Development would become a substantial infrastructure asset, capable of delivering low-carbon electricity for many years to come.
- 3.2.60. We note the concerns of IPs regarding the ability of the BESS to both import and export electricity. However, we consider the Proposed Development provides an opportunity to integrate energy generation and storage and can be delivered ahead of other forms of low carbon generation.
- 3.2.61. We acknowledge other types of solar generation, for example rooftop generation, may be required to help meet the net-zero target and that there are other sources of renewable energy generation available. Nevertheless, we consider there is significant national policy support for all forms of renewable, low carbon energy generation, including large scale ground mounted solar.
- 3.2.62. We therefore consider the urgent need for the Proposed Development has been made out. Furthermore, we consider the Proposed Development would contribute towards meeting this need, would help in the transition to a low carbon system and would generally be in accordance with both the 2011 NPSs and 2024 NPSs. It would also be in accordance with the NPPF, PPG and the local development plans of the Host Authorities, all of which give support for the principle of low carbon generation.

Consideration of alternatives and good design

- 3.2.63. WLDC, in its LIR [[REP-091](#)], questioned the rationale for the amount of land required, noting that other schemes had achieved similar amounts of generation with a using a smaller amount of land. It expanded on these concerns during the Examination, noting the Applicant's starting point of finding sufficient land to accommodate its grid connection offer was flawed and should instead be based on objective site selection design objectives and criteria. It argued that in doing so the Applicant has simply identified parcels of land spread across a wide geographical area and that this has resulted in a duplication of infrastructure and a sprawling site which significantly increases the impacts of the Proposed Development. As such, it questions whether such an approach can be said to demonstrate good design.
- 3.2.64. In addition, a large number of IPs raised concerns that sufficient consideration had not been given to the use of previously developed land or installation on rooftops as well as the viability of the distance between the solar panels and the connection point.
- 3.2.65. However, there is no requirement for the Applicant to consider all alternatives, to choose the best option or indeed to deliver a contiguous site. Furthermore, we accept the design process adopted by the Applicant from the early stages has helped shape its proposals.
- 3.2.66. Moreover, while we note that, at around 1200ha, the amount of land required for the Proposed Development would exceed the 2 to 4 acres per MW of output identified in 2024 NPS EN-3, we recognise that the amount of land required for large scale ground mounted solar generation will vary significantly depending on the site - with some being larger and some being smaller.
- 3.2.67. While we acknowledge the Applicant's 'network of sites' approach would result in environmental impacts over a greater area than a larger, single site, Annex E of ES Appendix 5.1 [[APP-067](#)] indicates that the approach adopted would nonetheless result in fewer impacts when compared with other sites considered - including in terms of, amongst other things, the impact on heritage assets, flood risk and visual impact.
- 3.2.68. Furthermore, ES Chapter 5 makes clear that the use of previously developed land was considered, but as subsequently discounted due to there being an insufficient area available to accommodate the Proposed Development without resulting in increased legal complexities and costs. Annex D of Appendix 5.1: Site Selection Assessment [[APP-067](#)] shows the brownfield land locations considered by the Applicant (see Figure 4).
- 3.2.69. Likewise, while we note the concerns raised regarding the technical viability of the distance between the solar panels and the connection point, the Applicant confirmed that it is satisfied that the chosen sites are close enough to the point of connection to provide a viable scheme. No substantive evidence was submitted during the Examination which would lead us to conclude otherwise.

- 3.2.70. Accordingly, while we note the various concerns raised by IPs in relation to the consideration of alternatives, the fact remains that the Applicant has explained the reasons for its choice of site as well as the alternatives it has considered. Although we accept that there may be other ways of delivering a 600MW solar scheme in this location, we consider it is open to applicants to take into account a range of factors and we are satisfied with the Applicant's general approach in this respect. Indeed, we note that no available alternative sites have been identified during the Examination which would meet the objective need for the Proposed Development and which have a realistic prospect of delivering the same capacity in the same timescale.
- 3.2.71. Overall, we accept that the Applicant's approach to site selection has helped to balance the generation of large amounts of low carbon renewable energy against the need to minimise the environmental impacts on its surroundings.

Climate change and greenhouse gas emissions

Assessment of GHG emissions

- 3.2.72. None of the Host Authorities raised any specific concerns in respect of the Applicant's assessment of climate change in their LIRs [[REP-080](#), [REP-085](#), [REP-086](#) and [REP-091](#)], with LCC noting that the Proposed Development would result in significant positive impacts in terms of GHG emissions. WLDC did, however, note that there is some uncertainty over the total estimate of emissions during decommissioning [[REP-091](#)]. However, it acknowledged that GHG emissions during this stage would be far lower than during construction where only minor adverse effects are predicted.
- 3.2.73. A number of IPs did raise concerns around the Applicant's GHG assessment noting it was unclear as to how it reached its conclusions and that the Applicant has failed to consider the degree to which development may be curtailed at periods of excess renewable energy. They also argue that the a failure to consider the crops the land currently produces for renewable energy (ie biofuels) as well as food [[REP-104](#) and [REP-117](#)] and the Applicant has made a number of highly optimistic assumptions which do not represent a worst case scenario [[REP6-016](#)]. These include the Applicant's transport assumptions and the calculation of emissions during operation which would result from the replacement of PV units and batteries (noting that both have significantly shorter lifespans than that being suggested by the Applicant [[REP-122](#)]).
- 3.2.74. They also raised concerns that the Applicant has underestimated GHG emissions during decommissioning [[REP-122](#)].
- 3.2.75. In response, the Applicant confirmed that energy use during operation had been accounted for within its calculations and that the carbon capture from the crops on existing land would not be significant [[REP2-051](#)]. It also re-iterated that replacement panels, batteries and parts have been considered within the assessment drawing attention to Table

1.1 of the 'Review of Likely Significant Effects at 60 Years: Environmental Statement Review' [REP2-058] which indicates that over a 60 year operational lifespan 24% of the panels would be replaced (equating to a replacement rate of around 0.4% annum) [REP2-051]. It also noted that even factoring in the replacement of on-site materials, the assessment indicates a significant reduction in tCO₂e over the lifetime of the Proposed Development [REP2-051] and maintains that it had assessed a worst case scenario [REP2-034].

- 3.2.76. While we acknowledge the Applicant's approach is fairly high level, we agree that it provides a useful indication of the likely decarbonisation benefits afforded by the Proposed Development and we accept that reasonable worst case assumptions have been used and are in line with the relevant IEMA guidance.
- 3.2.77. Furthermore, we accept there is potential for a greater failure rate to occur as panels age. However, we are mindful that the proposed 60 year lifetime of the project is intended to ensure that panels can remain operational beyond their anticipated life and not to enable the wholesale replacement of all the panels. Moreover, we note Article 5 of the dDCO [REP5-005] would ensure that where a greater replacement rate was required, the Applicant would need to demonstrate that it would not give rise to any materially new or materially different environmental effects compared to those assessed in the ES. This will ensure that should a greater failure rate occur, it would not result in any materially different effects to those assessed as part of the ES.
- 3.2.78. On balance, we consider the information provided by the Applicant is sufficient and demonstrates that the Proposed Development would result in a considerable reduction in carbon emissions when compared to fossil fuel based forms of electricity generation.

Cumulative effects

- 3.2.79. During the Examination, we queried why the additional information provided in Appendix E of the Joint Report on Interrelationships with other NSIPs [REP5-025] ("the Joint Report") indicated that different conclusions had been reached on the cumulative effect on climate change between the different NSIPs considered. In particular, we sought clarification on why Table 2-2 of the Joint Report indicates that while other schemes have identified no significant cumulative effects, the Applicant has identified major beneficial cumulative effects in terms of climate change resilience.
- 3.2.80. In response, the Applicant explained that it considered that four solar projects being developed together would result in a quicker reduction in GHG emissions from legacy sources than a single project alone. However, it did acknowledge that a more conservative approach had been taken by some of the other NSIP solar projects considered in the cumulative assessment due to their differing interpretation of the IEMA guidance. Furthermore, the Applicant recognised that in light of this difference in approach the SoS may decide to place limited weight on the cumulative

effects identified, albeit that each NSIP has itself identified beneficial effects individually.

- 3.2.81. We agree that a more conservative approach should be adopted and that the Applicant's purported cumulative benefits should be afforded no weight in the planning balance.

Conclusions on need, climate change consideration of alternatives and good design

- 3.2.82. We consider the urgent need for the Proposed Development has been made out. Furthermore, we consider the Proposed Development would contribute towards meeting this need, would help in the transition to a low carbon system and would generally be in accordance with both the 2011 and 2024 NPSs. It would also be in accordance with the NPPF and local development plans, both of which give support for the principle of low carbon generation.
- 3.2.83. Overall, we are satisfied that the application contains sufficient details of the alternatives, including the approach to site selection, different technology and alternatives routes for key components and how these were considered as part of the overall project design, to meet the requirements of the 2011 NPSs, the 2024 NPSs and the EIA Regulations.
- 3.2.84. While we acknowledge that during the construction phase there would be some adverse effects in relation to GHG emissions, we consider the Applicant has taken reasonable steps to reduce them. Furthermore, while we remain concerned that the Applicant's assessment of cumulative effects differs to that taken by other cumulative projects, we are nevertheless cognisant that even adopting a more conservative approach, it is clear that there would be no significant adverse cumulative effects.
- 3.2.85. Moreover, we accept that over the whole life of the Proposed Development there would be a significant beneficial effect due to displacement of GHG emissions from other sources of fossil fuel generation. This is sufficient to outweigh the negative effects from construction and decommissioning to the effect that, over the lifetime of the project, it would result in negative GHG emissions.
- 3.2.86. Accordingly, we consider the Proposed Development would meet the requirements of the 2011 NPSs, 2024 NPSs, the NPPF and local development plan policies. It would also contribute towards meeting the UK's obligations under the CCA2008 and the Paris Agreement 2015.
- 3.2.87. The contribution to meeting the urgent need for low carbon generating infrastructure and the GHG emission impacts of the Proposed Development are benefits that weighs heavily in favour of making the order and carry very great weight in the planning balance.

3.3. THE ENVIRONMENTAL STATEMENT

- 3.3.1. ES Chapter 2 (EIA Process and Methodology) [[APP-037](#)] (paragraph 2.4.9) and ES Chapter 4 (Scheme Description) [[REP-012](#)] (paragraphs 4.2.3, 4.3.6 and 4.8.2) along with a number of individual topic chapters, indicate that the assessments undertaken in the ES were based on an anticipated lifespan of 40 years.
- 3.3.2. At ISH1 [[EV-012](#), [EV-014](#) and [EV-016](#)], we noted that although the ES had assumed an operational period of 40 years, there was no mechanism in the dDCO to limit use to this period. Consequently, we asked the Applicant to clarify the extent to which the estimated 40 year operational lifetime had informed its assessment and whether, in light of its assumed 40 year operational period, the dDCO should contain an operational time limit.
- 3.3.3. In response, the Applicant stated it was not seeking a temporary or time limited consent and the EIA has been undertaken on that basis. As such, it considered that the ES had already assessed the worst case scenario. This was based on decommissioning after 40 years and that any additional operational life would not result in greater likely significant effects than those already identified.
- 3.3.4. Nevertheless, the Applicant subsequently included suitable wording in Requirement 21 of the dDCO for decommissioning to take place no later than 60 years following the date of final commissioning. This period was chosen to provide flexibility for the Proposed Development to continue operating where the solar panels continue to generate electricity after the average lifespan of 40 years had passed.
- 3.3.5. Whether or not the Applicant was seeking a time limited consent, the requirement for decommissioning to take place after 60 years will provide a definite end point to the Proposed Development and in that sense, we accept it would be temporary, albeit long term.
- 3.3.6. However, at the time the application was submitted, the likely significant effects that would occur after 40 years had not been assessed. To address concerns that this might result in additional likely significant effects, the Applicant carried out a review of the implications of the operational period extending up to 60 years, the findings of which are reported in the Review of Likely significant effects at 60 years [[REP2-058](#)]. ES Chapter 23 (Summary of Significant Effects) [[REP2-010](#)] was also updated to include information on any changes to the significance of residual effects which would arise as a result of a longer period of operation.
- 3.3.7. In summary, for most topic chapters, the review concludes that there would be no change to the assessment. However, it does identify some additional GHG emissions arising from additional replacement materials as a result of increased maintenance activities during operation but concludes these are not likely to be significant. It also identifies that additional hydraulic modelling would need to be undertaken to consider a

32% uplift in river flows. The requirement to do this modelling and identify any necessary mitigation is secured in Requirement 22 of the dDCO.

- 3.3.8. A number of IPs, including WLDC, raised concerns with the Applicant's approach to the ES review, noting that the additional information provided by the Applicant has only reported the end conclusion and contained no transparent assessment to understand how the various judgements have been made.
- 3.3.9. However, we note that Applicant has followed the methodology set out in ES Chapter 2 [[APP-037](#)] and has provided details of any likely significant effects that have been identified as a result of an increased operational period [[REP2-058](#)].
- 3.3.10. Furthermore, we acknowledge that the operational management plans, which contain details of the mitigation measures to be maintained during operation, would continue to be implemented until the point of decommissioning (regardless of the length of the operational period). These operational management plans are secured by the requirements and there is no evidence to indicate that they would not continue to be effective for up to 60 years.
- 3.3.11. Moreover, while we note WLDC's concerns regarding increased maintenance and the potential for additional or new significant effects to arise, we note that the power to maintain the authorised development included in Article 5 of the dDCO [[REP5-005](#)] does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the ES.
- 3.3.12. Consequently, we are satisfied that the Applicant has provided sufficient information to enable the SoS to understand the environmental effects of the Proposed Development remaining operational for up to 60 years.

3.4. NOISE, VIBRATION AND AIR QUALITY

Introduction

- 3.4.1. This section addresses the effect of the Proposed Development with respect to noise and vibration, and air quality.

Noise and Vibration

Policy Context

- 3.4.2. Section 5.11 of 2011 NPS EN-1 refers to the Government's policy on noise, as set out in the Noise Policy Statement for England (NPSE). The NPSE seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. It provides guidance on defining 'significant adverse effects' and 'adverse effects' by reference to the No Observed Effect Level, Lowest Observed Adverse Effect Level and Significant Observed Adverse Effect Level (SOAEL).

- 3.4.3. 2011 NPS EN-1 recognises that excessive noise can have impacts on the quality of human life, health and the use and enjoyment of areas of value. Paragraph 5.11.4 advises that factors which will determine noise impacts include the operational noise from a development and its characteristics, the proximity of a development to both noise sensitive premises and quiet places.
- 3.4.4. 2011 NPS EN-1 confirms that development consent should not be granted unless proposals avoid significant adverse impacts and mitigate and minimise other adverse noise impacts for health and the quality of life. Paragraph 5.11.12 advises noise mitigation measures may include engineering, layout and administrative measures.
- 3.4.5. 2011 NPS EN-1 confirms that its references to noise equally apply to vibration.
- 3.4.6. 2011 NPS EN-5 sets out national policy for noise and vibration considerations for electricity networks infrastructure. It acknowledges that audible noise can arise from the operation of substation equipment, such as transformers, given its tendency to emit a low frequency hum. Paragraph 2.9.10 advises that for decision making there is a need to ensure that the relevant noise assessment methodologies have been used by applicants and that appropriate mitigation options have been considered and adopted. Where applicants can demonstrate that appropriate mitigation measures would be in place, the residual noise impacts are unlikely to be significant.
- 3.4.7. These principles are carried forward into both the 2024 NPS EN-1 and 2024 EN-5. In addition, 2024 NPS EN-3 states that proposals for renewable energy infrastructure should demonstrate good design to mitigate impacts such as noise.
- 3.4.8. The NPPF reaffirms that planning decisions are to avoid noise giving rise to significant adverse impacts on health and the quality of life. This is also reflected in the PPG: Noise in how planning can manage potential noise effects in new development and a similar approach is set out in development plan policies.

The Application

- 3.4.9. The Applicant's case relating to noise and vibration is set out in ES Chapter 15 (Noise and Vibration) [[APP-050](#)]. It is supported by the following documents:
- ES Appendix 15.1 Noise Survey Information [[APP-137](#)];
 - ES Appendix 15.2 Acoustic Terminology [[APP-138](#)]; and
 - ES Appendix 15.3 Assessment of Key Effects [[APP-139](#)].
- 3.4.10. The potential effects of noise have been assessed at the nearest noise sensitive receptors using the methodology set out in British Standard 5228:2009+A1 2014 Code of Practice for noise and vibration control on construction and open sites (BS 5228). The operational noise assessment has followed the methodology in British Standard 4142:2014+A1:2019

Methods for rating and assessing industrial and commercial sound (BS 4142). Noise surveys have been carried out. ES Chapter 15 [[APP-050](#)] details the noise receptor and assessment locations, together with the statistical analysis of the background noise levels taken.

- 3.4.11. The noise climate is assessed as being dominated by road traffic noise and the occasional farming and animal noise. The roads are the main sources of the noise, incorporating various routes.
- 3.4.12. The related construction noise and vibration activities that have the potential to result in adverse effects are the construction of tracks and hardstanding areas, the installation of mounting structures (vibratory piling where required), the installation of PV modules and the construction of the substations and the BESS. In relation to the proposed cable route corridor, potential adverse noise effects would arise from trenching and cable duct installation, cable pulling and jointing, horizontal directional drilling (HDD) and resurfacing works. Noise from construction traffic has been assessed on the basis of the change in noise traffic levels resulting from the additional traffic associated with the Proposed Development.
- 3.4.13. Noise effects during the decommissioning are assumed to be similar or less than the construction phase, and so have been considered together. For the purposes of this assessment, major/moderate or major effects are considered to be significant.
- 3.4.14. In summary, ES Chapter 15 [[APP-050](#)] considers that due to very low background noise levels, absolute noise levels (rather than measured) should be applied. This would result in a negligible effect at the closest residential receptors at the proposed solar array sites, including from the primary sources of operational noise that would be the inverters and transformers that are associated with the conversion units, substations and BESS.
- 3.4.15. Where noise and vibration exceed, respectively, the daytime construction noise criteria of 65 dB LAeq and the level of perception, such effects are said to be tempered by the transient nature of the construction operations for noise. They would be minor for vibration. A tonal correction of +2 dB has been applied due to the type of plant.
- 3.4.16. The embedded mitigation is included in oCEMP [[REP5-020](#)]. These include controls over management of heavy goods vehicles through the oCTMP [[REP5-016](#)], limiting drop height of materials and localised screening, controls over working hours and acoustic barriers. A construction monitoring scheme would also be developed and the monitoring of effects during decommissioning would be secured through the related Environmental Management Plan as a requirement of the DCO. With the embedded mitigation, no residual significant effects are predicted by ES Chapter 15 [[APP-050](#)].
- 3.4.17. No significant cumulative effects are predicted or identified.

Issues considered during the Examination

Noise Methodology

- 3.4.18. WLDC raised a number of detailed and wide-ranging concerns over noise related to the noise methodology, surveys, sources and assumptions [[REP2-047](#)]. The Applicant responded on these matters through our questions and the iterations of the SoCG, including a Noise Comments document [[REP5-040](#)].
- 3.4.19. We sought clarification over why ES Chapter 15 [[APP-050](#)] had not been considered moderate to be significant in terms of the EIA Regulations. The Applicant explained this was because the magnitude of change that is required to achieve this impact would be less than the threshold criteria for SOAEL, in line with NPSE. We then asked if the findings of ES Chapter 15 would change if the SoS decided that moderate effects would be significant.
- 3.4.20. The Applicant responded that the conclusion of the assessment would not change as there are considered to be no moderate effects. A moderate significance of effect was not considered significant in EIA terms because the magnitude of change that is required to achieve this impact would be less than the threshold criteria for a significant observed adverse effect level in line with NPSE [[REP2-034](#), [REP4-058](#)].
- 3.4.21. The Applicant had used absolute noise levels. Therefore we asked the Applicant to explain what this meant, as this term had not been defined. The Applicant replied that it referred to the total noise level associated with the proposed noise sources [[REP2-034](#)].
- 3.4.22. The Applicant was also questioned over whether it considered the same receptor would be affected by more than one noise source arising from the Proposed Development, such as construction site and construction traffic noise. The Applicant stated this was not the case because the traffic levels at the nearby receptors would be considerably below the threshold of significance in accordance with BS 5228. Therefore, any contribution to the overall construction noise experienced, would be negligible [[REP2-034](#)].

Noise Effects

- 3.4.23. IPs raised a number of concerns, including over construction and operational noise from the panels and BESS in a countryside location, and the effect on the operations of Blyton Park Driving Centre [[REP-115](#), [REP5-068](#), [REP2-085](#), [REP5-060](#)].
- 3.4.24. We queried whether the Applicant had regard to the PPG: Noise in as far as it refers to the subjective nature of noise, and whether the countryside location had a bearing over how new noise sources would be perceived by local residents. The Applicant considered that changes in the noise levels would be likely to be negligible (<3 dB) when added to the existing ambient noise climate at all sensitive receptors. In terms of outdoor amenity, predicted noise levels would be considerably below

guidance levels as set out in British Standard 8233:2014 guidance on sound insulation and noise reduction for buildings and the World Health Organization Guidelines for Community Noise (1999). To be noticed by a normal person with good hearing the change would need to be at least 3dB.

- 3.4.25. The Applicant also confirmed that the proposed solar panels themselves do not emit any significant levels of noise. As such at many receptors, noise from the Proposed Development would be indistinguishable, according to the Applicant. The Applicant also confirmed that the tonal correction had been applied to all types of plant, and not just the BESS [[REP2-034](#)].
- 3.4.26. Changes 1 and 2 of the Applicant's requested changes to extend the Order Limits involving road upgrade works may include the use of a vibratory roller. This could result in an exceedance of the SOAEL if it is used within 25 metres (m) of residential properties in Rampton. The Applicant considered this could be tolerated if prior warning and an explanation is provided to residents who may be impacted [[AS-064](#)]. This would not result in a change to the assessment of effects. A commitment to such a communication strategy is made in the oCEMP [[REP5-020](#)].
- 3.4.27. In response to 7000 Acres submitting a noise video [[REP5-069](#)] from a BESS site, the Applicant set out that the predicted noise levels for the BESS had been based on manufacturers' noise data and assessed on industry standard prediction methods and in accordance with current British Standards. The Applicant acknowledged that BESS are not silent and up close it would be the dominant noise source, but reiterated that ES Chapter 15 [[APP-050](#)] concludes that with the implementation of mitigation no likely significant adverse effects are anticipated.
- 3.4.28. We queried the acoustic reflection of the proposed solar panels and concerns were also raised by Blyton Park Driving Centre [[REP2-085](#)] during the Examination on this matter. The Applicant provided further noise information which predicted a change of no greater than +1.3 dB and in most cases less than +1 dB. This would not be expected to be noticeable by any receptors, and so is a negligible effect in EIA terms [[REP4-069](#)].
- 3.4.29. Blyton Park Driving Centre provided a critique of this information [[REP5-060](#)] which considered there was insufficient details of all specific individual effects that the proposed solar panels would have on sound from the driving centre to enable verification of its accuracy, as well as there been a general lack of research concerning solar farms to inform the modelling. Outstanding matters in the critique included ground absorption rates, reflection, barrier effect, the raised position of panels and diffusion, sound decay and distance, and noise from moving sources at the driving centre.
- 3.4.30. The Applicant responded that it is the difference in sound levels with and without the Proposed Development which is important in determining the impact of deflection from the proposed solar panels. The technical model

took account of both point and line sources for the noise. Similar results were obtained, however, the deflection contribution when considering point sources was slightly less. Therefore, the Applicant considered that a worst-case line source results were presented ([REP6-003](#)).

Mitigation

- 3.4.31. WLDC raised concerns in its LIR over the effectiveness of the mitigation of acoustic barriers as mitigation [[REP-091](#)]. The Applicant reaffirmed the proposed 3m barrier height as set out in ES Chapter 15 [[APP-050](#)], as well as the location and specification for the proposed barriers and louvres for the BESS/substation compound and the converter units. The dimensions and design principles for the acoustic barriers were also said to be contained within Work No. 7 under the dDCO.
- 3.4.32. We also queried the Applicant's reliance on Best Practicable Means (BPM) as mitigation to address a major magnitude of change as regards the proposed cable corridor route. The Applicant responded that BPM measures would deal with this change because they were set out in the oCEMP [[REP5-020](#)]. They included controls over working hours, use of plant, hydraulic and percussive techniques, and screening around plant.
- 3.4.33. The Applicant confirmed that the oCEMP [[REP5-020](#)] had been amended so there would not be construction activities on bank and public holidays. If night-time working did occur, operational plant and its duration of use would be reduced to minimise any potential impacts, in line with BPM. The oCEMP also provides precautionary measures concerning the navigational safety and land stability of the River Trent arising from noise and vibration during construction.
- 3.4.34. WLDC's position at the close of the Examination remained that even with mitigation negative impacts as a consequence of noise would still be experienced. Even though these would be below the EIA threshold of 'significant', it considered these impacts must be weighed as negative. WLDC maintained it required further information on co-ordinated management of noise and vibration and on operational phase vibration; clarification over night-time working and piling methodology; and further details on the sound sources considered in the operational phase assessment; the uncertainties in the assessment as required by BS 4142; and on the proposed acoustic louvres [[REP6-011](#)].
- 3.4.35. WLDC also considered that the approach to joint construction with other projects was not adequately explained. The oCEMP [[REP5-020](#)] recognises the issue but does not provide details of how developers will work together in practice. Notwithstanding mitigation measures, WLDC considered there is a risk of impacts caused by cumulative activity that is currently uncoordinated or managed in a collaborative way.
- 3.4.36. The Applicant as set out in the signed SoCG [[REP5-040](#)], considered that it has already provided sufficient information and assurance on these matters, and that where matters of disagreement remain with WLDC,

they are centred on assessment outcomes, cumulative impact and lack of details on acoustic louvres.

ExA's conclusions on unresolved issues

- 3.4.37. We note WLDC's concerns but consider the level of the information submitted is sufficient for us to reach conclusions on this issue. Furthermore, a number of matters which WLDC raise would be dealt through requirements, including fencing, the construction environmental management plan and operational noise. Similarly, we consider that sufficient information has been submitted concerning the potential effects from acoustic reflection and Blyton Park Driving Centre. A worst-case scenario has been reasonably presented based on the methodology utilised and the effect would be acceptable.

Conclusions on Noise and Vibration

- 3.4.38. Mitigation measures have been secured in Requirement 5 (Detailed design approval), Requirement 6 (Battery safety management), Requirement 10 (fencing and other means of enclosure), Requirement 13 (Construction environmental management plan), Requirement 15 (CTMP), Requirement 16 (Operational noise) and Requirement 21 (Decommissioning and restoration) of the dDCO.
- 3.4.39. We conclude that the assessment meets the requirements of 2011 NPS EN-1, 2011 NPS EN-5 and the 2024 NPSs. The noise resulting from the construction, operation and decommissioning phases from the Proposed Development on its own and cumulatively would remain below the significance thresholds as set out in the NPSE and similarly vibration levels would be acceptable. It would also accord with development plan policy, the NPPF and the PPG: Noise. It is not a matter which weighs for or against the Proposed Development.

Air Quality

Policy Context

- 3.4.40. Paragraph 4.10.2 of 2011 NPS EN-1 sets out that the planning system is concerned with the development and use of land in the public interest and in improving the natural environment, public health, safety and amenity. Pollution control is concerned with the use of measures to prohibit or limit the releases of substances to the environment to the lowest practicable level.
- 3.4.41. Paragraph 5.2.9 of 2011 NPS EN-1 establishes generally that air quality considerations are to be given substantial weight where a project would cause new breaches of national air quality limits or substantial changes in air quality levels, even where no breaches would occur. Paragraph 5.2.10 of 2011 NPS EN-1 advises that account must be taken of any relevant statutory air quality limits. Such an approach is carried forward into the 2024 NPSs for air quality.

3.4.42. The NPPF approach is on similar lines to the NPSs, taking into account the presence of Air Quality Management Areas (AQMA) and Clean Air Zones having regard to the cumulative impacts from individual sites in local areas. Development Plan policies also provide a similar approach.

The Application

3.4.43. The Applicant's case relating to air quality is set out in ES Chapter 17 (Air Quality) [[APP-052](#)]. It is supported by the following documents:

- ES Appendices 17.1 to 17.3 Qualitative Dust Assessments and Construction Dust Management Plans (CDMP) [[APP-141](#), [APP-142](#), [APP-143](#)];
- Appendix 17.4 BESS Fire Technical Advice Note [[APP-144](#)];
- Outline Battery Storage Safety Management Plan [[REP3-018](#)];
- Updated Air Quality Impact Assessment of a Solar Panel Fire Incident [[REP-078](#)]; and
- Air Quality Impact Assessment of BESS Fire [[REP2-071](#)].

3.4.44. Under ES Chapter 17 [[APP-052](#)], the construction assessment methodology concerns on-site construction activities in relation to human receptors. The air quality baseline environment has been established by way of pollution monitoring results and background pollutant mapping. Receptors have been located for the assessments. Associated construction traffic outside of the Order Limits and traffic impacts have been scoped out on the basis of predicted levels of traffic and as the site is not located within or adjacent to an AQMA.

3.4.45. Particulate matter exposure is identified as a threat from short term smoke exposure and so dispersion modelling has been undertaken to predict the short-term concentrations of PM¹⁰ and PM^{2.5} at residential receptors that are downwind. The locations for assessment had been purposely located closest to the sensitive residential receptors to produce a worst-case assessment from fire, including for NO² and CO. The Applicant considers that there would not be adverse air quality effects at the closest receptor locations as a result of BESS fire risk. This is due to the distance to the nearest property (the closest would be 320m away), the short-term nature of the fire incident, the application of the National Fire Chiefs' Guidance and the assessment undertaken.

3.4.46. ES Chapter 17 [[APP-052](#)] explains during the operational phase, the BESS would have fire detection and suppression features to detect and suppress fire, and thus lessen the likelihood and duration of air quality effects from the release of emissions. The batteries would be installed in single locked steel containers to contain fire and so reduce the likelihood of it spreading. There would also be adequate separation between battery banks. An outline Battery Storage Safety Management Plan [[REP3-018](#)] (oBSSMP) has been produced, a final version of which would be secured through DCO Requirement 6.

3.4.47. The air quality effects are thus considered by the Applicant to be negligible during the construction and operational phases. It is not anticipated that the effects associated with decommissioning would be

worse than during the construction phase and that the dust and particulate matter emission impacts during the decommissioning phase would be less than the impacts during construction. It is purported that there would not be residual significant effects with the implementation of the embedded mitigation for any of the phases.

3.4.48. No significant cumulative effects are predicted or identified.

Issues considered during the Examination

3.4.49. We queried why construction traffic vehicular movements had been scoped out. The Applicant pointed to the Institute of Air Quality Management (2016) Land-use planning & development control: Planning for air quality guidance and its advice concerning vehicular movements thresholds outside of an AQMA. As these numbers were predicted to be below the threshold, it considered such movements could be scoped out. The Applicant also confirmed that the same applies when the cumulative effect of such movements are considered. It was also clarified that abnormal load movements had been included [[REP2-034](#)].

3.4.50. LCC's LIR queried whether air quality impacts would be acceptable for sensitive neighbouring uses [[REP-085](#)], including local residents, while WLDC's LIR identified that the main air quality risks would arise during construction [[REP-091](#)]. The Applicant acknowledged that dust mitigation measures may not be effective all the time, which may result in nearby receptors experiencing occasional, short-term dust annoyance. The likely scale of this would not though normally be considered sufficient to change the conclusion that with mitigation the effects would be not significant [[REP2-034](#)].

3.4.51. Following the application of the Institute of Air Quality Management's 'Guidance on the assessment of dust from demolition and construction guidance' (IAQM guidance), the Applicant reaffirmed that the construction effects would be negligible in this regard [[REP2-034](#)]. This explained the low risk of residual adverse effect that was identified in ES Chapter 17 [[APP-052](#)].

3.4.52. The Applicant explained that the Updated Air Quality Impact Assessment of a Solar Panel Fire Incident [[REP-078](#)] and Air Quality Impact Assessment of BESS Fire [[REP2-071](#)] documents had been submitted during the course of the Examination to reflect updated guidance and best practice, including data that had become available for battery modules in November 2023.

3.4.53. The Applicant also confirmed that the updated documents did not change the conclusions of ES Chapter 17 [[APP-052](#)] in that there would be no adverse risks and that the identified mitigation measures were embedded.

Conclusions on Air Quality

3.4.54. Mitigation measures have been secured in Requirement 5 (Detailed design approval), Requirement 6 (Battery safety management),

Requirement 13 (Construction environmental management plan) Requirement 15 (CTMP) and Requirement 21 (Decommissioning and restoration) of the dDCO.

- 3.4.55. The air quality assessment undertaken adequately assesses impacts and no significant effects would be likely to arise from the Proposed Development on its own and cumulatively. This has regard to matters such as emissions arising from a fire, as well as construction dust and particulates. The Proposed Development would accord with 2011 NPS EN-1, the 2024 NPSs, the NPPF and development plan policy. It is not a matter which weighs for or against the Proposed Development.

3.5. ECOLOGY AND BIODIVERSITY

Introduction

- 3.5.1. This section considers the effect of the Proposed Development on biodiversity and nature conservation interests. It includes air quality and water borne impacts on biodiversity, as well as biodiversity net gain (BNG). Issues relating to the HRA are addressed separately in [Section 4](#).

Policy Context

- 3.5.2. Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010 requires regard to be taken of the United Nations Environmental Programme Convention on Biological Diversity of 1992.
- 3.5.3. Paragraph 5.3.3 of 2011 NPS EN-1 states that where the development is subject to an EIA, applicants should ensure that their ES clearly sets out any effects on internationally, nationally and locally designated sites of ecological importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity. In decision-making, the SoS should ensure that appropriate weight is attached to these matters.
- 3.5.4. Paragraph 5.3.7 of 2011 NPS EN-1 recognises that developments should aim to avoid significant harm to biodiversity interests, including through mitigation and consideration of reasonable alternatives. Applicants are also required to show how projects have taken advantage of opportunities to conserve and enhance biodiversity interests. Paragraph 5.3.18 goes on to set out that applicants should ensure that construction activities are confined to the minimal area required and that best practice is followed to minimise the risks of disturbance or damage to species or habitats, amongst further appropriate mitigation measures.
- 3.5.5. Paragraph 2.7.2 of 2011 NPS EN-5 states that, amidst other matters, the Applicant will need to consider whether the proposed electricity line will cause biodiversity problems at any point along its length and take this into consideration in the preparation of the EIA and ES.
- 3.5.6. The 2024 NPSs reaffirm the protection given to designated sites; appropriate avoidance, mitigation, compensation, and enhancement

measures as an integral part of the proposed development; and the importance of BNG.

3.5.7. The NPPF indicates that planning decisions should contribute to and enhance the natural and local environment, including by protecting and enhancing sites of biodiversity value; recognising the wider benefits from natural capital and ecosystem services; and minimising impacts on and providing net gains for biodiversity.

3.5.8. The development plan policies also seek to safeguard features of biodiversity importance, including the protection of species, habitats and networks, provide for BNG and recognise the biodiversity value of the green and blue infrastructure network. They also make clear that renewable energy development should also address ecology.

The Application

3.5.9. The Applicant's case relating to biodiversity is set out in ES Chapter 9 (Ecology and Biodiversity) [[APP-044](#)]. It is supported by the following documents:

- ES Appendix 9.1 Consultation Responses [[APP-078](#)];
- ES Appendix 9.2 Preliminary Ecological Appraisal [[APP-079](#)];
- ES Appendix 9.3 Extended Phase 1 Habitat Survey Maps [[APP-080](#)];
- ES Appendix 9.4 Cable Route Preliminary Ecological Appraisal [[APP-081](#)];
- ES Appendices 9.5 to 9.10 Survey Reports [[APP-082](#) to [APP-087](#)] [[REP-022](#)];
- ES Appendix 9.11 Schedule of Protective Ecological Buffers [[APP-088](#)];
- ES Appendix 9.12 BNG Report [[APP-089](#)];
- ES Addendum 9.1: Ecology and Biodiversity [[REP4-067](#)];
- Information to Support a HRA document [[REP3-024](#)]; and
- Risk Assessment of EMF Impacts on Fish [[REP3-034](#)].

3.5.10. The baseline methodology was derived from several desk and field-based studies which are set out in paragraph 9.1.7 of ES Chapter 9 [[APP-044](#)].

3.5.11. Badger setts were searched for and detectors were utilised for signs of bats, as were tree and building surveys. Surveys of ditches and watercourses were carried out for otters and water voles. eDNA surveys were carried out to determine the presence of great crested newts (GCN). The GCN Survey Report [[REP-022](#)] was revised during the Examination to include surveys for six ponds along the shared cable corridor route, as these were not carried out when water bodies were originally surveyed. For the breeding bird surveys, the extent of land which corresponds to the Order Limits has been assessed. The assessment methodology involved determining the relative importance of each ecological feature and undertaking an impact assessment with and without mitigation measures.

3.5.12. The significance of residual effects is described as significant or not significant, as Chartered Institute of Ecology and Environmental

Management (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine guidance is said to discourage assigning categories for ecology and biodiversity such as minor, moderate and major. Significant residual effects are then qualified with reference to the appropriate geographical scale at which the effect is considered to be felt. The significant effects, whether adverse or beneficial, are expressed at the geographical scales of Site, Local or District Importance.

- 3.5.13. There are no internationally designated sites within the Order Limits and the nearest sites lie approximately 15km away from the proposed Cottam 3a array site. These are the Humber Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar and the Thorne and Hatfield Moors SPA. There are five Sites of Special Scientific Interest (SSSI) located 1.5km north of the proposed Cottam 3a array site that are part of a complex of sites within Laughton Woods and Scotton Common, and there are additional SSSIs which lie within 5km of the Cable Route Study Area (CRSA).
- 3.5.14. The Information to Support a HRA document [[REP3-024](#)] was updated to also include the Humber Estuary Ramsar. The scope and extent of the Ramsar overlaps with the Humber Estuary SAC. The Ramsar also concerns the Natterjack Toad. The ES Addendum 9.1: Ecology and Biodiversity [[REP4-067](#)] was submitted for the same reason.
- 3.5.15. River Lamprey and Sea Lamprey are Humber Estuary SAC designation species. The Applicant provided a risk assessment [[REP3-034](#)] to consider the effects of electro-magnetic fields (EMF) as both species use the River Trent to spawn, laying their eggs in suitable gravels upstream of the proposed cable route corridor.
- 3.5.16. At the local level, Section 9.5 of ES Chapter 9 [[APP-044](#)] details a number of non-statutory designated sites that lie within 2km of the array sites and/or CRSA. The interest of all of these designations is also further explained in that section.
- 3.5.17. The habitats within and immediately adjoining the Order Limits have been identified as woodland (sparse); trees and hedgerows, with a network measuring approximately 75km; arable fields, which make up the vast majority of array sites and CRSA and arable field margins; a small number of permanent pasture fields and grassland; over 64km of ditches, the River Till, and Corringham, Yawthorpe and Northorpe Becks; and ponds, which are thinly distributed.
- 3.5.18. The Applicant assesses in ES Chapter 9 [[APP-044](#)] that there would be no likely residual effects as regards internationally, nationally and locally designated sites. The significant effects reported for protected and notable species and habitats then consider embedded and additional mitigation measures. These are detailed within the outline Landscape and Ecological Management Plan (oLEMP) [[REP4-035](#)] and the outline Ecological Protection and Mitigation Strategy (oEPMS) [[APP-356](#)].

- 3.5.19. In summary, the oLEMP [[REP4-035](#)] and oEPMS [[APP-356](#)] include measures concerning habitat mitigation and creation, such as hedgerows, trees, grassland habitat and flower-rich pollinator seeding. These also comprise the mitigation of adverse impacts upon important ecological features such as ground nesting birds, as well as measures in the oEPMS.
- 3.5.20. The residual effects are set out in Table 9.3 of ES Chapter 9 [[APP-044](#)]. Significant adverse effects would arise during construction for the harvest mouse, trees and hedgerows and ditches and watercourses (both cable route corridor). During the operational phase, a significant adverse effect would occur for overwintering birds, the harvest mouse, and breeding birds consisting of the skylark, yellow wagtail, grey partridge and quail through habitat loss.
- 3.5.21. Significant beneficial effects would occur during the operational phase for bats; polecat and hedgehog; otters and water vole; brown hare; reptiles and amphibians; breeding birds: lapwings, curlew and other species; invertebrates; badgers; hedgerows and trees, and ditches and watercourses (both array and BESS sites); grassland: arable field margins and floodplain grazing marsh; and ponds. This is due to the creation of habitats for these species, as well as the habitats themselves.
- 3.5.22. It is stated that BNG would occur by way of 96.09% for habitat units, 70.22% for hedgerows and 10.69% for rivers. This would result from large scale reversion of arable to permanent grassland, ecological buffer zones to maximise biodiversity value and planting of new hedgerows and tree lines. The details are explained in the BNG Report [[APP-089](#)], which includes the application of the Natural England (NE) Biodiversity Metric 3.1.
- 3.5.23. Decommissioning effects are assumed to be the same as construction effects and have been assessed on a worst-case scenario basis.
- 3.5.24. Cumulative effects with the West Burton Solar Project, Gate Burton Solar Energy Park and Tillbridge Solar Park have been considered under section 9.9 of ES Chapter 9 [[APP-044](#)]. ES Addendum 9.1: Ecology and Biodiversity [[REP4-067](#)] provided an updated assessment of significance within the cumulative assessment in order there was consistency in approach with that of the Joint Report [[REP5-025](#)]. No further mitigation was proposed since the Applicant considered that all available land and opportunities for mitigation through provision of habitat for ground-nesting birds within the Order Limits had been pursued.
- 3.5.25. The only designated sites which are considered to be at risk are those close to the proposed cable route corridor. As regards species, cumulative adverse effects are predicted to arise for skylark, yellow wagtail, grey partridge, quail and harvest mice at the District level. For overwintering birds, hedgerows, trees, ditches and watercourses, there would be cumulative adverse effects at the Local scale. A beneficial effect would occur at the District level for reptiles and amphibians. All of these would be significant.

Issues considered during the Examination

Designated Sites

- 3.5.26. We queried whether the HRA was sufficiently robust by way of the assessment of the impacts on Humber Estuary Ramsar, while the Environment Agency (EA) raised matters over the effect on juvenile lamprey and migratory salmon from EMF [[REP-093](#)].
- 3.5.27. The Information to Support a HRA document [[REP3-024](#)] and ES Addendum 9.1: Ecology and Biodiversity [[REP4-067](#)] sought to address the queries that had been raised and found that no impact pathway would be present with the Proposed Development and that no significant impacts upon the Ramsar are considered likely. NE subsequently agreed that it was suitable to rule out an impact from the Proposed Development on the Ramsar [[REP4-083](#)]. This is addressed in more detail in [Section 4](#) of this Recommendation.
- 3.5.28. The Risk Assessment of EMF Impacts on Fish document considered that potential effects of electric fields on these fish would not be likely due to the buried depth of the cable. The buried depth would also significantly mitigate risks from magnetic fields, as would small area of the river affected and the transient nature of the species. The same conclusion is reached as regards cumulative effects [[REP3-034](#)]. In considering the risk assessment, the EA recommended a Requirement which concerned an EMF monitoring strategy because it could not categorically be said there was no risk to these species [[REP4-077](#)]. This is on the basis that the effect on the species is poorly understood. Subsequently, the final SoCG between the Applicant and the EA agreed that monitoring would be secured by the final Operational Environmental Management Plan (OEMP).
- 3.5.29. No concerns were raised by NE or the host authorities over effects on the Humber Estuary SPA, the Thorne and Hatfield Moors SPA and the Laughton Woods and Scotton Common complex of SSSIs.
- 3.5.30. As regards the potential effect on locally designated sites which involve road verges, such as the Willingham to Fillingham Road Verges Local Wildlife Site (LWS), the Applicant clarified measures that would seek to mitigate impacts from over-run by construction vehicles. The oCTMP [[REP5-016](#)] includes the temporary laying of steel plates or timbers to protect the verges, to be employed in co-ordination with an Ecological Clerk of Works [[REP2-034](#)].
- 3.5.31. The Applicant also set out that a similar approach would be taken with the Cottam Wetlands LWS, where these measures would be implemented to prevent any accidental vehicle over-run and to avoid indirect impacts associated with cable route construction, such as those arising from dust release or run-off, which are described in the oEPMS [[APP-356](#)].
- 3.5.32. We are satisfied that the effects on designated sites would be acceptable, subject to mitigation. This includes EMF monitoring for fish species in the River Trent.

Protected and Other Species

- 3.5.33. WLDC's LIR considered there would be the potential for disturbance to birds and bats [[REP-091](#)]. We also raised a number of matters with the Applicant over whether impacts on bird species of conservation concern, bats, GCN and lapwing had been properly considered, as well as over the related mitigation and the effects of lighting.
- 3.5.34. The Applicant clarified that arable field habitats which had been found to contain notable bird species of conservation concern were considered to be of Site Importance only because of their low rarity, and natural and species diversity, in accordance with professional guidance [[REP2-034](#)].
- 3.5.35. The Applicant also explained that whilst little research had been conducted into the effects of solar farms on bat activity, a beneficial effect had been predicted because undeveloped corridors of up to 12m on either side of hedgerows and other boundary features would be preserved and host habitat creation specifically for bats (and other wildlife) would be undertaken. The purported beneficial effect was also due to an increase in invertebrates that bats could feed on which would result from the reversion of arable fields over the duration of the Proposed Development [[REP2-034](#)].
- 3.5.36. We queried whether there would be a potential effect on GCN caused by the Applicant's request to change the Order Limits, in light of the proximity to the Cottam Wetlands LWS. The Applicant acknowledged the presence of GCN in this area but stated that the land involved would be unsuitable and outside of this LWS, and reaffirmed the protective measures contained in the oEPMS [[APP-356](#)]. The risks to GCN were therefore considered very low [[REP5-032](#)].
- 3.5.37. We also asked the Applicant to give reasons why the mitigation for the lapwing would potentially bring about at least a beneficial effect, given that this bird species would be displaced to a significant if not complete degree. It was explained the proposed 26ha of wetland habitat was considered more than sufficient to accommodate all of the lapwing's 14 displaced territories. It was thus reasonable to assume there would be a likelihood that numbers could increase [[REP2-034](#)].
- 3.5.38. The Applicant also clarified that the proposed Cottam 1 array site was chosen to receive the focus of the set aside and wetland habitat owing to it hosting the greatest concentration of wetland and ground nesting birds of conservation concern found within the Order Limits. This was also due to the greater sizes of available fields and the ability to site them relatively close to one another to obtain contiguous blocks of land for mitigation. This was considered by the Applicant to increase their likely effectiveness and simplify access for maintenance. Impacts and potential for mitigation on the proposed Cottam 2 and 3b array sites were reported to be more limited due to their size [[REP2-034](#)].
- 3.5.39. In addition, the area of habitat to be created for turtle dove at the proposed Cottam 3a array site was stated to be suitable for small

numbers of other birds such as skylark and yellow wagtail to nest and forage, since its objective was to create a low growing sward in a suitably large field [[REP2-034](#)].

- 3.5.40. With regard to lighting, the Applicant made reference to the oEPMS [[APP-356](#)] which set out that lighting would not be used between sunset and sunrise from the months of March to October inclusive, and no artificial lighting would be employed during works to cross watercourses. The oCEMP [[REP5-020](#)] and outline OEMP (oOEMP) [[REP5-022](#)] also included measures to limit the use of lighting during the construction and operational phases, including the seasonal timing of works and avoiding the use of lighting that would cause disturbance to bats.
- 3.5.41. NE also confirmed that based on the survey work to date, the Applicant had not identified any need for protected species licences. As a result, the submission of draft protected species licences would not be necessary and the production of Letters of No Impediment was not considered necessary [[REP-098](#)].
- 3.5.42. We are mindful that, even with mitigation, there would be significant adverse effects on a number of protected and other species which is acknowledged by the Applicant. This was not disputed by parties during the Examination. There would also however be significant beneficial effects in this regard and areas of habitat creation are proposed that could benefit a number of species. In overall terms, we are satisfied that impacts on protected and other species would not weigh negatively against the Proposed Development.

Habitats

- 3.5.43. The main consideration which arose during the Examination concerned hedgerow effects. IPs considered that some hedgerows did not need to be included within the Order limits, as well as over the general loss due to the access arrangements [[REP3-100](#), [REP3A-009](#)]. WLDC's LIR also considered that habitat loss, degradation and fragmentation could occur [[REP-091](#)].
- 3.5.44. The Applicant clarified that between 36m to 78m of permanent hedgerow removal would be required to accommodate 12 new hedgerow gaps for construction and maintenance access into the proposed solar array and BESS sites [[REP2-034](#)]. For the proposed cable route corridor, there would be temporary gaps of 63m-376.3m during construction and an additional 45.5m of gaps required for maintenance during operation and, in addition, that hedgerow works may be required to accommodate abnormal loads deliveries [[REP4-067](#)].
- 3.5.45. The Applicant also set out that at ISH5 that it was considering if some of the hedgerows could be taken out from the draft DCO, but that removal can be needed for a variety of reasons, including access and given that the detailed design is not yet known [[REP3-038](#)]. The Applicant explained that the oLEMP [[REP4-035](#)] was intended to be the mechanism that would ultimately control such removal. Where such losses would be

temporary, the hedgerows would be re-instated immediately following construction. The increase in overall hedgerow provision that would result from the Proposed Development was also reiterated [[REP4-058](#), [REP5-032](#)].

- 3.5.46. In respect of other habitat types, NE confirmed there is not Ancient Woodland or ancient/veteran trees within the Order Limits, or in close proximity to it, and so impacts on these features are considered unlikely [[REP-098](#)]. The Applicant confirmed that an Arboricultural Impact Assessment would be carried out at the detailed design stage, under the auspices of the oLEMP [[REP4-035](#)].
- 3.5.47. The Applicant also clarified that the oLEMP [[REP4-035](#)] addressed how ecological enhancements would be able to take place under the proposed solar panels, including meadow habitats, and the mitigation requirements during the operational period. Potential air-borne impacts on habitats (as well as on impacted designated sites) would be mitigated through the implementation of the pollution, dust deposition and good practice measures in the oEPMS [[APP-356](#)].
- 3.5.48. We accept there would be some temporary loss of hedgerow habitat during construction. However, this would be ameliorated by the subsequent replanting and in overall terms hedgerow provision would increase. Nor would there be unacceptable effects on other habitat types.

Biodiversity Net Gain

- 3.5.49. 7000 Acres considered that BNG is unproven at the scale of the Proposed Development due to the experimental nature of what is proposed and a low base of confidence, and also raised matters over the application of the metric [[REP2-094](#)]. 7000 Acres also considered that BNG needs to take account of the adverse impact of producing an equivalent amount of crops overseas, as well as reiterating there is limited evidence to support claims that large scale ground mounted solar would increase biodiversity [[REP5-066](#)]. LCC's LIR considered there was the potential to deliver significant BNG through the creation of mitigation and enhancements [[REP-085](#)].
- 3.5.50. The Applicant pointed to the experience of its assessors in BNG and as the methods proposed would not be complex or high risk, the fact that the scale is larger than other schemes would not affect the overall likelihood of success [[REP3-039](#)]. In response to concerns over how up to date the assessment was, the Applicant initially confirmed that the version of the Department for the Environment, Food and Rural Affairs (DEFRA) metric that would be utilised would be the version at the time when the precise details of BNG are provided. This would be submitted as a BNG Strategy under Requirement 9 of the dDCO. The Requirement was then altered during the course of the Examination to specify the percentage gains to habitat, hedgerow and river units [[REP5-005](#)].
- 3.5.51. The Applicant set out that the BNG Report [[APP-089](#)] incorporated the embedded mitigation as well as the enhancement, and considered this

approach was in line with DEFRA's 2022 BNG consultation where it states that at least 10% of the gain should be delivered through separate activities which are not required to mitigate or compensate for protected species impacts. As a consequence, we sought clarification over whether BNG should be considered to be at least 10%, rather than the figures cited by the Applicant, because they included mitigation. NE confirmed these measures could be counted towards a Biodiversity 'No Net Loss' as long as a 10% gain is provided by other means, whilst also recognising that BNG for such a project was not as of yet mandatory [[REP4-083](#)].

- 3.5.52. We consider the Applicant's approach to BNG is robust and there is no substantive reason why it cannot be applied to a Proposed Development of this scale. Nor is there a requirement for it to take account of any crop displacement. The Applicant has incorporated mitigation into its BNG calculation, but a level of gain would still be secured.

Conclusions on Ecology and Biodiversity

- 3.5.53. Mitigation and enhancement measures have been secured in Requirement 5 (Detailed Design Approval), Requirement 7 (Landscape and Ecological Management Plan (LEMP)), Requirement 8 (Ecological Protection and Mitigation Strategy), Requirement 9 (Biodiversity Net Gain) and Requirement 15 (CTMP).
- 3.5.54. There is broad agreement between the Applicant, NE and the EA on ecology and biodiversity matters. We consider there would not be significant adverse effects on designated sites. Furthermore, we consider EMF effects can be adequately addressed through the LEMP which is secured by Requirement 7.
- 3.5.55. It is not in dispute there would be significant adverse effects as regard some species, even with mitigation, both as a result of the individual and cumulative effects reported. However, we acknowledge that the Proposed Development would also result in a number of enhancements to biodiversity and ecology as well as some habitats.
- 3.5.56. Furthermore, we note that the Proposed Development would achieve a minimum BNG of 76.8 % in habitat units, 56.1% in hedgerow units and 10% in river units which would be managed and secured over the long term. We consider this represents a benefit which weighs positively in favour of the Proposed Development.
- 3.5.57. Consequently, we consider the ecology and biodiversity considerations have been adequately assessed by the ES and the proposal would accord with 2011 NPS EN-1, 2011 NPS EN-5, the 2024 NPSs, the NPPF and development plan policy in that respect. Overall, we consider the beneficial effects identified for some species, coupled with the BNG which would arise, should be afforded moderate positive weight in the planning balance.

3.6. LANDSCAPE AND VISUAL IMPACTS

- 3.6.1. This section considers the landscape and visual effects of the Proposed Development including the suitability of the study area and viewpoints used in the Landscape and Visual Impact Assessment (LVIA), the effects on views from the PRow network, the road network, nearby residential properties and the effectiveness of the proposed mitigation measures.

Introduction

- 3.6.2. The Proposed Development is not located in any national designation for landscape protection.
- 3.6.3. There are, however, three Areas of Great Landscape Value (AGLV) located nearby. The first, which surrounds Gainsborough and extends to south of the town, is around 2.60km to the south-west of the Cottam 3a Site. The second runs along the chain of villages on the B1398 extends north to south and passes 4.45km to the east of the Cottam 3a Site. The third, extends across Laughton Woods and is located around 1.05km to the north of the Site. Their location in relation to the Order Limits can be found in ES Figure 8.6 (Landscape Receptors) [[APP-169](#)].
- 3.6.4. ES Figure 8.4 (Cottam 1, 2, 3a and 3b Landscape Character – National) [[APP-167](#)] and ES Figure 8.5 (Cottam 1, 2, 3a and 3b Landscape Character – Regional) [[APP-168](#)] identify the Landscape Character Areas (LCA) at the national, and regional levels respectively.

Policy Context

- 3.6.5. 2011 NPS EN-1 notes that the landscape and visual effects of energy projects will vary on a case-by-case basis according to the type of development, its location and the landscape setting. Furthermore, it recognises that all proposed energy infrastructure is likely to have landscape and visual impacts and that these will sometimes be hard to mitigate.
- 3.6.6. As a result, it notes that it will be necessary to judge whether the visual effects, after allowing for mitigation measures, outweigh the benefits of the project. With this in mind, it advises that applicants should include a landscape and visual assessment in their ES which takes account of any relevant policies in local development plans.
- 3.6.7. In terms of decision making, 2011 NPS EN-1 recognises that landscape effects will depend on the existing character of the local landscape, its current quality, how highly it is valued and its capacity to accommodate change. Accordingly, it advises that all of these factors will need to be considered when judging the impact of a project on the landscape.
- 3.6.8. Furthermore, while paragraph 5.9.14 of 2011 NPS EN-1 notes there may be local landscapes outside nationally designated areas that may be highly valued locally and protected by local designation, it advises that local landscape designations should not be used in themselves to refuse consent. Moreover, it recognises that the scale of such projects means

that they will often be visible within many miles of the site of the proposed infrastructure and the SoS will need to judge whether any adverse impacts on the landscape would be so damaging that it is not offset by the benefits (including need) of the project.

- 3.6.9. Nevertheless, it makes clear that there may be opportunities for an applicant to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation. Likewise, it recognises that the design and sensitive use of materials in any associated development will assist in ensuring that such development contributes to the quality of the area.
- 3.6.10. 2024 NPS EN-1 contains similar advice noting that due to the nature and size of potential schemes, opportunities for landscape mitigation will be limited and that significant adverse effects are likely to remain.
- 3.6.11. In addition, 2024 NPS EN-3 recognises that due to their size, solar sites may affect the provision of local footpath networks and PRoWs. However, it notes that it should be an applicant's intention to keep all PRoWs that cross the site open and to minimise as much as possible the visual outlook from existing footpaths. It also notes that while solar PV panels are designed to absorb light, the SoS should assess the potential impact of glint and glare on nearby homes and motorists.
- 3.6.12. 2024 NPS EN-5 notes that applicants should consider carefully the placement of substations in the local landscape and consider opportunities for screening them.
- 3.6.13. Paragraph 174 of the NPPF indicates that decision makers should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.
- 3.6.14. The local development plans also contain a number of policies which seek to protect and enhance the intrinsic value of the landscape noting that where proposals result in significant harm they may exceptionally be permitted if the overriding benefits demonstrably outweigh the harm. They make clear that in such circumstances the harm should be minimised and mitigated.
- 3.6.15. Furthermore, the local development plans contain policies which encourage the protection and enhancement of green infrastructure and aim to ensure proposals are sensitive to their landscape setting.

The Application

- 3.6.16. ES Chapter 8 [[REP2-008](#)] sets out the Applicant's assessment of the effect of the Proposed Development on landscape and visual amenity during construction, operation and decommissioning.
- 3.6.17. It distinguishes between landscape and visual effects assessing each separately. ES Appendix 8.1 (LVIA methodology) [[APP-068](#)] explains that landscape effects are concerned wholly with the effects of the Proposed

Development on the character of the landscape as an environmental resource in its own right whereas visual effects relate to the effect on views and visual amenity experienced by people.

- 3.6.18. Views from conservation areas, listed buildings, scheduled monuments and Registered Parks and Gardens are also considered where these features include recognised viewpoints, for example, used by tourists or other receptors.
- 3.6.19. ES Chapter 8 is supported by a considerable number of other documents. These, together with the relevant hyperlink, can be found in [Annex D](#).

Methodology

- 3.6.20. Full details of the LVIA Methodology can be found in ES Appendix 8.1 (LVIA Methodology) [[APP-068](#), [APP-069](#), [APP-070](#), [APP-071](#), [APP-072](#), [APP-073](#)]. It follows the Landscape Institute and IEMA Guidelines for Landscape and Visual Impact Assessment, 3rd Edition 2013 and assesses both the landscape and visual effects of the Proposed Development during construction, operation and decommissioning.
- 3.6.21. It also explains that cumulative effects are the additional changes caused by the Proposed Development in conjunction with other similar developments or as a combined set of developments taken together. Accordingly, the cumulative and combined assessments are reported with the effects in isolation already taken into account so as not to double count those isolated effects.

Concept Design Parameters and Principles (CDPP)

- 3.6.22. ES Chapter 4 (Scheme Description) [[APP-039](#)] explains the need for flexibility in the design of the Proposed Development and that the maximum (and where relevant) minimum parameters as set out in the CDPP [[REP4-043](#)] have been considered and used in the ES. This includes assessing landscape and visual affects against the maximum height for tracker panels (4.5m) and the maximum height for structures associated with the BESS. It also confirms that the glint and glare assessment has been based on the illustrative site layouts and considers both tracker and fixed panel options in order to present a worst case scenario.

The Zone of Theoretical Visibility (ZTV) and the study area

- 3.6.23. ES Chapter 8 [[REP2-008](#)] explains that the study areas used in the LVIA assessment have been derived from a combination of desktop study, site investigation and a ZTV analysis.
- 3.6.24. Four study areas are considered in detail extending to 5km, 2km and 1km radius from the boundary of each solar array site and a 0.5km buffer from the boundary of the Cable Route Corridor. The extent of the 5km, 2km and 0.5km study areas are shown on ES Figure 8.1 (Cottam 1, 2, 3a and 3b Site Location and Study Area) [[APP-160](#)] and the 1km study area is shown on ES Figure 8.7.5 (Cottam 1 Residential Receptors Plan) [[APP-179](#)], ES Figure 8.7.6 (Cottam 2 Residential Receptors Plan) [[APP-](#)

[180](#)], ES Figure 8.7.7 (Cottam 3a and 3b Residential Receptors Plan) [[APP-181](#)] and ES Figure 8.7.8 (Cottam Power Station to Cottam 1 Residential Receptors Plan) [[APP-182](#)].

3.6.25. A larger, 5km study area, was used for high sensitivity receptors and receptors in elevated positions, including those within the wider landscape such as Ridge AGLV and Gainsborough AGLV and long distance views from key Lincolnshire landmarks; namely Lincoln Castle and Cathedral, which are included in the assessment of receptors within the 5km radius although they are located outside of this study area

3.6.26. The 1km study area has been used as the radius for the visual assessment of the residential properties and transport receptors. The Applicant justifies the approach on the basis that beyond this distance, even with good visibility, it considers the Proposed Development would be barely perceptible by residential or transport receptors.

Representative Viewpoints

3.6.27. Representative viewpoints were agreed with the Host Authorities and can be found in the Examination Library [[APP-199](#) to [APP-288](#)]. Hyperlinks to viewpoint photography and photomontages can also be found in [Annex D](#) of this Recommendation.

Approach to mitigation

3.6.28. Paragraph 8.6.1 of ES Chapter 8 describes the approach to mitigation, namely: *embedded*, *additional*, and *tertiary mitigation*. It explains that *embedded mitigation* measures are those integrated into the project design. The specific embedded mitigation measures are relied on are described in ES Appendix 8.2 [[REP-020](#)].

3.6.29. *Additional mitigation* measures are implemented at years 1 and 15 of operation. These would be included in the LEMP which is secured via Requirement 7 of the DCO. An oLEMP is provided [[REP4-035](#)].

3.6.30. Further details of the proposed mitigation can be found in ES Chapter 22 (Mitigation Schedule) [[APP-057](#)] and ES Figures 8.16.1 – 8.16.10 [[REP-024](#), [REP-025](#), [REP-026](#), [REP-027](#), [REP-028](#), [REP-029](#), [REP-030](#), [REP-031](#), [REP-032](#), [REP-033](#) and [REP-034](#)].

3.6.31. Section 2.7 of the oOEMP [[REP5-022](#)] explains that the final LEMP will include details of the ongoing maintenance and management of the landscape mitigation. Furthermore, it will contain provisions to ensure that any plants found to be diseased or damaged will be replaced with the same species. It also clarifies (in table 3.5) that this management and maintenance will continue throughout the entire operational phase.

3.6.32. Provision for an Ecological Clerk of Works to ensure habitat establishment during construction is included in the oEPMs [[APP-356](#)] and the oOEMP [[REP5-022](#)] explains that other roles and responsibilities will be outlined in the final OEMP. This is secured by Requirement 14.

3.6.33. ES Chapter 8 [REP2-008] also explains that *tertiary mitigation* is intended to address the residual landscape effects that could not be mitigated or designed out as part of the Proposed Development. It states that there will be a review of the management prescriptions at year 15 to assess whether further management is necessary and whether such management would reduce any residual landscape and visual effects. This is referred to in section 4.11 of the oLEMP [REP4-035] final versions of which are secured by Requirement 7 (LEMP).

Assessment of Effects

Landscape effects

3.6.34. The Proposed Development comprises a series of independent sites which are set within an extensive agricultural landscape. Cottam 1, Cottam 2 and Cottam 3 (3a and 3b) are separated from the other solar array sites by large areas of land and each site is set apart by its associated features such as hedgerows, woodland and tree cover, intervening settlements and the road and rail infrastructure.

3.6.35. Aerial flyover footage showing the location of the Proposed Development in the wider landscape (along with the other proposed Solar NSIPs) can be found in [REP4-104].

3.6.36. Section 8.7 of ES Chapter 8 [REP2-008] describes the likely significant landscape effects of the Proposed Development, considering effects at both a broad (regional) and fine grained scale, with the fine grained assessment drawing on individual contributors to landscape character (ES Appendix 8.1 (LVIA Methodology) [APP-068, APP-069, APP-070, APP-071, APP-072, APP-073]).

3.6.37. Further details of the landscape receptors considered in the ES can be found in the following documents:

- ES Figure 8.6 (Cottam 1, 2, 3a and 3b Landscape Receptors) [APP-169]
- ES Figure 8.6.1 Cottam 1 Landscape Receptors [APP-170]
- ES Figure 8.6.2 Cottam 2 Landscape Receptors [APP-171]
- ES Figure 8.6.3 Cottam 3a and 3b Landscape Receptors [APP-172]
- ES Figure 8.6.4 Cottam Power Station to Cottam 1 Landscape Receptors [APP-173]

3.6.38. In summary, ES Chapter 8 and the Supplementary Landscape Effects Tables [REP-060] indicate that there would be no significant adverse effects at a regional scale for the solar array sites or along the cable route corridor. However, it does identify significant effects on the 4a Unwooded vales Regional LCT in terms of land use and topography at the substation sites during both construction and operation. These are predicted to reduce from major-moderate adverse to moderate adverse by year 15, which is still significant.

3.6.39. It also identifies moderate adverse (significant) effects on fine grained communications and infrastructure receptors at the solar array sites

during construction. This is due to the sensitivity of the rural lanes and the appeal of the attractive east-west local routes that cut across the landscape. However, these are predicted to reduce to minor adverse by year 1 of operation, which is not significant.

3.6.40. A number of significant beneficial effects to landscape character are also predicted to have accrued by year 15 following the establishment of the embedded and additional mitigation. These include moderate beneficial effects to regional landscape character in terms of land use, topography and watercourses, national and local designated landscapes and ancient woodlands and natural designations. These beneficial landscape effects are not, however, relied upon by the Applicant as part of the matters to be afforded weight in the planning balance.

3.6.41. In addition, the SEIR [[AS-064](#)] confirms there are no new significant landscape effects likely to arise out of changes 1 and 2, 3 or 4 during construction operation or decommissioning.

Combined landscape effects

3.6.42. Combined effects are reported at section 8.9 of ES Chapter 8 [[REP2-008](#)] and are summarised the Supplementary Landscape Effects Tables [[REP-060](#)]. ES Chapter 2 (EIA Process and Methodology) [[APP-037](#)] explains that consideration was given to:

- the combination of individual effects on receptors when considered together (for example, combined effects of visual effects on a specific receptor);
- the combination of individual environmental aspects on receptors when considered together; and
- the combination of different elements of the construction works required on a particular receptor and the combined effects of the four solar array sites (Cottam 1, 2, 3a and 3b).

3.6.43. In summary, moderate adverse (significant) combined effects on the Regional Scale 4a Unwooded Vales LCT are identified during construction and at year 1 of operation at all substation sites. These are, however, predicted to reduce over time to become non-significant by year 15. Further details can be found in the Individual Substation Assessment Sheets included at Appendices 8.2.12.1 – 8.2.12.5 of ES Appendix 8.2 (Assessment of Potential Landscape Effects [[REP-020](#)]).

Cumulative landscape effects

3.6.44. Cumulative effects are reported in section 8.10 of ES Chapter 8 [[REP2-008](#)]. In summary, moderate adverse effects are predicted during construction and at year 1 of operation on fine grained land use, topography and watercourses receptors and communications and infrastructure receptors, all of which are predicted to reduce to no greater than minor adverse by year 15, taking account of the embedded and additional mitigation.

Visual effects

- 3.6.45. Section 8.7 of ES Chapter 8 [[REP2-008](#)] also describes the likely significant visual effects of the Proposed Development. These are summarised in the Supplementary Visual Effects Tables [[REP2-052](#)]. Further details can be found in the Individual Assessment Sheets included at ES Appendix 8.3 (Assessment of Potential Visual Effects) [[REP4-023](#)].
- 3.6.46. In addition, the SEIR [[AS-064](#)] identifies new significant effects on transport receptors T083 and T085 as a result of change 5. These are due to the removal of hedgerows at the junction of Stone Pit Lane and Cot Garth Lane. However, the SEIR notes that these are temporary, and the hedgerows will be reinstated following construction and once established, significant effects will no longer be experienced at these locations. No significant visual effects are predicted at these receptors by year 15.
- 3.6.47. In summary, during construction, moderate to major significant effects are predicted for 29 viewpoint, 7 residential, 15 transport and 5 PRoW receptors. Effects reported at year 1 are similar to those at construction. The number of moderate to major significant effects reported at year 15 are lessened to 13 viewpoint, 0 residential, 13 transport and 4 PRoW receptors.

Cumulative and combined visual effects

- 3.6.48. Cumulative and combined visual effects are reported in sections 8.9 and 8.10 of ES Chapter 8 [[REP2-008](#)]. These are summarised in the Supplementary Visual Effects Tables [[REP2-052](#)]. Further details can be found in the Individual Assessment Sheets included at ES Appendix 8.3 (Assessment of Potential Visual Effects) [[REP4-023](#)].
- 3.6.49. Moderate adverse (significant) combined effects are predicted during construction for Viewpoint Receptor LCC-C-D: Blackthorn Lane [[APP-269](#)] reducing to minor adverse/neutral (not significant) at year 15 and decommissioning. No other visual receptors are identified as likely to experience significant combined effects.

Glint and Glare

- 3.6.50. ES Appendix 16.1 (Solar Photovoltaic Glint and Glare Study) [[APP-140](#)] and ES Addendum 16.1 Solar Photovoltaic Glint and Glare Study [[REP-077](#)] analyse the effects of glint and glare and their impacts on local receptors in detail. It predicts a moderate adverse effect from glint and glare at up to 14 residential receptors, 1 transport receptor and one railway receptor. However, it identifies no residual significant effects at any receptors once mitigation measures have been considered.
- 3.6.51. Table 23.1 (Schedule of Significant Effects) of ES Chapter 23 (Summary of Significant Effects) [[REP2-011](#)] provides a summary of the significant residual effects identified after the implementation of mitigation (embedded and additional).

Issues considered during the Examination

- 3.6.52. The landscape and visual impact of the Proposed Development on the surroundings was a matter of concern for many IPs including the Host Authorities, Local Residents and community groups.
- 3.6.53. LCC and WLDC raised a number of concerns both in their respective LIRs [[REP-085](#) and [REP-091](#)] and WR's [[REP-083](#) and [REP-089](#)] in relation to the Applicant's assessment of landscape and visual effects. Full details of all matters raised can be found in the Examination library. At the close of Examination, LCC and WLDC had unresolved concerns that the conclusions of the landscape assessment were understated due to the extent of change across a wide geographical area. Full details of LCC's and WLDC's outstanding concerns at the close of the Examination can be found in their Deadline 6 submissions [[REP6-008](#) and [REP6-011](#)] and their respective SoCG with the Applicant [[REP5-040](#) and [REP6-006](#)]. We consider these matters further below.
- 3.6.54. WLDC and LCC also raises a number of concerns with the Applicant's approach to cumulative assessment more generally. These are considered in detail in [Section 3.13](#) below.

Combined landscape effects

- 3.6.55. LCC and WLDC consider that the Proposed Development would lead to adverse residual effects on landscape character and has the potential to transform the local landscape by altering its character on a large scale.
- 3.6.56. They point to the introduction of significant industrial elements (panels, substations, and related infrastructure) into what is currently a rural agricultural landscape and raise concerns that the assessment does not address the negative impact to landscape character that would occur from the introduction of these industrial elements.
- 3.6.57. However, ES Appendix 8.2 (Assessment of Potential Landscape Effects) [[REP-020](#)] provides an extensive assessment of the combined effect of the Proposed Development on land use. It indicates that the combined effect of all sites would be minor adverse at year 1 and negligible at year 15. It explains that this is due to the limited impact of the low-level nature of the Proposed Development together with the mitigation proposed.
- 3.6.58. The Applicant also recognises the Proposed Development would result in the introduction of new elements and features including the solar panels and substations, and there would be local patches of intervisibility between some of the sites. However, it also notes the intensive agricultural land use has resulted in the abundance of farmsteads and small holdings, large scale agricultural buildings, tree cover and shelterbelts, all of which make a significant contribution in breaking down the visibility between the different sites and provide considerable opportunities for screening.

- 3.6.59. ES Appendix 8.2 (Assessment of Potential Landscape Effects) [[REP-020](#)] also recognises that users of footpaths or transport routes may experience aesthetic aspects of the different sites in succession. However, overall, it concludes the landscape has the ability to accommodate change without undue adverse effects.
- 3.6.60. In ExQ2.5.3 [[PD-011](#)], we asked the Applicant whether the introduction of a significant number of solar panels and other associated infrastructure would become a defining feature of the landscape once operational. In response [[REP4-058](#)], the Applicant stated that it considered the dispersed nature of the site and the low lying areas between the separate sites act as visual buffers helping reduce the visual impact of the panels. Furthermore, it sought to distinguish the Proposed Development from other developments such as certain forms of mineral extraction which change the nature of the landscape, pointing out that solar development is temporary (albeit long term), reversible and is effectively 'overlaid' on the landscape allowing important landscape features to remain.
- 3.6.61. It also drew attention to the network of existing vegetation, noting that by allowing the existing hedgerows to grow out, the panels will be easily integrated into the landscape and the proposed mitigation will help provide a defining legacy of landscape features.
- 3.6.62. It was evident from our site inspections that distance between Cottam 1, Cottam 2 and Cottam 3 (3a and 3b together) would ensure that the Proposed Development would not be seen in its entirety from surrounding vantage points.
- 3.6.63. While we acknowledge that the panels would be visible from various vantage points, the establishment of new areas of planting will introduce positive elements to the landscape and will, over time, help screen them effectively within the wider landscape. In view of the separation between the sites, the intervening landscape features and the mitigation proposed, we do not consider changes to land use would be readily apparent. For most observers, the landscape would remain agricultural and rural in appearance, albeit that it would now contain additional elements.
- 3.6.64. Consequently, we do not consider there would be any significant residual combined effects to land use at either a local or regional scale.

Cumulative landscape effects

- 3.6.65. WLDC and LCC's concerns in respect of regional landscape character relate to the cumulative impact of the Proposed Development with other development (in particular the West Burton, Gate Burton and Tillbridge solar projects). In summary, they consider the mass and scale of these projects combined would lead to adverse effects on landscape character and visual amenity over an extensive area, replacing large areas of rural agricultural land with solar panels and negatively affecting the current sparsely settled and quiet agricultural character of the area. Furthermore, they consider the landscape character of the local, and

potentially regional area, may be completely altered, particularly when experienced sequentially while travelling through the landscape.

- 3.6.66. They consider the residual cumulative effects on the Regional Scale LCT – 4a Unwooded vales character area would be moderate adverse while cumulative effects on land use would be moderate to major adverse. These concerns were echoed by a number of other IPs including 7000 Acres.
- 3.6.67. We do not agree. ES Appendix 8.2 (Assessment of Potential Landscape Effects) [[REP-020](#)] provides an extensive assessment of the cumulative effect of the Proposed Development with other development on both the Regional Scale LCT – 4a Unwooded Vales and on land use as a fine grained receptor.
- 3.6.68. In terms of the former, it identifies no significant cumulative effects would arise as a result of the Proposed Development along with other cumulative development. It points to the screening provided by the embedded and additional mitigation and the ability of the landscape to accommodate some change without undue adverse effects.
- 3.6.69. Likewise, when considering the cumulative effects at a fine-grained level, it recognises the Proposed Development along with the other solar schemes would introduce new elements and features to the landscape in the form of solar panels, resulting in a moderate adverse effect during construction at year 1 of operation. However, it considers that due to the low level nature of the different elements, coupled with the embedded and additional mitigation, the cumulative effects would reduce to minor adverse by year 15.
- 3.6.70. It was evident from our site inspections that while there would be some intervisibility between the Proposed Development and other cumulative development, this would be limited. While there would be some changes to land use over a large area, where evident, it would be seen in the context of an extensive agricultural landscape and in many locations the panels would be distributed in and amongst the existing landscape features helping the low level structures assimilate into the landscape.
- 3.6.71. Consequently, while we accept there would be some significant cumulative effects on land use during construction and at year 1 of operation, we do not agree that it would create what would be perceived as an 'energy' landscape. Furthermore, we are satisfied that the Applicant has demonstrated that, subject to the successful implementation and maintenance of the proposed mitigation measures, there are unlikely to be significant residual adverse cumulative effects at year 15 of operation.

Predicted beneficial effects

- 3.6.72. LCC and WLDC raise a number of concerns with the Applicant's predicted significant beneficial effects to landscape character and visual amenity as identified in ES Chapter 8 [[REP2-008](#)] and ES Chapter 23 [[REP2-011](#)]. While they acknowledge that the proposed planting would add a positive

element to the landscape, helping mitigate the adverse landscape and visual effects, they consider that overall, it fails to improve the baseline or the visual amenity of the area.

3.6.73. We have considered this matter carefully. Whether or not any of the views would be improved is a matter of professional judgement and while we acknowledge WLDC's concerns, we note that it is not suggesting there would be any additional significant adverse visual effects over and above those identified by the Applicant in its assessment. Furthermore, we are mindful that these purported beneficial effects are not relied upon by the Applicant as a potential benefit to be taken into account in the planning balance. This was confirmed at ISH2.

3.6.74. Accordingly, while we consider no weight should be afforded to these purported benefits, we are nevertheless content that the Applicant's assessment has captured all likely significant adverse effects of the Proposed Development on the landscape.

Dispersal of sites/disaggregation

3.6.75. WLDC raise a number of concerns regarding the disaggregation of the different sites and the effect that the Applicant's network of sites approach has on the landscape. While we acknowledge the Applicant's approach would result in environmental impacts over a greater area than a larger, single site, we consider the approach adopted would nonetheless result in fewer impacts when compared with a larger single site. Indeed, the evidence indicates that the approach adopted would ensure that the Proposed Development would not be perceived as a whole within the landscape and would provide greater opportunities for mitigation than if it were a single large site.

3.6.76. Furthermore, we note that the Applicant's assessment considers both the likely significant effects of each site individually and as a whole. We do not therefore agree that the Applicant's approach is deficient in this respect.

Residential receptor R63a: North Farm [VP35 [\[APP-233\]](#), VP36 [\[APP-234\]](#) and LCC-C-H [\[APP-273\]](#) (Residential Receptor 64a)

3.6.77. North Farm is a residential property located adjacent to the Order Limits and alongside the Cottam 1 site. It comprises a two-storey dwelling with some outbuildings all of which are accessed via a long access track off Willingham Road.

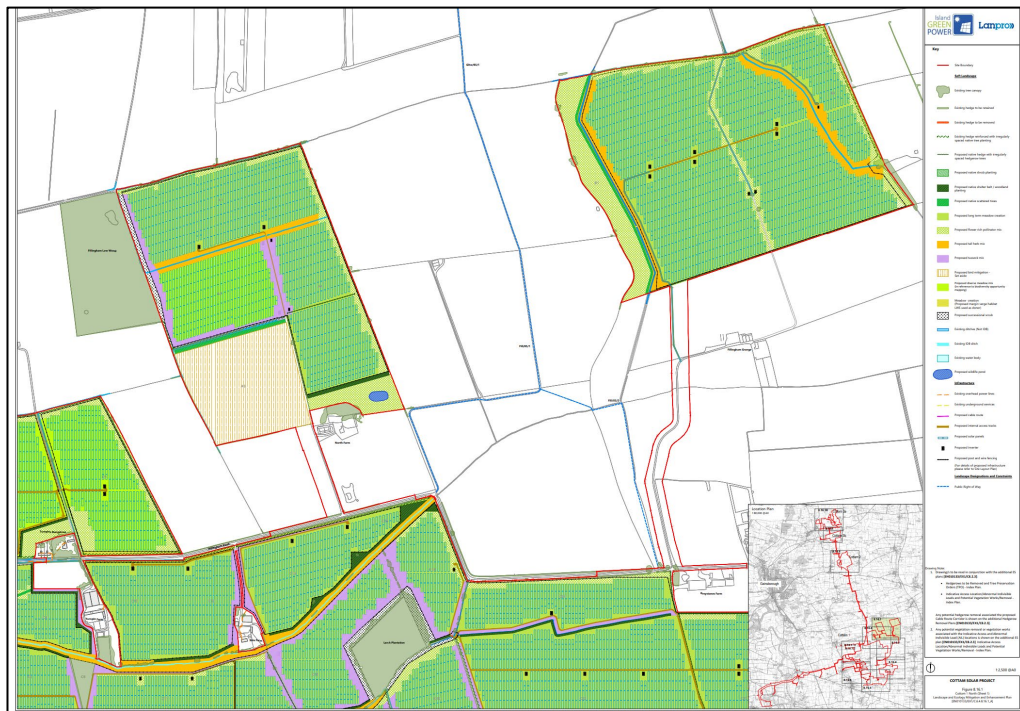
3.6.78. Figure 6 Below provides an extract showing the proximity of North Farm to the Proposed Development.

3.6.79. The main areas of open visibility looking out from the property itself are towards the south and northeast and there are limited views to the north and west due to the outbuildings and deciduous woodland.

3.6.80. ES Appendix 8.3 (Assessment of Visual Effects) [\[REP4-023\]](#) notes that views from the ground floor of the property are unlikely to be affected. It

does, however, recognise that the principal first floor windows would experience views over the panels but consider their presence would be filtered by the intervening hedgerows and tree cover between field parcels. It identifies moderate to major adverse visual effects (Significant) will be experienced from North Farm during both construction and at year 1 of operation.

Figure 6: Map showing the Proposed Development in relation to North Farm



(Source: ES Figure 8.16.1 (Landscape and Ecology Mitigation & Enhancement Plan- Cottam 1 North (sheet 1)) [[REP-024](#)])

- 3.6.81. In order to mitigate the effects, the Applicant proposed new areas of grassland with shelterbelt/woodland planting to the north, the reinforcement of existing hedgerows with regularly spaced trees, new planting along the watercourse to the south, scattered tree planting to the east and a habitat mitigation area and new native hedge to the west. These would be included in the final LEMP which is secured by Requirement 7 of the dDCO.
- 3.6.82. Overall, it considers that, with the embedded and additional mitigation proposed, the significance of effect would reduce to minor-moderate by year 15 (not significant).
- 3.6.83. The owners of North Farm raised a number of concerns throughout the Examination with the effect the Proposed Development would have on the views from their property. Full details can be found in the Examination Library [[RR-307](#), [RR-488](#), [REP-170](#), [REP-196](#), [REP-197](#), [REP-198](#), [REP2-107](#), [REP3-100](#), [REP4-100](#), [REP4-105](#), [REP5-120](#)]. A summary of matters raised which have not been resolved to their satisfaction

during the Examination was submitted at Deadline 6 [[REP6-049](#) and [REP6-050](#)].

- 3.6.84. In summary, they consider the surrounding landscape would become industrialised and the views from their property would be dominated by miles of highly obtrusive infrastructure.
- 3.6.85. As can be seen from Figure 6 above, the proposed solar arrays to the north would be screened from North Farm by the deciduous woodland and the outbuildings to the West, limiting the visual impact in these directions. Moreover, we note that the panels to the south would be located some distance from the property. While we acknowledge the owners of North Farm will experience a change to the existing view in this direction, particularly during construction and at year 1 of operation, we do not agree that the property would be “*dominated by miles of highly obtrusive infrastructure*”. Indeed, we consider the embedded and additional mitigation proposed by the Applicant, would go some way to ensuring that, over time, the significant effects experienced would be ameliorated.
- 3.6.86. Nevertheless, we accept that in the intervening period, while the proposed mitigation becomes established, North Farm, along with a number of other residential receptors, would experience significant adverse visual effects.

3D Modelling

- 3.6.87. No concerns were raised by the Host Authorities around the Applicant’s approach to 3D modelling or the visualisations represented in the ES. However, concerns were raised by local residents, including the owners of North Farm, that the Applicant’s 3D modelling and photomontage imagery does not accurately depict the height of the proposed panels.
- 3.6.88. ES Appendix 8.1.5 (Viewpoint Photography and Photomontage Methodology) [[APP-069](#), [APP-070](#), [APP-071](#), [APP-072](#), [APP-073](#)] provides a detailed explanation of the approach adopted. It also clarifies that the 3D modelling has been undertaken with the highest level of accuracy.
- 3.6.89. Furthermore, we note that ES Chapter 4 [[REP-014](#)] and ES Chapter 8 [[REP2-008](#)] both make clear that the maximum height of 4.5m has been used in the assessment of effects. We also note the confirmation provided by the Applicant in its Deadline 3 submission that the panels used in the 3D visualisations are 4.5m in height [[REP3-033](#)].
- 3.6.90. While we acknowledge the concerns expressed by IPs, we are satisfied that the 3D modelling undertaken by the applicant is sufficiently accurate.

Glint and Glare

- 3.6.91. No specific concerns were raised by the Host Authorities in their LIRs in relation to the Applicant’s conclusions with respect to glint and glare.

- 3.6.92. Concerns were raised by LNT Aviation Limited (Part of the LNT Group (LNT)) in relation to the effect of glint and glare on drivers using the Blyton Park racetrack (located directly adjacent to the Proposed Development) and the lack of details in relation to the specifics of the mitigation proposed around the track. However, we note that where glint and glare cannot be moderated by other means and would require instant screening, a combination of temporary screening and adjacent planting has been included as additional mitigation in the oOEMP.
- 3.6.93. Furthermore, we note that the Applicant has included protective provisions (PPs) in Schedule 16, Part 19 of the dDCO [[REP5-005](#)] which, amongst other things, require LNT's approval of the "works details" (including the plans, section drawings and method statement to demonstrate that the Scheme and the Blyton Park Driving Centre can coexist without significant detriment to each other) prior to the commencement of Work No. 1C in any of the land over which LNT Group has indicated could have an impact on its operations.
- 3.6.94. While we note these were not agreed by LNT at the close of the Examination, we are content that they contain sufficient protections to ensure that the proposed mitigation would be secured and that users of the Blyton Park Driving Centre would not experience unacceptable levels of glint and glare.
- 3.6.95. Likewise, while we note the concerns raised by 7000 Acres in relation to the cumulative glint and glare effects, again we consider the use of opaque fencing and adjacent planting would provide immediate mitigation for any significant effects which are likely to arise in relation to glint and glare.
- 3.6.96. Overall, with the embedded and additional mitigation, we are satisfied that there would be no significant cumulative effects in terms of glint and glare.

Volume of information

- 3.6.97. Many IPs expressed concern with the volume of information on landscape and visual impacts and the number of documents associated with the assessment of landscape and visual effects. While we acknowledge the assessment is extensive, we agree that it is, at times, difficult to navigate requiring the reader to cross refer to a considerable number of associated documents.
- 3.6.98. However, the supplementary tables provided by the Applicant during the Examination [[REP-060](#) and [REP2-052](#)] do bring together the key information in a more user friendly way and summarise the predicted landscape and visual effects more effectively.
- 3.6.99. Overall, while we consider the ES would have benefitted from a more concise presentation of landscape and visual effects, we consider the overall approach is acceptable and sufficient to enable the SoS to reach a conclusion on these matters.

Conclusions on Landscape and Visual Effects

- 3.6.100. Mitigation measures have been secured in Requirement 5 (Detailed design approval), Requirement 7 (LEMP), Requirement 8 (EPMS), Requirement 10 (Fencing and other means of enclosure), Requirement 14 (OEMP) and Requirement 21 (Decommissioning and restoration) of the dDCO.

Landscape effects

- 3.6.101. There would be no significant adverse effects at a regional scale at the solar array sites or along the cable route corridor. There would, however, be significant adverse effects on fine grained communications and infrastructure receptors at the solar array sites during construction. However, these would reduce to minor adverse by year 1 of operation, which is not significant.
- 3.6.102. There would be significant adverse landscape effects on the 4a Unwooded Vales Regional LCT in terms of land use and topography at the substation sites during both construction and operation. These are predicted to reduce from major-moderate adverse to moderate adverse by year 15, which is still significant.
- 3.6.103. Significant combined effects on the Regional Scale 4a Unwooded Vales LCT would arise during construction and at year 1 of operation at all substation sites. These would be moderate adverse. They are, however, predicted to reduce over time to become minor adverse (non-significant) by year 15.
- 3.6.104. There would be some significant cumulative adverse effects during construction and at year 1 of operation on fine grained land use, topography and watercourses receptors and communications and infrastructure receptors, all of which are predicted to reduce to no greater than minor adverse by year 15, taking account of the embedded and additional mitigation.

Visual effects

- 3.6.105. Significant visual effects would be experienced at a number of viewpoint, transport and PRow receptors during construction and year 1 of operation. Although these would reduce at year 15, significant residual visual effects would remain.
- 3.6.106. Seven residential properties would experience significant adverse visual effects during construction and at year 1 of operation, including North Farm. While these would be temporary, with no residual significant effects predicted to remain by year 15 of operation, in the intervening period the occupiers of these properties would experience significant adverse visual effects.
- 3.6.107. There would be moderate adverse combined visual effects during construction and year 1 of operation for Viewpoint Receptor LCC-C-D:

Blackthorn Lane. No other visual receptors are identified as likely to experience significant combined effects.

- 3.6.108. No significant cumulative visual effects as a result of the Proposed Development with other committed and planned development, including the other NSIP solar projects have been identified.
- 3.6.109. The predicted significant beneficial effects to landscape character and visual amenity are not relied upon by the Applicant as a purported benefit of the scheme. Accordingly, the SoS should afford it no weight in the planning balance.
- 3.6.110. As both 2011 NPS EN-1 and 2024 NPS EN-1 make clear, all proposed energy infrastructure is likely to have landscape and visual effects. However, while we accept that the design of the Proposed Development has evolved via an iterative design process which has incorporated embedded mitigation to reduce landscape and visual impacts, a number of significant landscape and visual effects have been identified at all stages of the Proposed Development. While these are temporary and reversible on decommissioning, a number of residual significant effects would be experienced for many years to come. These are matters which weigh against the Proposed Development.
- 3.6.111. Nevertheless, we acknowledge that in the present case the landscape is not a protected one and that while not eliminated, the landscape and visual effects have been minimised. While the level of harm identified weighs against the proposal, we consider it should be afforded only moderate negative weight in the overall planning balance.

3.7. HISTORIC ENVIRONMENT

Introduction

- 3.7.1. This Section considers the effect of the Proposed Development on the historic environment. It includes designated and non-designated heritage assets, which in this case primarily comprise scheduled monuments (SM), listed buildings (LB), conservation areas (CoA), a registered park and garden (RPG), buried archaeological remains, historic landscape areas, and historic hedgerows and boundaries.

Policy Context

- 3.7.2. Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 requires when deciding an application which affects a LB or its setting, CoA or a SM or its setting, the SoS must have regard to the desirability of preserving the LB or its setting or any features of special architectural or historic interest which it possesses, the desirability of preserving or enhancing the character or appearance of a CA and the desirability of preserving an affected SM or its setting.
- 3.7.3. Paragraph 5.8.2 of 2011 NPS EN-1 describes the historic environment as including all aspects of the environment resulting from the interaction between people and places through time. It recognises that heritage

assets are those elements of the historic environment that hold value through their historic, archaeological, architectural or artistic interest, which may be any building, monument, site, place, area or landscape.

- 3.7.4. Furthermore, paragraph 5.8.6 indicates the SoS should also consider the impacts on non-designated heritage assets that have a heritage significance that merits consideration, even though those assets are of lesser value than designated heritage assets.
- 3.7.5. Paragraphs 5.8.8 to 5.8.10 require applicants to assess the significance of the heritage assets affected by their proposals. The level of detail should be proportionate to the importance of the heritage assets and no more than is sufficient to understand the potential impact of the proposal on their significance. An applicant should carry out appropriate desk-based assessment and, where such research is insufficient to properly assess the interest, a field evaluation should take place. Where proposed development will affect the setting of a heritage asset, representative visualisations may be necessary to explain the impact.
- 3.7.6. In terms of decision making, paragraphs 5.8.11 to 5.8.18 advise that consideration should be given to the significance of any heritage assets and whether the Proposed Development would affect their significance, including effects on their setting. Moreover, there should be a presumption in favour of the conservation of designated heritage assets and that loss affecting any designated assets should require clear and convincing justification.
- 3.7.7. In addition, paragraph 5.8.15 sets out that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Therefore, the greater the negative impact on the significance the greater the benefits that will be needed to justify approval.
- 3.7.8. Paragraph 2.2.6 of 2011 NPS EN-5 sets out the duty on all transmission and distribution licence holders to protect sites, buildings and objects of historic or archaeological interest. Paragraph 2.8.9 explains there is a need to consider archaeological consequences of undergrounding, and which can damage heritage assets.
- 3.7.9. Paragraph 205 of the NPPF confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 206 sets out that assets of the highest significance include notably SMs, protected wreck sites, registered battlefields, grade I and II* LBs, grade I and II* RPGs, and World Heritage Sites.

- 3.7.10. Paragraph 208 reaffirms that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Under paragraph 209, for non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 3.7.11. The 2024 NPSs continue to make it clear that the SoS should give considerable importance and weight to the desirability of preserving all designated heritage assets. The NPPF tests as regards balancing harm to designated and non-designated heritage assets have been incorporated into 2024 NPS EN-1.
- 3.7.12. Policy S57 of the CLLP sets out that proposals should protect, conserve and seek opportunities to enhance the historic environment. Amongst other matters, it places the onus on applicants to provide evidence as regards the asset's significance and justification for works, and sets out where development will be supported, including where it would protect the significance.
- 3.7.13. As well as concerning listed buildings and conservation areas, Policy S57 involves archaeology. Proposals are to provide an appropriate and proportionate assessment and if the initial assessment does not provide sufficient information, developers will be required to undertake field evaluation in advance of the determination of the application. Mitigation strategies should ensure the preservation of archaeological remains in-situ.
- 3.7.14. Policy DM8 of the BCSDM sets out a similar approach to Policy S57. In addition, development plan policies that concern renewable energy infrastructure also seek to safeguard heritage assets and their settings.
- 3.7.15. The Neighbourhood Development Plans also provide for the protection, conservation and enhancement of designated heritage assets. The Sturton by Stow and Stow Neighbourhood Plan 2019-2036 (2022) (SSNP) identifies such assets, including the site of a college and Benedictine Abbey, St Mary's SM and LB, and the Coates medieval settlement and moated site, as does the Corringham Neighbourhood Plan 2021 to 2036 (2021) for the Grade I listed Church of St. Laurence.

The Application

- 3.7.16. The Applicant's case relating to historic environment effects is set out in ES Chapter 13 (Cultural Heritage) [[APP-048](#)]. This is supported by the following documents:
- ES Appendix 13.1 Archaeological Desk-Based Assessments [[APP-109](#)];
 - ES Appendix 13.2 Archaeological Geophysical Survey Reports [[APP-110](#) to [APP-122](#)];
 - ES Appendix 13.3 Geoarchaeological Desk-Based Assessment [[APP-123](#)];

- ES Appendix 13.4 Air Photo and LiDAR Mapping and Interpretation Reports [[APP-124](#)];
- ES Appendix 13.5 Heritage Statement [[APP-125](#) to [APP-128](#)];
- ES Appendix 13.6 Archaeological Evaluation Trenching Reports [[APP-129](#), [APP-130](#)];
- ES Appendix 13.7 Archaeological Mitigation Written Scheme of Investigation (WSI) [[REP5-012](#)];
- ES Appendix 13.8 Cultural Heritage Impact Assessment Tables [[APP-132](#)];
- ES Appendix 13.9 Consultation Response Tables [[APP-133](#)];
- Without Prejudice Archaeological Mitigation WSI (WPWSI) [[REP5-035](#)];
- Comparison of Archaeological Evaluation Investigations on Solar Schemes document [[REP3-041](#)];
- ES Addendum Chapter 13: Archaeological Trial Trenching Evaluation Fieldwork Report for the Shared Cable Corridor [[REP3-049](#)]; and
- ES Addendum Chapter 13: Additional Archaeological Trial Trenching Interim Report [[REP5-048](#)].

Baseline and Methodology

- 3.7.17. For designated heritage assets of the highest significance a 5km study area was applied, while for grade II LBs this was 2km for the proposed solar array sites, and 500m for the proposed cable route corridor.
- 3.7.18. Section 13.5 of ES Chapter 13 [[APP-048](#)] identifies the heritage assets that have been considered. This includes 21 SMs in the study area of the proposed array sites and two SM in that of the proposed cable route corridor. None of the SMs are located within the Order Limits, although the Thorpe Medieval Settlement SM directly abuts the southern edge of the proposed Cottam 1 array site.
- 3.7.19. Thirty-five grade I and II* LBs are found within the study area of the proposed array sites, as are 7 CAs and a total of 73 grade II LBs. With regard to the proposed cable route corridor study area, there are 16 LBs. No LBs or CAs are located within the Order Limits. There is one designated historic landscape within the 5km study area comprising Fillingham Castle Grade II Registered Park and Garden (RPG). This is located in an elevated position on Lincoln Cliff to the east of Cottam 1.
- 3.7.20. For non-designated heritage assets, a 1km study area was applied around each of the proposed array sites for desk-based assessment purposes. A 250m study area was applied to the proposed cable route corridor. This was considered sufficient to provide an assessment on known archaeological remains. A total of 31 such assets were identified within the proposed Cottam 1 array site, 11 within Cottam 2, three within Cottam 3b and 10 within Cottam 3a, with 21 along the proposed cable route corridor where the majority are between Cottam 1 and the Cottam Power Station. There are no non-designated historic buildings within the Order Limits, although a number are surrounded by it.
- 3.7.21. A number of historically important hedgerows are also identified extending across the proposed array sites and the cable route corridor.

As regards Historic England's (HE) and LCC's Historic Landscape Characterisation (HLC), the solar array sites lie in Character Areas TVI1: The Trent Valley and NCL3: The Cliff Edge Airfields. These are made up of a number of HLC units.

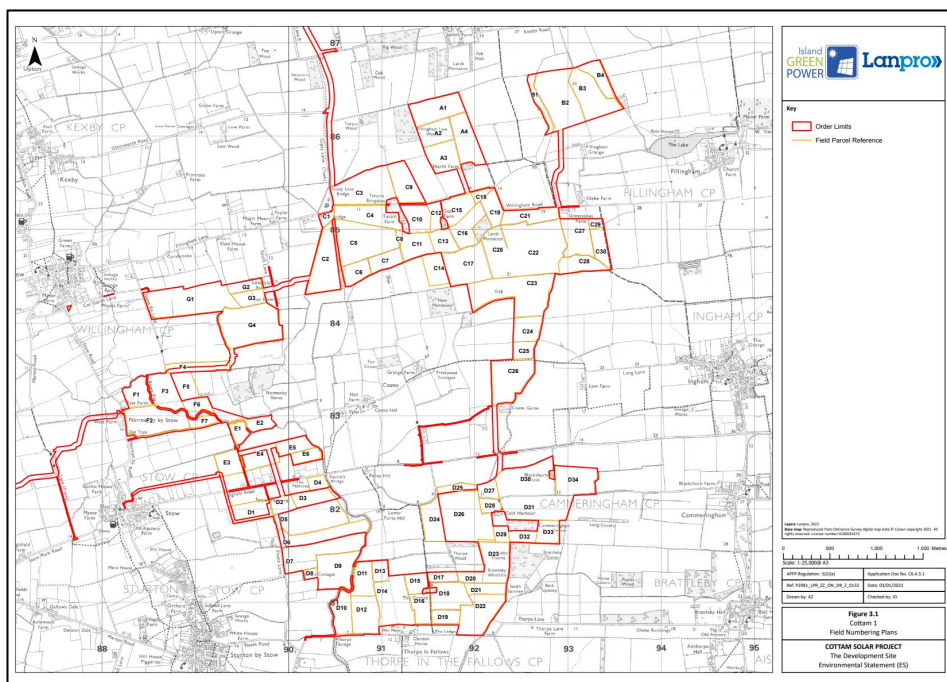
- 3.7.22. It is purported that the programme of evaluation trenching [[APP-129](#), [APP-130](#)] was undertaken to target the concentrations of features identified through the non-intrusive surveys. An untargeted programme of evaluation was considered disproportionate by the Applicant because of the low impact of the Proposed Development.

Effects

- 3.7.23. The residual effects described are set out in Tables 13.37 to 13.39 of ES Chapter 13 (Cultural Heritage) [[APP-048](#)]. A summary of the significant residual effects can be found in ES Chapter 23 (Summary of Significant Effects) [[REP2-010](#)]. Effects on designated heritage assets are also assessed in the Heritage Statement [[APP-125](#) to [APP-128](#)]. There would be a potential direct effect on one designated asset that relates to the churchyard wall of the Site of a college and Benedictine Abbey, St Mary's Church SM (Stow) caused by abnormal loads vehicles during the construction phase. Mitigation is proposed by way of the monitoring of such manoeuvres by a suitably qualified banksman.
- 3.7.24. There would also be a moderate adverse residual effect on the setting of the Thorpe Medieval Settlement SM. This is due to the proximity and visibility of solar panels over the length of the operational period. The Applicant explained that, at the pre-application stage, the proposed panels had been removed entirely to the north and close to this SM as an offset and non-intrusive ecological mitigation areas are proposed in further sensitive areas. Landscape mitigation is also proposed. It would, however, remain a moderate adverse effect. ES Chapter 13 [[APP-048](#)] recommends further consultation with HE to identify a design to reduce this 'significant' impact to an acceptable level.
- 3.7.25. Slight adverse residual effects are predicted at SMs associated with the Deserted village of Dunstall, Roman villa west of Scampton Cliff Farm, Southorpe medieval settlement, Gilby medieval settlement and Coates medieval settlement and moated site. Such effects are considered by the Applicant to become neutral when the landscape planting becomes mature, apart from the Roman villa west of Scampton Cliff Farm.
- 3.7.26. There would be no anticipated direct impacts on LBs. Slight adverse residual effects are predicted on the settings of Glentworth Hall and separately the associated former stables, Fillingham Castle, Thorpe in the Fallows Farmhouse, Mount Pleasant Farmhouse east of Laughton and Corringham Windmill. There would also be a slight adverse effect on Fillingham Castle RPG. Such effects are said to become neutral when landscaping becomes mature for the assets, apart from Glentworth Hall, the associated former stables and Fillingham Castle. Fillingham Castle is grade I listed and Glentworth Hall is grade II* listed. The remainder are grade II.

- 3.7.27. The Planning Statement [[REP4-039](#)] considers that the level of effect on designated heritage assets where there is an adverse effect amounts to less than substantial harm.
- 3.7.28. There would be adverse effects, ranging from negligible to large, on a number of non-designated historic buildings and non-designated historic landscapes. Such effects are said to become neutral when landscaping becomes mature for these assets that are listed in paragraph 13.8.9 of Chapter 13 [[APP-048](#)].
- 3.7.29. Impacts on non-designated archaeological assets would largely occur during the construction phase. The WSI [[REP5-012](#)] includes the details of the mitigation strategies. The scope of these comprise geophysical survey; informative trial trenching; open-area excavation; strip, map and sample excavation; archaeological monitoring; and preservation in situ. For buried archaeological remains, where embedded mitigation is not proposed, preservation by recording is proposed instead. The use of concrete feet for some of the proposed solar panels would also be embedded mitigation to achieve preservation of remains in-situ.
- 3.7.30. A full open-area excavation of a non-designated Romano-British Settlement/ Anglo Saxon Cemetery near to Normanby by Stow is proposed and which commenced during evaluation (Field F2 – see figure 7 below for details of location). Such an effect is large adverse during construction, as would be the potential effect (slight to large adverse) upon a kiln of possible Iron Age/Romano British periods that would also be fully excavated with the construction of the battery storage areas at the proposed Cottam 1 array site. A number of other slight or slight to moderate effects are also identified.

Figure 7: Plan showing location of field F2



(Source: ES Figure 3.1 (Field Numbering Plans Cottam 1) [[APP-149](#)])

- 3.7.31. During the operational phase, significant beneficial effects could potentially occur at a number of the archaeological areas within the Order Limits. This is principally on the basis of these areas being taken out of the agricultural cycle of regular ploughing and allowing shallow buried features to remain in-situ.
- 3.7.32. Decommissioning effects are assumed by the Applicant to be similar to construction for effects on all heritage assets.
- 3.7.33. Cumulative effects with the West Burton Solar Project, Gate Burton Solar Energy Park and Tillbridge Solar Park have been considered and will affect the buried archaeological resource, even with embedded and additional mitigation. A moderate adverse effect would arise to those heritage assets where views from Lincoln Cliff contribute to their significance (Roman villa west of Scampton Cliff Farm; Fillingham Castle; Glentworth Hall and the associated former stables).

Issues considered during the Examination

Site of a college and Benedictine Abbey, St Mary's Church SM

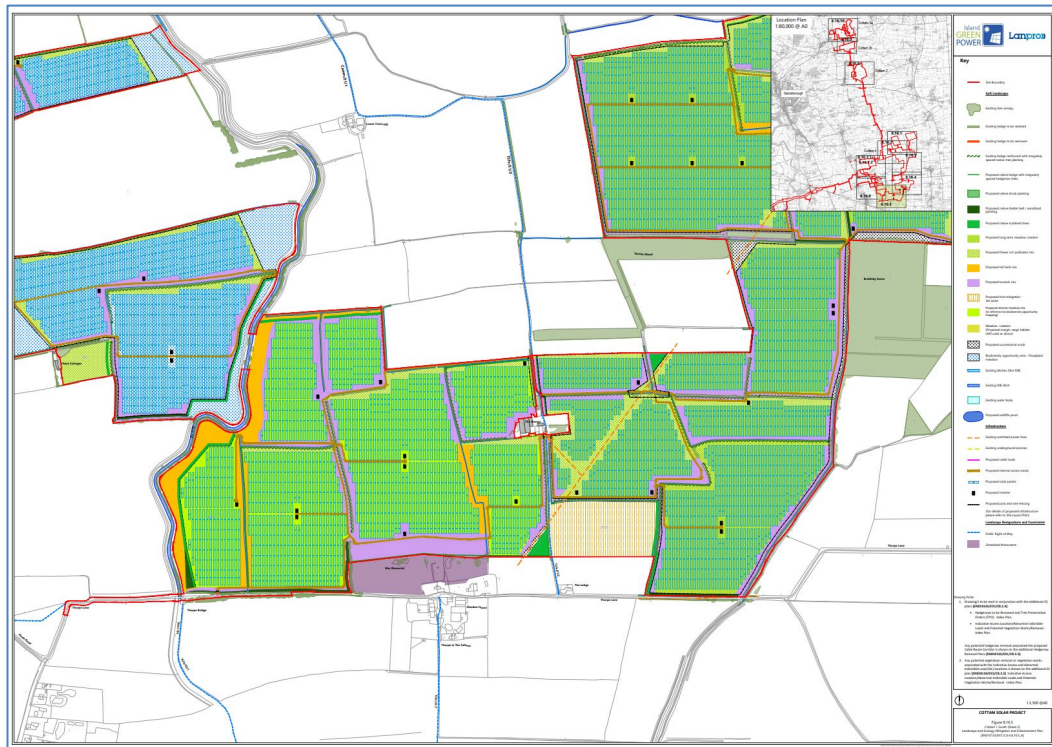
- 3.7.34. In light of the potential for a direct effect on the Site of a college and Benedictine Abbey, St Mary's Church SM, we raised concerns over the potential for effects on its structural integrity, including the boundary retaining wall abutting the road. This was also a matter raised by Interested Parties, including Stow Parish Council [[AS-017](#)]. WLDC's LIR considered this effect would be significant, should it occur [[REP-091](#)].
- 3.7.35. The Applicant referred to the Transport Assessment (TA) [[REP5-014](#)], including the tracking plan and the associated caution that would be exercised by abnormal loads vehicles. While the potential effect on the burial ground beyond the wall is unknown, it was reaffirmed that a banksman would be used to mitigate impacts [[REP2-034](#)]. This would be secured by Requirement 15.
- 3.7.36. HE set out that measures to protect this asset would only be as effective as the degree to which they would be integrated into practice via a movement management plan or similar, which is owned by the contractors and operatives undertaking the work [[REP2-084](#)]. The Applicant subsequently updated the oCTMP [[REP5-016](#)] to include provisions for such a plan. HE confirmed that the measures set out appeared appropriate to provide adequate protection against damage to this asset [[REP4-079](#)]. Therefore, we consider there are no unresolved matters that relate to this asset.

Thorpe Medieval Settlement SM

- 3.7.37. A number of concerns were raised by IPs, including WLDC [[REP6-011](#)], that the Proposed Development would result in unacceptable effects on this SM. WLDC's LIR considered that the visual effects would continue into and throughout the operational period [[REP-091](#)]. The Thorpe

Medieval Settlement SM is a shrunken medieval settlement located immediately adjacent to the southern boundary of Cottam 1. It is the closest designated heritage asset to the Proposed Development with the nearest panels around 50m distant. Figure 8 below depicts the location of the Proposed Development in relation to this SM. The Solar Panels are coloured green while the SM itself is shown coloured purple.

Figure 8: Plan showing the proximity of the Proposed Development to the Thorpe Medieval Settlement SM



(Source: ES Figure 8.16.5 (Landscape and Ecology Mitigation & Enhancement Plan - Cottam 1 South (sheet 2)) [[REP-029](#)])

3.7.38. The Heritage Statement [[APP-125](#) to [APP-128](#)] recognises that the panels would be prominently visible in the views to the north from the SM, including towards the large expanse of field D14 (see Figure 9 below). This is a key aspect of the historic agricultural setting of this SM. It acknowledges that the placement of the north-south aligned panels would result in a moderate-large industrialising effect on the rural character of the surrounding historic landscape. It does, however, note that while the duration of this effect would be long term, it would ultimately be reversible at decommissioning.

3.7.39. HE requested that the solar arrays should be sited further away from the Thorpe Medieval Settlement SM to relate to a former historic east-west boundary, pointing out that the historic agrarian setting is important to its significance as the remains of a rural medieval settlement. HE considered that the significance of the SM is therefore concerned with the history and evolution of the monument in this extensive landscape context, rather than confined to certain particular points in time. The proposed 50m offset would not sustain the ability to experience the SM in

modern landscape characterised by small, enclosed fields. This is in contrast to the medieval landscape of large open field systems. The Applicant also noted that a hedgerow is proposed to provide screening [[REP2-034](#)].

- 3.7.41. The Applicant also set out that while consultation with HE was ongoing, it was not now the intention to amend the design. Both the Applicant and HE agreed that level of harm that would arise would be less than substantial, as the impact would be 'moderate adverse – significant', as set out in the signed SoCG [[REP5-042](#)]. However, at the end of the examination, both HE's and WLDC's concerns on this matter remain unresolved.
- 3.7.42. We agree with HE over the significance of the asset and what the effect would be. If the Proposed Development was set further back from this asset, it would allow for a greater appreciation of the asset's significance to be maintained. We also agree with HE and the Applicant that less than substantial harm would arise.

Fleet Plantation Moated Site SM

- 3.7.43. BDC's LIR considered there was the potential for impacts on the settings of heritage assets within the Council area [[REP-080](#)]. Changes 1 and 2 of the Applicant's requested changes to extend the Order Limits would result in works associated with the proposed cable route corridor close to Cottam Power Station being closer to the Fleet Plantation Moated Site SM. The SEIR [[AS-064](#)] reported that trial trenching had been carried out, which resulted in largely negative results. A watching brief was thus considered the appropriate response and is secured through the WSI [[REP5-012](#)]. As regards the setting of this SM, there would be temporary impacts during construction that would be slight adverse. No new or likely significant effects would therefor arise. HE confirmed it was content with the archaeological works and that no additional impact upon the significance of the SM is likely to occur [[REP5-059](#)]. We concur with HE on this matter.

Fillingham Castle LB and RPG

- 3.7.44. The Heritage Statement [[APP-125](#) to [APP-128](#)] provides an assessment of the potential impacts of the Proposed Development on this designated heritage asset. In summary, it concludes that in view of the distance, and taking account of the layering effect that would occur in the relatively flat landscape, the Proposed Development would have a very low level of industrialising effect on the rural character of the Trent valley landscape. It concludes that this would not result in significant effects on the RPG. However, in view of the high value attributed to this Grade 1 Listed building, the ES identifies a slight to moderate (significant) adverse effect on this LB.
- 3.7.45. During the examination, HE referred to the variety and multiplicity of individual visual experience of this LB in its designed and borrowed landscape setting and pointed to views from the upper rooms,

battlements and lead flats that had not been accessible for what was considered a broad assessment [[REP2-084](#)].

- 3.7.46. As a consequence, HE considered that it may be safest to regard the likely level of impact on this asset as not worse than moderate [[REP2-084](#)]. The impact upon the significance would be limited by distance and scale and location of the proposed solar arrays beyond the more immediate and structured designed landscape relationship to Fillingham village and lake [[REP4-079](#)]. HE further clarified on questioning that there would be a potentially harmful impact at a level of less than substantial harm. We concur with HE's views on these matters.

Conservation Areas

- 3.7.47. We asked the Applicant why CoAs had not been assessed in ES Chapter 13 [[APP-048](#)]. The Applicant contended that such impacts are assessed in general terms in the Heritage Statement [[APP-125](#) to [APP-128](#)] and provided more detailed commentary on those in Hemswell, Springthorpe, Glentworth, Fillingham, Ingham, Brattleby and South Carlton [[REP2-034](#)]. No significant effects were identified and we agree with this conclusion.

Cumulative Effects

- 3.7.48. WLDC's LIR considered that cumulative effects could arise due to views from the elevated form of Lincoln Cliff [[REP-091](#)]. No significant cumulative effects have though been identified for heritage assets as a result of the Proposed Development with other cumulative development. However, slight adverse effects are identified in ES Chapter 13 on the Roman villa west of Scampton Cliff Farm SM. This would result in less than substantial harm to this heritage asset. Based on the evidence before us, we have no reason to conclude otherwise.

Buried Archaeological Remains and Trial Trenching

- 3.7.49. A significant matter of dispute between the Applicant and LCC and NCC during the course of the Examination concerned the level of evaluation trial trenching of buried archaeological remains that the Applicant had carried out, as is expressed in both these host authorities' LIRs [[REP-085](#), [REP-086](#)]. The signed SoCG with LCC [[REP6-006](#)] contained a heritage position statement which details this dispute at the end of Examination and is considered below.
- 3.7.50. We asked at ISH2 whether the area was deemed to be archaeologically sensitive. The Applicant considered that it was not particularly so, whereas both LCC and NCC pointed to a higher level of sensitivity, which other schemes had identified through evaluation trenching alone [[REP3-033](#)]. That other Nationally Significant Infrastructure Projects had undertaken a greater coverage was also drawn to our attention by both LCC and NCC [[REP3-050](#)].
- 3.7.51. The Applicant further explained that trial trenching had been targeted on fields where potential archaeological deposits had been identified through

the geophysical survey and other non-intrusive investigations. The level of trial trenching which had occurred in these areas was a 2% sample and that several 'blank' areas adjacent to concentrations of archaeology were also assessed at 2%. The Applicant estimated that 17% of the proposed array sites have been subject to trial trenching at a 2% sample, which equated to an overall sample of 0.35% of land. For the shared cable route this rose to approximately 0.73%, as the Trent Valley was deemed more sensitive [[REP3-033](#)].

- 3.7.52. The Applicant considered this approach was proportionate, based on the baseline. An untargeted programme of blanket trenching in areas of low or negligible potential was deemed to be unjustified and not paying regard to the baseline. Nor was it required by local or national guidance. The archaeological results were also said to correlate to the level of the evaluation trial trenching [[REP3-033](#)].
- 3.7.53. On the other hand, LCC raised concerns at that over 80% of the Order Limits had not been trial trenched and that 2% across the sites had not been achieved. As such, it was not considered there was an adequate baseline until archaeologically sensitive areas have been identified and their depth, extent and significance were determined. Such concerns also covered the decommissioning stage because it would not be possible to agree related mitigation works without the trenching results. This should be mitigated during the construction works. LCC's concerns also extended to the trial trenching associated with the Applicant's requested changes to extend the Order Limits [[REP3-050](#)].
- 3.7.54. NCC also considered at ISH2 that as 80% had not been trial trenched it was not fit for purpose and 3 to 5% was required in the sensitive areas. There would also be a risk that discrete, earlier features and shallow burials would not be picked up because these would be typically identified by trial trenching and therefore could be missed by the low evaluation rates that had taken place. The amount of trial trenching that had taken place in the Trent Valley also did not correspond to its sensitivity.
- 3.7.55. We asked LCC and NCC where the percentages of how much land should be trial trenched had been taken from. LCC referred to the Chartered Institute for Archaeology Guidance and Standards, where the definition of a field evaluation is "*to determine the presence or absence of archaeology, to define their character, extent, quality and preservation, and enable an assessment of their significance*". It must be sufficient to ensure a full understanding. The East Midlands Association of Local Government Archaeological Officers was also said to currently agree to 2-3% trenching [[REP-070](#), [REP-071](#)].
- 3.7.56. The Applicant set out that it was not aware of any relevant published guidance that sets out the required percentage of evaluation trial trenching. The Applicant also submitted a comparison document showing the amount of trial trench evaluation carried out for a number of solar schemes permitted under the PA2008 and the Town and Country Planning Act 1990 projects [[REP3-041](#)]. It was said this showed a lack of

a standard approach and the need for flexibility to evaluation trenching with consideration to baseline information and, where available, the results of non-intrusive evaluation. NCC referred to what had taken place on a number of other projects and also cited research where low percentages were seen as flawed. This was said not be used to justify continuing loss of the largely unknown archaeological resource without record [[REP4-071](#)].

- 3.7.57. As an alternative to an agreed percentage coverage area, we asked if specific areas of land within the Order Limits could be the subject of the baseline characterisation. This was rejected by the Applicant on the basis that all areas within the Order Limits have been subject to sufficient characterisation [[REP2-034](#)]. It was also rejected by LCC on the basis that there was no alternative to undertaking sufficient trenching, including in 'blank areas' where there would be archaeology which is not picked up in other evaluation techniques [[REP2-073](#)].
- 3.7.58. An ES Addendum Chapter 13: Archaeological Trial Trenching Evaluation Fieldwork Report for the Shared Cable Corridor [[REP3-049](#)] was provided by the Applicant during the course of the Examination. LCC considered that the work had been well done and outstanding areas would be evaluated accordingly by that scheme [[REP4-070](#)]. We concur with LCC on this point.
- 3.7.59. We note the dispute between the Applicant, and LCC and NCC over the extent of the trial trenching, the potential effect on buried archaeological remains and whether adequate mitigation can be proposed, based on what trial trenching has been carried out. In reaching a conclusion on this matter, we have also need to consider the approach to the WSI, as this also has the potential to provide for further trial trenching.

Archaeological Mitigation Written Scheme of Investigation

- 3.7.60. Following on from the matters of dispute above, there was also disagreement at ISH2 between the Applicant, LCC and NCC over the approach to the WSI. The Applicant considered that as the likelihood of finding further remains is low if such remains are found, then the WSI would guard against damage and that informative trenching would pick up anomalies. LCC and NCC considered this approach was flawed, again due to the lack of trial trenching.
- 3.7.61. The Applicant requested at ISH2 that it is left to the SoS to take a view on this matter. We responded that it was for the Applicant and the relevant host authorities to set out where there was agreement and disagreement on the matters set out in the WSI in order to inform the SoS.
- 3.7.62. According to the Applicant, the subsequent revised WSI [[REP5-012](#)] was updated to incorporate comments from LCC and NCC, as well as to update terminology and mitigation. The WPWSI [[REP5-035](#)], submitted at the same time, includes a programme for further archaeological trenching post-determination, matching the percentage area sample of

trenching undertaken for the Gate Burton Solar project, in advance of the construction of the Proposed Development. It had been prepared in the event that the SoS is minded to agree with the concerns raised by LCC and NCC that further trenching is required. The Applicant stated that the percentage area proposed under the WPWSI was considered sufficient for the Gate Burton Solar project. The WPWSI sets out the sample of trenching for the Proposed Development would total 1.09%.

- 3.7.63. The signed SoCG [[REP6-006](#)] sets out that LCC does not agree with the WSI [[REP5-012](#)] or the WPWSI [[REP5-035](#)]. The areas of disagreement centre in summary on the approach to embedded and additional archaeological mitigation and the level of intrusive archaeological evaluation fieldwork. These are underpinned by the dispute over the level of trial trenching. For similar reasons, NCC also did not agree with the WPWSI and its full detailed critique is set out in its response to the ExA's Requests for Further Information [[REP5-053](#)]. The Applicant's position was that the WSI was its preferred approach, rather than the WPWSI.
- 3.7.64. We note the Applicant's views on the WSI [[REP5-012](#)] but consider that it does not provide for sufficient trial trenching to properly protect archaeological remains from harm. Based on the evidence before us, it is an archaeologically sensitive area, in particular in the Trent Valley. We also note however that LCC and NCC have a number of concerns over whether the WPWSI [[REP5-035](#)] is sufficient. However, we consider that it would be appropriate for the Proposed Development and would also address the concerns over the buried archaeological remains and trial trenching.

Concrete Feet

- 3.7.65. LCC also raised concerns that the use of concrete feet to mount solar panels may cause compaction and harm to the shallow archaeology beneath. LCC further considered that the ground impacts of the development may damage and destroy unknown un-investigated unrecorded archaeology in the large unevaluated areas [[RR-001](#), [REP6-006](#)].
- 3.7.66. In response, the Applicant reiterated that concrete feet would not be used in known sensitive areas and that their use was accepted in guidance operated by other Councils [[REP4-048](#), [REP6-006](#)].
- 3.7.67. We asked the Applicant to explain how concrete feet would be deployed in areas that have not been trial trenched without the potential for damage. The Applicant responded that under the WSI [[REP5-012](#)] no areas have been proposed for concrete feet that have not already been subject to evaluation trial trenching. On this basis, we consider the use of concrete feet would be acceptable.

Conclusions on Historic Environment

- 3.7.68. Mitigation and enhancement measures are secured in Requirement 5 (Detailed design approval), Requirement 12 (Archaeology), Requirement

15 (CTMP) and Requirement 21 (Decommissioning and restoration) of the dDCO.

- 3.7.69. We consider the Applicant has satisfactorily assessed the significance of the designated heritage assets affected by the Proposed Development and that the extent of the likely impact can be understood. In this regard, it meets the requirements of 2011 NPS EN-1, the 2024 NPSs, the NPPF, Policy S57 of the CLLP, Policy DM8 of the BCSDM and the neighbourhood plan policies.
- 3.7.70. We see no reason to disagree with the Applicant's overall assessment of residual effects as set out in ES Chapter 13 (Cultural Heritage) [[APP-048](#)] and the SEIR [[AS-064](#)]. Subject to mitigation, an adverse effect would not arise to the Site of a college and Benedictine Abbey, St Mary's Church SM.
- 3.7.71. Significant residual effects are, however, identified for the Thorpe Medieval Settlement SM. We agree with the Applicant and HE that this would amount to less than substantial harm to the significance of a designated heritage asset and afford this considerable importance and weight.
- 3.7.72. The proposal would also result in adverse effects to a number of designated assets. This would amount to less than substantial harm to the following assets:
- SMs: Deserted village of Dunstall; Roman villa west of Scampton Cliff Farm; Southorpe medieval settlement; Gilby medieval settlement; Coates medieval settlement and moated site; and Fleet Plantation Moated Site.
 - LBs: Glentworth Hall (grade II*); Former stables at Glentworth Hall; Fillingham Castle (grade I); Thorpe in the Fallows Farmhouse; Mount Pleasant Farmhouse east of Laughton; and Corringham Windmill.
 - RPG: Fillingham Castle.
- 3.7.73. In coming to our views, we are mindful that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. We have also been mindful of the duty set out in Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010.
- 3.7.74. The harm which would arise from the Proposed Development requires clear and convincing justification and is weighed against the public benefits of the Proposed Development at Section 5 of this Recommendation.
- 3.7.75. In relation to non-designated assets, a number of both residual adverse and beneficial effects would occur. Where adverse effects are predicted to occur, these would most commonly be slight, or slight to moderate. There would however also be potentially large adverse effects during construction to a full open-area excavation of a Romano-British

Settlement/ Anglo Saxon Cemetery and kiln of possible Iron Age/Romano British periods. The scale of the harm or loss thus reflects these levels of adverse effects. These are also to be weighed against the benefits in the planning balance.

- 3.7.76. If the WPWSI [[REP5-035](#)] is taken forward as the methodology for undertaking a programme of archaeological mitigation, we consider that effects by way of buried archaeological remains and trial trenching, the use of concrete feet and the WSI would accord with 2011 NPS EN-1, 2011 NPS EN-5, the 2024 NPSs, the NPPF and the development plan policies. It is not a matter which weighs for or against the Proposed Development.

3.8. SOILS AND AGRICULTURE

Introduction

- 3.8.1. This section covers the effects of the Proposed Development on soils and agriculture. It includes the use of agricultural land, including the Agricultural Land Classification (ALC) and the use of best and most versatile (BMV) land, as well as soil management.

Policy Context

- 3.8.2. Paragraph 5.10.8 of 2011 NPS EN-1 explains that applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in ALC Grades 1, 2 and 3a) and preferably use land in areas of poorer quality (Grade 3b and below) except where this would be inconsistent with other sustainability considerations. Paragraph 5.10.15 goes on to state that schemes should not occupy BMV land without justification, but that little weight should be given to the loss of poorer quality agricultural land.
- 3.8.3. Paragraph 2.8.9 of 2011 NPS EN-5 refers to the consequences of such infrastructure including having an impact on soils.
- 3.8.4. Paragraph 5.11.12 of 2024 NPS EN-1 notes that applicants should seek to minimise impacts on BMV agricultural land and preferably use land in areas of poorer quality (grades 3b, 4 and 5). Paragraph 5.11.34 also advises that the SoS should ensure that applicants do not site their scheme on BMV agricultural land without justification.
- 3.8.5. Similarly, paragraph 2.10.11 of 2024 NPS EN-3 indicate that where possible, ground mounted solar PV projects should utilise previously developed land, brownfield land, contaminated land, industrial land, or agricultural land preferably of classification 3b, 4, and 5 (avoiding the use of BMV agricultural land where possible). Nevertheless, 2024 NPS EN-3 also makes clear that land type should not be a predominating factor in determining the suitability of the site location.
- 3.8.6. Furthermore, paragraphs 2.10.29 and 2.10.30 confirm that the development of ground mounted solar arrays is not prohibited on sites comprising BMV agricultural land, though subject to the consideration of

impacts and that applicants should explain their choice of site, noting the preference for development to be on brownfield and non-agricultural land. Paragraph 2.10.32 sets out that consideration may be given as to whether the proposal allows for continued agricultural use and/or can be co-located with other functions, in order to maximise the efficiency of land use.

- 3.8.7. Paragraph 2.9.25 of 2024 NPS EN-5 refers to the consideration of an applicant's commitment to mitigate the potential detrimental effects of undergrounding works on any relevant agricultural land and soils, particularly regarding BMV land. This must guarantee appropriate handling of soil, backfilling, and return of the land to the baseline ALC, thus ensuring no loss or degradation of agricultural land. Such a commitment should be based on soil and surveys in line with the 1988 ALC criteria and due consideration of the DEFRA Construction Code.
- 3.8.8. Paragraph 180 of the NPPF recognises the economic and other benefits of the BMV land. Footnote 62 sets out where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality, and then goes on to state that "*the availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development*".
- 3.8.9. Paragraph 013 of the PPG: Renewable and Low Carbon Energy sets out particular factors for consideration, including the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value; it has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. Paragraph 002 of the PPG: Natural Environment recognises that soil is an essential natural capital asset that provides important ecosystem services – for instance, as a growing medium for food, timber and other crops.
- 3.8.10. The Written Ministerial Statement Planning Update (2015 WMS) where it concerns solar energy: protecting the local and global environment makes clear that any proposal involving the loss of BMV agricultural land would need to be justified by the most compelling evidence.
- 3.8.11. Following the close of the Examination, the Written Ministerial Statement Solar and protecting our Food Security and BMV Land was published (2024 WMS). Where it involves protecting the best agricultural land, it sets out that Applicants for NSIP projects should avoid the use of BMV agricultural land where possible. This approach is consistent with the 2024 NPSs which were considered as part of the Examination.
- 3.8.12. Policy S67 of the CLLP seeks to protect the BMV agricultural land in order to protect opportunities for food production and the continuance of the agricultural economy. It makes clear that significant development resulting in the loss of BMV will only be supported where there is a need

and insufficient lower grade land is available; the benefits outweigh the need to protect such land; impacts on agricultural operations have been minimised; and the restoration of land. An agricultural land classification report is required for sites of 1 hectare or larger.

- 3.8.13. Development plan policies for solar and renewable energy infrastructure also seek to avoid the loss of the BMV land and set out requirements for decommissioning and the effective restoration of the land.

The Application

- 3.8.14. The Applicant's case relating to the effect on soils and agriculture is set out in ES Chapter 19 (Soils and Agriculture) [[REP-010](#)]. This is supported by the following documents:

- ES Appendix 19.1 Agricultural Land Quality, Soil Resources, Farming Circumstances report [[APP-145](#)];
- ES Appendix 19.2 Outline Soil Management Plan (oSMP) [[REP3-010](#)];
- ES Figures 19.1 to 3 Agricultural Land Classification Grade Distribution [[APP-331](#), [APP-332](#), [APP-333](#)];
- ES Figure 19.4 Farm Business Occupancy [[APP-334](#)]; and
- ES Figure 19.5 Predictive BMV land Assessment [[APP-335](#)].

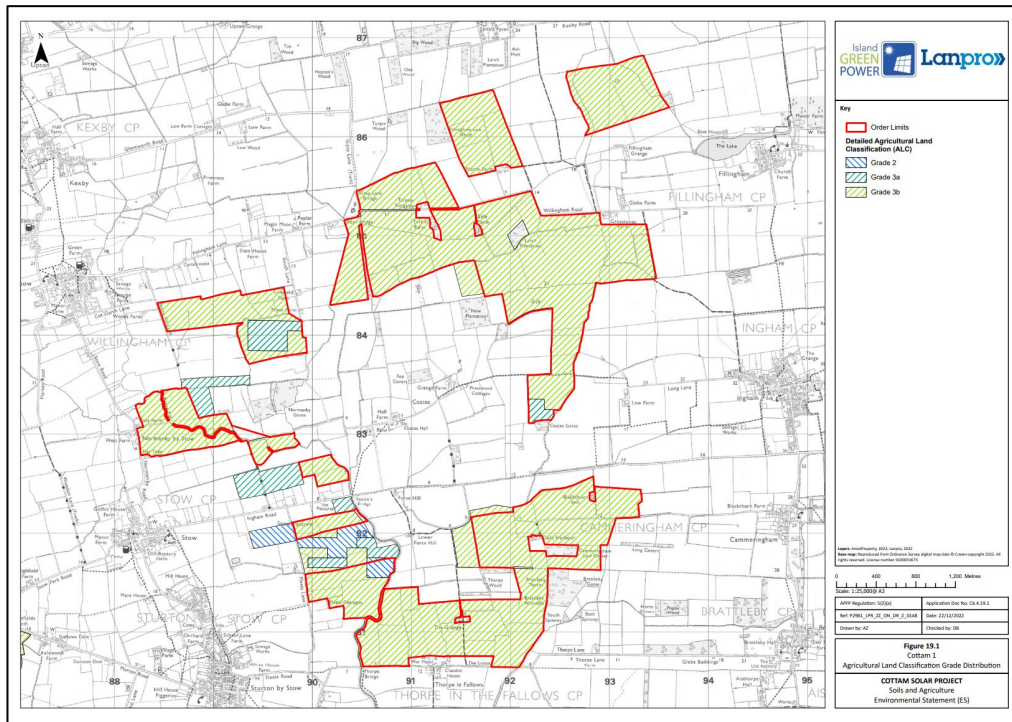
- 3.8.15. In summary, ES Chapter 19 [[REP-010](#)] explains that the assessment of agricultural land quality was undertaken following guidance given by NE in Technical Information Note 049: Agricultural Land Classification. It was revised towards the start of the Examination to provide clarity over the ALC use of the land whose agricultural operation would be curtailed during the lifetime of the Proposed Development. Of the 47.9ha that would be lost to the proposed substations, BESS and temporary tracks, it was confirmed that around 4.0ha would be BMV land. ES Chapter 19 was also revised to remove reference to the permanent loss of agricultural land on the basis that the Proposed Development would have a temporary lifespan.

- 3.8.16. Detailed descriptions of the ALC, soil resource and the farming businesses which occupy the array sites are set out in Agricultural Land Quality, Resources and Farming Circumstances report [[APP-145](#)].

- 3.8.17. The proposed array sites contain agricultural land in grades 2, 3a and 3b. Grade 3b is said to predominate at 1118.3ha (94.8%), with grade 3a at 42ha (3.6%) and grade 2 at 6.1ha (0.5%). The limiting factor to the amounts of higher grade ALC land is reported to be soil wetness. Pockets of Grade 3a land are found in Cottam 1, 2, 3a and 3b, with pockets of Grade 2 land found in the Cottam 1 and Cottam 3a. These are shown on ES Figures 19.1 to 3 (ALC Grade Distribution) [[APP-331](#), [APP-332](#), [APP-333](#)] and have been reproduced in Figures 11, 12 and 13 below.

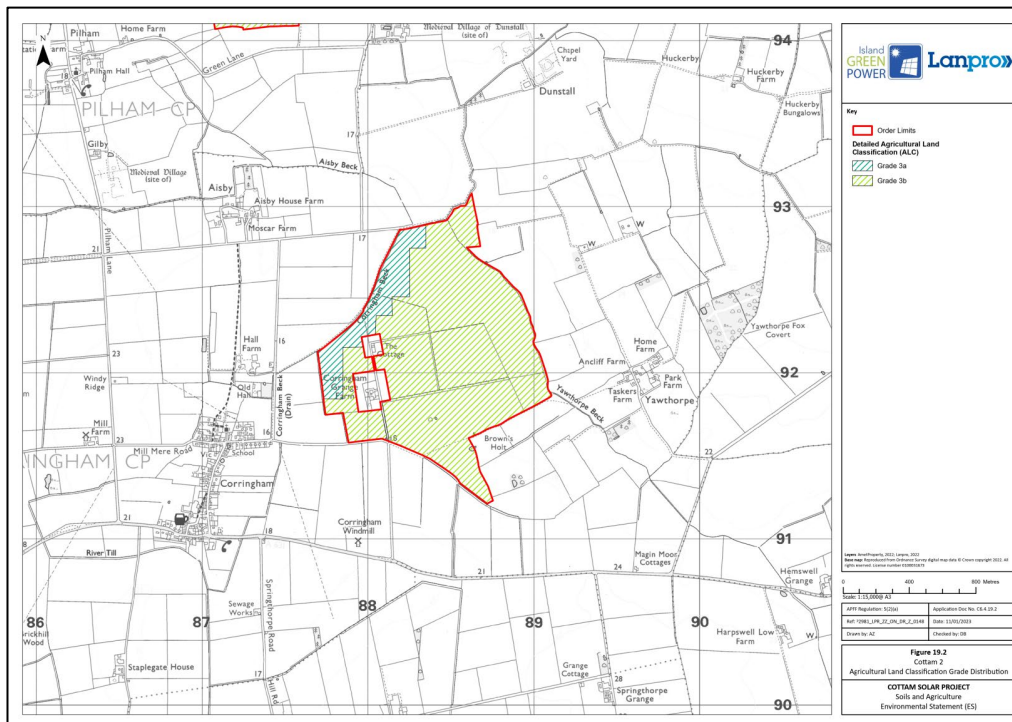
- 3.8.18. The Applicant considers that it has sought to limit the use of BMV land through the design evolution. This is set out in tables 5.6 to 5.9 of ES Chapter 5 (Alternatives and Design Evolution) [[APP-040](#)]. This also sets out a justification for the use of BMV land on the basis of being impractical to farm as isolated parcels within the Order Limits.

Figure 11: Plan showing ALC grade distribution for Cottam 1



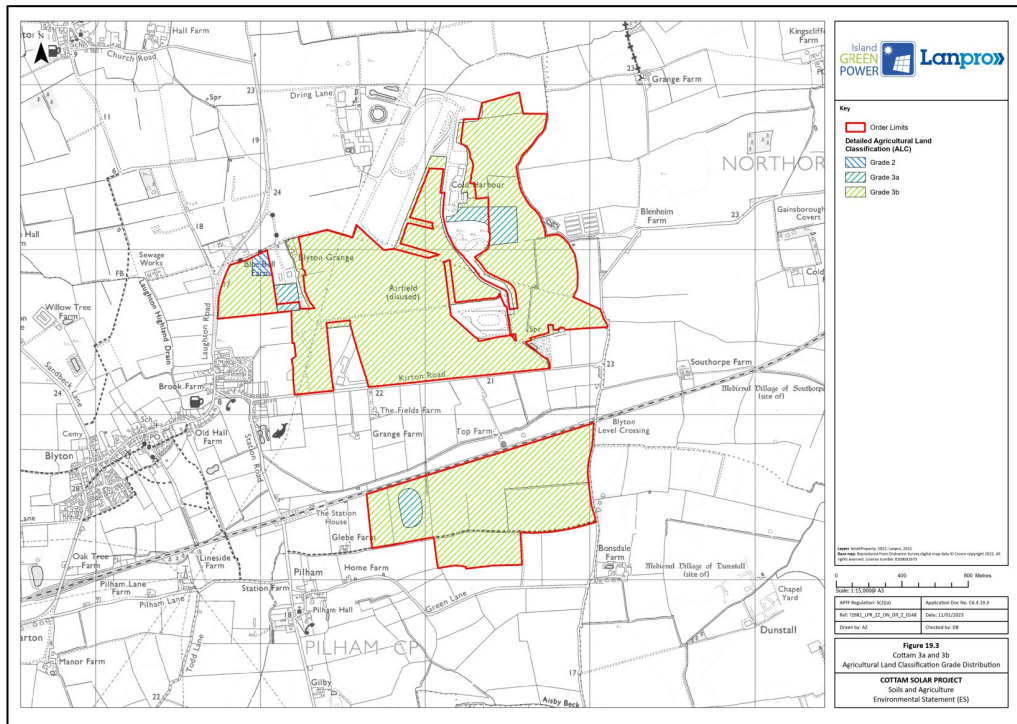
(Source: ES Figure 19.1 (ALC Grade Distribution – Cottam 1) [APP-331]).

Figure 12: Plan showing ALC grade distribution for Cottam 2



(Source: ES Figure 19.2 (ALC Grade Distribution – Cottam 2) [APP-332]).

Figure 13: Plan showing ALC grade distribution for Cottam 3a and 3b



(Source: ES Figure 19.3 (ALC Grade Distribution – Cottam 3a and 3b) [APP-333])

- 3.8.19. The soil resource within the proposed array sites is predominantly heavy textured (high clay content) topsoil and subsoil. Most of land within the proposed array sites is under conventional arable management with ploughing each year for crop residue incorporation, weed control and preparation of a seed bed.
- 3.8.20. The extent of the four farming businesses which own and occupy the proposed array sites is shown on ES Figure 19.4 [APP-334]. The proposed array sites principally comprise arable land. Some grassland is also used to graze and fatten beef cattle and there is a dairy unit (to be discontinued for reasons not related to the Proposed Development), grain storage facilities and limited paddock land. Employment is a mix of full-time positions (some being the owners), contractors and seasonal staff. The farming businesses all occupy land beyond the array sites, in some instances spread across a number of the units and separate locations away from the boundaries of the sites. One business was the subject of a Countryside Stewardship scheme that was due to end.
- 3.8.21. Subsequently, during the operational phase of the Proposed Development there would be no further loss of agricultural land resource (as construction would be complete). Decommissioning is said to allow the land to be managed for arable production again after an extended fallow period. No obstructions would be left in the soil that could interfere with cultivation and stripped and stored topsoil would be reinstated.
- 3.8.22. For the soil resource, ES Chapter 19 [REP-010] considers would likely be a degree of soil compaction during construction, dependant on factors such as vehicle weight, use of low ground pressure tyres/tracks, use of

temporary protective surfaces, number of vehicle movements, soil texture and soil moisture content. The resulting effect is purported to be short term, reversable and local. When operational, the soil resource will remain under perennial green cover and this enforced fallow period would enhance the resource for future arable production. The effects during decommissioning would be similar to that during construction.

- 3.8.23. As there would be a temporary curtailment of arable management during construction, the land would not be available for livestock grazing. During operation, the required management of the grass below and between the panels could include grazing by livestock. All of the farm businesses would receive an income from the Proposed Development occupying their land. Decommissioning would allow for a return to arable management of the land.
- 3.8.24. An ALC assessment was not undertaken for the cable route corridor as the interruption of the existing agricultural use would be limited to the brief cable laying operation. Information on farming circumstances along it had not yet been collected.
- 3.8.25. There would be no significant adverse effects arising from the Proposed Development. Significant beneficial effects are reported to occur during the operational phase for the soil resources and the farming circumstances.
- 3.8.26. The reported level of effects includes embedded mitigation for the soil resource through the oSMP's [\[REP3-010\]](#) general principles to avoid soil structure damage and additional soil surveys, as well as setting particular guidance and requirements for the various parts of the Proposed Development. It provides for a soil investigation of the cable route corridor. No additional mitigation is proposed.
- 3.8.27. Cumulative effects with Tillbridge Solar, Gate Burton Energy Park, West Burton Solar, Heckington Fen Solar, Temple Oaks Renewable Energy Park and Mallard Pass Solar have been considered in ES Chapter 19 [\[REP-010\]](#). Most are within predominantly moderate likelihood of BMV land, which also includes the Proposed Development. The exceptions are the Heckington Fen site which is high and the Mallard Pass site which is predominantly low. ES Figure 19.5 Predictive Best and Most Versatile Land Assessment [\[APP-335\]](#) indicate the general disposition of land quality within a region, due to absence of assessment results, and so provide the best published reference. No meaningful data is available concerning farming circumstances and limited data for the soil resource.
- 3.8.28. The Applicant argues that for the cumulative agricultural land resource, the loss would be temporary with any actual loss of agricultural land limited to the small extent of switchgear housings and substations. The soil resource will experience little disturbance, and the risk of compaction from trafficking reduced compared to annual arable crop management. No significant cumulative effects were reported by the Applicant.

Issues considered during the Examination

ALC Survey

- 3.8.29. LCC provided its own review of soils and the ALC through its LIR [[REP-085](#)]. 7000 Acres referred to a number of purported anomalies and inconsistencies in the ALC survey, and the potential for the amount of BMV land in the Order Limits to be greater than had been indicated [[REP-105](#)]. As well as pointing out that NE did not identify such deficiencies, the Applicant set out this related to the use of the climatic data for lowland arable land, soil wet/dryness and BMV land and that all of the data needed to be assessed together, rather than being looked at individually for anomalies and inconsistencies [[REP2-034](#)].
- 3.8.30. 7000 Acres also drew attention to the fact that re-testing had taken place for the West Burton Solar scheme. The Applicant confirmed that additional sampling had also been carried out for the Proposed Development, but re-testing only resulted in a ALC grading change related to the West Burton Solar scheme [[REP-105](#)].
- 3.8.31. NE confirmed that the ALC survey followed its guidance and that the proportion of BMV land across the Order Limits and that occupied by infrastructure would be low. While it also considered that the data presentation could have been clearer over the amount and proportion of land (including BMV) impacted by each element of the Proposed Development, it considered the ALC survey satisfactory [[REP2-088](#)].
- 3.8.32. We questioned why ES Chapter 19 [[REP-010](#)] considered there would be an anticipated limited impact from the cable route corridor, as it had not been the subject of the ALC survey. The Applicant replied this was because the cable installation works would take place over a narrow strip of land within the proposed cable route corridor and would be of short duration. The soil survey under the auspices of the final oSMP by requirement would be carried out post consent due to the need for the detailed design to be confirmed in order for the actual land to be excavated, to avoid surveying the whole corridor [[REP2-034](#)].
- 3.8.33. In overall terms, we consider that the ALC survey is fit for purpose, notwithstanding that the cable route corridor as of yet has not been surveyed.

Use of Agricultural Land

- 3.8.34. Matters that were raised by LCC including through its LIR [[REP-085](#)], 7000 Acres and other IPs during the Examination included the loss of agricultural land associated with the use and how this was assessed; the loss of BMV land; what agricultural use would take place during the operational period; grazing; food security and production; damage caused to agricultural land in the proposed cable route corridor; and cumulative effects [[REP-109](#), [REP4-070](#), [REP5-066](#), [REP6-008](#)].
- 3.8.35. We queried why the Applicant was deviating from the IEMA threshold for the magnitude of change for the loss of agricultural land. The Applicant

considered that the threshold was more applicable to smaller sites because it may not be applicable to all scales of development and that making such a judgement also depended on the assessor's experience. It went on to state that, following further questioning, the IEMA threshold related to the permanent loss of agricultural land and re-emphasised that such loss would not result from the Proposed Development. Therefore, there would be no change to the assessment, even if the IEMA threshold was applied by the SoS [[REP2-034](#), [REP4-058](#)].

- 3.8.36. The Applicant also clarified during the Examination that it was not relying on the use of land beneath the proposed solar arrays during the operational period to remain in agricultural use, including for the assessment under ES Chapter 19 [[REP-010](#)]. The oLEMP [[REP4-035](#)] would provide for the change of the majority of the land beneath the proposed solar panels from arable to permanent grassland and for its management for the benefit of biodiversity. This objective was considered by the Applicant to be to be achieved through either mechanical cutting, sheep grazing or a combination of the two, subject to appropriately informed and ecologically led management prescriptions and timings.
- 3.8.37. While the land would not be available for continued agricultural use during the lifetime of the Scheme, the Applicant considered that the extended fallow period would benefit soil health as the reversion from arable land to pasture would reliably deliver both soil health and wider environmental benefits. It was considered this was supported by DEFRA R&D project SP08016 (Best Practice for Managing Soil Organic Matter in Agriculture [[REP2-034](#), [REP4-058](#)]).
- 3.8.38. Early in the Examination, the Applicant set out that it did not consider the yield of the land, the effects of displacement of food production and food security to be material planning considerations [[REP2-034](#)]. We subsequently sought the views of all relevant parties over where the NPPF had been updated to refer to the availability of agricultural land used for food production.
- 3.8.39. LCC considered that the NPPF now specifically referred to recognising and considering the value of agricultural land for food production as a material planning consideration, and reinforced the need to ensure that agricultural usage would be secured through the DCO over the operational period [[REP4-070](#)]. WLDC agreed that demonstrating availability would require a commitment from the Applicant and not just that land 'could' be used for such purposes without any measures to actively enable it [[REP6-011](#)]. It was more than a theoretical consideration. 7000 Acres considered this NPPF change was consistent with longstanding Government policy and restated that the Applicant had not taken account of food production. 7000 Acres argued that using productive farmland was not an efficient use of land [[REP4-087](#)].
- 3.8.40. The Applicant considered this should be read in conjunction with the 2024 NPS EN-3 which recognises that solar farms may be located on agricultural land where necessary. The Applicant also reaffirmed that the

Proposed Development had accounted for non BMV land in its design and there were no obviously more suitable locations, and as such there was no change as regards policy compliance [[REP4-058](#)].

- 3.8.41. We asked the Applicant at ISH2 why it had not considered the 2015 WMS. LCC also reaffirmed that under the 2015 WMS the use of BMV land must be justified by compelling evidence, while 7000 Acres also considered that it remained extant had been confirmed by recent caselaw. Both considered that a compelling need to develop BMV land had not been proven. The Applicant agreed that the 2015 WMS had not been withdrawn but considered that it should be given limited weight as the 2024 NPSs represented a more up to date policy position [[REP3-033](#)].
- 3.8.42. We also queried how damage to field drainage would be avoided when laying ducting and cables. The Applicant considered that where such drains are encountered, these would be cut to enable the cable to be laid below their depth, then reconnected with a new section of drain before the trench is backfilled over the drain. Farmers would also be questioned regarding the presence, orientation and specifications of drains, so that appropriate field drainpipe sections will be on hand [[REP4-058](#)].
- 3.8.43. In relation to cumulative effects over the use of agricultural land, we requested an update as ES Chapter 19 [[REP-010](#)] indicated there is an absence of such assessment results in the public domain. The Applicant replied that it is the Joint Report [[REP5-025](#)] that provides such an update, following what has been set out in the Gate Burton Energy Park ES Socio-Economics Chapter. No changes from what was set out in ES Chapter 19 [[REP-010](#)] were identified.
- 3.8.44. While we concur with the Applicant on a number of these matters, we are concerned that the Proposed Development would take land out of agricultural production for a significant amount of time. This is a matter which needs to be taken forward into our conclusion on this topic, especially in light of the recent update to the NPPF.

Farming Circumstances

- 3.8.45. We raised a number of matters over the impacts on farming businesses, while WLDC was also concerned with the cumulative effects [[REP6-011](#)]. The Applicant was asked to justify the use of superseded national planning policy within the former Planning Practice Guidance Note 7 in the assessment contained within ES Chapter 19 [[REP-010](#)]. The Applicant stated this was said to be due to a lack of any subsequent published national guidance and we were also referred to where the same approach had been taken in a number of other nationally significant infrastructure projects [[REP2-034](#)].
- 3.8.46. The Applicant was also asked to explain why it considered there would be a beneficial effect on the farm businesses in view of the amount of agricultural land that would be utilised for the Proposed Development. The Applicant considered this would be due to the farm businesses

having a new and substantial diversified enterprise. Even if there was no grazing during the operational period, the farm businesses would still gain from the rental income from the Proposed Development that would lead to such a beneficial effect [[REP2-034](#)].

- 3.8.47. The Applicant stated that discussions with the farm businesses had led to the Proposed Development being focussed on land that was the most difficult to farm, as landowners typically would want to release land that was least agriculturally productive and valuable. With regard to land that was the subject of Countryside Stewardship arrangements, the Applicant set out that where landowners had entered into option agreements for development it was typical to not renew such arrangements to avoid incurring any financial penalty for terminating an agri-environmental payment agreement early [[REP2-034](#)].
- 3.8.48. The Proposed Development would not inhibit access to farm businesses and those on adjacent land. We queried whether this also applied to Changes 1 and 2 of the Applicant's requested changes [[AS-063](#)], with the proposed temporary closure of Torksey Ferry Road. The Applicant replied that the timing of such closures would minimise periods of higher intensity land work such as harvest and at other times, where practical, maintain access or provide an alternative [[REP5-032](#)].
- 3.8.49. The Applicant accepted there was the potential for possible cumulative effects where an agricultural occupant owns or rents farmland on multiple separate sites. While this was difficult to determine because such information was not disclosed, if there was any common occupancy, this would suggest large and diverse farm businesses already, minimising the potential for there to be any adverse cumulative effects [[REP4-058](#)].
- 3.8.50. On this basis, we consider that farming businesses would be unlikely to be unacceptably impacted by the Proposed Development.

Soil Management

- 3.8.51. NE raised a number of matters during the Examination regarding the originally submitted oSMP [[APP-146](#)], including seeking clarity over the site restoration following decommissioning and a commitment to the reinstatement of the former ALC grades [[REP-098](#)]. LCC was concerned that during the construction phase there would be significant damage to soil structure particularly on heavy clay soils caused by vehicles and queried the degree to which existing site drainage and irrigation conditions would be affected [[REP6-008](#)]. 7000 Acres referred to the need to consider Welsh Government (2023) 2020/21 Soil Policy Evidence Programme: The impact of solar photovoltaic (PV) sites on agricultural soils and land quality. This was purported to show that large scale solar arrays can have a detrimental impact on soil health and drainage [[REP5-066](#)].
- 3.8.52. The oSMP [[REP3-010](#)] was subsequently updated to account for NE's comments including commitments to restore the agricultural land within the Order Limits to the same ALC grade following decommissioning, and

similarly for cable trenches following construction. This also included a commitment to monitor soil health for the lifetime of the Proposed Development to inform remediation and the wider understanding of the impact of solar projects on soil health. NE subsequently confirmed that it was content with the revised oSMP [[REP4-083](#)].

- 3.8.53. The Applicant confirmed that in order not to cause impediment to agricultural land management or crop growth following decommissioning, any cable ducts would be placed significantly below the maximum practical depth of cultivation. As regards low voltage cabling, this may be shallow buried and therefore be required to be removed as part of restoring the land to be suitable for agricultural use. It would be only left *in situ* where such cables have been buried sufficiently deep [[REP4-058](#)].
- 3.8.54. The Applicant reaffirmed that with all structures removed and soil material replaced, there would be no sterilisation of agricultural land following decommissioning work. This was deemed to be a beneficial effect because it would enable the farm businesses to utilise the land for their agricultural operations [[REP4-058](#)].
- 3.8.55. We questioned if the 60 year operational time period up to decommissioning would have a reverse effect on the productivity, given the length of this extended period. The Applicant stated this was considered a beneficial economic effect due to the value from hosting the Proposed Development being likely to exceed that from agriculture [[REP4-058](#)].
- 3.8.56. We consider that the implementation of a SMP, based on the oSMP [[REP3-010](#)], would satisfactorily address soil management matters. It will provide for the land to be adequately restored so that it can be used for agriculture once the Proposed Development has ceased operation.

Conclusions on Soil and Agriculture

- 3.8.57. We consider that the ALC survey is robust in that it follows NE guidance and provides for an accurate classification of land in order for the extent of the likely impact to be understood, including the amount of BMV land. Therefore, we do not consider that criticisms of the ALC survey significantly reduce its validity. It does not extend to cover the cable corridor route, but we are content any associated loss of agricultural land would only be for a short duration and represent a narrow strip of land. It is a matter which we consider has been adequately secured in the oSMP [[REP3-010](#)].
- 3.8.58. It is clear that the Proposed Development would have an end date and once that had expired, the land would revert back to agricultural use. In that sense, the effects on the agricultural land resource would be temporary. We note that a similar approach has been taken by the SoS when considering other made DCO's including the Little Crow Solar Park Order 2022 (SI 2002/436) and the Longfield Solar Farm Order 2023 (SI 2023/734).

- 3.8.59. Furthermore, we note that the oSMP [[REP3-010](#)] commits to the restoration of the land grades and includes decommissioning arrangements which cover all aspects of the Proposed Development. That the land would remain fallow would enable arable farming after decommissioning. The associated farming businesses would also receive a rental income.
- 3.8.60. While the amount of BMV land involved would be limited as a proportion of the Order limits, the Government approach is to discourage the siting of solar farms on BMV agricultural land. We accept though that the Applicant has sought to minimise impacts on such land. Co-location under the 2024 NPS EN-3 would also occur in as far as there would be both proposed solar arrays and ecological led management areas.
- 3.8.61. In these terms, the Proposed Development would accord with the requirements of the 2011 NPSs, the 2024 NPSs, the 2024 WMS, the PPG, the 2015 WMS, and development plan policy.
- 3.8.62. However, it is evident that much of the land (apart from the buried cable route) would be removed from arable food production for a prolonged period of time. The availability of such land used for this purpose would thus be accordingly reduced, when deciding what sites are appropriate for development. The cumulative effects over 60 years would heighten this loss. As such, the Proposed Development would not meet the requirements of the NPPF in this regard.
- 3.8.63. We consider this matter further in [Section 5](#) of this Recommendation.

3.9. SOCIO-ECONOMICS, TOURISM, RECREATION AND HUMAN HEALTH

Introduction

- 3.9.1. This Section covers the social, economic, tourism and recreation effects of the Proposed Development. The recreation effects include those in relation to the PRoW network. Matters in relation to health are also considered in this Section.

Policy Context

- 3.9.2. Section 4.13 of 2011 NPS EN-1 recognises the impacts which energy infrastructure may have on some people's health. It goes on to state that it is unlikely that health concerns will either constitute a reason to refuse consent or require specific mitigation, although health concerns will need to be taken account of when setting requirements.
- 3.9.3. Paragraph 4.13.4 recognises that new energy infrastructure may also affect the composition, size and proximity of the local population, and in doing so have indirect health impacts, for example if it in some way affects access to key public services, transport or the use of open space for recreation and physical activity.

- 3.9.4. Paragraph 5.12.3 states that applicants should consider all relevant socio-economic impacts, which may include, amongst other things, the creation of jobs and training opportunities; the impact of a changing influx of workers during the different construction, operational and decommissioning phases; and cumulative effects. Paragraph 5.12.5 recognises that socio-economic impacts may be linked to other impacts and may also have an impact on tourism and rural businesses.
- 3.9.5. 2024 NPS EN-1 provides a similar policy approach as regards socio-economic matters and reaffirms that energy infrastructure has the potential to impact on the health and well-being of the population. Furthermore, paragraphs 2.10.40 to 2.10.45 of 2024 NPS EN-3 notes that in considering the likely extent of solar sites, it is possible that proposed developments may affect the provision of local footpath networks and PRoW. It indicates that it should be an applicant's intention, where practicable and safe, to keep all PRoW that cross the Proposed Development site open during construction. Developers are encouraged to design the layout and appearance of the site to ensure continued recreational use of PRoW.
- 3.9.6. Paragraph 85 of the NPPF sets out that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 88 goes on to state that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, including through the development and diversification of agricultural and other land-based rural businesses, amidst other matters.
- 3.9.7. Paragraph 193 of the NPPF also sets out the 'agent of change' principle in that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.
- 3.9.8. The NPPF also recognises the importance of safe and accessible green infrastructure, and the need to protect and enhance PRoW and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks.
- 3.9.9. Policy S54 of the CLLP expects development proposals to promote, support and enhance physical and mental health and wellbeing. This is supported by a Health Impact Assessment for Planning Applications: Guidance Note (Updated April 2023) which provides advice and guidance on undertaking Health Impact Assessment (HIA), and on health and wellbeing in planning decision making.
- 3.9.10. Remaining adopted development plan policies also support economic development in rural areas and farm diversification where they minimise impacts and support inward investment. Proposals are also expected to protect and enhance green infrastructure assets affected by the development and take opportunities to improve linkages between green corridors and be compatible with tourism and recreational facilities.

- 3.9.11. Policy ST6 of the emerging Bassetlaw Local Plan 2020-2038 (BLP) specifically relates to the Cottam Priority Regeneration Area, where the proposed grid connection would be made. It is not allocated for development but is identified under the policy as a broad location where growth could go in the future. It is a key regeneration site. Development should be in accordance with a comprehensive masterplan framework and design code, amongst other matters. Proposals are subject to taking account of a number of criteria, including heritage assets, biodiversity, water quality and drainage, and wayleave access arrangements. It is safeguarded from development that may prejudice its regeneration.
- 3.9.12. The neighbourhood plans also seek to protect and enhance PRow networks in their respective areas and recognise the importance of green infrastructure. Policy 15 and the associated map of the SSNP identifies a number of walking and cycling routes in or close to the part of the Order Limits which lies within the Parish area. Proposals that create new cycling or walking routes will be strongly supported.

The Application

Socio-Economics and Tourism and Recreation

- 3.9.13. The Applicant's case relating to socio-economics, tourism and recreation is set out in ES Chapter 18 (Socio-Economics and Tourism and Recreation) [[APP-053](#)]. This is supported by the following documents:
- Outline Skills Supply Chain and Employment Plan (oSSCEMP) [[REP4-041](#)];
 - ES Appendix 14.3 Public Rights of Way Management Plan [[REP5-018](#)]; and
 - ES Addendum 21.2 Blyton Park Driving Centre [[REP4-069](#)].
- 3.9.14. In summary, data from the relevant local authorities and national statistics providers has been used to assess how the Proposed Development would affect the socio-economic environment and tourism and recreation receptors identified by the Applicant. For tourism and recreation, the environmental impacts include PRow, long distance walking and cycling routes, navigable waterways and recreational hubs and key tourist attractions. The methodology includes a Local Impact Area (LIA) comprising Bassetlaw and West Lindsey.
- 3.9.15. For the socio-economic baseline, the area is reported to have a significantly older based population, higher rates of disability and is well stocked for housing. Bassetlaw is more deprived and earnings are greater in West Lindsey. Commuting out for work is common across the LIA and employment rates broadly follow national trends. Higher level qualification attainment rates are lower.
- 3.9.16. Large tourist attractions are limited. There are also a number of PRow which provide important local recreational and walking facilities. Long distance routes include the national Trent Valley Way which crosses the proposed cable route corridor via the western bank of the River Trent, as well as the National Byways cycle route. There are also navigable

waterways within proximity of the Order Limits. Recreational fishing lakes, formal recreational facilities and recreational play and sport areas are found in the surrounding area.

- 3.9.17. Table 18.11 of ES Chapter 18 [[APP-053](#)] details the overall changes to employment per annum. The overall net change increase to Full Time Equivalent (FTE) employment arising from the Proposed Development are estimated to be 1,009 per annum during construction, of which 661 would be in the LIA. These include net direct and indirect employment, and accommodation employment. The net change has regard to losses in agricultural employment (17) and in tourism and recreation employment (1).
- 3.9.18. A revised oSSCEMP [[REP4-041](#)] was submitted during the examination, which reflected ongoing discussions with the host authorities. During construction, it seeks to support both agricultural workers impacted, together with education and skills attainment in fields such as construction, engineering, and energy technology. The latter is considered by ES Chapter 18 [[APP-053](#)] to be a significant beneficial effect and also considers the effects on economic prosperity and resident and workplace population incomes to be significant (beneficial). During the operational phase, these measures would continue to be utilised.
- 3.9.19. Mitigation measures concerning socio-economics also include the use of the oCTMP [[REP5-016](#)] and oCEMP [[REP5-020](#)] during construction to reduce the peak number of construction workers and movements or alter when this peak would occur. This is in order to moderate the level of temporary accommodation demand. The oCTMP is also intended to control construction traffic movements.
- 3.9.20. Measures to mitigate visual impacts from construction in the oCEMP [[REP5-020](#)] are also considered to have a secondary benefit to the tourism economy through reducing the level of impact.
- 3.9.21. ES Chapter 18 [[APP-053](#)] explains that the Applicant would seek to keep recreational routes crossing or within the Order Limits open during construction, with crossing or traffic conflict points overseen by spotters or banksmen for HGVs. Where closures are deemed to be necessary, these are reported to be temporary in nature and supported by an appropriate amount of notice and suitable diversions, including signage. The exception is the four-week closure of a PRoW along Torksey Ferry Road associated with the Applicant's change request to extend the Order Limits.
- 3.9.22. The Proposed Development includes a new permissive path between Stow and Stow Pastures. Additional mitigation and enhancement measures include landscape screen planting which the Applicant considered would minimise visual impacts on tourism and recreation. Measures are also proposed through the oOEMP [[REP5-022](#)] and the oLEMP [[REP4-035](#)].

- 3.9.23. During decommissioning, it is intended that mitigation measures would be implemented through the Decommissioning Plan secured via Requirement 21 (which must substantially accord with the oDS [[REP3-014](#)]) and landscape measures through the LEMP secured via Requirement 7 (which must substantially accord with the oLEMP [[REP4-035](#)]). The termination of energy employment from the Proposed Development would be mitigated through focussing on reskilling and retraining energy workers, as secured through the oDS and oSSCEMP [[REP4-041](#)]. While the effect would be adverse, it is not considered significant.
- 3.9.24. Table 18.23 of ES Chapter 18 [[APP-053](#)] sets out the significance of effects for all stages of the Proposed Development.
- 3.9.25. The cumulative projects assessed are set out in Table 18.24 of ES Chapter 18 [[APP-053](#)]. It identifies beneficial effects related to employment opportunities, economic impacts, accommodation and skills training during the construction, operational and decommissioning phases. Adverse effects are identified as impacts on local tourist attractions (landscape) and long-distance recreation routes (Trent Valley Way) during construction, and energy sector employment during the operational and decommissioning phases. Tables 18.28 and 18.29 of ES Chapter 18 detail the cumulative residual effects.
- 3.9.26. ES Addendum 21.2 Blyton Park Driving Centre [[REP4-069](#)] provided further consideration of the socio-economic effects, including on its operations, with the conclusions on the significance of effects remaining unchanged. The Applicant also proposed PPs during the Examination, that have not been agreed, concerning effects on Cottam Power Station and Regeneration Area, and Blyton Park Driving Centre. It is not in dispute these are both important constituents of the local economy and are how they would be affected is discussed further in this section of the Recommendation.

Human Health

- 3.9.27. The Applicant's case relating to human health is set out in ES Chapter 21 (Other Environmental Matters) [[APP-053](#)]. This is supported by the following documents:
- ES Addendum 21.1 Human Health and Wellbeing Effects [[REP4-068](#)]
- 3.9.28. The methodology for human health effects draws on the information provided in other ES Chapters, as does the level of significance and the assessment. These include flooding; contamination; noise; glint and glare; air quality; population and health; waste; and risk from major accidents and disasters. For the purposes of human health under Chapter 21 [[APP-053](#)], they are expressed in terms of residual effects.
- 3.9.29. Embedded mitigation takes the form of design, topic and site-specific measures and those included in the oCEMP [[REP5-020](#)], oLEMP [[REP4-035](#)], oBSSMP [[REP3-018](#)]; and the CDMPs [[APP-141](#), [APP-142](#), [APP-143](#)].

- 3.9.30. The new permissive path between Stow and Stow Pastures is intended to improve health and well-being. In addition, the oOEMP [[REP5-022](#)] is intended to be used to direct workers to using primary health facilities with existing excess capacity. Additional mitigation is included in the oDS [[REP3-014](#)], oSMP [[REP3-010](#)]; and oSSCEMP [[REP4-041](#)].
- 3.9.31. As taken from the respective ES Chapters, there would be no significant effects on human health apart from beneficial effects in respect of socio-economics, tourism and recreation. There would also be beneficial cumulative effects in this regard and a significant adverse effect on the use and desirability of long-distance recreation routes, the Trent Valley Way, during construction.
- 3.9.32. ES Addendum 21.1 Human Health and Wellbeing Effects [[REP4-068](#)] also sought to collate information across the ES on this subject matter. The conclusions remained unchanged.

Issues considered during the Examination

Employment and the Economy

- 3.9.33. IPs raised concerns over the impacts on agricultural sector jobs and other local businesses, including the supply chain; impacts on local accommodation caused by the influx of construction workers, and what employment benefits there would be for local residents. These also included the effect on the agri-food sector and explained this sector was a priority in West Lindsey and Lincolnshire and was expected to double in economic value, supported by CLLP policies. WLDC's LIR also set out the importance of the agri-food sector to the economy, limited local accommodation for construction workers and reduced tourism spending concerns [[RR-307](#), [REP-091](#), [REP-118](#)].
- 3.9.34. There was also a concern expressed in these submissions that the Proposed Development would have a significant impact on jobs in the area and local businesses, there was not a comprehensive assessment of the impact of to any contractor related services to the farm and the breakdown of the jobs that would be lost was not clear.
- 3.9.35. WLDC raised further concerns towards the end of the Examination that the impact on the wider agricultural sector supply chain did not seem to have been accurately considered on a cumulative basis. It considered there would be no level of certainty that agricultural jobs would simply return when the land use is restored. Consequently, the sector would be materially harmed [[REP6-011](#)].
- 3.9.36. In response, the Applicant stated that the loss of 17 jobs equated to 0.4% of the agricultural employment in the LIA and that it would not be any more than a low level of impact. The LIA would not be anticipated to experience significant effects, either individually or cumulatively. Furthermore, it considered there would only be a minimal impact on neighbouring agricultural businesses as no access to such adjacent fields is anticipated to be required. For the proposed cable route corridor,

temporary fencing during construction is not anticipated to prejudice access [[REP2-034](#)].

- 3.9.37. We asked the Applicant to explain the LIA types of employment and numbers that would be created. The Applicant responded that it was assumed around 64% would come from the LIA and that no specific assumption had been made about skilled roles. Without mitigation or enhancement measures, a greater proportion of skilled roles would come from outside the LIA [[REP2-034](#)].
- 3.9.38. The Applicant also replied that it was relying on ES Appendix 19.1 Agricultural Land Quality Soil Resources and Farming Circumstances [[APP-145](#)], where it sets employment rates on each of the farm businesses who occupy the Order Limits, for the figures presented in ES Chapter 18 [[APP-053](#)].
- 3.9.39. We queried why increasing accommodation occupancy rates would itself lead to an increase in FTE employees in accommodation employment. The Applicant explained that when the demand for services increases, a larger workforce is required to maintain the quality of service, meet guest expectations, and manage the operational needs of the accommodation. The Applicant accepted this would lead to the displacement of visitor accommodation, but this would be neutral because the accommodation would be utilised by construction workers. The loss of visitor spending was considered to be negligible adverse [[REP2-034](#)].
- 3.9.40. The Applicant clarified that it was not the intention to provide temporary accommodation for workers during the construction phase. The mitigation measures contained in the oCEMP [[REP5-020](#)], included embedded flexibility in the construction programme to reduce peak construction accommodation needs and utilising alternative accommodation such as private rental units, if required. This was considered to limit impacts on local housing and tourist accommodation [[REP2-034](#)].
- 3.9.41. We consider that while there would be some loss of agricultural jobs, and potentially related impacts on suppliers and the agri-food sector, overall, there would be a beneficial effect on employment and the economy. There would also include local accommodation providers who would house construction workers and due to measures in the oSSCEMP [[REP4-041](#)].

Cottam Power Station and the Priority Regeneration Area

- 3.9.42. EDF Energy (Thermal Generation) Limited (EDF) raised a number of matters during the Examination over the effect of the Proposed Development on its operations at the Cottam Power Station site and the Priority Regeneration Area [[REP-092](#), [REP4-076](#), [AS-002](#)]. Uniper, the owner of this operational gas fired power station, also raised concerns over the proximity to its assets [[REP-101](#)]. BDC's LIR also set out that Policy ST6 of the BLP would need to be considered and that the ability of

the power station site to come forward comprehensively for development should not be prejudiced [[REP-080](#)].

- 3.9.43. We asked the Applicant to explain why it had not considered the Priority Regeneration Area in ES Chapter 18 [[APP-053](#)]. The Applicant stated this was because of a lack of information, and further set out that the proposed cable corridor route is the only part of the Proposed Development that would be captured by policy ST6. The location and means of access to the proposed grid connection at the power station would not prejudice the Priority Regeneration Area [[REP2-034](#)].
- 3.9.44. By the end of the examination, both EDF and Uniper set out that the PPs had not been agreed. We consider this matter further in section 7 of this Recommendation.
- 3.9.45. We are mindful that Cottam Power Station is a key regeneration site under Policy ST6 and that it is safeguarded from development that may prejudice its redevelopment. As the part of the Proposed Development which impacts the power station site is limited to making the grid connection to an existing sub-station, the effect would be limited. There would be compliance with Policy ST6 and the regeneration aspirations for the site.

Blyton Park Driving Centre

- 3.9.46. The Blyton Park Driving Centre is located immediately to the north of Cottam 3a on the runways of the former RAF Blyton site and is primarily used for motorsport. It is owned by the LNT. The Automotive Research and Development Centre planning permission on part of that site involves new automotive technology, in particular the development of electric and autonomous vehicle technologies. Details of its contribution to the local economy were provided during the Examination which concern employment, the number of visitors it hosts and the businesses it supports, its role as a training facility and its national importance [[REP4-080](#)].
- 3.9.47. At ISH3, Blyton Park Driving Centre set out that the Proposed Development would affect the viability effect of its existing and future business, in particular as it was operational for 300 days per year and the access route into the site was used as parking and as the paddock for the track. Proposed panels would also be located within the safety run off areas and would obstruct lines of sight across the track from the control tower [[REP3-076](#)].
- 3.9.48. The Applicant considered there would not be an adverse effect on Blyton Park Driving Centre, subject to mitigation. This included cameras or a staffed centre to maintain line of sight. The oCTMP [[REP5-016](#)] as revised would ensure the driving centre's operations would not be significantly affected by the construction vehicle movements as it sets out that specific management of the access to the race track on race days and other events would be put in place in consultation with the operators.

This would apply to both construction traffic and traffic associated with the racetrack [[REP2-034](#)].

- 3.9.49. We also queried whether the 'agent of change' principle would apply in light of the potential impacts on the driving centre. The Applicant stated it was confident this did not apply as unreasonable restrictions would not apply and due to the measures set out in ES Addendum 21.2 Blyton Park Driving Centre [[REP4-069](#)].
- 3.9.50. Blyton Park Driving Centre also considered that the Proposed Development would conflict with the approved site layout for the Automotive Research and Development Centre, that lies close to the racetrack and the site access road. While there are no current plans to implement this permission, all relevant planning conditions have been discharged and a commencement cannot be discounted. Its contribution to the local economy would be beyond the 12 jobs that would be created, as it would sustain local businesses [[REP2-085](#), [REP3-076](#), [REP4-080](#)].
- 3.9.51. The Applicant replied that it had considered Blyton Park Driving Centre under the cumulative assessment in Chapter 18 [[APP-053](#)] and under ES Addendum 21.2 Blyton Park Driving Centre [[REP4-069](#)] then updated the cumulative assessment to include the Automotive Research and Development Centre. This did not change the conclusions on the significance of cumulative effects.
- 3.9.52. Blyton Park Driving Centre maintained its position stating that the Applicant had not proposed to alter the layout of the solar panels and they would continue to be in extreme proximity to the established high-speed driving circuit, to make them a clear health and safety risk, were they to be installed. Measures to protect lines of sight would not be suitable for the operation, while staffing a secondary point would not be reasonable on the driving centre. Opaque fencing to lessen glint and glare would further reduce the line of sight. The driving centre also advised us that it had made the Applicant aware of circuit safety guidelines applied by Motorsports UK [[REP5-060](#)].
- 3.9.53. A related protective provision was also provided by the Applicant. As updated at the end of the Examination [[REP6-004](#)], this would require the approval of Blyton Park Driving Centre of works details in any of the restricted land (being the land over which it had indicated could have an impact on its operations). Any approval may be given subject to reasonable requirements that the driving centre may require for the safe use of the land. The Applicant reported this was still under discussion with the driving centre [[REP6-003](#)].
- 3.9.54. The effect on Blyton Park Driving Centre as regards noise, glint and glare and EMF are dealt with in [Sections 3.4](#), [3.6](#) and [3.12](#) of this Recommendation, respectively.
- 3.9.55. The ExA considers that Blyton Park Driving Centre is also an important constituent of the local economy and in some respects is of national importance to motorsports. There is the potential for unreasonable

restrictions on this facility due to the proximity of the work areas to the track, the access and if the proposed solar panels would block lines of sight. The onus falls on the Applicant to ensure there is not detriment to the driving centre and a number of mitigation measures are proposed through ES Addendum 21.2 Blyton Park Driving Centre [REP4-069] and the oCTMP [REP5-016].

- 3.9.56. However, this also requires PPs so that Blyton Park Driving Centre can continue to have the safe use of the land in association with its operation. As well as potentially restricting the use of the proposed solar panels in the restricted areas, it will also likely require a physical line of sight. We consider these matters further in [Section 7](#) below.

Social Effects

- 3.9.57. 7000 Acres raised deprivation in Gainsborough, the effect on rural areas and the possibility of cumulative socio-economic decline [REP-118, REP2-094] as matters which the Applicant had not properly considered. The Applicant responded that whilst Gainsborough had not been identified explicitly in ES Chapter 18 [APP-053], it was acknowledged that it is in an area within the LIA with very high rates of deprivation. This has contributed to the assessment, in particular as access to employment and education and skills attainment were identified as high sensitivity. The Proposed Development has the potential to contribute to addressing these issues through its economic benefits [REP2-034, REP3-034].
- 3.9.58. 7000 Acres also drew attention to Gypsy and Traveller Sites in the vicinity of the Order Limits [REP2-094]. The Applicant responded that the potential impacts had not been considered due to the intervening distances, and it was confident that such groups were not anticipated to be disproportionately impacted, including with regard to flooding and deprivation issues. Hence, no breach of the Human Rights Act 1998 (HRA1998) would occur [REP4-058].
- 3.9.59. We requested further explanation on the Equalities Impact Assessment (EqIA) [APP-351] over how vulnerable groups had been treated when they had protected characteristics under the Equality Act 2010 (EA2010). The Applicant stated there would be no more than negligible to minor effects on any socio-demographic group in the LIA, including those with protected characteristics. The Applicant also considered that while the workforce would be likely largely male, the minimal uplift in the population of the LIA would result in a negligible impact on protected characteristics and the EqIA [REP2-034].
- 3.9.60. We questioned that the Applicant's consideration of Article 8 of the HRA1998 seemed solely related to CA matters, rather than broader local community impacts. The Applicant considered this was the only conceivable way that the Proposed Development may impact on the rights protected by Article 8 [REP4-058].
- 3.9.61. In relation to ensuring that safeguarding against exploitation and forced labour would be effective in terms of where the proposed solar panels

would be sourced, the Applicant stated that it signed up to the Solar Energy UK Industry Supply Chain labour requirements [[REP3-034](#)]. This was also addressed through the oSSCEMP [[REP4-041](#)].

- 3.9.62. In the round, we are satisfied that undue social effects would not arise concerning deprivation, equalities and protected groups. Indeed, the economic benefits may assist in lessening the social effects, in particular deprivation. We disagree with the Applicant that Article 8 is not applicable to broader community impacts because the article bestows the right to private and family life and for the home. The effect on their living conditions is therefore a relevant consideration. Nevertheless, the evidence before us is not persuasive that a conflict would arise in this regard that would amount to a conflict with this Article.
- 3.9.63. We have also had due regard to the duties under the HRA1998 and EA2010, including the application of the Public Sector Equality Duty. We do not find there is a conflict and such interests would be adequately safeguarded.

Health and Well-Being

- 3.9.64. 7000 Acres and other IPs raised concerns that the effect of the Proposed Development on the health and well-being of the local residents had not been properly considered by the Applicant, including the cumulative effects. Much of this related to the loss of countryside that would result and associated change of the local environment. In addition, 7000 Acres and WLDC raised concerns that a HIA had not been submitted, in line with Policy S54 of the CLLP, the associated guidance and NPS [[REP-111](#), [REP5-054](#)].
- 3.9.65. In response, the Applicant stated that ES Chapter 21 [[APP-053](#)] had assessed both physical and mental health conditions and found there to be no significant effects. This was on the basis of a broad number of factors, including visual amenity; mental well-being and impacts on use of recreational spaces and routes; health and physical activity indicators; mental disorders and disabilities; deprivation; and access to healthcare. The perception of local residents of their surroundings had been incorporated in the determination of sensitivity and qualitative assessment of impacts on the desirability and use of PRow and recreational facilities. It had also sought to respond to health conditions that had been raised through the Relevant Representations [[REP-049](#)].
- 3.9.66. The Applicant was of the view that it was not relevant to consider the Proposed Development under Policy S54 because a HIA was scoped out at the EIA scoping stage. Policy S54 was also considered to be of more relevance to applications submitted under the Town and Country Planning Act 1990 regime. Nevertheless, it accepted that it would be useful for all of the information on health impacts included in the ES to be brought together in one place [[REP4-058](#)] as was set out in ES Addendum 21.1 (Human Health and Wellbeing Effects) [[REP4-068](#)].

- 3.9.67. After consideration of ES Addendum 21.1 Human Health and Wellbeing Effects [[REP4-068](#)], WLDC maintained that a HIA should have been provided separate to the ES because its scope would go beyond simply identifying significant effects. This would allow the assessor to be more qualitative in its assessment, allowing for every effort to mitigate adverse impacts. It was also not evident that a healthcare professional had been involved in its preparation. 7000 Acres considered that it was an incomplete assessment and did not address the health and wellbeing issues identified by the health professionals. The cumulative impact would also need to be considered [[REP5-054](#), [REP5-065](#)].
- 3.9.68. We find that physical effects on health would be unlikely to arise due the nature of what is proposed. The position as regards mental health and well-being is more nuanced because undoubtedly local residents would experience changes to their surroundings. This is less quantifiable and is not a matter which the ES process is readily adapted to. The submission of a HRA in line with Policy S54 would have been of assistance, although ES Addendum 21.1 Human Health and Wellbeing Effects [[REP4-068](#)] partially fulfils this function. There is recognition of the adverse temporary effect on the Trent Valley Way PRow, as well as economic benefits which have some relation to health.

Public Rights of Way and Permissive Paths

- 3.9.69. IPs raised concerns regarding recreation effects on the PRow network, including where adverse effects had been identified on the Trent Valley Way and closures associated with Changes 1 and 2 of the Applicant's requested changes to extend the Order Limits. They also concerned permissive paths in the vicinity of the proposed Cottam 1 array site, including the potential for further provision [[REP3A-008](#), [AS-021](#)]. LCC's LIR also considered there would be uncertainty for PRow users due to disruption caused by diversions and reinstatement [[REP-085](#)].
- 3.9.70. The Applicant confirmed that long distance routes, such as the Trent Valley Way, had not been surveyed. We then sought clarification over whether the proposed cable route corridor had regard to the users of the Trent Valley Way. The Applicant responded that any works that might affect the Trent Valley Way would take place in a single overnight period, and the effect on users would be limited [[REP2-034](#)].
- 3.9.71. We asked the Applicant to explain the rationale for the proposed permissive path between Stow and Stow Pastures. The Applicant considered that it would mean that pedestrian users would avoid the use of shared road space on Ingham Road and Fleets Lane. It would improve connectivity via footpaths towards Coates and Sturton by Stow and improve the desirability of these routes for recreational use. This was considered to contribute towards the policy aspirations of Policy 15 of the SSSNP [[REP2-034](#)].
- 3.9.72. The Applicant would not commit for the permissive route to be used by cyclists or equestrian users due to landowner and ecology matters. The Applicant also stated that a further route along the banks of the River Till

would be incompatible with farming activities and would involve land which it had no control over [[REP2-034](#)].

- 3.9.73. The Applicant acknowledged that the four-week temporary closure of the PRoW along Torksey Ferry Road would result in users experiencing greater impacts than if this route remained open. This may also have secondary impacts on accessibility to adjoining PRoW and on the recreational use of the River Trent. However, according to the SEIR [[AS-064](#)], there would be no further changes to the significance of effects because the magnitude of impact would be no greater than which had already been assessed in ES Chapter 18 [[APP-053](#)].
- 3.9.74. We requested more detail over how this temporary closure would affect recreational users of the River Trent, including the operation of angling clubs and accessing Parish Council owned land that had been drawn to the our attention [[REP3A-008](#)]. The Applicant acknowledged that whilst the effect would not be significant, it would be greater than compared to the submitted application. Alternative access was available via other PRoW, albeit longer routes, and the alteration to the level pf accessibility would be for a temporary period only [[REP5-032](#)].
- 3.9.75. We are mindful there would be some temporary adverse effects during construction to users of the Trent Valley Way in relation to its users and the landscape as an attraction. A similar situation arises on the users of PRoW along Torksey Ferry Road. This is not in dispute. Some benefits would also arise through the proposed permissive path.

Conclusions on Socio-Economics, Tourism, Recreation and Human Health

- 3.9.76. Mitigation and enhancement measures have been secured through Requirement 5 (Detailed design approval), Requirement 6 (Battery safety management), Requirement 13 (Construction environmental management plan) Requirement 15 (CTMP), Requirement 17 (Permissive Path), Requirement 18 (Public rights of way), Requirement 20 (Skills, supply chain and employment) and Requirement 21 (Decommissioning and restoration) of the dDCO.
- 3.9.77. We consider that the evidence presented indicates that the Proposed Development would result in some positive socio-economic benefits to the local economy especially during construction, not least in terms of job creation. It also has the potential to support further economic development in the local area, including by way of skills, training, and attainment, including through the oSSCEMP [[REP4-041](#)]. There is the potential for the economic benefits to improve social conditions in the area. However. there would be some loss of agricultural jobs and an impact on the agri-food sector, at least until the Proposed Development would be decommissioned.
- 3.9.78. While it is unlikely there would be adverse effects on physical health, the change in the countryside surroundings would impact on how some residents consider their surroundings and, for some, this could give rise

to some detriment to mental health and well-being. We also recognise there would also be some temporary adverse effects on PRow, although the creation of the permissive path at Stow would be a benefit that would last the duration of the Proposed Development.

- 3.9.79. Overall, we consider the socio-economic, tourism and recreation, and human health impacts of the Proposed Development have been adequately assessed in the ES. The evidence indicates there would be some adverse impacts, but also benefits. In the round, we are satisfied that the application accords with the guidance set out in 2011 NPS EN-1, the 2024 NPSs, the NPPF and the development plan policies.
- 3.9.80. The related socio-economic benefits and the permissive path attract moderate weight in favour of the Proposed Development. The remaining socio-economic, tourism and recreation, and human health impact neither weigh for or against the Proposed Development. The situation for cumulative effects would be similar.
- 3.9.81. This conclusion is also made on the assumption that PPs with EDF, Uniper and Blyton Park Driving Centre are in place. We consider the detailed PPs included by the Applicant for the benefit of these parties in [Section 7](#) below.

3.10. TRANSPORT AND ACCESS

Introduction

- 3.10.1. This section considers the effect of the Proposed Development on transport networks and traffic, including road users, walkers, cyclists and horse riders so as far as they relate to safety issues.

Policy Context

- 3.10.2. Part 5.13 of 2011 NPS EN-1 recognises that transporting materials, goods and personnel to and from a project during all of its phases can have a variety of impacts on the surrounding transport infrastructure. Paragraph 5.13.2 advises that consideration of and mitigation for transport impacts is an essential part of the Government's wider policy objectives for sustainable development.
- 3.10.3. Paragraphs 5.13.3 and 5.13.4 go on to indicate that applicants should undertake a TA for projects likely to have significant transport implications and where appropriate provide a travel plan and details of the proposed measures to improve access by public transport, walking and cycling, to reduce the need for parking associated with the proposal and to mitigate transport impacts.
- 3.10.4. 2024 NPS EN3 notes the importance of assessing various potential routes to the Order Limits for the delivery of materials and components during the construction period and the suitability of access roads for vehicles transporting components and the need to identify potential modifications. It states that once solar farms are in operation, traffic movements to and from the site are expected to be generally very light, and it is therefore

very unlikely that traffic or transport impacts from the operational phase of a project would prevent it from being approved. It also reaffirms the need to keep access open, avoid conflicts with PRow and for access to be enhanced, including through a PRow Management Plan.

- 3.10.5. Paragraph 115 of the NPPF affirms that “*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*” This test is also contained in 2024 NPS EN1. The NPPF goes on to state that development should create places that are safe, and which minimise the scope for conflicts between pedestrians, cyclists and vehicles, amidst other matters.

The Application

- 3.10.6. The Applicant’s case relating to transport and access effects is set out in ES Chapter 14 (Transport and Access) [[APP-049](#)]. This is supported by the following documents:
- ES Appendix 14.1: Transport Assessment [[REP5-014](#)],
 - ES Appendix 14.2: CTMP [[REP5-016](#)];
 - ES Appendix 14.3: Public Rights of Way Management Plan [[REP5-018](#)]; and
 - ES Addendum Chapter 14: Transport and Access [[REP2-070](#)].
- 3.10.7. Together, they contain details of the assessment methodology and criteria, study area, construction routes as well as providing a detailed description of the location of the Proposed Development in relation to the highway network.
- 3.10.8. ES Chapter 14 [[APP-049](#)] further describes limited dedicated pedestrian facilities in the area; PRows; the absence of dedicated cycling infrastructure, bus services and train stations; traffic flows; and road safety data. A base date of 2025 has been considered for construction. The criteria that were considered for assessment comprise accidents and safety, severance, driver delay, pedestrian amenity and hazardous loads.
- 3.10.9. A total of 17 access points would be utilised across the proposed array sites, of which 16 would be used during the 24-month construction programme. HGV movements would average 76 per day across the proposed array sites and at peak period this would rise to 116.
- 3.10.10. Paragraphs 14.7.9 to 14.7.15 of ES Chapter 14 [[APP-049](#)] also sets out that it is expected that 450 workers would be spread across the proposed array sites during construction, rising to 600 at peak periods. A further 50 workers would be at the proposed BESS. Shifts would avoid network peak hours. Total movements are forecasted to be 466 across the sites. This assumes that 50% will travel by shuttle bus, which is a measure included in the oCTMP [[REP5-016](#)]. Typical construction traffic movements in total are estimated to be 582 per peak day. During the operational phase of the proposed solar array sites, it is anticipated that

there would be five visits per month for each array site.
Decommissioning effects would not exceed those for construction.

- 3.10.11. For the proposed cable corridor route, there would be 32 temporary accesses, each used for approximately 90 days. Each access would generate up to 16 movements per day for materials and equipment, half of which would be HGV trips. There would also be 10 construction workers per access. Additional construction routes would involve the A57, A156 and B1241.
- 3.10.12. There would be 10 abnormal load movements in total related to the proposed transformers, with each section of the cable route requiring around 100 cable drum deliveries (around 25 per access), according to the oCTMP [[REP5-016](#)]. For the proposed array sites, these would be transported from Immingham Docks, and utilise the A15 and then local roads. The cable drum deliveries, which would not require the same size of vehicle, would utilise the A57 for access points west of the River Trent.
- 3.10.13. The associated works with such movements would involve minor carriageway widening in places; tree pruning in various locations, depending on growth at the time of vehicular movement; obtaining movement permits and agreeing traffic management with the local highway authority and police, including street furniture removal, if necessary.
- 3.10.14. Embedded mitigation through the oCTMP [[REP5-016](#)] includes construction vehicle routing; signage; parking; wheel wash/road sweeper/water spraying measures; the sheeting of vehicles and turning off of engines; the use of banksmen; site manager contact details; road condition surveys; and works to enable abnormal load deliveries. During operation, mitigation would include measures to maintain access to all PRoW, points of access and landscaping and screening. A Requirement for decommissioning would deal with mitigation during this phase, following the principles in the oCTMP and the outline Public Rights of Way Management Plan (oPRWMP) [[REP5-018](#)].
- 3.10.15. With the embedded mitigation, no residual significant effects during the construction, operational and decommissioning phases are predicted in ES Chapter 14 [[APP-049](#)]. Additional mitigation measures have also been identified during the construction phase. These include dealing with temporary and stopping up if required, as well as traffic management measures at the B1205/B1398 and Stow Lane/Lincoln Road crossroads, and a road safety audit at all access junctions.
- 3.10.16. The Applicant submitted the ES Addendum Chapter 14: Transport and Access [[REP2-070](#)] that was in part to provide additional information on access locations associated with the proposed cable route corridor and clarifications to the construction route descriptions. It also accounted for horse riders and no significant effects were reported for delay, fear and intimidation.

- 3.10.17. The oPRWMP [[REP5-018](#)] was also updated to reflect Definitive Map Modification Orders applications in the local area, PRoWs and the Applicant's request to extend the Order Limits. LCC drew the Applicant's attention to a number of 'claimed paths' [[REP2-074](#)]. In the event of known applications for proposed PRoWs been successful, these would not impede the implementation of the Proposed Development and would be appropriately managed through the dDCO and the oPRWMP, according to the Applicant [[REP4-058](#)].
- 3.10.18. Cumulative effects with the West Burton Solar Project, EDF West Burton C Gas Fired Project, Wood Lane Solar Farm, Gate Burton Solar Energy Park and Tillbridge Solar Park have been considered. Such effects are said to only impact on routes that have low sensitivity. The effects are purported to be low as the developments would not all use the same routes, apart from the joint cable corridor element. ES Addendum Chapter 14: Transport and Access [[REP2-070](#)] has made minor changes to the flow. The cumulative effects do not change the overall level of effect.

Issues considered during the Examination

Construction Traffic Access, Routing and Generation

- 3.10.19. IPs raised a number of concerns including the unsuitability of the construction routes, the number of construction vehicles, the potential for accidents and safety, parking and safety effects on PRoW users [[REP-086](#), [REP-130](#), [REP2-073](#)].
- 3.10.20. The Applicant changed the construction route for the Cottam Power station site to avoid going through Rampton village [[REP5-014](#), [REP5-016](#)]. It was also confirmed that the Applicant's requested changes to extend the Order Limits would not result in construction traffic passing through Rampton village. These matters did not change the conclusions set out in ES Chapter 14 [[APP-049](#)].
- 3.10.21. We asked the Applicant to clarify how access would be taken across the proposed Cottam 1 array site. The Applicant explained that access would be taken from Ingham Lane to access the north part of the site through a new internal track to allow vehicles to travel through this part of the site to Willingham Road, with then Willingham Road itself utilised to access the remaining land parcels. This was said to have the benefit of HGVs not having to travel through Fillingham [[REP2-034](#)].
- 3.10.22. The Applicant explained that a small number of vehicles would use the B1241 'High Street' through Sturton-by-Stow to access parts of the proposed Cottam 1 array site. The increase in movements would not be sufficient to trigger a need for a full assessment, notwithstanding that it was reviewed in the TA [[REP5-014](#)] and subject to measures that are set out in the oCTMP [[REP5-016](#)].
- 3.10.23. We queried how construction vehicle routing could be practically controlled as it would involve using public roads and drivers who may not be under the direct control of the Applicant. The Applicant responded that

routing of vehicles would be part of the agreements/contracts set up between the contractor and suppliers. Compliance in this regard with the oCTMP [REP5-016] would be monitored throughout construction through measures in the document itself [REP2-034].

- 3.10.24. The Applicant also confirmed that at the time of the preparation of ES Chapter 14 [APP-049], that 2022 and 2023 accident data was not available. Therefore, in line with standard practice, the most up to date 5 year period was obtain and analysed. Road safety audits would though be carried out through the detailed design process for each access prior to construction [REP2-034].
- 3.10.25. The Applicant confirmed that parking arrangements for all types of vehicles, turning and waiting bays would be set out in the final version of the CTMP, under Requirement 15. This would include car and minibus parking spaces, turning areas to ensure vehicles arrive and depart in a forward gear, and space for loading and unloading vehicles. These would be provided within the construction compounds [REP4-058].
- 3.10.26. We requested more information on how the Construction Worker Travel Plan contained within the oCTMP [REP5-016] would seek to incentivise sustainable travel modes. The Applicant responded that shuttle buses would be provided to both transport the non-local workforce from hotels to the site and from local settlements for the local workforce. Accepting there was limited public transport options in the area, information would be provided to construction workers on all available travel options available to them. This would be secured by Requirement 15 [REP2-034].
- 3.10.27. By the end of Examination, there were no unresolved issues between the Applicant, LCC, NCC or National Highways on transport and access. This is set out in the respective signed SoCG with LCC [REP6-006], NCC [REP5-036] and National Highways [REP-066]. Matters that were set out in the LIRs of LCC and NCC on this sub-section topic are therefore addressed [REP-085, REP-086].
- 3.10.28. Accordingly, we are satisfied that the effects arising from construction traffic access, routing and generation would be ably accommodated on the local highway network.

Pedestrian, Cyclists and Horse Riders

- 3.10.29. IPs drew our attention to the potential use of a route that was referred to as Green Lane off Ingham Road, in association with the proposed Cottam 1 array site. They considered that the application documentation was inconsistent in this regard, and continued to raise concerns that it would be used for construction vehicles. IPs also raised a number of safety concerns and we queried the potential for pedestrians in particular to come across construction related traffic [REP-139, REP5-078]. NCC raised matters over signage and how private rights of access would be managed for the four-week closure of Torksey Ferry Road associated with the Applicant's requested changes to extend the Order Limits [REP5-053].

- 3.10.30. The Applicant confirmed that the potential use of Green Lane had been altered so that it would not be used for construction traffic, but only for occasional maintenance visits during the operational period [REP-050]. The Applicant considered that the likelihood of safety issues was low because the proposed construction routes had limited pedestrian and cyclist traffic and that most of the use of the PRoWs by these transport modes was at weekends when construction vehicle movements would be of a more limited nature [REP2-034].
- 3.10.31. We asked for further explanation of the safety management measures that would be put in place for the four-week closure of Torksey Ferry Road. The Applicant responded that the diversion route would be principally in the area at the eastern end of the Order Limits near the Power Station access and that the oPRWMP [REP5-018] had been updated accordingly so that advisory signage would be in place to notify users. Notifications would be provided as early as possible. Article 11(2) of the dDCO also requires there must reasonable access for pedestrians going to or from premises abutting a PRoW affected if there would be otherwise no other access [REP5-005, REP5-032].
- 3.10.32. On the basis that the Applicant continues to commit to Green Lane not being used for construction traffic, its use by local residents would not be unduly jeopardised. Paragraph 3.3 of the oCTMP [REP5-016] clarifies that Green Lane would be used for operational traffic only. We are mindful of the temporary closure of Torksey Ferry Road, but vehicular users of this route would only be disadvantaged for a short time period for the necessary usage of this route and a diversion is proposed for PRoW users. This would adequately address safety management matters.

Cumulative Effects

- 3.10.33. WLDC, through its LIR, and 7000 Acres in particular raised concerns over cumulative effects which centred on traffic routing, amenity effects on local residents and joint arrangements during construction [REP-091, REP3-056, REP3-066]. NCC, in its LIR, also referred to that where possible construction compounds should be shared and grid connection works should take place as a single operation [REP-086].
- 3.10.34. We questioned why the Applicant could not be more definitive over committing to producing a Joint CTMP, given the number of proposed solar developments in this area. While the Applicant stated that a joint document could be produced in the event that construction schedules overlap, uncertainties were cited over consents, traffic requirements and the intention to develop other proposed schemes where these had not been made to date as DCO applications [REP5-025]. However, the Applicant had further updated the oCTMP [REP5-016] to include additional schemes that had not reached the application stage.
- 3.10.35. We also asked the Applicant if there would be the potential for broader adverse amenity impacts due to the prolonged period of additional construction traffic on the local highway network due to the cumulative effects. The Applicant responded that such broader effects would not

occur as HGVs would be spread around the highway network and that local roads would not be used cumulatively. The key cumulative roads were considered to be 'A' roads which already support significant vehicular movements [[REP4-058](#)].

3.10.36. WLDC subsequently considered that fewer accesses could have been provided if a coordinated approach with the other proposed solar developments [[REP5-040](#), [REP6-011](#)]. As such, the oCTMP [[REP5-016](#)] was not detailed enough so that the negative impact of traffic upon the amenity of communities remained unacceptable. The Applicant reiterated that effects would be spread out and that a joint CTMP could be utilised if the routes overlap, but the cumulative effects would only occur on main routes [[REP5-040](#)].

3.10.37. We are satisfied that cumulative effects would be adequately ameliorated by traffic movements being spread over the highway network, having regard to the access information contained with the Joint Report [[REP5-025](#)]. A stronger commitment to the production of a Joint CTMP would lead to a firmer conclusion in this regard, however we accept there would be inherent uncertainties in requiring such a document.

Conclusions on Transport and Access

3.10.38. Mitigation measures have been secured through Requirement 5 (Detailed design approval), Requirement 15 (CTMP), Requirement 18 (Public rights of way) and Requirement 21 (Decommissioning and restoration) of the dDCO.

3.10.39. We conclude that based on the road network, access and the predicted traffic generation, unacceptable impacts on highway safety for all road and PRoW users would not occur. We also consider the residual cumulative impacts on the road network are unlikely to be severe.

3.10.40. Overall, the Proposed Development would meet the requirements of 2011 NPS EN-1, 2024 NPS EN-1, 2024 NPS EN-3, the NPPF and development plan policy. It is not a matter which weighs for or against the Proposed Development.

3.11. WATER ENVIRONMENT AND FLOOD RISK

Introduction

3.11.1. This section considers the effects of the Proposed Development on the water environment including drainage, water quality and pollution, flood risk, and the Water Framework Directive (WFD). The effect of the Proposed Development on water-related biodiversity and nature conservation interests is covered in Section 3.4 of this Recommendation.

Policy Context

3.11.2. 2011 NPS EN-1 notes that applications should set out the impact of the proposed project on water quality, water resources, the water environment, water bodies and protected areas. There is also a need to

consider whether the proposal has regard to the requirements of the WFD and The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

- 3.11.3. In accordance with 2011 NPS EN-1, the extent and location of the Proposed Development means that a Flood Risk Assessment (FRA) is necessary to consider the risk of flooding arising from the project in addition to the risk of flooding to the project itself, taking into account climate change. Evidence of flood resilience and resistance is required. Similar advice can be found in 2024 NPS EN-1. 2024 EN-3 also seeks to minimise flood risk from solar development.
- 3.11.4. Paragraph 2.4.1 of 2011 NPS EN-5 sets out that climate change is likely to increase risks to resilience from flooding, or if the infrastructure is underground, applicants should in particular, set out to what extent the proposed development is expected to be vulnerable and how it would be resilient to flooding, particularly for substations that are vital for the electricity transmission and distribution network.
- 3.11.5. The NPPF sets out that the planning system should take full account of flood risk. It seeks to avoid inappropriate development in areas at risk of flooding. Where development is necessary in such areas, the development should be made resilient for its lifetime without increasing flood risk elsewhere. The NPPF also provides national planning policy as regards the application of the sequential and exception tests, including a flood risk vulnerability classification, and with regard to FRAs. Sustainable drainage systems should also be incorporated in major developments, unless there is clear evidence this would be inappropriate. These tests are also now contained in 2024 NPS EN1.
- 3.11.6. The PPG: Flood Risk and Coastal Change provides further guidance on the approach of assessing flood risk, avoiding flood risk and managing and mitigating risk, as well as on the application of the sequential and exception tests.
- 3.11.7. Similarly, development plan policies seek for development, including renewable and low carbon energy, not to result in unacceptable hydrological impacts and minimise the risk of flooding. Development is also not to have an unacceptable impact on existing foul and surface water drainage infrastructure and should make use of sustainable drainage systems. Development plan policies also make reference to the sequential and exception test, and FRA requirements.

The Application

- 3.11.8. The Applicant's case relating to the effects on the water environment is set out in ES Chapter 10 (Hydrology, Flood Risk and Drainage) [[APP-045](#)]. This is supported by the following documents:
- ES Appendix 10.1 Flood Risk Assessment and Drainage Strategy [[APP-090](#)] (FRDS) and annexes [[APP-091](#) to [APP-097](#)];
 - WFD Assessment [[REP-043](#)];
 - ES Appendix FRA Sequential and Exception Test [[REP3-048](#)]; and

- ES Addendum Chapter 10 (Hydrology, Flood Risk and Drainage) [[REP-076](#)].

It also draws on ES Chapter 11 (Ground Conditions and Contamination) [[APP-046](#)] where these impact the water environment.

- 3.11.9. The FRDS [[APP-090](#)] identifies whether the Proposed Development is likely to be affected by current or future flooding from any source, whether it will cause increased flood risk elsewhere, and whether the measures proposed to deal with these risks are appropriate. It has also assessed any potential increases in site run-off so that they are mitigated by sustainable drainage systems (SuDS).
- 3.11.10. The WFD Assessment [[REP-043](#)] ascertains the current status as well as the future baseline and ability of the water bodies, within and in close proximity to the proposed works, to meet the WFD objectives. It contains a preliminary assessment of the potential significant effects to the identified surface water bodies. It was updated to reflect the EA's comments [[RR-026](#)].
- 3.11.11. The majority of the Order Limits for the proposed array sites are located in Flood Zone 1 (low risk). Within Cottam 1, there are areas of Flood Zones 2 (medium risk) and 3 (high risk), and some of the higher risk areas are associated with the River Till. Flood Zone 3 also encroaches on the north and eastern boundary of Cottam 2. Both Cottam 3a and 3b are located in Flood Zone 1. There are areas of high surface water flooding across Cottam 1 and some within Cottam 2, although few such areas within Cottam 3a and 3b.
- 3.11.12. The vast majority of the proposed cable route lies in Flood Zone 1, with the southern and western extents in the vicinity of the rivers Trent and Till in Flood Zones 2 and 3. The River Trent is tidally influenced where the proposed cable crossing would be located. The Applicant contends that the majority of the route is at very low risk from surface water flooding.
- 3.11.13. As regards water body catchments, the Order Limits are located within the Witham Management Catchment under the Anglian River Basin Management Plan (RMBP) area, and within the Lower Trent and Erewash Management Catchment under the Humber RMBP. The Order Limits contain a total of 10 WFD surface water bodies. The Applicant's requested changes to extend the Order Limits also included a WFD designated watercourse, Seymour Drain.
- 3.11.14. ES Appendix FRA Sequential and Exception Test [[REP3-048](#)] considered reasonably available sites within 20km of the Cottam Power Station on the basis this was a viable connection distance. Of the nine sites that were considered, one was equal to the Proposed Development. This site, at High Marnham Power Station, was ultimately discounted because it was seen as better suited for an energy generation scheme with a connection at that power station site, given its proximity. Thus, the Applicant considered that the Proposed Development would be in the most suitable location within the area of search.

- 3.11.15. ES Chapter 10 [[APP-045](#)] recognised there would be potential for effects on water environment receptors. Flood risk embedded mitigation would include sequentially locating critical infrastructure within Flood Zone 1 and non-flood sensitive infrastructure sequentially outside the 1% annual exceedance probability and climate change scenario. Where this is not possible, such infrastructure would be located in areas which experience less than 1m depth of flooding. Fixed and tracker panels would be elevated or else mounted on raised frames above flood depths.
- 3.11.16. Other embedded mitigation measures would include the use of easements and maximising distances from ditches; use of existing rather than creating access tracks, where possible; water management measures as set out in the oCEMP [[REP5-020](#)]; and not applying nitrates compared to current agricultural use to improve water quality. They would also include the use of permeable paving and SuDS, linear infiltration trenches and planting.
- 3.11.17. Water resources measures would include attenuation and bunding, a temporary drainage system prior to construction, robust maintenance, as well as further measures as set out in the oCEMP [[REP5-020](#)] to mitigate for silt-laden run-off and spillages and leakages of pollution. Such measures would be secured to prevent, reduce or offset negative effects as regards the WFD waterbodies.
- 3.11.18. ES Addendum Chapter 10 (Hydrology, Flood Risk and Drainage) [[REP-076](#)] concerned a service crossing below the bed of a main river not involving an open cut technique ('FRA3') methodology. This was to enable the consistency of embedded mitigation relating to FRA3 across the application documents and to make it clear that FRA3 methodology is being adopted. This followed comments on this matter from the EA [[REP2-080](#)]. The Canal and River Trust (CRT) was also content with this document [[REP3-058](#)].
- 3.11.19. When the mitigation measures are applied, no residual significant effects during the construction, operational and decommissioning phases are predicted by the Applicant. The WFD Assessment [[APP-358](#)] also states that with the mitigation measures identified which would ensure there would be no significant effects.
- 3.11.20. Cumulative effects with the West Burton Solar Project, Gate Burton Solar Energy Park and Tillbridge Solar Park have been considered in ES Chapter 10 [[APP-045](#)]. On the basis that during construction the respective oCEMPs and other requirements are implemented, it is considered the cumulative risk can be effectively managed and similarly as regards the mitigation measures during the operational phase. The cumulative effects do not change the overall level of effect.

Issues considered during the Examination

Flood Risk

- 3.11.21. We raised a number of matters with the Applicant over how ES Chapter 10 [APP-045] and the FRDS [APP-090] had factored in climate change, as well as over the application of the exception test.
- 3.11.22. The Applicant confirmed that climate change allowances had been considered in the FRDS and that EA mapping and supporting hydraulic modelling considers peak river flow; peak rainfall intensity; sea level rise; offshore wind speed; and extreme wave height. The Applicant argued that a scenario worse than the assessment event had been depicted because the modelled depth information provided by the EA considered a 20% allowance for climate change. This was in excess of the required 15% [REP2-034].
- 3.11.23. With regard to whether the 0.1% annual probability surface water scenario had included a Climate Change related fluvial event, the Applicant considered that in the absence of relevant modelled flood data, this scenario could be used as a proxy for such an event. This had been agreed with the EA for the proposed Cottam 1 array site. The other proposed array sites would not be subject to elevated risk [REP2-034].
- 3.11.24. We noted that the Review of Likely Significant Effects at 60 Years document [REP2-058] involved a time period that would exceed that of the FRDS [APP-090]. We considered that we would need to assess a worst-case scenario and therefore requested that the Applicant update the FRDS accordingly for climate change allowances.
- 3.11.25. The Applicant responded by proposing Requirement 22 for an updated FRA and explained that further data for the tidal River Trent from the EA, which will include appropriate climate change allowances up to the 2080's epoch, would not be available before the end of the Examination. The FRA would be updated in line with the requirement when that data is available. This was agreed with the EA and was set out in the signed SoCG [REP5-044]. It would be required prior to construction, rather than at 40 years [REP5-032].
- 3.11.26. We queried why ES Chapter 10 [APP-045] only considered the sensitivity of people and property to be medium by way of flood risk in its application of the exception test. The Applicant referred to the NPPF Flood Risk Vulnerability Classification where people and property are considered as 'more vulnerable', which it believed equated to medium sensitivity [REP2-034]. We then questioned whether this had regard to basement dwellings, caravans, mobile homes and park homes intended for permanent residential use, including Gypsy and Traveller sites. The Applicant acknowledged that such a use would be 'highly vulnerable', that would raise the sensitivity to high. The Applicant argued that it would still be the case though that when the embedded mitigation measures are considered, all risks would be negligible [REP4-058].

- 3.11.27. The Applicant also considered that as the Proposed Development is considered to be 'essential infrastructure', there is no difference in requirements for either flood zones 3a and 3b for this type of scheme, under the PPG. Therefore, it was not considered necessary to provide mapping delineating these zones [REP2-034]. We indicated that where 'essential infrastructure' is located in zone 3b (the functional floodplain), there are additional considerations under the exception test which need to be considered. The Applicant responded that notwithstanding the lack of delineation of this flood zone, the Proposed Development would remain operational and safe for users in times of flood; result in no net loss of floodplain storage; and would not impede water flows and not increase flood risk elsewhere [REP4-058].
- 3.11.28. IPs also raised a number of concerns on flood risk. 7000 Acres referred to, amongst other matters, the effect of the soil type on flood risk, access for emergency services, flood water containment, the effect on the River Till and cumulative effects Photographic evidence was also provided showing flooding in the area [REP-110, REP5-098]. LCC set out in its LIR as the Lead Local Flood Authority for Lincolnshire that the impact on flood risk would be neutral [REP-085].
- 3.11.29. The Applicant pointed to mitigation measures in ES Chapter 10 [APP-045] and the oCEMP [REP5-020] and considered the underlying soil type and top cover would be able to control water. It would not impact on the River Till or its tributaries as run-off into these watercourses would not be expected to increase. Flood storage areas were not therefore proposed. The cumulative effect with other schemes would not exacerbate flooding with the FRDS [APP-090] and the embedded mitigation.
- 3.11.30. We consider that the Applicant has adequately accounted for the impacts of climate change on flood risk, including through the submission of a revised FRA prior to development commencing to cover the 60 year operational period, when the relevant EA data becomes available. The revised FRA by requirement will also need to address exception test matters.
- 3.11.31. In other respects, we are content that the sequential and any related exception tests have been passed. The Applicant has adequately considered alternative sites and none are reasonably available. The wider sustainability benefits are set out in Section 3.2 of this Recommendation. The mitigation proposed would adequately deal with flood risk so that the Proposed Development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, would reduce flood risk overall.

Surface Water Run-off and the use of SuDS

- 3.11.32. 7000 Acres considered that the Proposed Development would increase the rate and quantity of surface water runoff and that an arrangement of solar panels would cascade water to the ground that would in turn result

in channelling of the surface water run-off with insufficient time to allow for complete infiltration, leading to local saturation [[REP6-016](#)].

- 3.11.33. The Applicant contended that the proposed arrays with year-round managed vegetated ground coverage would provide improvement to surface water infiltration compared to the existing arable use where the ground is regularly bare or with only patchy vegetation tracked with heavy vehicles. Nor did the Applicant consider the proposed solar arrays would alter the existing surface water run-off regime and therefore would not need to be formally drained. Areas of increased hardstanding would be small and would utilise SuDS principles. They would attempt to mimic the existing surface water run-off regime as existing [[REP2-034](#)].
- 3.11.34. We requested more information from the Applicant over the suitability of SuDs. The Applicant indicated they would take the form of surrounding 'French drain' features which would arrest lateral surface water flows and retain water within subgrade allowing local infiltration. This would be developed during the detailed design process [[REP2-034](#)].
- 3.11.35. We queried how mitigation measures related to maintaining the existing surface water run-off regime would be secured. The Applicant stated this would be by design, rather than as a DCO requirement, and these measures were embedded as part of the design of the Proposed Development. The existing drainage regime would also be maintained through design and specifically through the measures detailed in the FRDS [[APP-090](#)].
- 3.11.36. We are satisfied that subject to the implementation of mitigation measures, including the use of SuDS, the effect on surface water run-off would not cause unacceptable drainage effects.

Other Mitigation Measures

- 3.11.37. We raised a number of mitigation related matters during construction in relation to transport run-off and spillage; mud and debris blockages; the creation of temporary impermeable areas; and temporary drainage features. The Applicant considered these measures were adequately set out in the oCEMP [[REP5-020](#)]. Impacts on soils drainage caused by vehicles would be mitigated by utilising low pressure tyres and secured via the oSMP [[REP3-010](#)]. 7000 Acres considered this should apply to all vehicles and that working should only take place in dry conditions to prevent related soil compaction [[REP5-066](#)].
- 3.11.38. By the end of the Examination, SoCG were signed with the Upper Witham Internal Drainage Board [[REP4-062](#)] and the Scunthorpe and Gainsborough Water Management Board [[REP5-049](#)], as well as with the EA [[REP5-044](#)]. These included PPs and maintenance buffers to watercourses and main rivers. No matters of dispute remained.
- 3.11.39. We are content that matters relating to other mitigation measures have been satisfactorily addressed.

Water Quality

- 3.11.40. WLDC's LIR considered there would be the potential for impacts on water quality due to the use of drilling, and where the proposed cable route corridor would cross rivers, drains and watercourses [[REP-091](#)].
- 3.11.41. We noted that it is the intention that the detail on protecting water quality would be explored in a Water Management Plan (WMP), and that it appeared there were ongoing discussions on this matter with the EA. The Applicant subsequently stated that the WMP would form part of the final CEMP, to be secured by Requirement 13. This was agreed with the EA through the signed SoCG [[REP5-044](#)].
- 3.11.42. Based on the above, we consider the risk to water quality would be very low.

Conclusions on the Water Environment and Flood Risk

- 3.11.43. Mitigation has been secured through Requirement 5 (Detailed design approval), Requirement 11 (Surface and foul water drainage), Requirement 13 (Construction environmental management plan), Requirement 14 (Operational environmental management plan) and Requirement 22 (Long term flood risk mitigation) of the dDCO.
- 3.11.44. The submission of a revised FRA prior to construction to cover the 60 year operational period would ensure that account has been taken of the predicated flood levels over the lifetime of the Proposed Development. The Sequential and Exception tests have been passed.
- 3.11.45. We are content that the mitigation proposed would adequately deal with river flooding and surface water run-off, as well as potential impacts arising during the construction period. These conclusions also have regard to the cumulative effects. The Applicant has also carried out an appropriate WFD Assessment and we conclude that the effect on WFD waterbodies would also not be unacceptable.
- 3.11.46. We therefore conclude that the Applicant has provided sufficient information on flood risk and drainage and the Proposed Development meets the requirements of 2011 NPS EN-1 and EN-5, 2024 NPS EN-1 and EN-3, the NPPF, the PPG and development plan policy. It is therefore a matter which neither weighs for nor against the Proposed Development.

3.12. OTHER PLANNING MATTERS

Introduction

- 3.12.1. This section deals with matters identified in the 2011 NPS, the 2024 NPSs, NPPF or development plan policies which, potentially, require consideration when making a decision on an NSIP, but which have not been covered in the preceding sections of this chapter. It covers waste, minerals, major accidents and disasters (MA and D) and EMF, where

these have not already been covered in the preceding sections of this Recommendation.

Waste

Policy Context

- 3.12.2. Section 5.14 of 2011 NPS EN-1 seeks to reduce the amount of waste, which is to be reused as a resource, wherever possible. The extent to which an applicant has proposed an effective system for managing hazardous and non-hazardous waste is also to be considered. The 2024 NPSs take a similar approach.
- 3.12.3. The NPPF also confirms that it is to be read in conjunction with the Government's National Planning Policy for Waste (2014) (NPPWa), which concerns the handling of waste arising from the construction and operation of development. Reuse/recovery opportunities and minimising off-site disposal are to be maximised, amongst other matters.
- 3.12.4. Policy W1 of the Lincolnshire Minerals and Waste Local Plan (2016) (LMWLP) concerns future requirements of new waste facilities that will be identified through the Site Locations document where these are necessary to meet predicted capacity gaps until 2031 and subject to any new LCC forecasts.
- 3.12.5. Both Policy W8 of the LMWLP and Policy WCS10 of the Nottinghamshire and Nottingham Replacement Waste Local Plan Part 1: Waste Core Strategy (2013) (NWCS) safeguard waste management sites. Policy WCS2 of the NWCs concerns waste awareness, prevention and re-use.

The Application

- 3.12.6. The Applicant's case relating to waste is set out in ES Chapter 20 (Waste) [[APP-055](#)].
- 3.12.7. The LIA has been defined as the area covered by LCC, NCC and Nottingham City Council as a result of the likelihood of this area to experience potential effects from the waste output. Cumulative effects have been appraised in relation to the West Burton Solar Project, Gate Burton Solar Energy Park and Tillbridge Solar Park.
- 3.12.8. According to ES Chapter 20 [[APP-055](#)] the estimated construction, demolition and excavation (CDE) waste production rate in the LIA (2019-2038) is reported to be 2,090,000 tonnes per annum, of which an estimated 1,660,000 tonnes per annum will go to recycling and recovery, with 432,000 tonnes anticipated to be sent to landfill. The LIA has an identified capacity of 2,880,000 tonnes per annum for recycling and recovery, and a maximum capacity of 654,000 tonnes per annum for landfill and is expected to be filled at a yearly rate of 2.73%.
- 3.12.9. Landfill capacity is more limited in Nottinghamshire, which is expected to be filled by 2030. As baseline and future baseline estimates are said to

only cover up to the year 2038, recommends that waste capacity should be reassessed in the years thereafter.

- 3.12.10. The types of waste arising from construction, along with the waste destinations and estimated volumes are set out in Table 20.5 of ES Chapter 20 [APP-055]. It is said that the majority of the construction equipment would be delivered to site for assembly, installation and connection. Substantial amounts of waste electrical or electronic equipment (WEEE) would not be anticipated to arise at this stage, but if so, this would be recovered and recycled by an authorised reprocessor.
- 3.12.11. The total estimated CDE is purported to represent an uplift of 1.85 to 1.87% as regards the LIA. None of the effects for each waste authority are considered by the Applicant to be significant in relation to either recycling, reuse and waste treatment or landfill during construction.
- 3.12.12. With regard to the operational phase, the types, destination and estimated volume of waste is set out in Table 20.6 of ES Chapter 20 [APP-055]. Again, none of the effects are said to be significant for recycling, reuse and waste treatment, and landfill. The same applies by way of WEEE and hazardous waste, which is said to be limited to worn or broken photovoltaic panels.
- 3.12.13. The types of waste arising from decommissioning, along with the waste destinations and estimated volumes are set out in Table 20.7 of ES Chapter 20 [APP-055]. The embedded mitigation measures include the predominant use of pre-fabrication. The oCEMP [REP5-020] also includes the separation of waste on-site prior to transport to third party facilities, establishing a list of authorised WEEE reprocessor and the recovery of batteries from the WEEE. It is intended that items such as the transformers will be dismantled by specialists ahead of decommissioning and this would be secured through the Decommissioning Environmental Management Plan as part of the oDS [REP3-013].
- 3.12.14. Additional mitigation measures at the decommissioning stage are anticipated to bias landfill waste facilities in Lincolnshire where there is greater predicted capacity than Nottinghamshire. This would be secured through the oDS [REP3-013] ahead of related works, taking account of the waste handling capacity at that point in time.
- 3.12.15. The Applicant clarified that following mitigation under Chapter 20 [APP-055] there would be a significant adverse effect related to the cumulative decommissioning phase. This was due to the lack of landfill capacity in Nottinghamshire [REP2-034].

Issues Considered During the Examination

- 3.12.16. We questioned how the Applicant had considered the future waste capacity in that its assessment only covered up to 2038, the lack of landfill capacity in Nottinghamshire to handle waste from the Proposed Development beyond 2030 and the waste bias towards Lincolnshire. LCC raised a number of concerns over waste through its LIR and subsequent representations. This included the bias that was proposed towards

Lincolnshire as its waste capacity was diminishing, a lack of waste facilities, whether all waste streams had been considered and over how the Applicant had appraised waste development plan policies [[REP-085](#), [REP2-073](#), [REP4-070](#)]. NCC also raised matters over waste development plan policies through its LIR [[REP-086](#)].

- 3.12.17. The EA also referred to the potential harm to the environment that can be caused from chemical contents escaping from the battery casing, as well as the regulatory responsibilities of the operators of battery storage facilities, the legislative requirements for waste duty of care and preventing the disposal of batteries to landfill and incineration [[REP2-080](#)].

Landfill Capacity and Waste Bias

- 3.12.18. We questioned the Applicant on how reassessment would be done beyond 2038, given that the effects would need to be considered at this stage. The Applicant responded that there was only reliable information up to 2038 and had no reasonable method of understanding what additional waste handling resources will be available in future. The 2038 baseline was said to be very much a worst-case scenario [[REP4-058](#)].
- 3.12.19. The Applicant also considered that the waste monitoring requirements as set out in the oOEMP [[REP5-022](#)] would ensure that ongoing operational waste streams are sent to waste handling facilities with the greatest level of capacity to handle these waste streams. Should substantive changes to waste handling capabilities in the assessment area occur near to or after 2038, these would be assessed in accordance with the relevant regulations at that point in time. The Applicant also referred to the DCO where any amendments must not be given if materially new or materially different environmental effects would occur [[REP4-058](#)].
- 3.12.20. We required further explanation over how the bias towards waste facilities in Lincolnshire would work in practical terms in light of the identified cumulative significant adverse effect on landfill waste handling in Nottinghamshire during the decommissioning period. The Applicant considered that the estimated capacity could be used to identify the proportion of waste that can be allocated to each host authority so that the impacts across the two authorities would be managed. At the time period identified in Nottinghamshire when there would be a deficit in landfill waste handling beyond 2030, operational waste for landfill would be diverted towards facilities in Lincolnshire with suitable capacity [[REP2-034](#)].
- 3.12.21. We also queried what the intention to handle waste proportionally between Lincolnshire and Nottinghamshire would mean in practice in cumulative terms, and whether this could result in a changed magnitude of impact. The Applicant stated that as regional recycling and landfill capacity would reduce by between a predicted 1% to 5%, the same magnitude of impact would still occur [[REP2-034](#)].

- 3.12.22. While recognising the potential for cumulative significant adverse effects to landfill handling in Nottinghamshire, the Applicant reaffirmed that mitigation measures would reduce the severity in EIA terms to be not significant for the Proposed Development in isolation [REP2-034]. With these mitigation measures in place, the Applicant considered this removed the direct impact on landfill capacity in Nottinghamshire from the Proposed Development on its own, until such a time that suitable waste facilities are made available. This would be secured through the oCEMP [REP5-020], oOEMP [REP5-022] and oDS [REP3-013].
- 3.12.23. We further queried whether the extended 60 year operational period would exacerbate the effects on waste given the deficit in waste handling in Nottinghamshire. The Applicant responded that as the handling and capacity deficits are known, the year-by-year operational effects would not be anticipated to change and so the significance of any operational impacts would be unlikely to change up to 60 years [REP4-058].
- 3.12.24. We therefore asked whether joint arrangements were proposed with the other projects for waste. The Applicant stated there had been no express discussion between the other developers and no joint arrangements are being proposed. The Applicant did however consider there was a complementary approach with the West Burton Solar Project as the proposed monitoring and mitigation measures were the same, which could be secured through the DCO [REP4-058].
- 3.12.25. We asked how the destinations shown are reflective of the waste hierarchy given that landfill seemed to predominate. The Applicant stated there would be a preference to recycle in accordance with the waste hierarchy, and the amount that would be taken to landfill had been shown as a worst-case scenario. Preventing and reducing waste would be preferred through the selection process of suppliers and manufacturers, through the oCEMP [REP5-020] and the oSSCEMP [REP4-041].
- 3.12.26. We also questioned whether the cumulative assessment contained within ES Chapter 20 [APP-055] had included all the waste streams that had been considered for the Proposed Development in isolation. The Applicant confirmed that it had included all streams cumulatively, albeit in a more condensed form, with metal, concrete, rubble, building waste and vegetation estimated accordingly [REP2-034].
- 3.12.27. In drawing these matters together, we note why the Applicant's baseline estimates for waste only go up to 2038, and that a worst-case scenario has been considered at that date. However, this creates uncertainty over what the effect would be over much of the operational period beyond 2038, as well as during decommissioning.
- 3.12.28. While it has been accepted by the Applicant that cumulative decommissioning effects would be significant adverse, as regards other effects beyond 2038 there is a reliance on the oOEMP [REP5-022] and oDS [REP3-013]. This is without having the baseline to measure effects against. It is also unclear what the consenting procedure would be for when reassessment would need to occur at 2038. Article 3(2) of the

dDCO, the final versions of oOEMP and oDS could properly deal with such matters in the event that materially new or materially different environmental effects would occur and at a time when the Proposed Development would already be operational. We are concerned this would result in a considerable degree of uncertainty of over how waste effects would be satisfactorily addressed.

- 3.12.29. Such a situation is compounded by the acknowledged lack of landfill capacity in Nottinghamshire by 2030. While the Proposed Development would be reliant on a bias towards landfill capacity in Lincolnshire, it is not evident how such a form of mitigation would fare after 2038, and if other forms of mitigation would need to be found and what these would be.

Other Forms of Waste

- 3.12.30. We requested the Applicant to clarify to what extent the proposed solar panels would be able to be recycled, re-used and recovered, and were there such waste facilities available. The Applicant considered that the materials were suitable for reuse, and of those that were not suitable it was assumed the majority would be recycled. In light of that no facilities that handle this type of waste are found in the LIA, it would be expected this would be undertaken by WEEE handlers who would recycle and recover such items [[REP2-034](#)], [[REP4-058](#)].

- 3.12.31. The Applicant responded that the safe handling of hazardous materials on-site would fall under the remit of the responsible persons identified in the oCEMP [[REP5-020](#)], oOEMP [[REP5-022](#)] and oDS [[REP3-013](#)]. All waste including hazardous waste and WEEE would be transported and handled by appropriately licensed waste handlers in accordance with the most up-to-date legislation and guidance applicable at the time [[REP2-034](#)].

- 3.12.32. We consider that notwithstanding the assumptions that the Applicant has made over the potential to recycle, re-use or recover solar panels, there is an acknowledged lack of waste facilities in the LIA to deal with this product. This creates further uncertainty over how waste from the Proposed Development would be dealt with. However, we accept adequate arrangements for hazardous waste would be put in place on the basis that licenced handlers would be used.

Waste Development Plan Policies

- 3.12.33. We queried why the Planning Statement [[REP4-039](#)] did not concern itself with specific waste development plan policies, given that waste will be generated by the Proposed Development, it is intended to make use of waste handling facilities and would result in a significant adverse effect. The Applicant considered that the waste development plan policies solely focus on the provision of new or extended waste facilities, rather than the management and operation of those facilities, and therefore were not considered explicitly relevant. LCC disagreed with this position, in particular as Policy W1 refers to capacity and with the cumulative

impact on waste. This remained a disagreement throughout the Examination, as set out in the signed SoCG [[REP6-006](#)].

- 3.12.34. We also queried why LCC and NCC had referred to policies that seemed to specifically relate to waste development. LCC considered they still offered some value [[REP2-073](#)], while NCC accepted that the relevant policies were WCS2 and WCS10 [[REP2-075](#), [REP4-071](#)]. The Applicant subsequently set out that Policy WCS2 was relevant [[REP4-058](#)]. The Proposed Development was considered in accordance due to the commitment to the waste hierarchy, the oCEMP [[REP5-020](#)] and the oDS [[REP3-013](#)].
- 3.12.35. We disagree with LCC that Policy W1 is relevant to the consideration of the Proposed Development because it concerns locations for new or extended waste management facilities, rather than development which will generate waste and require the use of such facilities. We also disagree with NCC that Policy WCS10 is relevant because it concerns safeguarding waste management sites and such sites would not be affected. We agree with NCC and the Applicant that Policy WCS2 is relevant because all development is subject to its provisions over minimising waste, recycling and recovery.

Conclusions on Waste

- 3.12.36. We broadly agree that the Applicant's approach is seeking to adhere to the waste hierarchy and that adequate arrangements would be put in place for dealing with hazardous waste. However, this does not effectively address the uncertainties over landfill capacity and waste bias in particular with the need for this to be reassessed during the operational period, as well as solar panels. It is not in dispute there would be a significant adverse effect related to the cumulative decommissioning phase.
- 3.12.37. As a result, the Proposed Development would not comply with 2011 NPS EN-1 and the 2024 NPSs where they concern effective waste management systems and the NPPWa where it concerns the handling of waste. Where waste development plan policies are concerned with development adequately addressing waste issues, there would also be a conflict.
- 3.12.38. The harm which arises as regards waste is at a limited level and weighs against the Proposed Development.

Minerals

Policy Context

- 3.12.39. Paragraph 5.10.9 of 2011 NPS EN-1 explains that applicants should safeguard any mineral resources as far as possible, taking into account the long-term potential of the land use after any future decommissioning has taken place. Under paragraph 5.10.22, where a proposed development has an impact upon a Mineral Safeguarding Area (MSA), it is to be ensured that appropriate mitigation measures have been put in

place to safeguard mineral resources. The 2024 NPSs take a similar approach.

- 3.12.40. Section 17 of the NPPF emphasises that it is essential there is a sufficient supply of minerals, including safeguarding such resources through MSAs.
- 3.12.41. Policy M2 of the LMWLP provides for an adequate supply of sand and gravel, including by way of the Lincoln/Trent Valley Production Area, and a Sand and Gravel Area of Search (AoS). Policy M4 sets out provisions for sand and gravel extraction for both allocated and non-allocated sites.
- 3.12.42. Policy M11 provides for MSAs. Non mineral development will be granted in such areas where it can be demonstrated that one of a number of criteria apply. These are that it is of a temporary nature and to be completed and restored to a condition that does not inhibit extraction within the timescale that the mineral is likely to be needed.
- 3.12.43. The Nottinghamshire Minerals Local Plan (2021) (NMLP) provides for a similar approach with regard to MSAs through Policy SP7. Policy MP2 sets out that an adequate supply of sand and gravel will be identified to meet expected demand over the plan period from named sites.

The Application

- 3.12.44. The Applicant's case relating to minerals is set out in ES Chapter 12 (Minerals) [[APP-047](#)]. This is supported by the following documents:
 - Minerals Resource Assessments Sheets [[APP-317](#) to [APP-320](#)].
- 3.12.45. The entire length of the proposed cable route corridor within Nottinghamshire is identified in the NMLP as being within a sand and gravel MSA. The site also lies within a designated Minerals Consultation Area under this plan. On the Lincolnshire side, the LMWLP identifies a MSA and a more extensive AoS approximately 1.7km along the proposed cable corridor route.
- 3.12.46. Approximately 50ha of the proposed Cottam 1, 25ha of the Cottam 2 and 4ha of the Cottam 3b solar array sites and near the entire length of the cable route corridor linking Cottam 2 and 3b are identified as being within sand and gravel MSAs. The very most western area of the proposed Cottam 3a array site is identified as being within a sand and gravel MSA, with approximately 4ha of this site within an identified AoS.
- 3.12.47. There are a number of current and historic sand and gravel workings associated with these deposits, the nearest to the Order Limits being immediately south of the Cottam Power Station, at Rampton Quarry.
- 3.12.48. Working of the safeguarded mineral reserves in the proposed Cottam 1 and the Cottam 2 array sites is considered by the Applicant to be very unlikely in the foreseeable future, due to the presence of existing built development such as roads and residential properties, isolation and presence of watercourses, amongst other factors. The Applicant reports

there should be sufficient sand and gravel resources to last beyond the LMWLP period which extends to the end of 2031.

- 3.12.49. As the proposed Cottam 3a array site would encroach into a small area of the AoS only, the Applicant considers that it would not have a significant impact on the potential sand and gravel supply during the life of the Proposed Development.
- 3.12.50. The proposed cable route corridor is located in an area where sand and gravel is being exploited and the installation of a cable does have the potential to become another constraint to future mineral extraction. As the Proposed Development is due to be decommissioned at the end of its life, minerals would not though be permanently sterilised.
- 3.12.51. The embedded mitigation comprises decommissioning and the removal of plant and structures. It is considered by the Applicant to restore the baseline conditions. Where infrastructure is left in the ground such as cable ducts after decommissioning it is set out that these would not present any significant constraint to future mineral extraction and would be taken out as part of the removal of overburden or extraction of minerals.
- 3.12.52. As regards additional mitigation, the Applicant states the proposed cable route corridor has been designed so that wherever possible cable routes follow existing infrastructure corridors or alternatively follow the edge of significant landscape features, rather than directly crossing open fields. This is in order to mitigate the impact on the safeguarded mineral resource in the Trent Valley. By the decommissioning stage, surface development associated with the Proposed Development would have been removed and the underlying mineral resource would be available to be extracted if required. On this basis, no residual effects are predicted by the Applicant to arise. The potential cumulative effect is said to be small compared to the extensive AoS.

Issues considered during the Examination

- 3.12.53. We raised a number of issues with the Applicant over how the effect on mineral resources had been considered, mineral reserves, mitigation and the impact on mineral sites. NCC also put forward matters that concerned mineral sites regarding the proposed cable route corridor in its LIR and representations [[REP-086](#), [REP2-075](#)].
- 3.12.54. We queried why ES Chapter 12 [[APP-047](#)] did not appear to express what level of effect would be significant in its assessment methodology and significance criteria. The Applicant replied that a significant effect would be the complete loss of a mineral deposit to the extent that the resource cannot be recovered or, less likely given how widely sand and gravel resources are, that the minerals within the land occupied by the Proposed Development were so severely constrained that the exploitation of the resources was no longer possible [[REP2-034](#)].
- 3.12.55. We also queried that given that the operational period of the Proposed Development would be well beyond the at least 10 years of reserves for

sand and gravel that ES Chapter 12 [[APP-047](#)] identifies, why it was considered that the sand and gravel reserve would not need to be worked within the lifetime of the Proposed Development, where such reserves are found at the proposed Cottam 3a array site and the cable route corridor. The Applicant considered the AoS would be preferred first which did not favour the proposed cable route corridor because of its narrow extent and that as the Cottam 3a array site was on the periphery of the AoS, it would also be unlikely to be selected. It was also pointed out that extensions to existing sites were more likely than creating new extraction sites [[REP2-034](#)].

- 3.12.56. The Applicant also set out that any mineral resources would only be temporarily sterilised by surface development and, in any event, the minerals code had been incorporated via Article 48 of the dDCO which provided a mechanism for calculating and compensating for any sterilisation of minerals. It would also be cost effective to work around the cables, which is not unusual for minerals workings and once redundant they could simply be dug up as part of the workings [[REP2-034](#)].
- 3.12.57. As the proposed solar arrays sites lie in MSAs, we also queried what safeguarding mitigation would be put in place. Due to the surface nature of the Proposed Development avoiding underground deposits, the Applicant considered that it would not affect the long-term viability of working the identified sand and gravel resource [[REP2-034](#)].
- 3.12.58. In response to our questioning, the Applicant stated there would be no overlap between the proposed cable route corridor and Rampton Quarry and that the route would approach on the opposite side of the power station substation from the former quarry site [[REP4-058](#)]. NCC agreed that it would not have any significant effect on the quarry restoration [[REP5-053](#)].
- 3.12.59. By the end of the Examination, there were no outstanding matters between the Applicant and the mineral authorities. This is set out in the respective signed SoCG [[REP5-036](#), [REP6-006](#)]. Matters that were set out in the LIRs on this topic are therefore addressed [[REP-085](#), [REP-086](#)].

Conclusions on Minerals

- 3.12.60. Mitigation has been secured through Requirement 21 (Decommissioning and restoration) of the dDCO, as well as Article 48 concerning the minerals code.
- 3.12.61. We are content that the Applicant has had adequate regard to the effect of the Proposed Development on mineral resources. It would not sterilise the resource in relation to the AoS and MSA because it would unlikely that sand and gravel resources within the Order Limits would need to be worked within the lifespan of the Proposed Development, or else would be adequately mitigated. It has been ably demonstrated that land within the Order Limits would be unlikely to be favoured. Nor would there be a potential adverse impact on minerals sites, including those that had been

restored. The same applies with respect to cumulative effects. The effect in the planning balance is neutral and so does not weigh for or against the making of the Order.

Major Accidents and Disasters

Policy Context

- 3.12.62. 2011 NPS EN-1 does not set out any principles for the assessment of MA and D but does include reference to potential generic mitigation measures for environmental impacts for aspects which must be addressed by the ES. Section 4.11 of 2011 NPS EN-1 does however set out broader safety matters, including the role of the various Government bodies, including the Health and Safety Executive and the EA. The 2024 NPSs take a similar approach as regards safety issues.
- 3.12.63. Policy S16 of the CLLP refers to battery storage and electricity infrastructure and sets out that, amongst other matters, all reasonable opportunities to mitigate any harm should be taken.

The Application

- 3.12.64. The Applicant's case relating to MA and D is set out within ES Chapter 21 (Other Environmental Matters) [[APP-056](#)]. This is supported by the following documents:
- ES Addendum: Updated Air Quality Impact Assessment of a Solar Panel Fire Incident [[REP-078](#)];
 - ES Addendum Air Quality Assessment of Battery Energy Storage Systems (BESS) Fire [[REP2-071](#)]; and
 - Outline Battery Storage Management Plan [[REP3-018](#)].
- 3.12.65. MA and D also draws on information provided in ES Chapters 7; 9; 10; 11; 14; 16; 17; and 21. It covers flooding; fire and explosions; road, rail and aviation accidents; damage or severance of utilities; mining/unstable ground conditions; disturbance of unexpected ordnance; and vegetation, pests and diseases.
- 3.12.66. The Applicant considers the risk of fire from the BESS during construction and decommissioning would be negligible due to the containerised construction of the storage units, thus reducing the risk of damage to battery cells. Furthermore, risks associated with damage to battery cells are likely to be isolated and so risk of larger fires is reduced.
- 3.12.67. During operation, the Applicant finds risk of battery fires is greater as a result of the electrical loading on the battery cells. As such, potential fires are likely to be of a larger scale and so would be managed through embedded mitigation. An unconfined explosion is said to be felt up to 50m from the battery cell. There are no PRow, public access, or properties within this distance.
- 3.12.68. During construction, operation, and decommissioning, the risk of other types of fires, including electrical fires, is not anticipated to be as great

as those for the BESS. ES Chapter 21 [[APP-056](#)] also sets out that areas of greatest flood risk and existing utilities have been avoided.

- 3.12.69. Fire suppression is embedded into the design of the BESS containers and the compound they would be located within. Measures are also set out in the oCEMP [[REP5-020](#)], oEPMS [[APP-356](#)] and oCTMP [[REP5-016](#)], which are secured by dDCO requirements. Minimising the risk of MA and D would also be the subject of mitigation measures set out in the oDS [[REP3-014](#)], oLEMP [[REP4-035](#)], oBSSMP [[REP3-018](#)], to be maintained as a 'live document'.
- 3.12.70. With the mitigation, none of the effects for MA and D are anticipated to be significant. It is not expected that any cumulative schemes would increase the risk or severity and so the residual effect in this regard would also not be significant.

Issues considered during the Examination

- 3.12.71. IPs raised a number of concerns over the safety of the BESS, including at ISH3. 7000 Acres was in particular concerned about thermal runaway, uncertainties around the new nature of the technology and Environmental Permit matters [[REP-106](#), [REP3-062](#), [REP6-016](#)]. Thermal runaway concerns a self-heating state of batteries which can lead to gas, fire, smoke and explosions. LCC set out in its LIR that while it was satisfied what was submitted met its requirements, this would be dependent on further specific details and it would engage with the Examination on this matter through Lincolnshire Fire and Rescue (LRFS) [[REP-085](#)].
- 3.12.72. We requested further information on how the BESS would deal with thermal runaway. The Applicant set out that venting features and a water fire suppression system would be utilised, based on the most up to date BESS safety standards. At the detailed design stage, risk assessment tools would be utilised together with detailed consequence modelling to provide a comprehensive approach. If the BESS system supplied differs from the specification considered for the risk assessments and consequence modelling, then a full safety audit would be repeated [[REP3-034](#)]. Following our questioning, the Applicant also confirmed that BESS enclosures would not be stacked [[REP4-058](#)].
- 3.12.73. The Applicant clarified that the BESS design will be based on a lithium-ion battery system. The final battery chemistry will be confirmed as part of the detailed design. For the oBSSMP [[REP3-018](#)], a concept design has been considered that uses a BESS specification based upon several lithium-based systems. A reasonable worst case is assessed for toxic gas emission potential (hydrogen fluoride production) and explosion risk (significant levels of hydrogen produced during thermal runaway). The selected system would be designed to address prevailing industry standards and good practice at the time of design and implementation [[REP3-034](#)].

- 3.12.74. In the event of a fire, LRFS identified at ISH3 that suitable access for firefighters to operate unimpeded between units would be required in order to allow for the laying and movement of hose lines and, as such, access would need to be free of restrictions and obstacles. Exclusion Zones would be required around high voltage equipment. The Applicant clarified that less than 6 m between units can now be provided based on up-to-date guidance (down to 1.5m) and that testing will demonstrate that thermal runaway would not spread between modules or between battery racks and the generation of explosive gases would not threaten container structural integrity. The water capacity and storage for a thermal runaway situation was not a particular matter of contention [[REP3-034](#)].
- 3.12.75. The Applicant also expressed that it would work closely with LRFS to provide all necessary information regarding the installation of the Proposed Development, including site design features, to facilitate hazard and risk analysis studies. It would also assist in developing comprehensive risk management and emergency response plans. Preliminary site designs would be shared with the LRFS for feedback and at the detailed design stage, and information about the BESS would be provided as early as possible. A fire water management plan would include the containment, monitoring, and disposal of contaminated fire water [[REP3-034](#)].
- 3.12.76. Both the Applicant and the EA agreed that at the present time an Environmental Permit was not required for the BESS [[REP2-034](#), [REP2-080](#)].

Conclusions on Major Accidents and Disasters

- 3.12.77. Mitigation has been secured through Requirement 5 (Detailed design approval), Requirement 6 (Battery safety management) and Requirement 13 (Construction environmental management plan) of the dDCO. This includes matters related to the detailed design of the BESS and risk management and emergency response plans.
- 3.12.78. For MA and D, the Applicant has adequately assessed the risks from the Proposed Development. The BESS was the main consideration that arose from the Examination and the Applicant has provided detailed explanations over how this would operate safely, including through mitigation. We are satisfied that in this respect the Proposed Development would accord with national and local policy and guidance. The same applies as regards cumulative effects. The effect in the planning balance is neutral and so does not weigh for or against the making of the Order.

Electromagnetic fields

Policy Context

- 3.12.79. Section 2.10 of 2024 NPS EN-5 provides particular guidance on EMF. Whilst putting cables underground eliminates the electric field, they still produce magnetic fields. Where it can be shown that the line will comply

with the current public exposure guidelines and the policy on phasing, no further mitigation should be necessary. 2024 NPS EN-5 takes a similar approach.

The Application

- 3.12.80. The Applicant's case relating to EMF is set out within ES Chapter 21 (Other Environmental Matters) [[APP-056](#)].
- 3.12.81. The Proposed Development has been measured standards for public exposure set out in the International Commission on Non-Ionizing Radiation Protection (ICNIRP) Guidelines for Limiting Exposure to Time-Varying Electric, Magnetic And Electromagnetic Fields (Up To 300 GHz). International Commission on Non-Ionizing Radiation Protection. The underground cabling associated with the Proposed Development would produce EMF. Due to the grounding effect of cable sheathing and infill material, the effect would be below ICNIRP levels (100µT), apart from where the proposed cable route corridor is shared with the West Burton Solar Project and Gate Burton Energy Park. The level would be 103.3µT. The BESS and the sub-stations would be located far enough away from residential and business properties so that the effect would be below ICNIRP levels. There are no public spaces in near proximity [[APP-056](#)].
- 3.12.82. In relation to cumulative effects, there would be ICNIRP limit exceedance for where PRoW cross the associated circuits. ES Chapter 21 [[APP-056](#)] considers that as members of the public would not be anticipated to remain in such locations due to the transient use of the routes, this does not warrant further investigation. The exceedance levels would not be reached at residential or business properties due to the intervening distance.

Issues considered during the Examination

- 3.12.83. LNT raised concerns over what it considered would be the likely harmful effects from strong EMF fields on the Blyton Driving Centre and the proposed Research and Development facility due to the proposed solar panel arrays and associated development [[REP2-085](#)], while IPs also raised the effect of EMF on human life [[REP-187](#)]. WLDC in its LIR referred to where the 2011 NPS EN-5 concerns EMF guidelines [[REP-091](#)].
- 3.12.84. The Applicant referred to ES Addendum 21.2 Blyton Park Driving Centre [[REP4-069](#)] which set out there would not be an adverse effect in this regard. The Applicant considered that the EMF associated with car batteries would be likely to be far greater than those emanating from the Proposed Development, and that the mean level of exposure for drivers is similar inside vehicles as would be experienced from the Proposed Development. It also believed that the Research and Development facility would have its own EMF [[REP4-058](#)].
- 3.12.85. We queried why the Applicant did not further investigate EMF on human life, given the predicted exceedance of ICNIRP reference levels on PRoW. The Applicant explained The Department of Energy and Climate Change,

Code of Practice for Power Lines: Demonstrating compliance with EMF public exposure guideline (2012) clarifies that locations where time of exposure is significant practically refers to residential properties, other habitations such as hostels, and schools, crèches and nurseries. Furthermore, the guidance recommends a calculation of measurement at the location of the closest property at which the exposure guidelines apply. Exceedance at the PRow did not therefore warrant further consideration [[REP2-034](#)].

- 3.12.86. The effect on biodiversity interests by way of EMF is dealt with in section 3.5 of this Recommendation.

Conclusions on Electro Magnetic Fields

- 3.12.87. We are satisfied that the Proposed Development accords with relevant EMF policy and guidance. Where ICNIRP guidelines would be exceeded due to the cumulative effects, this does not relate to residential or other types of buildings and nor is there substantive evidence that EMF would impede the operation of the Blyton Driving Centre and the proposed Research and Development facility. No mitigation is required through the dDCO. The effect in the planning balance would be neutral and does not weigh for or against the making of the Order.

3.13. CUMULATIVE EFFECTS

Introduction

- 3.13.1. Cumulative effects are considered in the individual planning issues discussed above and have been taken into account in the conclusions reached in the preceding sections of this Recommendation. They are not revisited here in detail. This section considers the Applicant's overall approach to cumulative effects, identifies the key documents and information relevant to the consideration of cumulative effects and considers the other key issues raised by IPs which are controversial or unresolved at the close of the Examination. It also considers intra-project effects on key receptors ("combined effects").

Policy Context

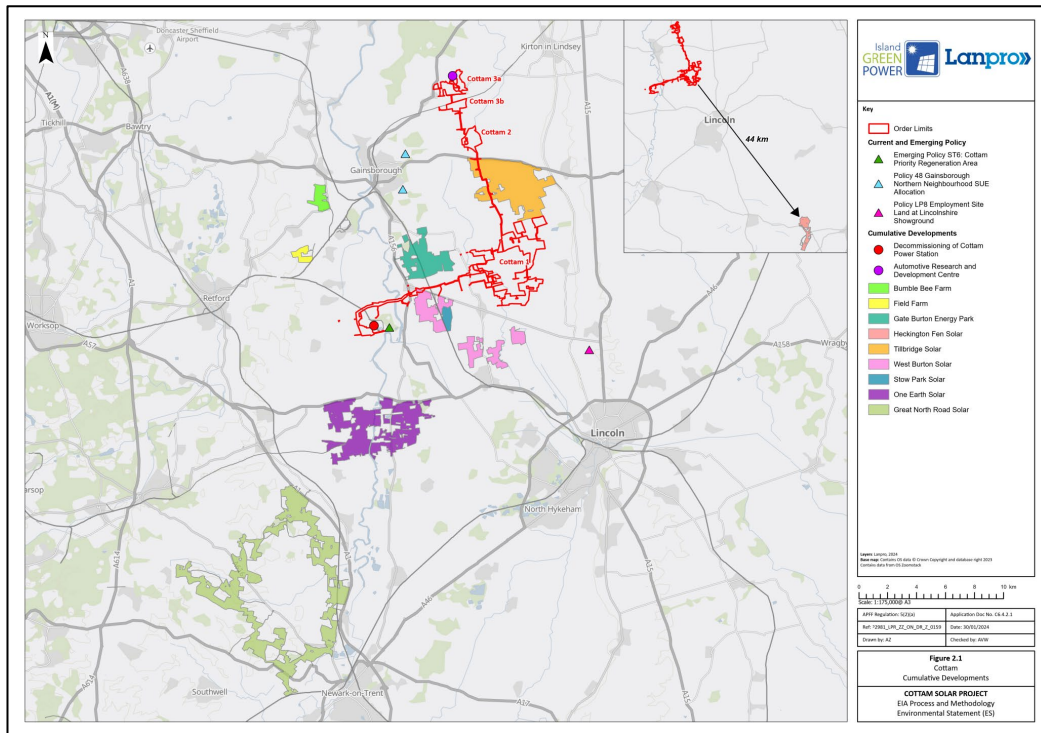
- 3.13.2. The EIA Regulations require an ES to include an assessment of the potentially significant effects of a proposed scheme. Furthermore, 2011 NPS EN-1 advises that the SoS should take into account, amongst other things, any long term and cumulative adverse impacts. It requires applications to include information on how the effects of the proposal would combine and interact with the effects of other development. Similar advice can be found in the 2024 NPS EN-1.
- 3.13.3. The 2024 WMS on solar makes clear that when considering whether planning consent should be granted for such development it is important to consider not just the impacts of individual proposals, but also whether there are cumulative impacts where several proposals come forward in the same locality.

Application

- 3.13.4. ES Chapter 2 (EIA Process and Methodology) [[APP-037](#)] explains the Applicant's approach to cumulative and combined effects.
- 3.13.5. In summary, for combined effects, it explains that consideration was given to:
- the combination of individual effects on receptors when considered together (for example, combined effects of noise, dust and visual effects on a specific receptor);
 - the combination of individual environmental aspects on receptors when considered together (for example, the combined effects of climate change on ground conditions); and
 - the combination of different elements of the construction works required on a particular receptor and the combined effects of the four solar array sites (Cottam 1, 2, 3a and 3b).
- 3.13.6. For cumulative effects, consideration was given to the cumulative effects which are predicted to result from the combined effects of the Proposed Development with those of other significant and committed development within the vicinity of the scheme. This includes the other NSIP development proposed nearby.
- 3.13.7. The Applicant identified a long list of cumulative schemes [[APP-065](#)] – ES Appendix 2.3 (Cumulative Assessment Sites) which has informed the short list presented in each individual technical chapter. The short list of cumulative schemes is presented in each individual chapter which the Applicant explains is topic specific and based on its own methodology and justification including the scale of the other developments, whether they fall within the zone of influence of that environmental aspect, and whether there is potential for temporal overlap between the Proposed Development and other developments.
- 3.13.8. Additional schemes where further information became available during the Examination are considered in the Technical Note on Cumulative Effects of Additional Schemes [[REP4-049](#)].
- 3.13.9. A plan showing all projects considered in the assessment of cumulative effects can be found in Figure 14 below.
- 3.13.10. The ES Addendum on Cumulative Effects [[REP5-051](#)] provides an update which takes into account the further information which has entered the public domain since the ES was first prepared and brings together all of the other information submitted during the Examination including that contained in the Joint Report. It provides the most up-to date position in relation to cumulative effects at the close of the Examination.
- 3.13.11. Having reviewed the additional information that has become available, the Applicant identifies no significant additional cumulative effects during construction, operation or decommissioning.

3.13.12. Part of the Proposed Cable Corridor Route would be shared with both the Gate Burton Solar Park and West Burton Solar Park proposals. The ES considers the cumulative environmental effects along the shared cable corridor both for simultaneous and sequential construction.

Figure 14: Plan showing all projects considered in the assessment of cumulative effects



(Source: Appendix A, Applicant’s Technical Note on Cumulative Effect of Additional Schemes [REP4-049]).

Proposed mitigation

3.13.13. ES Chapter 22 (Mitigation Schedule) [APP-057] includes details of embedded and additional mitigation. Further details can be found in each individual topic chapter.

3.13.14. Section 5 of the Joint Report [REP5-025] provides details of the shared mitigation measures secured in the dDCO which have been identified and developed between the applicants for the Proposed Development, the West Burton Solar Project, the Gate Burton Energy Park and the Tillbridge Solar Project. These include:

- A shared grid connection covering a significant proportion of the cable route; this is identified as Work No 6B.
- Shared mitigation for archaeological sites along the cable route

Summary of residual cumulative effects

3.13.15. ES Chapter 23 (Summary of Significant Effects) [REP2-010] identifies a number of residual adverse cumulative effects which are the likely significant cumulative effects after the embedded and additional mitigation measures have been applied. In summary, it identifies:

- Moderate adverse (significant) visual effects during construction and operation (year 1) on VP LCC-C-D (Cottam 1).
- Moderate temporary adverse effects during construction on local tourist attractions as a result of landscape impacts, construction noise, traffic and views.
- Moderate adverse effects on long distance recreation routes as a result of traffic, visual impact, diversions and closures.
- Cumulative long term moderate adverse effects on net energy employment during operation (which results mainly from the closure of West Burton A).
- Moderate adverse effects at a local level during decommissioning as a result of energy sector job losses following the cessation of energy generation.
- Moderate/large adverse effects during decommissioning resulting from the cumulative effect of waste disposal on landfill capacity in Nottinghamshire.
- Significant cumulative effects likely at district scale in relation to the effect on ground nesting birds.
- Potential for moderate adverse effects with West Burton and Tillbridge where views from the Lincoln Cliff contribute to the significance of the following assets:
 - Roman villa west of Scampton Cliff Farm (NHLE 1005041)
 - Fillingham Castle (NHLE 1166045/NHLE 1000977)
 - Glentworth Hall (NHLE 1063348)
 - Former stables at Glentworth Hall (NHLE 1166094)

Issues considered during the Examination

- 3.13.16. The Applicant's approach to cumulative effects and how these would be examined was a matter of concern for a large number of IPs. A considerable number of concerns related to the fact that each NSIP application (ie, Gate Burton, West Burton, Cottam and Tillbridge) was being considered separately. This matter was discussed at the PM where it was explained that while each application was being considered separately, they would each consider the cumulative effects of each proposal with other committed and planned development.
- 3.13.17. Nevertheless, this remained a significant area of concern for many IPs, with many local residents keen to ensure that full account was taken of the cumulative effect the various NSIPs proposed would have on the surrounding area and communities. We explored this further at ISH4 [[EV-029](#) and [EV-031](#)] where, in addition to the specific cumulative effects identified for each aspect chapter, we also discussed the Applicant's general approach.
- 3.13.18. WLDC and LCC's concerns at the start of the Examination are set out in their WRs [[REP-083](#) and [REP-089](#)] and their respective LIRs [[REP-085](#) and [REP-091](#)]. WLDC and LCCs outstanding concerns at the close of the Examination are set out in their respective Deadline 6 submissions [[REP6-008](#)] and [[REP6-011](#)]. Their detailed positions can be found in the final statement of Common Ground [[REP6-006](#) and [REP5-040](#)].

- 3.13.19. In summary, both WLDC and LCC (together referred to as 'the Councils') are concerned that the cumulative scenario assessed in the ES fails to consider all possible combinations of developments and raise concerns with a perceived lack of alignment between the different ES conclusions reached by different projects. They contend that the assessment is flawed in that it only considers a situation where all projects are consented and fails to consider different possible combinations. Furthermore, they argue that such an approach could lead to a conclusion that each scheme is acceptable on its own merits without considering how they relate to each other. They consider it is essential that the different combinations of each cumulative project is understood.
- 3.13.20. In addition, they assert that there is insufficient information for the SoS to assess whether there is a 'tipping point' at which the cumulative effect of the various proposals becomes unacceptable and if so, where that tipping point lies. They consider that, in order for the SoS to have adequate information to make a sound decision, a cumulative assessment that addresses the following combinations should be provided:
- Cottam + Gate Burton
 - Cottam + West Burton
 - Cottam + Tillbridge
 - Cottam + Gate Burton + West Burton
 - Cottam + Gate Burton + Tillbridge
 - Cottam + West Burton + Tillbridge; and
 - Cottam + Gate Burton + West Burton + Tillbridge
- 3.13.21. Moreover, in their view, unless such assessments are carried out, there is no ability for the decision maker to determine whether a combination of two projects could be acceptable cumulatively. Should the cumulative impacts of all projects be concluded to be unacceptable, the Councils are unclear about how the SoS would determine which project or projects influence that unacceptable conclusion the greatest.
- 3.13.22. We have considered these matters carefully and acknowledge the concerns of IPs, many of whom are uneasy with the amount of development being proposed. We also acknowledge the need for careful consideration of the cumulative effect of such development on the surrounding environment and communities.
- 3.13.23. However, we do not agree that the Applicant's approach is flawed. The EIA regulations do not require an applicant to assess all possible combinations of cumulative development but rather a reasonable worst-case scenario. In considering the effect of the Proposed Development with other planned development (ie, the Cottam + Gate Burton + West Burton + Tillbridge scenario), the likely significant effects of all of the combinations set out above are already captured by the assessment. In the event that the SoS decided not to permit one or more of the other

proposals, whether due to its cumulative effect with other planned developments or for other reasons, it follows that the likely significant cumulative effects would be no worse than in the scenario presented in the Applicant's ES.

- 3.13.24. In the present case, the Applicant's assessment has considered the worst-case scenario where all projects considered are consented. In doing so it has identified the likely significant effects set out in paragraph 3.13.15 above. It follows that in the event any combinations of those projects were permitted, it would be no worse than those identified in the Applicant's ES.
- 3.13.25. Furthermore, we are not aware of any legal or policy requirement which requires such information to be provided as a matter of course and no such requirement has been drawn to our attention during the Examination. In most circumstances, we consider requiring such information as a matter of course would be disproportionate. Indeed, we consider that only in a limited number of circumstances would such detailed consideration of all possible combinations of cumulative developments become necessary to inform decision making. We have no reason to consider such circumstances are likely to arise in the present case.
- 3.13.26. Nevertheless, even if the SoS were to decide that such information was necessary to inform their decision, they would be entitled to request it at that time. We do not consider that requiring it as a matter of course would be proportionate.
- 3.13.27. If the SoS were to take that view then they would be entitled to request further information on those cumulative effects to inform their decision. Therefore, the ExA considers that requiring such information now, as a matter of course, would be disproportionate.
- 3.13.28. Consequently, we do not agree that the assessment undertaken by the Applicant is flawed or that further information on the different potential combinations is necessary. Furthermore, we are satisfied that in the event that the SoS were to determine that one or more of the proposed NSIPs under consideration was not acceptable, either based on its individual or cumulative effects, the SoS can be confident that the likely significant effects of the current proposal, taken with other planned development, would be no worse than has been assessed in the ES.
- 3.13.29. Turning then to the Council's concerns in relation to the differences in the conclusions reached, we accept that each EIA has been undertaken separately, assessing different projects against different receptors. While we acknowledge that there are likely to be some similarities, there is also considerable scope to reach different conclusions on the cumulative impact of projects and we accept that there is no requirement for the findings to align. Overall, while we note there are some differences in the conclusions reached in terms of cumulative effects, we do not consider they undermine the findings of the ES to such an extent that it could not be relied on.

Conclusions on cumulative effects

- 3.13.30. We are satisfied that the Applicant has adequately assessed the likely significant effects of the Proposed Development cumulatively with other planned development and that the ES includes sufficient information on how the effects of the proposal would combine and interact with the effects of other development during construction, operation and decommissioning. Accordingly, we are satisfied that the requirements of the EIA Regulations, 2011 NPS EN-1 and 2024 NPS EN-1 are met.
- 3.13.31. Furthermore, we consider the ES contains sufficient information to enable to the SoS to understand these effects and consider them as part of the planning balance.

4. SUMMARY OF CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

4.1. INTRODUCTION

- 4.1.1. This Section sets out our analysis and conclusions relevant to the HRA. This will assist the SoS, as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').
- 4.1.2. This Section is structured as follows:
- Section 1.2: Examination Matters
 - Section 1.3: HRA conclusions
- 4.1.3. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s) and no reasonable scientific doubt remains (Case C-127/02 EU).
- 4.1.4. The term "European sites" includes SACs, proposed SACs, SPAs, potential SPAs, Ramsar, proposed Ramsar and sites identified or required as compensatory measures for adverse effects on any of these sites. The "UK National Site Network" refers to the network of European sites within the UK.
- 4.1.5. Policy considerations and the legal obligations under the Habitats Regulations are described in Section 2 of this Recommendation.
- 4.1.6. The ExA has been mindful throughout the Examination of the need to ensure that the SoS has such information as may reasonably be required to carry out their duties as the Competent Authority. We have sought evidence from the Applicant and the relevant IPs, including NE as the Appropriate Nature Conservation Body (ANCB), through written questions and ISHs.

Proposed Development Description and HRA Implications

- 4.1.7. The Proposed Development is described in Section 1 of this Recommendation.
- 4.1.8. The spatial relationship between the Order Limits of the Proposed Development and European sites is shown in Figure 1 of Information to Support a Habitats Regulations Assessment [[APP-357](#)] and the Information to Support a Habitats Regulations Assessment Revision A [[REP3-024](#)].

- 4.1.9. The Proposed Development is not directly connected with, or necessary to, the management of a European site [[APP-357](#)]. Therefore, the SoS must make an 'appropriate assessment' of the implications of the Proposed Development on potentially affected European sites in light of their Conservation Objectives.
- 4.1.10. The Applicant's assessment of effects is presented in the following application document(s):
- Information to Support a Habitats Regulations Assessment [[APP-357](#)] referred to hereafter as the HRA Report.
 - Information to Support a Habitats Regulations Assessment Revision A [[REP3-024](#)], referred to hereafter as the HRA Report Rev A.
- 4.1.11. During the Examination, the Applicant submitted a change request as described in Section 1.5 of this Recommendation.
- 4.1.12. The Applicant submitted a revised HRA Report Rev A [[REP3-024](#)].
- 4.1.13. The Applicant did not identify any likely significant effects (LSE) on non-UK European sites in European Economic Area (EEA) States in its HRA Report Rev A [[REP3-024](#)] and/or within its ES [[APP-044](#)]. Only UK European sites are addressed in this Recommendation. No such impacts were raised for discussion by any IPs during the Examination.

RIES and Consultation

- 4.1.14. NE's RR [[RR-037](#)] stated agreement with the Applicant's conclusions with regard to the European sites assessed and their qualifying features. No other evidence or comment against this was submitted by any other party, and therefore the ExA decided that a Report on the Implications for European Sites (RIES) compiling HRA-relevant information would not be required.

4.2. EXAMINATION MATTERS

Humber Estuary Ramsar Site

- 4.2.1. Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have Likely Significant Effects (LSE) on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an 'appropriate assessment' (AA) and the activities, sites or plans and projects to be included for further consideration in the AA.
- 4.2.2. The European sites and qualifying features that were considered in the Applicant's assessment of LSE are presented in Section 4 of HRA Report Rev A [[REP3-024](#)]. The Applicant's HRA Report Rev A sets out the methodology applied to determining what would constitute a 'significant effect'.

- 4.2.3. In ExQ1.6.2 and 1.6.3 [PD-011], we questioned the Applicant and NE regarding why the Humber Estuary Ramsar site had been omitted from the HRA screening assessment as it shares the same boundary as the Humber Estuary SAC which was included in the HRA screening [APP-357]. The Applicant issued HRA Report Rev A [REP3-024], which includes the Humber Estuary Ramsar site within the identification of designated sites and the test of likely significant effects sections of the report. The HRA assessment concluded that there was no potential for LSE on the Humber Estuary Ramsar site as a result of the Proposed Development. NE agreed with the conclusions of the assessments undertaken in the HRA Report Rev A [REP3-024] in its SoCG [REP3-046].

Electro-Magnetic Field Impacts

- 4.2.4. At Deadline 1, the EA [REP-093] and other IPs [REP-187] raised concern that impacts from Electro-Magnetic Fields (EMF) to ecological receptors had not been considered in the HRA where the proposed cable crossed the River Trent. The EA requested that a risk assessment was carried out to understand if there was a potential impact pathway to features of the Humber Estuary SAC (specifically juvenile Lamprey and migratory Salmon), both alone and in-combination with other schemes that are proposed to share the cable corridor route.
- 4.2.5. The Applicant produced a Risk Assessment of EMF Impacts on Fish, which is appended to the Applicant's Written Summary of the Applicant's Oral Submission and responses at Issue Specific Hearing 3 and Responses to Action Points [REP3-034]. This reasoned that due to the burial depth of the cable (5m) which is secured through Requirement 5 (Detailed design approval) of the DCO, EMF are not likely to be experienced beyond the cable trench. As a result, and in view of the transitory nature of fish species, the Applicant concluded that there is no potential for likely significant effects on features of the Humber Estuary SAC.
- 4.2.6. The ExA [PD-015] requested feedback from the EA on this document, and for the Applicant to confirm whether this had potential to alter the assessment and conclusions set out in the HRA Report Rev A.
- 4.2.7. At Deadline 4 [REP4-077] the EA confirmed that a low risk to fish would occur in relation to EMF following a review of the Risk Assessment of EMF Impacts on Fish [REP3-034]. The EA requested the imposition of three requirements in the dDCO to comprise a scheme of monitoring. The Applicant updated the Operational Environmental Management Plan [REP5-022] to include details of the monitoring to corroborate the impacts of EMF on fish. This matter was added to the SoCG between the Applicant and the EA [REP5-045] as a matter agreed. NE have not commented on this matter.

LSE from the Proposed Development Alone and In Combination

- 4.2.8. The Applicant's HRA Report Rev A [[REP3-024](#)] concluded no LSE from the Proposed Development alone on any of the qualifying features of:
- Humber Estuary SAC
 - Humber Estuary Ramsar site
 - Hatfield Moor SAC
 - Thorne and Hatfield Moors SPA
 - Birklands and Bilhaugh SAC
 - Thorne Moor SAC
 - Humber Estuary SPA
- 4.2.9. The Applicant addressed potential in-combination effects arising from the Proposed Development within its HRA Report Rev A [[REP3-024](#)] which sets out the methodology applied. The other plans and projects included in the in-combination assessment are set out in paragraph 3.4.2 [[REP3-024](#)].
- 4.2.10. No in-combination LSE have been identified for the sites and qualifying features where LSE were excluded from the Proposed Development alone. All cumulative schemes identified are further from the identified European sites than the Proposed Development and on this basis, the Applicant concludes that there is no potential for likely significant effects in-combination with the Proposed Development [[REP3-024](#)].
- 4.2.11. In its SoCG, NE [[REP3-046](#)] agrees with the conclusions of the HRA Report Rev A [[REP3-024](#)] and the conclusions were not disputed by any other IPs during the Examination.
- 4.2.12. The ExA are satisfied, on the basis of the information provided, that the correct impact-effect pathways on each site have been assessed and is satisfied with the approach to the assessment of alone and in-combination likely significant effects.

4.3. HRA CONCLUSIONS

- 4.3.1. LSE were not identified for any of the seven European sites included in the Applicant's assessment of LSE, both from the Proposed Development alone and in-combination with other plans or projects.
- 4.3.2. The sites and features initially identified in the Applicant's screening for LSE on European sites was subject to some discussion and scrutiny. We [[PD-011](#)] considered that the Humber Estuary Ramsar site had been omitted from the screening assessment in the HRA Report [[APP-357](#)]. The Applicant produced the HRA Report Rev A [[REP3-024](#)] to include this site in the screening assessment. NE had no further comments on this matter once this site was included and concluded in their SoCG that all European sites and features were included within the assessment and that it agreed with the conclusions of the assessment.

- 4.3.3. The EA [[REP-093](#)] considered there was a potential impact pathway to features of the Humber Estuary SAC from EMF where the cable is proposed to cross the River Trent. However, following the Applicant's submission of a Risk Assessment [[REP3-034](#)] demonstrating that the potential for impacts to fish as features of the SAC was low and therefore there was no potential for likely significant effects, the EA agreed in their SoCG that the risk was low [[REP5-045](#)].
- 4.3.4. We are satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.
- 4.3.5. We find that no impact pathways exist to European sites either alone or in-combination with other plans or projects, and the scheme of operational monitoring to be secured in the dDCO is sufficient to identify any future deviations.
- 4.3.6. The ExA concludes that there is sufficient information before the SoS to enable them to undertake an appropriate assessment to fulfil their duty under the requirements of the Habitats Regulations.

5. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

5.1. INTRODUCTION

- 5.1.1. This section provides an evaluation of the planning merits of the Proposed Development. It does so in the light of the legal and policy context set out in [Section 2](#) and individual applicable legal and policy requirements identified in [Sections 3](#) and [4](#) of this Recommendation.
- 5.1.2. In reaching our conclusions, we have taken into account the LIRs from LLC, WLDC, NCC and BDC, all RRs, WRs and responses to our Written Questions and Rule 17 requests for further information as well as all other representations made during the course of the Examination.

5.2. SUMMARY OF THE MAIN PLANNING ISSUES

The Principle of Development

- 5.2.1. We consider the urgent need for the Proposed Development has been made out. Furthermore, we consider the Proposed Development would contribute towards meeting this need, would help in the transition to a low carbon system and would generally be in accordance with both the 2011 and 2024 NPSs. It would also be in accordance with the NPPF and local development plans, all of which give support for the principle of low carbon generation.
- 5.2.2. Overall, we are satisfied that the application contains sufficient details of the alternatives, including the approach to site selection, different technology and alternatives routes for key components and how these were considered as part of the overall project design, to meet the requirements of the 2011 NPSs, the 2024 NPSs and the EIA Regulations.
- 5.2.3. While we acknowledge that during the construction phase there would be some adverse effects in relation to GHG emissions, we consider the Applicant has taken reasonable steps to reduce them. Furthermore, while we remain concerned that the Applicant's assessment of cumulative effects differs to that taken by other cumulative projects, we are nevertheless cognisant that even adopting a more conservative approach, it is clear that there would be no significant adverse cumulative effects.
- 5.2.4. Furthermore, we accept that over the whole life of the Proposed Development there would be a significant beneficial effect due to displacement of GHG emissions from other sources of fossil fuel generation. This is sufficient to outweigh the negative effects from construction and decommissioning to the effect that, over the lifetime of the project, it would result in negative GHG emissions.
- 5.2.5. Accordingly, we consider the Proposed Development would meet the requirements of the 2011 NPSs, 2024 NPSs, NPPF and local development

plan policies. It would also contribute towards meeting the UK's obligations under the CCA2008 and the Paris Agreement 2015.

- 5.2.6. The contribution to meeting the urgent need for low carbon generating infrastructure and the GHG emission impacts of the Proposed Development are benefits that weighs heavily in favour of making the order and carry very great weight in the planning balance.

The Environmental Statement

- 5.2.7. We are satisfied that the Applicant has provided sufficient information to enable the SoS to understand the environmental effects of the Proposed Development remaining operational for up to 60 years.
- 5.2.8. Consideration has been given to the adequacy of the ES more generally and matters arising from it including the measures proposed to mitigate the likely significant effects identified by the Applicant. While we are mindful that various updates were made to the ES during the Examination, including in respect of the Applicant's change request (see [Section 1.5](#) of this Recommendation) we do not consider these individually or cumulatively undermine the scope and assessment of the ES.
- 5.2.9. Overall, we consider that the ES, as supplemented with additional information during the Examination, is sufficient to enable the SoS to take a decision in compliance with the EIA Regulations.

HRA Considerations

- 5.2.10. We are satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.
- 5.2.11. We find that, subject to the monitoring measures to be secured in the dDCO, no impact pathways exist to European sites either alone or in combination with other plans or projects.
- 5.2.12. We consider that there is sufficient information before the SoS to enable them to undertake an appropriate assessment to fulfil their duty under the requirements of the Habitats Regulations.

Noise, Vibration and Air Quality

- 5.2.13. We conclude that the assessment meets the requirements of 2011 NPS EN-1, 2011 NPS EN-5 and the 2024 NPS. The noise resulting from the construction, operation and decommissioning of the Proposed Development would remain below the significance thresholds as set out in the NPSE and NPPF and similarly vibration levels would not be unacceptable. It would also accord with development plan policy and the PPG: Noise. It is not a matter which weighs for or against the Proposed Development.

- 5.2.14. The air quality assessment undertaken adequately assesses impacts and no significant effects would be likely to arise. This has regard to matters such as emissions arising from a fire, as well as construction dust and particulates. The Proposed Development would accord with 2011 NPS EN-1, the 2024 NPSs, the NPPF and development plan policy. It is not a matter which weighs for or against the Proposed Development.

Ecology and Biodiversity

- 5.2.15. There is broad agreement between the Applicant, NE and the EA on ecology and biodiversity matters. We consider there would not be significant adverse effects on designated sites. Furthermore, we consider EMF effects can be adequately addressed through the LEMP which is secured by Requirement 7.
- 5.2.16. It is not in dispute there would be significant adverse effects as regard some species, even with mitigation, both as a result of the individual and cumulative effects reported. However, we acknowledge that the Proposed Development would also result in a number of enhancements to biodiversity and ecology as well as some habitats.
- 5.2.17. Furthermore, we note that the Proposed Development would achieve a minimum BNG of 76.8 % in habitat units, 56.1% in hedgerow units and 10% in river units which would be managed and secured over the long term. We consider this represents a benefit which weighs positively in favour of the Proposed Development.
- 5.2.18. Consequently, we consider the ecology and biodiversity considerations have been adequately assessed by the ES and the proposal would accord with 2011 NPS EN-1, 2011 NPS EN-5, the 2024 NPSs, the NPPF and development plan policy. Overall, we consider the beneficial effects identified for some species, coupled with the considerable BNG which would arise, should be afforded moderate positive weight in the planning balance.

Landscape and Visual

Landscape effects

- 5.2.1. There would be no significant adverse landscape effects at a regional scale at the solar array sites or along the cable route corridor. There would, however, be significant adverse effects on fine grained communications and infrastructure receptors at the solar array sites during construction. However, these would reduce to minor adverse by year 1 of operation, which is not significant.
- 5.2.2. There would be significant adverse landscape effects on the 4a Unwooded vales Regional LCT in terms of land use and topography at the substation sites during both construction and operation. These are predicted to reduce from major-moderate adverse to moderate adverse by year 15, which is still significant.

- 5.2.3. Significant combined effects on the Regional Scale 4a Unwooded Vales LCT would arise during construction and at year 1 of operation at all substation sites. These would be moderate adverse. They are, however, predicted to reduce over time to become minor adverse (non-significant) by year 15.
- 5.2.4. There would be some significant cumulative adverse effects during construction and at year 1 of operation on fine grained land use, topography and watercourses receptors and communications and infrastructure receptors, all of which are predicted to reduce to no greater than minor adverse by year 15, taking account of the embedded and additional mitigation.

Visual effects

- 5.2.5. Significant visual effects would be experienced at a number of viewpoint, transport and PRow receptors during construction and year 1 of operation. Although these would reduce at year 15, significant residual visual effects would remain.
- 5.2.6. Seven residential properties would experience significant adverse visual effects during construction and at year 1 of operation, including North Farm. While these would be temporary, with no residual significant effects predicted to remain by year 15 of operation, in the intervening period the occupiers of these properties would experience significant adverse visual effects.
- 5.2.7. There would be moderate adverse combined visual effects during construction and year 1 of operation for Viewpoint Receptor LCC-C-D: Blackthorn Lane. No other visual receptors are identified as likely to experience significant combined effects.
- 5.2.8. No significant cumulative visual effects as a result of the Proposed Development with other committed and planned development, including the other NSIP solar projects have been identified.
- 5.2.9. The predicted significant beneficial effects to landscape character and visual amenity are not relied upon by the Applicant as a purported benefit of the scheme. Accordingly, the SoS should afford it no weight in the planning balance.
- 5.2.10. As both 2011 NPS EN-1 and 2024 NPS EN-1 make clear, all proposed energy infrastructure is likely to have landscape and visual effects. However, while we accept that the design of the Proposed Development has evolved via an iterative design process which has incorporated embedded mitigation to reduce landscape and visual impacts, a number of significant landscape and visual effects have been identified at all stages of the Proposed Development. While these are temporary and reversible on decommissioning, a number of residual significant effects would be experienced for many years to come. These are matters that weigh against the Proposed Development.

5.2.11. Nevertheless, we acknowledge that in the present case the landscape is not a protected one and that while not eliminated, the landscape and visual effects have been minimised. While the level of harm identified weighs against the proposal, we consider it should be afforded only moderate negative weight in the overall planning balance.

Historic Environment

5.2.12. We consider the Applicant has satisfactorily assessed the significance of the designated heritage assets affected by the Proposed Development and that the extent of the likely impact can be understood. In this regard, it meets the requirements of 2011 NPS EN-1, the 2024 NPSs, the NPPF, Policy S57 of the CLLP, Policy DM8 of the BCSDM and the neighbourhood plan policies.

5.2.13. We see no reason to disagree with the Applicant's overall assessment of residual effects as set out in ES Chapter 13 (Cultural Heritage) [[APP-048](#)] and the SEIR [[AS-064](#)]. Subject to mitigation, an adverse effect would not arise to the Site of a college and Benedictine Abbey, St Marys Church SM. Significant residual effects are, however, identified for the Thorpe Medieval Settlement and we agree with HE that this would amount to less than substantial harm.

5.2.14. The proposal would also result in adverse effects to a number of designated assets. This would amount to less than substantial harm to the significance of the following designated heritage assets:

- SMs: Thorpe Medieval Settlement; Deserted village of Dunstall; Roman villa west of Scampton Cliff Farm; Southorpe medieval settlement; Gilby medieval settlement; Coates medieval settlement and moated site; and Fleet Plantation Moated Site.
- LBs: Glentworth Hall (grade II*); Former stables at Glentworth Hall; Fillingham Castle (grade I); Thorpe in the Fallows Farmhouse; Mount Pleasant Farmhouse east of Laughton; and Corringham Windmill.
- RPG: Fillingham Castle.

5.2.15. In coming this view, we are mindful that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. We have also been mindful in its conclusion of the duty set out in Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010. We consider this matter further in Section 5.3 below.

5.2.16. In relation to non-designated assets, a number of both residual adverse and beneficial effects would occur. Where adverse effects are predicted to occur, these would most commonly be slight, or slight to moderate. There would however also be potentially large adverse effects during construction to a full open-area excavation of a Romano-British Settlement/ Anglo Saxon Cemetery and kiln of possible Iron Age/Romano British periods. The scale of the harm or loss thus reflects these levels of adverse effects. We afford this a little negative weight.

5.2.17. If the WPWSI [[REP5-035](#)] is taken forward as the methodology for undertaking a programme of archaeological mitigation, we consider that effects by way of buried archaeological remains and trial trenching, the use of concrete feet and the WSI would accord with 2011 NPS EN-1, 2011 NPS EN-5, the 2024 NPSs, the NPPF and the development plan policies. It is not a matter which weighs for or against the Proposed Development.

Soils and Agriculture

5.2.18. We consider that the ALC survey is robust in that it follows NE guidance and provides for an accurate classification of land in order for the extent of the likely impact to be understood, including the amount of BMV land. Therefore, we do not consider that criticisms of the ALC survey significantly reduce its validity. It does not extend to cover the cable corridor route, but we are content any associated loss of agricultural land would only be for a short duration and represent a narrow strip of land. It is a matter which we consider has been adequately secured in the oSMP [[REP3-010](#)].

5.2.19. It is clear that the Proposed Development would have an end date and once that had expired, the land would revert back to agricultural use. In that sense, the effects on the agricultural land resource would be temporary. We note that a similar approach has been taken by the SoS when considering other made DCO's including the Little Crow Solar Park Order 2022 (SI 2002/436) and the Longfield Solar Farm Order 2023 (SI 2023/734).

5.2.20. Furthermore, we note that the oSMP [[REP3-010](#)] commits to the restoration of the land grades and includes decommissioning arrangements which cover all aspects of the Proposed Development. That the land would remain fallow would enable arable farming after decommissioning. The associated farming businesses would also receive a rental income.

5.2.21. While the amount of BMV land involved would be limited as a proportion of the Order limits, the Government approach is to discourage the siting of solar farms on BMV agricultural land. We accept though that the Applicant has sought to minimise impacts on such land. Co-location under the 2024 NPS EN-3 would also occur in as far as there would be both proposed solar arrays and ecological led management areas.

5.2.22. In these terms, the Proposed Development would accord with the requirements of the 2011 NPSs, the 2024 NPSs, the 2024 WMS, the 2015 WMS, the PPG, and development plan policy.

5.2.23. However, it is evident that much of the land (apart from the buried cable route) would be removed from arable food production for a prolonged period of time. The availability of such land used for this purpose would thus be accordingly reduced, when deciding what sites are appropriate for development. The cumulative effects over 60 years would heighten this loss of the availability of agricultural land used for food production.

As such, the Proposed Development would not meet the requirements of the NPPF in this regard.

- 5.2.24. However, we are mindful that this loss would be both temporary and reversible and that the land resource itself may improve over time. As such, we afford it a little negative weight.

Socio-Economic, Tourism, Recreation and Human Health

- 5.2.25. We consider that the evidence presented indicates that the Proposed Development would result in some positive socio-economic benefits to the local economy especially during construction, not least in terms of job creation. It also has the potential to support further economic development in the local area, including by way of skills, training, and attainment, including through the oSSCEMP [[REP4-041](#)]. There is the potential for the economic benefits to improve social conditions in the area. However, there would be some loss of agricultural jobs and an impact on the agri-food sector, at least until the Proposed Development would be decommissioned.
- 5.2.26. While it is unlikely there would be adverse effects on physical health, the change in the countryside surroundings would impact on how some residents consider their surroundings and, for some, this could give rise to some detriment to mental health and well-being. We also recognise there would also be some temporary adverse effects on PRoW, although the creation of the permissive path at Stow would be a benefit that would last the duration of the Proposed Development.
- 5.2.27. Overall, we consider the socio-economic, tourism and recreation, and human health impacts of the Proposed Development have been adequately assessed in the ES. The evidence indicates there would be some adverse impacts, but also benefits. In the round, we are satisfied that the application accords with the guidance set out in 2011 NPS EN-1, the 2024 NPSs, the NPPF and the development plan policies.
- 5.2.28. The related socio-economic benefits and the permissive path attract moderate weight in favour of the Proposed Development. The remaining socio-economic, tourism and recreation, and human health impact neither weigh for or against the Proposed Development. The situation for cumulative effects would be similar.

Transport and Access

- 5.2.29. We conclude that based on the road network, access and the predicted traffic generation, unacceptable impacts on highway safety for all road and PRoW users would not occur. We also consider the residual cumulative impacts on the road network are unlikely to be severe.
- 5.2.30. Overall, the Proposed Development would meet the requirements of 2011 NPS EN-1, 2024 NPS EN-1, 2024 NPS EN-3, the NPPF and

development plan policy. It is not a matter which weighs for or against the Proposed Development.

Water Environment and Flood Risk

- 5.2.31. The submission of a revised FRA prior to construction to cover the 60 year operational period would ensure that account has been taken of the predicated flood levels over the lifetime of the Proposed Development. The Sequential and Exception tests have been passed.
- 5.2.32. We are content that the mitigation proposed would adequately deal with river flooding and surface water run-off, as well as potential impacts arising during the construction period. These conclusions also have regard to the cumulative effects. The Applicant has also carried out an appropriate WFD Assessment and we conclude that the effect on WRD waterbodies would also not be unacceptable.
- 5.2.33. We therefore conclude that the Applicant has provided sufficient information on flood risk and drainage and the Proposed Development meets the requirements of 2011 NPS EN-1 and EN-5, 2024 NPS EN-1 and EN-3, the NPPF, the PPG and development plan policy. It is therefore a matter which neither weighs for nor against the Proposed Development.

Other Planning Matters

Waste

- 5.2.34. We broadly agree that the Applicant's approach is seeking to adhere to the waste hierarchy and that adequate arrangements would be put in place for dealing with hazardous waste. However, this does not effectively address the uncertainties over landfill capacity and waste bias in particular with the need for this to be reassessed during the operational period, as well as solar panels. It is not in dispute there would be a significant adverse effect related to the cumulative decommissioning phase.
- 5.2.35. As a result, the Proposed Development would not comply with 2011 NPS EN-1 and the 2024 NPSs where they concern effective waste management systems and the NPPWa where it concerns the handling of waste. Where waste development plan policies are concerned with development adequately addressing waste issues, there would also be a conflict.
- 5.2.36. The harm which arises as regards waste is at a limited level and weighs against the Proposed Development.

Minerals

- 5.2.37. We are content that the Applicant has had adequate regard to the effect of the Proposed Development on mineral resources. It would not sterilise the resource in relation to the AoS and MSA because it would unlikely that sand and gravel resources within the Order Limits would need to be worked within the lifespan of the Proposed Development, or else would

be adequately mitigated. It has been ably demonstrated that land within the Order Limits would be unlikely to be favoured. Nor would there be a potential adverse impact on minerals sites, including those that had been restored. The same applies with respect to cumulative effects. The effect in the planning balance is neutral and so does not weigh for or against the making of the Order.

Major Accidents and Disasters

- 5.2.38. For MA and D, the Applicant has adequately assessed the risks from the Proposed Development. The BESS was the main consideration that arose from the Examination and the Applicant has provided detailed explanations over how this would operate safely, including through mitigation. We are satisfied that in this respect the Proposed Development would accord with national and local policy and guidance. The same applies as regards cumulative effects. The effect in the planning balance is neutral and so does not weigh for or against the making of the Order.

Electro Magnetic Fields

- 5.2.39. We are satisfied that the Proposed Development accords with relevant EMF policy and guidance. Where ICNIRP guidelines would be exceeded due to the cumulative effects, this does not relate to residential or other types of buildings and nor is there substantive evidence that EMF would impede the operation of the Blyton Driving Centre and the proposed Research and Development facility. No mitigation is required through the dDCO.. The effect in the planning balance would be neutral and does not weigh for or against the making of the Order.

Cumulative and combined effects

- 5.2.40. We are satisfied that the Applicant has adequately assessed the likely significant effects of the Proposed Development cumulatively with other planned development and that the ES includes sufficient information on how the effects of the proposal would combine and interact with the effects of other development during construction, operation and decommissioning. Accordingly, we are satisfied that the requirements of the EIA Regulations, 2011NPS EN-1 and 2024 NPS EN-1 are met.
- 5.2.41. Furthermore, we consider the ES contains sufficient information to enable to the SoS to understand these effects and consider them as part of the planning balance.

5.3. THE HERITAGE BALANCE

- 5.3.1. In [Section 3.7](#) and as summarised above, we have not identified any substantial harm to, or loss of, any designated heritage assets. We have, however, found that the Proposed Development would result in less than substantial harm to the setting of the following assets:

- SMs: Thorpe Medieval Settlement; Deserted village of Dunstall; Roman villa west of Scampton Cliff Farm; Southorpe medieval

settlement; Gilby medieval settlement; Coates medieval settlement and moated site; and Fleet Plantation Moated Site.

- LBs: Glentworth Hall (grade II*); Former stables at Glentworth Hall; Fillingham Castle (grade I); Thorpe in the Fallows Farmhouse; Mount Pleasant Farmhouse east of Laughton; and Corringham Windmill.
- RPG: Fillingham Castle.

5.3.2. Paragraph 5.8.15 of 2011 NPS EN-1 requires that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of the development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification will be needed for any loss. The same is true for development affecting the setting of a designated heritage asset.

5.3.3. Taking into account the significant public benefits of the Proposed Development, including its contribution to meeting the urgent need for low carbon generating infrastructure and the GHG emission impacts of the Proposed Development, we are satisfied that there is a clear and convincing justification for the harm that would arise to designated heritage assets, both individually and collectively. Furthermore, we recognise that all the adverse effects identified would be temporary and reversible following decommissioning.

5.3.4. In coming to a view on these matters, we have had regard to the duties under Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010. On balance, we consider that the need for, and very great public benefits of, the Proposed Development (as outlined in [Sections 3.2](#) and [5.2](#) of this Recommendation) would outweigh, in each case, the harm that we have identified in relation to the significance of designated heritage assets. While we afford great weight to the desirability of preserving these assets we are mindful that the effects would be both temporary and reversible, albeit long term. We therefore consider this should be afforded moderate negative weight in the overall planning balance.

5.4. THE OVERALL PLANNING BALANCE

5.4.1. The Proposed Development would make a significant contribution to the urgent need for low carbon electricity generation established in 2011 NPS EN-1 and reiterated in 2024 NPS EN-1 and which has become more urgent following the legally binding target of Net Zero by 2050. Over the lifetime of the project, the Proposed Development would result in negative GHG emissions contributing to meeting the UK's carbon commitment. We afford these significant public benefits very great weight.

5.4.2. Furthermore, while we note that it would result in adverse effects on some protected species, overall, it would result in some enhancements to biodiversity and ecology would achieve a minimum BNG of 76.8 % in habitat units, 56.1% in hedgerow units and 10% in river units which would be managed and secured over the long term. We consider this should attract moderate positive weight.

- 5.4.3. In addition, the Proposed Development would result in some positive socio-economic benefits including in terms of employment, the local economy and the permissive path. However, these are primarily temporary and, as such, are afforded only moderate positive weight.
- 5.4.4. On the other hand, a range of negative impacts have been identified. We have found that the Proposed Development would lead to less than substantial harm to a number of designated heritage assets. However, as we have made clear in paragraph 5.3.4 above, while we afford great weight to the desirability of preserving these assets, we are mindful that the effects would be both temporary and reversible, albeit long term. We therefore consider this should be afforded moderate negative weight in the overall planning balance.
- 5.4.5. We have also found a number of both residual adverse and beneficial effects would occur in relation to non-designated heritage assets. In view of the temporary and reversible nature of this harm, we afford it a little negative weight.
- 5.4.6. We have also found that the Proposed Development would result in a number of significant adverse landscape and visual effects at all stages. While these are all temporary and reversible on decommissioning, we note that a number of residual significant effects would be experienced for many years to come.
- 5.4.7. Nevertheless, we acknowledge that in the present case the landscape is not a protected one and that while not eliminated, the landscape and visual effects have been minimised. Overall, we consider that they would not be so damaging that they would outweigh the benefits. While the level of harm identified weighs against the proposal, we consider it should be afforded only moderate weight in the overall planning balance.
- 5.4.8. Moreover, we have found that there would be a loss of agricultural land used for food production over a considerable period of time. However, we are mindful that this loss would be both temporary and reversible and that the land resource itself would improve over time. As such, we afford it a little negative weight.
- 5.4.9. In addition, we have found that there is potential for some limited harm in terms of waste management systems and waste handling. However, we note that the DCO contains a number of mechanisms for review during the operational period and for further consideration to be given to this matter prior to decommissioning. As such, we afford this a little negative weight.
- 5.4.10. Taking the above factors into account and having had regard to all important and relevant matters, we conclude that there are no adverse impacts of sufficient weight, either on their own or collectively, that would mean that the DCO should not be made. We conclude that the harm identified to designated and non-designated heritage assets, landscape character and visual amenity, from the temporary loss of agricultural land used for food production, protected species and waste

management and handling is clearly outweighed by the very great public benefit that would arise from the provision of low carbon energy to meet the need identified in both the 2011 NPSs and the 2024 NPSs.

5.5. CONCLUSIONS

- 5.5.1. On the basis of all of the above considerations, we conclude that there is a convincing case for development consent to be granted. We go on to consider land rights matters in [Section 6](#) of this Recommendation and matters relating to the drafting of the Development Consent Order in [Section 7](#).

6. LAND RIGHTS AND RELATED MATTERS

6.1. INTRODUCTION

6.1.1. The application included proposals for the Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights over land. This section records the key information on those proposals and related issues.

6.2. THE REQUEST FOR CA AND TP POWERS

6.2.1. The application dDCO (version 1.0) [[APP-016](#)] and all subsequent versions include provision for CA of freehold interests and private rights, the extinguishment of existing rights and the creation of new rights over land. They also contain provisions for the TP of land.

6.2.2. The Order Limits of the dDCO establish the extent of the land that would be affected by the CA and TP powers sought.

6.2.3. None of the land included in the CA request is National Trust Land, Open Space or common land. A small section has been identified as Crown Land. This is shown on the Crown Land Plan [[AS-009](#)]. However, this land is excluded from the scope of CA powers by virtue of Article 49 of the dDCO.

6.2.4. The application was accompanied by:

- a Statement of Reasons (SoR) [[APP-018](#)];
- a Funding Statement [[APP-019](#)];
- a Book of Reference (BoR) [[APP-020](#)];
- Land Plans [[APP-006](#)]; and

6.2.5. Taken together, these documents set out the land and rights sought by the Applicant at the time of submission together with the reasons for its requirement and the basis under which compensation would be funded. As a result of the Applicant's change request and where the Examination and due diligence processes required changes to this documentation, new versions and additional plans were submitted.

6.2.6. At the close of the Examination the most up to date versions of these documents were as follows:

- SoR [[REP4-017](#)]
- Funding Statement [[REP4-019](#)].
- BoR [[REP5-010](#)].
- Land Plan [[REP4-004](#)].

6.2.7. We were kept updated by the Applicant throughout the Examination on the progress of negotiations with Affected Persons (AP) by means of a Schedule of Progress regarding objections and agreements in relation to CA and TP [[REP5-028](#)]. This should be read alongside the Schedule of Negotiations [[REP5-029](#)] and the Schedule of progress regarding Protective Provisions and Statutory Undertakers (SU(s)) [[REP5-030](#)].

6.2.8. These documents, taken together, form the basis for the analysis for this section. Reference to the documents and plans in this section from this point should be read as reference to the latest versions above.

6.3. THE PURPOSES FOR WHICH LAND IS REQUIRED

6.3.1. The application is for development consent for the construction, operation, and maintenance of a ground mounted solar farm with a capacity of over 50MW together with battery storage and other associated development. The purposes for which the CA and TP powers are required are set out in the final submitted BoR [[REP5-010](#)] and SoR [[REP4-017](#)].

6.3.2. In summary, the Applicant states that it requires powers of CA to ensure that the Proposed Development can be built, maintained and operated, and so that the Government Policy in relation to the timely provision of new generating capacity is met within a reasonable timescale. It goes on to say that in the absence of these powers, the Order land may not be assembled, uncertainty would continue to prevail, and its objectives and Government policy objectives would not be achieved.

6.3.3. It should be noted that the Applicant has entered into voluntary agreements with landowners which cover the majority of the land required and has been seeking to acquire the new rights and temporary use of land by private agreement. However, at the close of Examination this had not been possible with all APs.

6.3.4. The Applicant also requires certain rights to be suspended, overridden or extinguished within the Order land so as to ensure there are no impediments for the construction, operation and maintenance of the Proposed Development.

6.3.5. The Applicant's principal justification for the use of powers of CA arises from the fact that the Proposed Development:

- would help meet the urgent need for new, low carbon energy infrastructure and provide enhanced energy security;
- would help support Government priorities in relation to economic development and security of supply;
- minimises or mitigates adverse impacts to an acceptable degree; and
- is compliant with 2011 NPS EN-1, 2011 NPS EN-3, 2024 NPS EN-1, 2024 NPS EN-3 and 2024 NPS EN-5 all of which it considers are both important and relevant to the Secretary of State's decision.

6.4. THE CA AND TP POWERS SOUGHT

6.4.1. The powers sought are for the acquisition of:

- all interests in land, including freehold (Article 20 in the DCO) - shown edged red and shaded pink on the Land Plan;
- all interests in land, including freehold in respect of subsoil only (Article 25 in the DCO);

- permanent acquisition of new rights (Article 22 in the DCO) - shown edged red and shaded blue on the Land Plan;
- temporary use of land to permit construction or maintenance where the Applicant has not yet exercised powers of CA (Articles 29 and 30 in the DCO) - shown edged red and shaded yellow on the Land plan; and
- extinguishment and/or suspension of rights (Article 23 in the DCO) and overriding of easements and other rights (Article 26 in the DCO).

6.5. **LEGISLATIVE REQUIREMENTS**

PA2008

- 6.5.1. Section 122(2) of the PA2008 provides that a DCO may include provision authorising CA only if the SoS is satisfied that certain conditions are met. These include that the land subject to CA is required for the development to which the development consent relates or is required to facilitate or is incidental to it.
- 6.5.2. In addition, s122(3) requires that there must be a compelling case in the public interest for the land to be acquired compulsorily. For this to be met, DCLG's guidance on CA ("the CA Guidance") indicates the SoS will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the CA will outweigh the private loss that would be suffered by those whose land is to be acquired.
- 6.5.3. Section 123 requires the SoS to be satisfied that one of the three procedural conditions set out in subsections (2) to (4) are met, namely:
- a. that the application for the order included a request for CA of the land to be authorised - s123(2); or
 - b. that all persons with an interest in the land consent to the inclusion of the provision - s123(3); or
 - c. that the prescribed procedure has been followed in relation to the land - s123(4).
- 6.5.4. The application included a request for CA of the land to be authorised. As such, we are satisfied that the condition set out in s123(2) of the PA2008 has been met.
- 6.5.5. Section 127 of the PA2008 applies to SU land. S127(2) and (3) state that an order granting development consent may include provisions authorising the CA of SU land only to the extent that the SoS is satisfied that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking or if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the undertaking. Similarly, s127(5) and (6) of the PA2008 provide that an order granting development consent may only include provision authorising the CA of rights belonging to SUs to the extent that the SoS is satisfied that the right can be taken without serious detriment to the carrying out of the undertaking, or that any

detriment can be made good. A number of SUs have land interests within the Order Limits. These are set out in the BoR.

- 6.5.6. Section 138 of the PA2008 relates to the extinguishment of rights on SU land. It states that an order may include a provision for the extinguishment of the relevant rights, or the removal of the relevant apparatus only if the SoS is satisfied that the extinguishment or removal is necessary for the purposes of carrying out the development to which it relates. For the Proposed Development, this section of the PA2008 is relevant to SUs with land and equipment interests within the Order Limits.
- 6.5.7. Section 135 of the PA2008 provides that an order granting development consent may include provision authorising the CA of an interest in Crown land only if it is an interest which is for the time being held otherwise than by or on behalf of the Crown, and the appropriate Crown authority consents to the acquisition. Furthermore, it makes clear that an order granting development consent may include any other provision applying in relation to Crown land, or rights benefiting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision.
- 6.5.8. Crown Land has been identified within the Order Limits as shown by Plots 17-349 and 17-347 on the Crown Land Plan [[AS-009](#)]. This land relates to the land required as part of the proposed grid connection route where it crosses the River Trent. However, as noted above, this land is excluded from the scope of CA powers by virtue of Article 49 of the dDCO.
- 6.5.9. TP powers are also capable of being within the scope of a DCO by virtue of Paragraph 2, Part 1 of Schedule 5 to the PA2008. This allows for, amongst other things, the suspension of interests in or rights over land compulsorily or by agreement. The PA2008 and the associated CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interests in land. Further, such powers tend to be ancillary and contingent to the application proposal as a whole: only capable of proceeding if the primary development is justified.

Neighbourhood Planning Act 2017

- 6.5.10. The Neighbourhood Planning Act 2017 includes a number of provisions related to the TP of land including notice requirements, the service of counter notices and compensation. These provisions have not been brought into force and are described as technical changes in the explanatory notes that accompany the Act. Article 6 of the dDCO disapplies the provisions of the Act insofar as they relate to TP of land under Articles 29 (Temporary use of land for constructing the authorised development) and 30 (Temporary use of land for maintaining the authorised development).

The CA Guidance

- 6.5.11. In addition to the legislative requirements set out above, the CA Guidance sets out a number of general considerations which also need to be addressed including whether:
- a. all reasonable alternatives to CA have been explored;
 - b. the Applicant has a clear idea of how it intends to use the land subject to CA powers;
 - c. the Applicant can demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
 - d. the SoS is satisfied that the purposes stated for the CA and TP are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.
- 6.5.12. We have taken all relevant legislation and guidance into account in our reasoning below and relevant conclusions are drawn at the end of this section.

6.6. EXAMINATION OF THE CA AND TP CASE

The Examination process

- 6.6.1. In examining the Application, we considered all written material in respect of CA and TP and asked written questions of the Applicant and APs in ExQ1 [[PD-011](#)], ExQ2 [[PD-015](#)] and our Rule 17 letter dated 13 February 2024 [[PD-017](#)].
- 6.6.2. In addition, the issues were explored in further detail at CAH1 [[EV-037](#) and [EV-039](#)]. As required by Regulation 15(2) of the CA Regulations as a result of the Applicant's change requests, we notified all APs and IPs and held a second CAH (CAH2) on Wednesday 28 February [[EV-048](#)]. No further oral representations in relation to CA were made by APs.

The Applicant's Case

- 6.6.3. The Applicant's general case for CA and TP is set out in sections 5 to 10 of the SoR [[REP4-017](#)]. In summary, the Applicant considers that the CA powers sought are required for the purposes of, to facilitate, or are incidental to, the Proposed Development and are proportionate and no more than is reasonably necessary.
- 6.6.4. Furthermore, it considers there is a compelling case in the public interest for the land, or rights over the land, to be compulsorily acquired given the meaningful and timely contributions offered by the Proposed Development to UK decarbonisation and security of supply objectives.
- 6.6.5. Taken together, the Land Plan [[REP4-004](#)] and the Works Plan [[REP4-005](#)] indicate that each area of land affected by CA or TP is required for the carrying out of one or more of the works identified in Schedule 1 of the dDCO.

Alternatives

- 6.6.6. The CA Guidance indicates that the Applicant should be able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA (including modifications to the scheme) have been explored.
- 6.6.7. The Applicant's approach to the consideration of alternatives in relation to CA is set out in sections 7.5 to 7.9 of the SoR [[APP-018](#)]. It explains that the Applicant has considered all reasonable alternatives to CA including negotiated agreements, alternative sites and modification to the Proposed Development. It notes that the location and extent of the land required has been carefully considered and designed in order to take the minimum amount while maintaining the benefits.
- 6.6.8. The 'no development' scenario as an alternative to the Scheme has not been considered. This is because 'no development' is not considered to be a reasonable alternative to the Scheme as it would not deliver the proposed additional electricity generation capacity which is essential to meet the urgent national need for secure and affordable low carbon energy infrastructure.
- 6.6.9. Specifically in relation to CA, the Applicant's main consideration of alternatives has been to actively pursue the acquisition of the land and rights needed by voluntary agreement and to minimise the need for CA powers wherever possible. As noted above, the Applicant has entered into option agreements with landowners which cover the majority of the land required.
- 6.6.10. Furthermore, notwithstanding the request for CA and TP powers, the Applicant has conducted negotiations with APs in parallel with the Examination with the aim of acquiring the remainder of the land and / or rights sought by agreement.
- 6.6.11. In terms of alternative sites and modifications to the Proposed Development, ES Chapter 5 (Alternatives and Design Evolution) [[APP-040](#)] sets out the Applicant's rationale for site selection and explains how the grid connection point was chosen. Key factors include available capacity as well as the proximity to lower grade agricultural land. Full details of the site selection exercise undertaken by the Applicant can be found in ES Appendix 5.1: Site Selection Assessment [[APP-067](#)]. Annex E of that document provides a comparison of the Proposed Development against other sites based on various criteria.
- 6.6.12. The Applicant draws attention to the fact that around 96% of the Order Limits is not BMV agricultural land. In addition, it notes that none of the alternatives or modifications to the Proposed Development that were considered would remove the need for CA. Further details can be found in [Section 3.2 above](#).
- 6.6.13. In light of the above, we consider that the Applicant has satisfactorily demonstrated that all reasonable alternatives to CA have been explored.

Availability and Adequacy of Funds

- 6.6.14. The Applicant's Funding Statement [[REP4-019](#)] indicates that the Applicant has the ability, through its parent company, Island Green Power Limited, to procure the financial resources required for the Proposed Development, including the cost of acquiring any rights and the payment of compensation, as applicable.
- 6.6.15. The adequacy of funding for CA was not raised by any AP during the course of the Examination. However, as part of ExQ1 [[PD-011](#)], we asked the Applicant to provide further details on the total amount of compensation it considered would be payable in respect of CA (ExQ1.14.6). In response [[REP2-034](#)], the Applicant provided an estimate of £61.136 million.
- 6.6.16. Furthermore, Article 47 of the dDCO requires a guarantee or alternative form of security for compensation that may be payable pursuant to the DCO before the provisions for CA can be exercised. This provides a clear mechanism whereby the necessary funding for CA can be guaranteed.

Conclusion on the generality of the Applicant's case for CA and TP.

- 6.6.17. Overall, we agree with the Applicant's conclusions on the generality of the case, and subject to our further consideration of plots affected by outstanding objections/ representations below, we consider the tests set out in s122(2) and s122(3) of the PA2008 to be met.

6.7. MATTERS RAISED IN THE EXAMINATION/ OBJECTIONS TO CA AND TP

- 6.7.1. This section specifically considers objections/ representations raised in relation to CA and TP which were unresolved at the close of the Examination. However, we acknowledge that these represent only some of the plots affected. Even though a specific objection/ representation may not have been raised in relation to a particular plot of land, we have nevertheless applied the relevant tests to the whole of the land that would be the subject to the powers of CA or TP in reaching our overall conclusions.
- 6.7.2. A formal withdrawal of objection was received from Cadent Gas at Deadline 6 [[REP6-010](#)]. This was following the agreement of PPs by itself and the Applicant. These are included in Schedule 16, Part 6 of the dDCO.
- 6.7.3. Section 8 of the Applicant's Closing Statements [[REP6-003](#)] also provides a summary of the position reached with each SU at the close of the Examination.

Objections/Representations Outstanding

Dr T Organ and Mrs P Organ

Plot Nos: 10-224, 10-220 and 14-290.

- 6.7.4. As part of the Examination, the Applicant confirmed that Plot NO. 14-290 consists of a small area of highway verge over which Dr and Mrs Organ are identified in the BoR as having rights to the subsoil. The Applicant is seeking temporary rights over this land to ensure suitable visibility for access. Similarly, Plot No. 10-224 comprises Coates Lane and is required for access. Again, Dr and Mrs Organ are identified in the BoR as having rights in the subsoil.
- 6.7.5. Plot No. 10-220 comprises the southeastern corner of a large agricultural field. Dr and Mrs Organ's main concern is that the exercise of CA and TP powers over the above plots would adversely impact on their existing farm business by restricting access to their field and interfering with their water supply [[REP4-099](#)].
- 6.7.6. During the Examination, it became clear that there is some uncertainty as to the exact location of the boundary of the public highway in this location. However, the Applicant confirmed that it would only enter onto and lay the cable in land that forms part of the public highway and that it would seek to limit any impact on access to the field and the water supply as part of its detailed design.
- 6.7.7. We have considered all submissions carefully. It is clear that plot Nos. 14-290 and 10-224 form part of the public highway and are required for (or to facilitate) the Proposed Development. While we acknowledge they might be disruptive and at times cause considerable inconvenience to those seeking access to the surrounding fields, the works would be temporary (being generally confined to the construction and decommissioning stages) and the land restored to its original condition.
- 6.7.8. Furthermore, while we acknowledge there is some potential for private loss to Dr and Mrs Organ in relation to Plot No. 10-220, we note the Applicant's stated intention to minimise any impact, including to the water supply. We also consider the dDCO contains suitable provisions to ensure that the losses that are likely to arise would be suitably compensated.
- 6.7.9. On balance, we consider the resultant private loss would be clearly outweighed by the public benefit which would result from the Proposed Development. Consequently, we find that the case for CA of rights for these plots has been made out.

Mr S E Skelton

Plot Nos: 07-155, 07-156, 07-157, 09-190, 09-188, 09-189

- 6.7.10. We are satisfied that all of the above plots are required for or to facilitate the Proposed Development.
- 6.7.11. Plot Nos. 07-155 and 07-156 consist of agricultural fields directly to the north of North Farm. Plot No. 09-190 is another agricultural field located south and east of the access from Willingham Road. The Applicant has entered into an option agreement with Tillside Limited for the voluntary acquisition of these plots.
- 6.7.12. Plot Nos. 07-157 and 09-188 comprise the access track to the property along with an area of agricultural land running adjacent to it and a section of public highway where it meets Willingham Road. CA powers are sought for the imposition of rights and restrictive covenants are sought over these plots.
- 6.7.13. Mr Skelton is listed as having a Category 2 interest in Plot Nos. 07-155, 07-156, 07-157 and 09-190 in respect of rights stated in a transfer dated 23 September 2002. The Applicant notes that the rights it is seeking in the dDCO would not extinguish or be inconsistent with these rights [[REP5-028](#)].
- 6.7.14. Plot No. 09-189 forms part of the public highway. Temporary possession is sought over this plot. Mr Skelton is listed in the BoR, amongst others, as having ownership rights in respect of the subsoil. Again, the Applicant notes that the rights it is seeking in the dDCO would not be inconsistent with these rights [[REP5-028](#)].
- 6.7.15. In summary, Mr Skelton contends that there is no compelling case in the public interest for the inclusion of the CA powers sought. He raises a number of specific concerns in relation to the use of the access track to his property by heavy construction vehicles and the implications for its surface condition as well as for security and privacy at his home [[REP-196](#)]. These matters were expanded upon orally at ISH1 [[EV-012](#), [EV-014](#) and [EV-016](#)] and CAH1 [[EV-037](#) and [EV-039](#)] and further concerns raised in relation to blight. Mr Skelton contends that the close proximity of the solar infrastructure around his isolated farmhouse would blight his home. Written summaries of the oral submissions made by Mr Skelton at these hearings can be found in the Examination Library [[REP-198](#) and [REP3-100](#)].
- 6.7.16. In response, the Applicant noted that it has entered into voluntary agreements with the freehold owner of Plot Nos. 07-155, 07-156, 07-157 and 07-190 in respect of the works proposed and does not seek to extinguish Mr Skelton's rights over any of the land affected. Furthermore, it pointed out that the oCTMP contains protections for the use of the track (including a requirement to repair any damage) [[REP3-036](#)]. It also updated the oCTMP [[REP5-016](#)] and oOEMP [[REP5-022](#)] to require appropriate security measures to be put in place where existing access

tracks are used. These are secured by Requirements 14 and 15 of the dDCO.

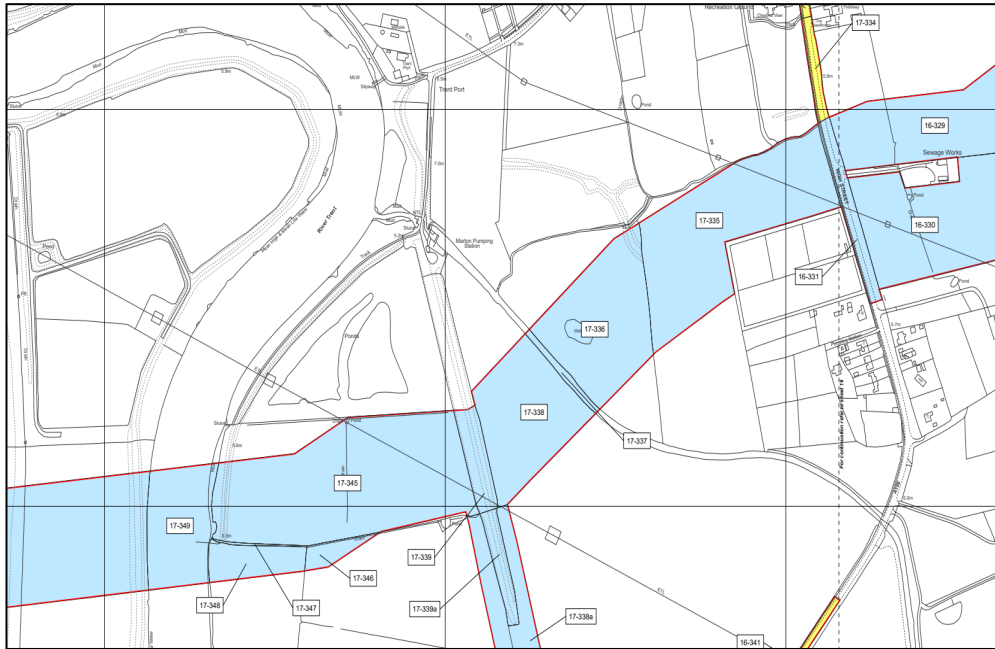
- 6.7.17. The Applicant also drew attention to paragraphs 6-13 to 6-19 of the TA [[REP5-014](#)] which indicate that there would be around 68 additional traffic movements (8 HGVs and 60 car/van) per day during peak construction. However, it notes that these movements would be shared with two other accesses, with only a proportion of those vehicles seeking to access the site doing so via the access track forming part of Plot No. 07-157.
- 6.7.18. We have considered these matters carefully and note that the Applicant does not intend to extinguish Mr Skelton's rights over the affected plots. We are also mindful that there are voluntary arrangements in place in relation to their acquisition. However, we do acknowledge Mr Skelton's concerns over use of the access track and its implications for the levels of security and privacy he currently enjoys. Furthermore, while we note it is unlikely that all of the peak 68 additional traffic movements per day would occur along the track, this is currently a private track with limited numbers of traffic movements. It is clear that the increased number of vehicle movements along this route would be noticeable and has the potential to create some disruption for existing users.
- 6.7.19. Nevertheless, we are mindful that the greatest impact would occur during construction and fall away sharply thereafter. Furthermore, we see no reason that these matters cannot be adequately managed within the terms of the CTMP and OEMP so as to minimise any impacts. Furthermore, we note the Applicant's commitment to putting in place appropriate security measures in consultation with Mr Skelton to manage security along this route. Likewise, appropriate provisions have been included in the dDCO in respect of blight.
- 6.7.20. Accordingly, while we acknowledge there would be some private loss to Mr Skelton in respect of his property rights, with those measures in place, we consider it would be limited and as such would be outweighed by the public benefits that would be derived from the provision of this much needed low carbon generating infrastructure. Consequently, we consider there is a compelling case in the public interest for the land to be acquired compulsorily.
- 6.7.21. We also note the other concerns raised by Mr Skelton throughout the Examination. However, these relate to the merits of the Proposed Development and have been taken into account in the conclusions reached in [Section 3](#) of this Recommendation. They do not affect our consideration of whether or not the CA powers being sought are justified.

Mr N Hill and Mrs E R Hill

Acquisition of Rights of Plot No: 17-335

- 6.7.22. Plot No 17-335 forms part of the Proposed Grid Connection route and is identified in Figure 15 below.

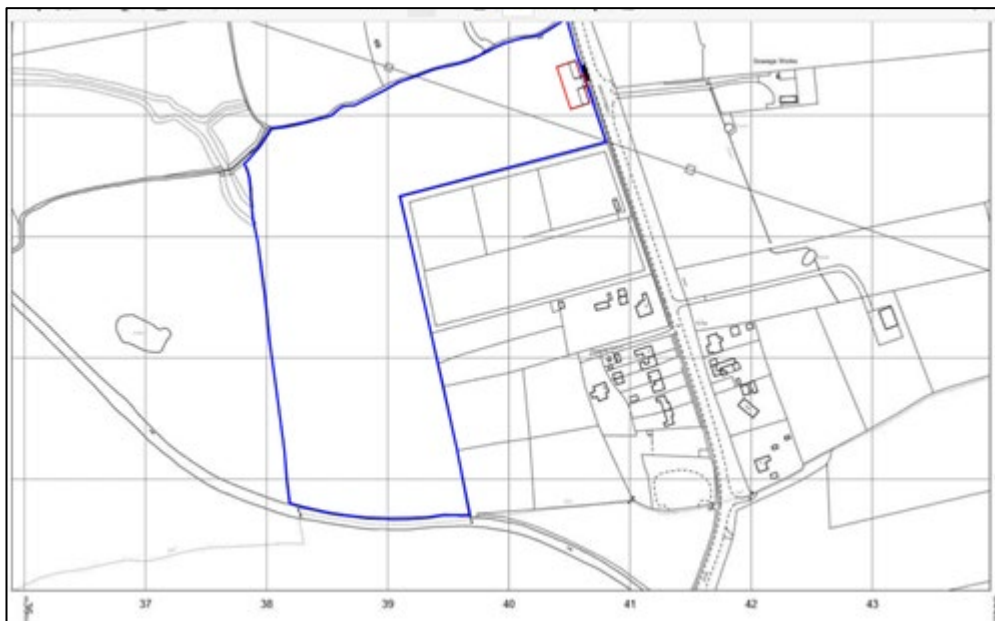
Figure 15: Plot 17-355



(Source: Land Plan, Sheet 17 – [REP4-004](#))

6.7.23. Mr and Mrs Hill object to the inclusion of CA powers over their land on the basis that the rights being sought would interfere with their own planned use of the land [[RR-386](#)], including the implementation of Planning Permission reference 145882 dated 18 January 2023 for the erection of two agricultural buildings (“the Planning Permission”). Figure 16 below identifies the red line boundary of the Planning Permission.

Figure 16: Red line boundary of Planning Permission 145882 dated 18 January 2023



(Source: Appendix B of the Applicant’s Grid Connection Report [[REP3-040](#)])

- 6.7.24. At the close of the Examination agreement had not been reached and we understand there was still some distance between the parties over both the mechanism by which rights sought should be achieved (lease or easement) and the compensation payable.
- 6.7.25. We consider that, wherever possible, voluntary agreements are the preferred method for the acquisition of rights. However, where this is not possible, the PA2008 enables such rights to be acquired compulsorily where they meet the relevant tests as set out above.
- 6.7.26. In the present case, the land is required for the grid connection, an essential element of the Proposed Development. As such, it satisfies the first limb of s122. Furthermore, while we are mindful of the interaction of the Applicant's proposals with those of Mr and Mrs Hill under the Planning Permission, we note the Applicant's grid connection report [[REP3-040](#)] concludes that the cabling proposed could still be achieved in this location even following implementation of the planning permission and that this is their preferred option.
- 6.7.27. Moreover, even in the event that the planning permission was not implementable due to the Proposed Development, there is no robust evidence which would indicate it would have an unacceptable impact on the viability of the wider farming business. Accordingly, we see no reason that the planning permission and the Proposed Development could not coexist.
- 6.7.28. Overall, while we accept that the CA and TP powers sought might result in some adverse impacts to Mr and Mrs Hill's private interests, in view of the established need for energy generation and the need to provide certainty in terms of project delivery, we consider there is a compelling case in the public interest for that the land to be acquired compulsorily. We are therefore satisfied that it meets the tests in s122(3) the PA2008.

Canal and River trust

Plot Nos: 17-339, 17-339a, and 17-349

- 6.7.29. In both its RR [[RR-025](#)] and WR [[REP-134](#)], the CRT raised concerns with the CA powers included in the dDCO in respect of the above plots. It sought PPs to ensure its interests were safeguarded. These were subsequently added to Schedule 16 Part 13 of the dDCO and CRT confirmed in its Deadline 4 submission that the wording was agreed.
- 6.7.30. The above plots are required as part of the grid connection corridor. We are therefore satisfied that they are required for the Proposed Development and satisfy s122(2).
- 6.7.31. While we note that CRT's objection to the inclusion of CA powers was not formally withdrawn, we also note the agreed PPs include a restriction on the Applicant's ability to exercise CA powers in respect of CRT's land and interest without its consent. We are satisfied that this will ensure CRT's interests are suitably protected.

6.7.32. Accordingly, in view of the urgent need for low carbon energy generation of the sort proposed, we consider there is a compelling case in the public interest for the CA powers sought over these plots.

Shaun Kimberley and Emma Kimberley

Plot Nos: 17-354, 17-359, 17-360, 17-361, 17-362 and 17-363.

6.7.33. The objection to CA can be found in the Relevant Representations [[RR-189](#) and [RR-478](#)]. In summary, Mr and Mrs Kimberley object to the inclusion of CA powers in respect of these plots due to the effect it would have on their animals and business. These were not expanded upon during the Examination.

6.7.34. The land in question is identified as part of the land required for the grid connection (Work No. 6) and, as such, is required for the development. However, the Applicant explained that whilst the decision had been made to avoid impacts to this land due to the presence of livestock, these plots were required to ensure there was sufficient flexibility to construct the cable route within the Order Limits [[REP5-029](#)].

6.7.35. We were kept updated on discussion throughout the Examination. However, at the close of the Examination, voluntary agreements had not been reached and the objection remains outstanding.

6.7.36. We note that these plots are intended to ensure that there is sufficient flexibility to construct the grid connection route. Whilst we acknowledge there would be some loss to the landowners in the event that this land was required as part of the final design, we also accept there is a need for flexibility to ensure the Proposed Development is not unnecessarily delayed.

6.7.37. On balance, while we acknowledge there is potential for some loss to Mr and Mrs Kimberley in the event that the CA powers sought were to be exercised over the above plots, we consider there is a compelling case in the public interest for the rights to be acquired compulsorily. Without them there would be a real risk that the Proposed Development would not proceed or would be unacceptably delayed. As such, we consider they meet the requirements of s122 of the PA2008.

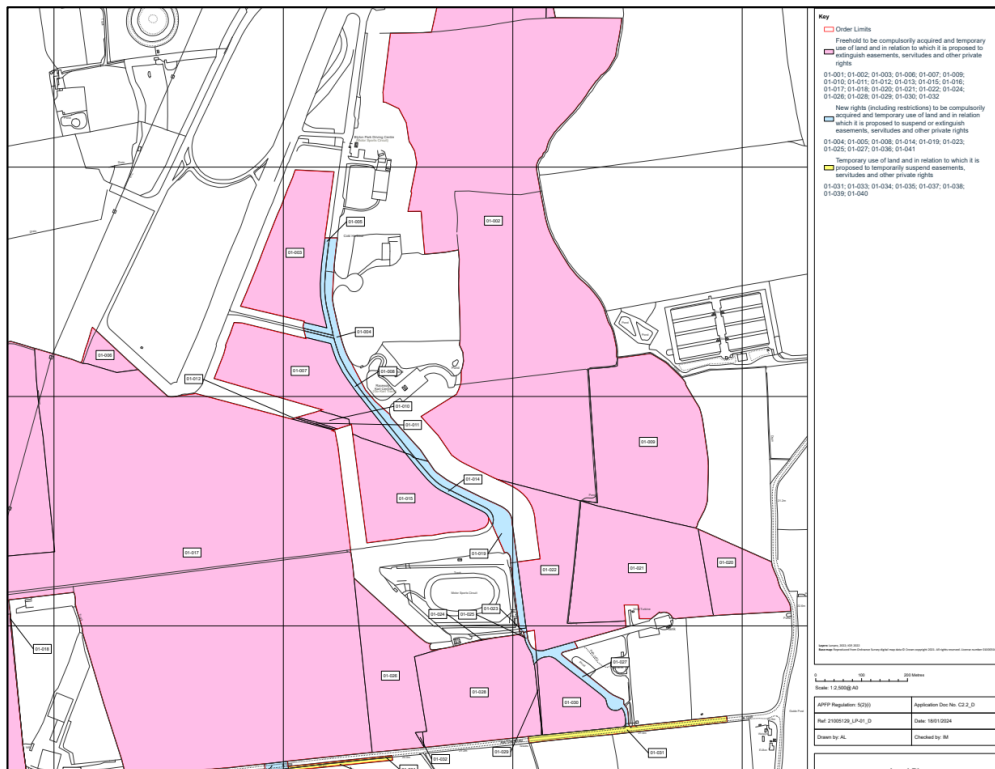
LNT Aviation Limited/ Blyton Park Driving Centre/ LNT Group

Plot Nos: 01-003, 01-006, 01-007, 01-017 (part) and 01-031

6.7.38. Plot No. 01-006 is located immediately adjacent to the race track, just to the north of plot no. 01-007. Plot numbers 01-017 and 01-006 are directly to the south and west of plot 01-007.

6.7.39. Full details can be found on sheet 1 of the land plans [[REP4-004](#)], an extract of which is provided in Figure 17 below.

Figure 17: Plan showing Plot Numbers 01-003, 01-007, 01-006 and 01-017 in relation to Blyton DC racetrack.



(Source: Land Plan, Sheet 1 [REP4-004])

- 6.7.40. LNT's objects to the inclusion of CA powers in respect of Plot Nos. 01-003, 01-006, 01-007 and the northern half of 01-017 on the basis that they have prescriptive rights to use these plots as emergency run off areas for cars using the racetrack. They also draw attention to the potential overlap between the Proposed Development and extant planning permission for an Automotive Research and Development Centre, dated 30 May 2022 (Council ref: 145015), which, were it to be implemented, would take up the northernmost part of plot 01-006. They also wish to ensure that their existing access to the site is maintained, and that construction traffic does not adversely affect their business operations.
- 6.7.41. A number of discussions were held between the Applicant and LTN representatives over the course of the Examination. At Deadline 5, the Applicant included PPs in Schedule 16 of the dDCO (Revision G) [REP5-005] in favour of LNT. These aim to address LNT's concerns [REP6-003]. However, at the close of the Examination agreement on the PPs had not been reached and LNT continued to object to the inclusion of CA powers in respect of the abovementioned plots.
- 6.7.42. We have given this matter careful consideration. We are mindful that the Applicant has indicated that it has already secured an option agreement with the landowner in respect of these plots. Furthermore, no evidence

was provided to support LNT's claim for prescriptive rights over these plots. However, while it is not clear whether LNT benefits from such rights, having visited the site we accept the land is likely to be used for emergency run off purposes, even if only informally.

- 6.7.43. Nevertheless, we consider the PPs included in Schedule 16, Part 19 of the dDCO are extensive. They require the undertaker to obtain LNT's approval of the works details prior to the commencement of works in Plot Nos. 01-006, 01-007, 01-017 and explicitly allow for any approval to be given subject to reasonable requirements (including those required to ensure the safe use of the Blyton Park Driving Centre). They also contain provisions which ensure that should LNT notify the undertaker of its intention to implement its planning permission in Plot No. 01-006, the undertaker would not install panels on that land.
- 6.7.44. Overall, we are content that the PPs included by the Applicant provide sufficient protection to ensure that the Proposed Development and the Blyton Park Driving Centre can co-exist without significant detriment to either of the two uses.
- 6.7.45. Consequently, we are satisfied that there is a compelling case in the public interest for the inclusion of CA powers in respect of these plots.

EDF Energy (Thermal Generation) Limited

Plot Nos: 03-092, 18-385, 18-385a, 18-385b, 18-385c, 18-385d, 19-390, 19-391, 19-392, 19-394, 19-401, 19-402, 20-403

- 6.7.46. EDF is a Statutory Undertaker and owns the Cottam Power Station Site, a former coal fired generation station which ceased generating electricity in 2019 but which still houses critical live infrastructure for both National Grid and the adjacent Cottam Development Centre.
- 6.7.47. EDF objects to the inclusion in the dDCO of CA powers over its land and interests [[AS-002](#)] and seek PPs to ensure its interests in the site (as well as those of third parties whose infrastructure is located on the site) are protected.
- 6.7.48. It is also concerned to ensure that regeneration of the former Cottam Power Station site is facilitated in line with the Council's requirements and ambitions and that the proposed cable route does not sterilise development land or detract from future development plans.
- 6.7.49. Discussions between the Applicant and EDF continued throughout the Examination with PPs substantially agreed ahead of Deadline 6. The only unresolved matter at the close of the Examination relates to the inclusion of Paragraphs 239(1), (2), (4) and (5) of Schedule 16, Part 18. These are omitted from the PPs provided by the Applicant at Deadline 6. Details of the wording sought by EDF can be found in [[REP6-013](#)].
- 6.7.50. In summary, EDF contends that, in view of the complex demolition programme being undertaken to decommission the former power station,

it requires full control over the whole of the landholdings to ensure the safe completion of the programme within the prescribed timetable.

- 6.7.51. Furthermore, it points out that the gas fired power station operated by Uniper includes critical infrastructure over EDF land and that there are agreements in place with several parties that contain obligations relating the continued safe operation of those assets. As a result, it considers a restriction on the use of CA powers without its prior consent should be included in the DCO. It argues that in the absence of such a provision, would result in serious detriment to its undertaking.
- 6.7.52. The Applicant considers that the inclusion of such a provision in the absence of a voluntary agreement between the parties granting the Applicant rights to construct, use and maintain the grid connection across EDF's land would result in a material impediment to the delivery of the Proposed Development [[REP6-003](#)].
- 6.7.53. We have considered the parties' positions carefully. While we note the PPs include provisions which require the technical details of the works to be approved by EDF prior to carrying out any works that may affect EDF's apparatus, we accept that the complexities involved in decommissioning the former power station require EDF to have full control over the whole of the landholdings to ensure the safe completion of the programme within the prescribed timetable. In the absence of such control, we accept there is a risk of serious detriment to EDF's undertaking.
- 6.7.54. Furthermore, the principle of including consenting provisions in PPs for the benefit of SUs is well established. Amongst other things, it provides assurance that no serious detriment would arise to the undertaking due to unforeseen circumstances. While we note the Applicant's preference for these matters to be dealt with under separate property agreements, at the close of the Examination, no such agreements have been entered into.
- 6.7.55. Moreover, we are mindful that the provisions sought by EDF are similar (both in their substance and wording) to those included for the protection of other SUs, including National Grid, Network Rail and Uniper, all of whom the Applicant has indicated had not entered into voluntary agreements with it at the close of the Examination. We see no reason to take an alternative approach in respect of EDF.
- 6.7.56. Nevertheless, in order to safeguard against the Applicant's concerns in respect of delivery, we consider the consenting provisions should be made subject to the test of reasonableness in order to ensure that the withholding of consent in such circumstances would need to be for a critically important reason.
- 6.7.57. Accordingly, subject to the addition of suitable consenting provisions in Schedule 16, Part 18 of the recommended DCO (rDCO), we consider the SoS can be satisfied that the powers sought are necessary for the purpose of carrying out the Proposed Development and there would be

no serious detriment to EDFs undertaking. We consider this matter further in [Section 7](#) below.

- 6.7.58. The Applicant indicated in its Deadline 6 response that discussions were ongoing to agree a voluntary agreement for the necessary rights to construct, use and maintain the grid connection over EDF's land. The SoS may therefore receive correspondence on this point from the Applicant or EDF during the decision stage. However, even if no further correspondence is received, or such further agreements entered into, we consider the SoS can be confident that the PPs included in the rDCO are sufficient to ensure that there would be no serious detriment to NR's undertaking and that the tests set out in S127 and 138 of the PA2008 have been met.

National Grid Electricity Transmission Plc (NGET)

Various plots within the Order Limits (refer to the BoR for full details of the plots affected).

- 6.7.59. In general, we are satisfied that the CA powers contained in the dDCO in respect of the affected plots are required for, or to facilitate the Proposed Development. Likewise, we are satisfied that there is a compelling case in the public interest for them to be acquired compulsorily.
- 6.7.60. However, NGET has identified a number of its assets within or in close proximity to the Order Limits [[RR-035](#) and [REP-096](#)]. NGET's primary concern is to ensure that the Proposed Development does not adversely impact on its statutory duties. In particular, it is seeking to secure suitable protection for its existing apparatus as well as its ability to access and maintain it.
- 6.7.61. Schedule 16, Part 3 of the dDCO contains provisions for the protection of NGET. These were updated at Deadline 6 and to address a number of NGET's concerns and include restrictions on the exercise of the CA powers by the Applicant without NGET's consent as well as provisions regulating the carrying out of specified works. However, at the close of the Examination, these had not been agreed and a set of alternative PPs was provided by NGET [[REP6-015](#)].
- 6.7.62. We consider the differences in NGET's and those included by the Applicant in [Section 7](#) of this Recommendation. However, we note that both sets include a restriction on the use of CA powers without NGET's consent as well as requirements in relation to the approval of specified works. We consider the inclusion of these specific provisions is sufficient to ensure that there would be no detriment to NGET's undertaking as a result of the inclusion of CA powers in the Order.
- 6.7.63. Consequently, we are satisfied that the powers sought are necessary for the purpose of carrying out the Proposed Development. Furthermore, we consider either set of PPs are sufficient to ensure that there would be no serious detriment to the carrying on of NGET's undertaking. As such, we consider the tests set out in s127 and s138 of the PA2008 are met.

6.7.64. NGET indicated in its Deadline 6 response [[REP6-015](#)] that it would continue to work proactively with the Applicant on final form documents following the close of the Examination and will provide the SoS with updates on progress during the decision making stage. The SoS may therefore receive correspondence on this point from the NGET or the Applicant during the decision stage. However, even if no further correspondence is received, or no agreements entered into, we consider the SoS can be confident that the PPs included in the rDCO are sufficient to ensure that there would be no serious detriment to NGET's undertaking and that the tests set out in s127 and s138 of the PA2008 have been met.

Network Rail Infrastructure Limited (NR)

Plot Nos. 02-42, 16-320 and 18-372

Extinguishment of rights

- 6.7.65. At the start of the Examination, NR objected to the inclusion of CA powers in respect of the above plots on the basis that, in the absence of measures to regulate the manner in which the rights are to operate, their inclusion would result in serious detriment to its undertaking.
- 6.7.66. NR's position at the close of the Examination is set out in its Deadline 5 response [[REP5-063](#)]. In summary, it maintains its objection to the inclusion of CA and TP powers in respect of its land and interests, seeking the inclusion of PPs which restrict the undertaker's ability to exercise the powers without its consent.
- 6.7.67. At Deadline 6, the Applicant confirmed that PPs had been agreed and voluntary agreements were being negotiated. However, NR has not formally withdrawn its objection to the inclusion of CA powers in respect of its land and interests. We do however note that the PPs provided by the Applicant at Deadline 6 (Schedule 16, Part 10 (for the protection of Railway Interests)) contain a range of protections including a restriction on the use of CA powers without NR's consent (in the form sought by NR at Deadline 5).
- 6.7.68. We are therefore satisfied that the inclusion of CA powers in respect of NR's land and interests would not result in serious detriment to the carrying on of its undertaking. Furthermore, we are also satisfied that the inclusion of powers in respect of the extinguishment of rights are necessary for the purpose of carrying out the development. As such, we consider the tests set out in s127 and s138 of the PA2008 are met.
- 6.7.69. The Applicant indicated in its Deadline 6 response that the parties were negotiating an associated Framework Agreement, on completion of which, it expected NR would formally withdraw its objection [[REP6-003](#)]. It also indicated that it would provide the SoS with an update following the close of the Examination.
- 6.7.70. The SoS may therefore receive correspondence on this point from the Applicant or NR during the decision stage. However, even if no further

correspondence is received, or no agreements entered into, the SoS can be confident that the PPs included in the rDCO are sufficient to ensure that there would be no serious detriment to NR's undertaking and that the tests set out in s127 and s138 of the PA2008 have been met.

UNIPER UK Limited

- 6.7.71. **Plot Nos: 05-141, 06-144, 06-142, 06-143, 06-146, 08-169, 08-170, 08-171, 08-172, 08-177, 08-178, 08-179, 08-180, 15-302, 16-318, 16-322, 17-342 and 17-343**
- 6.7.72. Uniper is the owner and operator of the Cottam Development Centre, an operational gas fired power station located adjacent to the former Cottam Power Station site. It has a category 2 interest in all of the above listed plots in respect of a gas pipeline and associated rights. It noted in its WR [[REP-101](#)] that it had a number of reservations and concerns regarding the close proximity of the Proposed Development to its operational assets.
- 6.7.73. Discussions continued between the Applicant and Uniper throughout the Examination in relation to suitable PPs and an associated asset agreement or crossing agreement. However, at the close of the Examination agreement on the final form of PPs had not been reached [[REP6-017](#)]
- 6.7.74. The above plots form an integral part of the Proposed Development. Accordingly, we are satisfied this meets the test under s122(2). Furthermore, in view of the established need, we consider there is a compelling case in the public interest for the inclusion of CA powers in the dDCO in respect of these plots. Consequently, we consider the tests in s122(2) and 122(3) of the PA2008 have been met.
- 6.7.75. Turning then to s127 and s138 of the PA2008, we note that the Applicant is not intending to extinguish any rights belonging to Uniper. Furthermore, we note that the PPs included by the Applicant at Deadline 6 include provisions to ensure that Uniper's land and apparatus will be protected, its access rights maintained during construction and which also include a restriction on the Applicant's ability to appropriate or acquire any of Uniper's land interests without its agreement.
- 6.7.76. We are therefore satisfied that the inclusion of CA powers in respect of Uniper's land and interests are necessary for the purpose of carrying out the development and would not result in serious detriment to the carrying on of its undertaking. As such, we consider the tests set out in s127 and s138 of the PA2008 are met.
- 6.7.77. Uniper indicated in its Deadline 6 response [[REP6-017](#)] that the parties were continuing discussions and that it was committed to working with the Applicant to secure mutually acceptable PPs. It also indicated that it would provide the SoS with an update following the close of the Examination. The SoS may therefore receive correspondence on this point from the Applicant or Uniper during the decision stage. However, even if no further correspondence is received, or mutually acceptable PPs

are not agreed, the SoS can be confident that the PPs included in the rDCO are sufficient to ensure that there would be no serious detriment to NR's undertaking and that the tests set out in s127 and s138 of the PA2008 have been met.

ExA's Conclusion on outstanding objections/representations

- 6.7.78. We are satisfied that the CA powers sought over all of the land identified in the Land Plan and BoR are required for the Proposed Development, to facilitate it or are incidental to it. We are therefore satisfied that the powers sought meet the condition set out in s122(2) of the PA2008.
- 6.7.79. Furthermore, while we accept that the CA and TP powers sought might result in some adverse impacts to the private interests of the owners of the land affected, in view of the established need for energy generation and the need to provide certainty in terms of project delivery, we consider there is a compelling case in the public interest for the land to be acquired compulsorily. We are therefore satisfied that it meets the tests in s122(3) of the PA2008
- 6.7.80. Furthermore, having considered the content of the PPs proposed by the Applicant in the round, we consider they are sufficient to ensure that there would be no serious detriment to those SUs affected. Moreover, we consider the extinguishment or removal of apparatus belonging to SUs is necessary for the purpose of carrying out the Proposed Development.
- 6.7.81. Accordingly, we find the powers sought meet the requirements of s122, s127 and s138 of the PA2008.

Human Rights Act 1998 and Equalities Act 2010 Considerations

- 6.7.82. The Human Rights Act 1998 incorporates the European Convention on Human Rights into UK law. Schedule 1 of the Act sets out the Articles. There are no residential properties to be acquired for the Proposed Development and, as such, we have no reason to believe that Article 8 would be engaged. Article 6 (right to a fair trial) and Article 1 of the First Protocol (protection of property) are engaged.
- 6.7.83. In relation to Article 6, we accept that appropriate consultation took place before and during the process and that there has been opportunity to make representations during the preparation of the application and owners of land had been consulted. There has also been the opportunity to make representations during the course of the Examination. At the CAHs, we provided all APs who wished to be heard, an opportunity to be heard fully, fairly and in public. We also note that, should an Order be made, there are further opportunities for APs to challenge the Order in the High Court. We consider this is sufficient to meet the obligations set out in Article 6.

- 6.7.84. Turning then to Article 1, the Applicant acknowledges in the SoR [\[REP4-017\]](#) that the Order has the potential to infringe the rights of affected parties and acknowledges the need to strike a balance between the rights of the individual and the interests of the public. Furthermore, we note it has sought to minimise the amount of land affected and included suitable provisions for the payment of compensation in the dDCO.
- 6.7.85. The EA2010 establishes a duty to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. We have had regard to this duty throughout the Examination and in our consideration of the issues raised in this Recommendation.
- 6.7.86. We have found above that there is a compelling case in the public interest for all of the land identified to be acquired compulsorily. Furthermore, we consider that the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest. We therefore consider the CA and TP powers sought are compatible with the HRA1998.

6.8. **CONCLUSIONS**

- 6.8.1. Having considered all of the material submitted to the Examination, we have reached the following conclusions:
- The application site has been appropriately selected.
 - All reasonable alternatives to CA have been explored.
 - The Applicant would have access to the necessary funds and the rDCO provides a clear mechanism whereby the necessary funding can be guaranteed.
 - There is a clear need for all the land included in the BoR to be subject to CA or TP.
 - There is a need to secure the land and rights required to construct, operate and maintain the Proposed Development within a reasonable timeframe, and the Proposed Development represents a significant public benefit to weigh in the balance.
 - The private loss to those affected has been mitigated through the selection of the land; the minimisation of the extent of the rights and interests proposed to be acquired and the inclusion, where relevant, of PPs in favour of those affected.
 - That in all cases relating to individual objections and issues that CA and TP is justified to enable implementation of the Proposed Development.
 - The powers sought satisfy the conditions set out in s122 and s123 of the PA2008 as well as the CA Guidance.
 - The powers sought in relation to SUs meet the conditions set out in s127 and s138 of the PA2008 and the CA Guidance.
- 6.8.2. Considering all of the above, we consider there is a compelling case in the public interest for the CA and TP powers sought.

7. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

7.1. INTRODUCTION

- 7.1.1. The application dDCO [[APP-016](#)] and the Explanatory Memorandum (EM) [[APP-017](#)] were submitted by the Applicant as part of the application for development consent. Both the dDCO and EM were updated throughout the Examination with the latest version of the dDCO being [[REP5-005](#)] and the EM being [[REP5-008](#)]. The EM explains the purpose and effect of each article of, and Schedules to, the Order and why they are required.
- 7.1.2. The EM also identifies and explains departures from the (now withdrawn) Infrastructure Planning (Model Provisions) (England and Wales) Order 2009. It also makes reference to where the drafting has been taken from wording for other orders made under the PA2008. The original application dDCO and subsequent iterations are in the form of a statutory instrument as required by s117(4) of the PA2008.
- 7.1.3. This section provides an overview of the Examination of the Development Consent Order and considers changes to the final dDCO in order to arrive at the rDCO in Appendix C of this Recommendation. Changes as a result of typographical or grammatical errors are not reported.
- 7.1.4. A fully consolidated tracked changes version of the dDCO which includes all changes made between the application version and the final dDCO [[REP5-006](#)] was also submitted at Deadline 6. In addition, the Applicant provided an updated Schedule 16 (Protective Provisions) at Deadline 6 which sets out its preferred form of PPs [[REP6-003](#)]. These are considered further below.

7.2. THE STRUCTURE OF THE dDCO

- 7.2.1. The content of the dDCO [[REP5-005](#)] is listed on its face. We are content that the structure is fit for purpose, and we do not recommend any changes to it.

Parameters of the Order and the 'consent envelope'

- 7.2.2. The Applicant has not included a maximum limit on generating capacity in the dDCO in order to allow it to take advantage of technological improvements and innovation that may emerge before construction, which would enable it to still construct the Scheme within the assessed parameters but increase capacity beyond that which is currently anticipated.
- 7.2.3. This follows the approach adopted in the Cleve Hill Solar Park Order 2020 (SI 2020/547), the Little Crow Solar Park Order 2022 (SI 2022/436) and the Longfield Solar Farm Order 2023 (SI 2023/734). It also accords with 2024 NPS EN-3 which advises that installed export capacity should not be seen as an appropriate tool to constrain the impacts of a solar farm.

Instead, it indicates that applicants should use other measurements, such as panel size, total area and percentage of ground cover to set the maximum extent of development when determining the planning impacts of an application.

- 7.2.4. A 'Rochdale Envelope' approach has been used which assesses the maximum (and where relevant, the minimum) parameters of the Proposed Development. This is a common approach adopted in energy generation projects where a degree of flexibility is required. The principles and justification for this approach are set out in Chapter 2 (EIA Process and Methodology) [[APP-037](#)].
- 7.2.5. A set of concept design parameters and principles (CDPP) [[REP4-043](#)] has been established which allow for flexibility in the design and form the limits within which the Proposed Development can be built and operated. These design principles correspond to the physical areas set out in the works plan [[REP4-005](#)] and is secured by Requirement 5 of the dDCO [[REP5-005](#)].
- 7.2.6. In addition to the CDPP, other DCO Requirements, certified documents and plans would operate to control and manage the detailed design of the Proposed Development, as well as its construction, operation (including maintenance) and decommissioning. The way in which those mechanisms work together as an envelope within which the Proposed Development would be undertaken is explained in more detail in paragraph 1.4.10 of the EM [[REP5-008](#)].
- 7.2.7. In explains that:
- Article 3 (Development consent etc. granted by this Order) and Schedule 2 (Requirements) operate to create a consent envelope within which the Proposed Development would be brought forward.
 - The Proposed Development is described in Schedule 1 of the Order, where it is referred to as the *authorised development*. The authorised development is granted consent pursuant to Article 3(1).
 - In Schedule 1, the Proposed Development is divided into a series of component parts, referred to as *numbered works*.
 - Article 3(2) requires that the numbered works authorised by the Order are situated in the areas and within the limits of deviation shown on the Works Plan.
 - The design of the Proposed Development would also be controlled via Requirement 5 (Detailed design approval) which requires approval of details of the final design, and requires that the details submitted must accord with the CDPP.
 - The CDPP set out the basis on which the assessment set out in the ES has been undertaken and captures the important parameters that are necessary to ensure the Proposed Development would be constructed and operated in such a way that the impacts and effects would not exceed the maximum scenario assessed in the ES.
 - In addition to the CDPP and the Works Plan, the design of the Proposed Development would also be controlled by the:

- approval and implementation of the Battery Storage Safety Management Plan (BSSMP) (Requirement 6);
 - approval and implementation of the LEMP (Requirement 7);
 - approval and implementation of the EPMS (Requirement 8);
 - approval and implementation of a BNG strategy (Requirement 9);
 - approval and implementation of temporary and permanent fencing and other means of enclosure (Requirements 10);
 - approval and implementation of a surface and foul water drainage scheme or system (Requirements 11);
 - approval and implementation of the OEMP (Requirement 14);
 - approval and implementation of the operational noise assessment (Requirement 16);
 - provision of the permissive path (Requirement 17); and
 - approval of an updated flood risk assessment and implementation of any mitigation or compensation measures identified (Requirement 22).
- The construction phase of the Scheme is controlled by the:
 - approval and implementation of temporary fencing and means of enclosure (Requirement 10);
 - approval and implementation of any surface and foul water drainage scheme or system (Requirement 11);
 - implementation of the WSI (Requirement 12);
 - approval and implementation of the CEMP (Requirement 13);
 - approval and implementation of the CTMP (Requirement 15);
 - approval and implementation of a Public Rights of Way Management Plan (Requirement 18);
 - approval and implementation of a Soil Management Plan (Requirement 19);
 - approval and implementation of a Skills, Supply Chain and Employment Plan (Requirement 20); and
 - approval of an updated flood risk assessment and implementation of any mitigation or compensation measures identified (Requirement 22).
- The operation and maintenance of the Scheme is controlled by the:
 - approval and implementation of the BSSMP (Requirement 6);
 - approval and implementation of the LEMP (Requirement 7);
 - approval and implementation of the Ecological Protection and Mitigation Strategy (Requirement 8);
 - approval of a biodiversity net gain strategy (Requirement 9);
 - approval and implementation of permanent fencing and other means of enclosure (Requirement 10);
 - approval and implementation of any surface and foul water drainage scheme or system (Requirement 11);
 - implementation of the WSI (Requirement 12);
 - approval and implementation of the OEMP (Requirement 14);
 - approval implementation of the operational noise assessment (Requirement 16);
 - provision of the permissive path (Requirement 17);

- approval and implementation of a Soil Management Plan (Requirement 19);
 - the Skills, Supply Chain and Employment Plan (Requirement 20); and
 - approval and implementation of any maintenance and monitoring requirements for any mitigation or compensation measures identified by the updated flood risk assessment (Requirement 22).
- The decommissioning of the Scheme is controlled by the approval and implementation of a Decommissioning Plan (Requirement 21).

7.2.8. The application seeks flexibility to undertake the Proposed Development within the above envelope, in particular within the maximum areas and parameters secured via the Works Plans and CDDP. As set out in ES Chapter 5 and the individual technical chapters, the environmental impact assessment has assessed the upper extent of the areas and sizes allowed by the Works Plans and CDDP. As a result, the ES has assessed a worst case, and has considered and confirmed that any scheme built within the maximum areas and parameters would have effects no worse than those assessed.

7.3. EXAMINATION OF THE dDCO

7.3.1. Discussions on the provisions contained in the dDCO were undertaken throughout the Examination and resulted in a number of changes. These were generally confined to resolving inconsistencies, providing clarification and certainty in drafting and updates resulting from agreement reached between the Applicant and IPs in ongoing discussions throughout the Examination. Details of the changes made between each version can be found in the schedules of changes made.

Table 1: Key dDCO documentation submitted into the Examination

| dDCO Version | Deadline | Examination Library Reference/ link |
|--------------|----------|--|
| 1.0 | - | [APP-016] (Application dDCO) [APP-017] (EM) |
| Revision A | - | [AS-012] (dDCO clean copy) [AS-011] (dDCO tracked changes) |
| Revision B | D1 | [REP-006] (dDCO clean copy) [REP-007] (dDCO tracked changes) [REP-053] (Schedule of changes) |

| dDCO Version | Deadline | Examination Library Reference/ link |
|-------------------------------|-----------------|---|
| Revision C | D2 | [REP2-004] (dDCO clean copy) [REP2-005] (dDCO tracked changes) [REP2-035] (Schedule of changes) |
| Revision D | Change Request | [AS-051] (dDCO clean copy) [AS-052] (dDCO tracked changes) [AS -053] (EM) [AS-054] (EM tracked changes) |
| Revision E | D3 | [REP3-004] (dDCO clean copy) [REP3-003] (dDCO tracked changes) [REP3-025] (Schedule of changes) |
| Revision F | D4 | [REP4-013] (dDCO clean copy) [REP4-014] (dDCO tracked changes) [REP4-015] (EM) [REP4-016] (EM tracked changes) [REP4-049] (Schedule of changes) |
| Revision G | D5 | [REP5-005] (dDCO clean copy) [REP5-006] (dDCO tracked changes – comparison with application version) [REP5-007] (dDCO tracked changes – comparison with Revision F) [REP5-024] (Schedule of changes) [REP5-008] (Final EM) [REP5-009] (Final EM Tracked Changes) |
| Revision of Schedule 16 only. | D6 | [REP6-003] (Applicant’s closing statements) |

- 7.3.2. We received regular updates throughout the Examination on the ongoing discussions between the Applicant and IPs on proposed amendments. An updated dDCO was submitted by the Applicant at each deadline along with a tracked changes version and a schedule of changes made.
- 7.3.3. The remainder of this section considers those parts of the dDCO where objections remained outstanding at the close of the Examination, our recommendations in respect of them and the alterations we consider are necessary to form the recommended DCO.

7.4. DCO PROVISIONS WITH OBJECTIONS OUTSTANDING

Article 4 – Operation of generating station

- 7.4.1. Article 4 of the dDCO authorises the undertaker to use and operate the generating station comprised in the authorised development. The dDCO does not include a definition of generating station.
- 7.4.2. S. 235 (1) (Interpretation) of the PA2008 provides that: ‘generating station’ has the same meaning as in Part 1 of the Electricity Act 1989 (see section 64(1) of that Act).
- 7.4.3. However, Part 1 of the Electricity Act 1989 does not actually contain a definition of *generating station* other than a specific definition in s. 64(1) of what comprises a generating station which is *wholly or mainly driven by water*. This is not relevant to generating stations comprised in solar farms.
- 7.4.4. We raised this matter in ISH5 where we asked the Applicant whether a specific definition should be included in the dDCO. In response, the Applicant stated that it considered the 1989 Act definition has been incorporated into the PA2008 by reference to it in section 235(1) of that Act. It explained that it would seek to rely on the ordinary meaning of generating station, being the place where the electricity is generated [[REP3-038](#)] and pointed to a number of cases which it considered supported its view.
- 7.4.5. We consider that including a specific definition of *generating station* in any made DCO would increase certainty as to what was included within the meaning of the term. However, we accept that, in the absence of any specific definition, the term will likely be given its ordinary meaning in line with the case law cited by the Applicant. In such circumstances, we acknowledge that the generating statement element of the Proposed Development is likely to be found to be those parts of the Proposed Development contained within Work No 1.
- 7.4.6. Nevertheless, should the SoS consider it is preferable to include a specific definition in any made Order, a new definition could be inserted in Art 2 defining “generating station” by specific reference to Work 1 in Schedule 1.

Article 7 – Defence to Proceedings in respect of statutory nuisance

- 7.4.7. Article 7 (Defence to proceedings in respect of statutory nuisance) provides that no person is able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of noise, if the noise is created in the course of carrying out the construction, maintenance or decommissioning of the Proposed Development.
- 7.4.8. WLDC has raised concerns in relation to the cumulative noise impacts that may be experienced by residents due to a number of projects being constructed concurrently in close proximity. In particular, it argues that should harm arise, the practical remedy under the terms of the dDCO would be cumbersome and the identification of the source of the harm difficult to establish, making the ability to undertake effective enforcement difficult to navigate. Instead, it has requested the removal of this Article to enable residents to seek an alternative remedy through the statutory nuisance process.
- 7.4.9. While we note the concerns raised by WLDC and other local residents, including in relation to noise from the BESS and other infrastructure, the Applicant's ES indicates that the embedded design and additional mitigation measures proposed would ensure that the construction, operation and decommissioning of the Proposed Development would not give rise to significant levels of noise, either individually or cumulatively with other planned development. We also note that the Joint Report indicates that the same conclusion is reached for the other nearby NSIPs [[REP5-025](#)].
- 7.4.10. The defence provided by Article 7 features in many made DCOs. It strikes a balance between the rights of those residing nearby not to be exposed to noise levels which unreasonably and substantially interfere with the use or enjoyment of their home or premises (or injure their health) with the recognition that noise will arise but, in many cases, can be effectively managed or mitigated to acceptable levels. We have seen no evidence which would indicate that it would not be equally effective in the present circumstances.
- 7.4.11. Consequently, we recommend the retention of this Article in the rDCO.

Article 17 - Removal of human remains.

- 7.4.12. Article 17 (Removal of human remains) deals with the removal of human remains. The EM [[REP5-008](#)] explains it has been included because the Applicant has identified the potential for the discovery of an Anglo Saxon burial ground within the Order Limits (Field G4, Cottam 1) and as a result the undertaker is not able to rule out the presence of a burial ground.
- 7.4.13. Furthermore, it notes that the legal definition of 'burial ground' does not include any exception for burial grounds of archaeological interest. This means that a clear statutory authority for removing any human remains that may be discovered is required, separate and in addition to the

management of the remains in accordance with the archaeological Written Scheme of Investigation. It considers this provision is necessary so that the discovery of any remains does not delay the implementation of the authorised development.

- 7.4.14. In ExQ1 (ExQ1.1.8), we drew the Applicant's attention to paragraph 9.2 of the SoS's decision letter in the Longfield Solar Farm DCO where the SoS removed an identical article from the draft order on the basis that there were no known burial grounds within the Order Limits. In that case it was considered the discovery for any human remains could adequately be dealt with in the written scheme of archaeological investigation.
- 7.4.15. In response, the Applicant noted that the definition of 'burial ground' is very broad and explained that Article 17 had been included to ensure that, in the event human remains were discovered during the construction of the Scheme, there is a clear, unified regime that identifies how this will be managed in order to avoid delay to the construction of the Scheme [[REP2-034](#)].
- 7.4.16. We indicated in our Schedule of Proposed Amendments to the dDCO [[PD-016](#)] that we were minded to recommend the removal of this Article for similar reasons to those set out by the SoS in the Longfield Solar Farm decision. In response, the Applicant reiterated its previous points and maintained its position that the Article should remain.
- 7.4.17. We have considered this matter carefully. While we acknowledge no specific burial grounds have been identified, we note the possibility that human remains may be discovered during construction in field G4, Cottam 1. While we accept that the discovery of human remains could be dealt with in the written scheme of archaeological investigation, we agree that Article 17 would provide a clear statutory authority for removing any remains that are discovered and ensure that the discovery of such remains would not delay the implementation of the Proposed Development unnecessarily. We therefore recommend its retention in the rDCO.

Article 44 and Schedule 9 - Deemed Marine Licence

- 7.4.18. The application dDCO included provisions for deemed consent under section 65 of the Marine and Coastal Access Act 2008 with the terms of the Deemed Marine Licence (DML) set out in Schedule 9 of the dDCO. The Applicant explained at ISH1 [[EV-012](#)] that its inclusion was to safeguard against the risk of an existing exemption falling away. However, the inclusion of the DML is opposed by the MMO.
- 7.4.19. In summary, the MMO noted [[REP2-086](#), [REP4-081](#)] that the proposed activities in Work No. 4 (for which deemed consent is sought) consist of exempt activities under Article 35 of the Marine Licensing (Exempted Activities) Order 2011 (SI 2011/409). As such, it has advised that a marine licence is not required for these works. Furthermore, it considered there was insufficient information to determine whether or not the activities contained with Work No. 6b are licensable activities.

Consequently, it strongly opposes the inclusion of a DML in the dDCO and requests that it is removed.

- 7.4.20. The Applicant provided a further update at ISH5 [[EV-041](#) and [EV-043](#)] following which we asked the MMO to provide comments on the DML on a without prejudice basis. These are included in its Deadline 4 submission [[REP4-081](#)]. Nevertheless, at the close of the Examination, the MMO was not satisfied that all of the matters it had raised with the Applicant had been addressed. Consequently, it maintained its position that no DML was required and strongly opposed its inclusion in the dDCO.
- 7.4.21. As part of our Schedule of Proposed Changes to the dDCO [[PD-106](#)], we noted that the DML was being sought on a precautionary basis. In light of the comments received from the MMO, we indicated we were minded to recommend that the DML be removed from the dDCO.
- 7.4.22. In response, the Applicant provided a detailed response [[REP5-031](#)] in which it provides further explanation for seeking the inclusion of the DML in the dDCO. Furthermore, it raises concerns that the bored tunnel exemption may be overridden by the tunnel being used for the laying of the grid connection cable and as well as pointing out that all HDD activities come with an inherent risk of 'breakout'. Should such an event occur, the Applicant considers the bored tunnel exemption would no longer apply.
- 7.4.23. We have considered all of the submissions carefully. We note the concerns expressed by the Applicant in relation to its interpretation of the MMO's Statutory Guidance and whether the laying of cables for the grid connection would override the bored tunnel exemption. However, as the independent regulator, we consider the MMO is best placed to determine whether or not any given activity is one which is licensable and the level of detail it requires to undertake a full assessment.
- 7.4.24. Indeed, as the Applicant has itself pointed out, there are a number of examples of made DCOs which contain a DML, the inclusion of which has been supported by the MMO. However, in the present case we consider that, in view of the identified exemption, coupled with the lack of detailed information which would enable a full assessment to be carried out by the MMO on whether the activities contained within Work No.6 are licensable activities, the MMO's concerns are well founded.
- 7.4.25. Furthermore, we note ES Chapter 9 (Ecology and Biodiversity) [[APP-044](#)] identifies a number of measures to minimise the risks associated with HDD. These are secured in the Ecological Protection and Mitigation Strategy [[APP-356](#)]) and would go some way to ensuring the risk of breakout is minimised. Likewise, while we note the potential for additional administrative burden in the event that a separate application becomes necessary, we do not consider this provides sufficient reason for the inclusion of a DML against the clear advice of the independent regulator. Indeed, we have seen no evidence which would indicate that the inclusion of the DML is anything but precautionary.

7.4.26. Consequently, we are not persuaded that the inclusion of the DML has been sufficiently justified and therefore recommend the removal of Article 44 and Schedule 9 from the dDCO. In addition, there are a number of consequential amendments which flow from this which are listed in Table 2 below.

Schedule 2, Requirement 12 – Written Scheme of Archaeological Investigation

7.4.27. We queried during the Examination whether Requirement 12 should be amended so that it would provide for a WSI to be submitted to and approved in writing by the relevant planning authority. We also considered that the requirement should set out the details which the WSI should include. Under our proposed wording, the WSI [[REP5-012](#)] would become an outline document and would require the final WSI to substantially accord with it. This was rejected by the Applicant on the basis that the WSI as was amended during the Examination should be considered as a final document.

7.4.28. While not favoured by the Applicant, it also submitted the WPWSI [[REP5-035](#)] which includes a programme for further archaeological trenching post-determination, matching the percentage area sample of trenching undertaken for the Gate Burton Solar project, in advance of the construction of the Proposed Development. In line with our conclusions in [Section 3.7](#) of this Recommendation, we consider that the WSI should be replaced with the WPWSI as a certified document.

Schedule 2, Requirement 21 (Decommissioning and restoration)

7.4.29. At the start of the Examination, Requirement 21 contained no timescale within which the Proposed Development would be decommissioned. We raised this matter with the Applicant at ISH1 where we were referred to 2024 NPS EN-3 which indicates that applicants can seek a consent for solar projects without a time limit. It also noted that a time limit is not typically imposed on other types of energy generation.

7.4.30. However, we noted that many of the assessments had been undertaken on the basis that decommissioning would take place following the cessation of energy generation and at ISH1 asked the Applicant to clarify how the absence of any timescale for decommissioning affected the assessments undertaken as part of its ES. In response, the Applicant stated that it committed to decommissioning the Proposed Development once it is no longer in use.

7.4.31. Following further discussion and concerns raised by IPs, the Applicant amended Requirement 21 to require decommissioning to take place no later than 60 years following the date of final commissioning and to require the decommissioning plan to be provided to the relevant planning authority at least 12 months before the intended date of decommissioning. Furthermore, it made a number of other amendments to this requirement to address the concerns raised by the Host

Authorities. Full details can be found in the Schedule of Changes [[REP5-024](#)].

- 7.4.32. We are content that the inclusion of a time limit within which decommissioning must take place provides a suitable mechanism to ensure that the Proposed Development would not remain *in situ* in perpetuity.

Protective Provisions

Schedule 16, Part 3 – For the Protection of National Grid Energy Transmission Plc

- 7.4.33. At the close of the Examination, the PPs included by the Applicant for the benefit of NGET had not been agreed. NGET provided its preferred version at Deadline 6 [[REP6-015](#)].
- 7.4.34. We have considered the differences between the Applicant’s proposed PPs and those of NGET carefully. We note the main differences relate to levels of insurance and security, and time limits on the exercise by NGET of its power to require the removal of its retained apparatus under 26(9).
- 7.4.35. In general, we consider levels of insurance and security are best left to the parties to agree between themselves and note that they are actively pursuing a separate side agreement which will address these points. Furthermore, we are mindful that NGET has not provided any explanation as to how the Applicant’s preferred form of PPs would result in any serious detriment to its undertaking. We also note that a similar form of PPs to that submitted by the Applicant has been included in a number of other, recently made energy DCOs. We therefore recommend the Applicant’s preferred form of PPs is included in the rDCO.
- 7.4.36. We do, however, note that NGET’s preferred wording in relation to paragraph 26(9) is more aligned with PPs that have been included for the benefit of NGET in a number of recently made energy DCOs. No detailed explanation has been provided by the Applicant to justify taking a different approach. We therefore consider that the wording of this provision should be amended to align with that proposed by NGET. Details of our proposed amendment can be found in Table 2 below.
- 7.4.37. NGET indicated in its Deadline 6 response [[REP6-015](#)] that it would continue to work proactively with the Applicant on final form documents following the close of the Examination and will provide the SoS with updates on progress during the decision making stage. The SoS may therefore receive correspondence on this point from either NGET or the Applicant during the decision stage.

Schedule 16, Part 14- for the Protection of Uniper UK Limited

- 7.4.38. Discussions continued throughout the Examination between the Applicant and Uniper in relation to suitable PPs and an associated asset agreement

or crossing agreement. However, at the close of the Examination agreement on the final form of PPs had not been reached [[REP6-017](#)].

- 7.4.39. As we make clear in [Section 6](#) above, we consider the PPs included by the Applicant are sufficient to ensure that there would be no serious detriment to Uniper's undertaking. In the absence of any detailed objections to the Applicant's proposed wording, we consider the PPs included are sufficient to ensure that its land, interests and apparatus is protected. We therefore recommend the inclusion of the Applicant's preferred form of PPs set out in Schedule 16, Part 14 of the Applicant's closing statement [[REP6-003](#)]. These have been included in the rDCO.

Schedule 16, Part 18 - For the Protection of EDF Energy (Thermal Generation) UK Limited

- 7.4.40. The PPs provided by the Applicant are substantially agreed by EDF. However, at the close of the Examination disagreement remained over the inclusion of Paragraphs 239(1), (2), (4) and (5) of Schedule 16, Part 18. These are omitted from the PPs provided by the Applicant at Deadline 6. Details of the wording sought by EDF can be found in [[REP6-013](#)].
- 7.4.41. As we make clear in [Section 6 above](#), we consider the inclusion of EDF's proposed wording is necessary to ensure that there would be no serious detriment to its undertaking due to unforeseen circumstances. We also make clear that we consider such consent should be subject to the test of reasonableness to ensure that the withholding of such consent would need to be for a critically important reason. Details of our recommended changes can be found in Table 2 below.
- 7.4.42. The Applicant indicated in its Deadline 6 response that discussions were ongoing to agree a voluntary property agreement for the necessary rights to construct, use and maintain the grid connection over EDF's land. The SoS may therefore receive correspondence on this point from the Applicant or EDF during the decision stage.

Schedule 16, Part 19 – For the protection of Blyton Park Driving Centre

- 7.4.43. The Applicant included updated PPs for the benefit of Blyton Park Driving Centres in its preferred form of PPs submitted at Deadline 6. These aim to ensure that the Proposed Development does not interfere with LNT's ability to implement their planning permission for the Automotive Research and Development Centre and to ensure that the Scheme will not impact upon the current or potential future operations of the Blyton Park Driving Centre.
- 7.4.44. In summary, the PPs require LNT's approval of the works details (including the plans, section drawings and method statement to demonstrate that the Scheme and the Blyton Park Driving Centre can coexist without significant detriment to each other) prior to the commencement of Work No. 1C in any of the restricted land (being the land over which LNT Group has indicated could have an impact on its

operations). They also contain provisions which ensure that should LNT notify the undertaker of its intention to implement its planning permission in Plot No. 01-006, the undertaker would not install panels on that land.

- 7.4.45. Overall, we are content that the PPs included by the Applicant provide sufficient protection to ensure that the Proposed Development and the Blyton Park Driving Centre can co-exist without significant detriment to either of the two uses. We therefore recommend their inclusion in the rDCO.

Schedule 17 – Discharge of requirements

- 7.4.46. A number of points were raised during the Examination by the Host Authorities in relation to Schedule 17 and a number of amendments were made by the Applicant to address them. In addition, the Applicant made various updates to ensure that it accorded with the updated drafting on the Gate Bruton draft DCO in order to ensure consistency. These included, amongst other things, increasing the period for determining an application for consent under the requirements from 8 to 10 weeks and additional drafting in relation to fees. Full details of the various changes can be found in the Applicant’s final Schedule of Changes [[REP5-024](#)] and the consolidated version of the dDCO [[REP5-006](#)].
- 7.4.47. However, at the close of the Examination, WLDC maintained a strong objection to the inclusion of paragraph 2(3) of Schedule 17 which provides that in the event that the relevant planning authority does not determine an application within the 10 week period set out in paragraph 2(2), it is to be taken to have granted all parts of it (without any condition or qualification) (hereinafter referred to as the ‘deemed consent provision’).
- 7.4.48. WLDC’s concerns are essentially two-fold: Firstly, it objects to the principle of including the deemed consent provision; and secondly, it is concerned that a number of applications for discharge of the requirements could be received along with those for other nearby NSIPs (currently in Examination or being considered by the SoS), placing significant pressures on its ability to determine them within the 10 week period.
- 7.4.49. Having considered all parties submissions on this point, we acknowledge that the inclusion of the deemed consent provision is intended to prevent delays and provide certainty to the Applicant. While we note that the time period itself varies, the inclusion of such a provision is a regular feature in a number of made DCOs and we see no reason for the SoS to take a different approach in the present case.
- 7.4.50. However, we acknowledge that there is a possibility that, due to the number of potential projects being undertaken in its administrative area, WLDC could receive a number of applications to discharge requirements at the same time or close together. This has the potential to place a considerable resource burden on the Council. As such, we consider a 13-

week period for the Council to consider applications would strike the correct balance between the Council’s ability to fully consider the applications whilst ensuring any delay is kept to a minimum.

7.4.51. Consequently, we recommend that the 10-week period set out in paragraph 2(2) of Schedule 17 is increased to 13 weeks.

7.5. EXA’S PROPOSED CHANGES

7.5.1. In light of our conclusions above, we consider the changes set out in Table 2 below should be made to the Applicant’s dDCO to form the rDCO included at [Annex C](#).

Table 2: Recommended changes to Revision G of the dDCO

| Provision | Recommendation | ExA Reasoning |
|--|---|--|
| Article 2 – Interpretation <i>Definition or MMO</i> | Removal of the definition of ‘MMO’ in its entirety | Consequential amendment arising from removal of Article 44 and Schedule 9. |
| Article 35(4) | Removal of (4) in its entirety. | Consequential amendment arising from removal of Article 44 and Schedule 9. |
| Article 42 - Arbitration | Removal of the words: <i>‘...or the Marine Management Organisation...’</i> | Consequential amendment arising from removal of Article 44 and Schedule 9. |
| Article 44 – Deemed Marine Licence | Removal of Article in its entirety | The DML has been included on a precautionary basis and is strongly opposed by the MMO. Some of the activities for which a license is sought are exempt activities under Article 35 of the Marine Licensing (Exempted Activities) Order 2011. |
| Schedule 9 - Deemed Marine Licence | Removal in its entirety | The DML has been included on a precautionary basis and is strongly opposed by the MMO. Some of the |

| Provision | Recommendation | ExA Reasoning |
|--|---|---|
| | | <p>activities for which a license is sought are exempt activities under Article 35 of the Marine Licensing (Exempted Activities) Order 2011.</p> <p>The terms of the DML are opposed by the MMO as statutory regulator.</p> |
| Schedule 14, Part 1 | Replacement of document EN0110133/APP/C6.3.13.7 Revision B dated February 2024 with document EN010133/APP/C8.2.14 Revision 1 dated February 2024. | In line with our conclusions in Section 3.7 of this Recommendation, we consider that the WPWSI should replace the WSI as a certified document in Schedule 14. |
| Schedule 14 | Various updates to document references in part 1 and part 2. | To address typographical or other errors in the documents as listed. |
| Schedule 16, Part 8, Paragraph 101 | Removal of words ' ..., but must be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Business, Energy and Industrial Strategy acting jointly on a reference to them by the undertaker or the Board, after notice in writing by one to the other'. | We do not consider it necessary for the SoS to act as Arbitrator. |
| Schedule 16, Part 13, Paragraph 170(6) | Removal of the words: '...or Part 2 of Schedule 9 (Deemed marine licence under the 2009 Act)' | Consequential amendment arising from removal of Article 44 and Schedule 9. |

| Provision | Recommendation | ExA Reasoning |
|--|--|--|
| Schedule 16, Part 13, Paragraph 173(5) | Removal of the words: ' <u>...or Part 2 of Schedule 9 (Deemed marine licence under the 2009 Act)</u> ' | Consequential amendment arising from removal of Article 44 and Schedule 9. |
| Schedule 16, Part 3, Paragraph 26(9) | Removal of paragraph 26(9) in its entirety and replacement with the following: (9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2). | The wording proposed by the Applicant differs to that included in PPs for the benefit of NGET in a number of recently made energy DCOs. No detailed explanation has been provided by the Applicant to justify taking a different approach. |
| Schedule 16, Part 18, Paragraph 239 | Removal in its entirety and replacement with: " (1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of or entry to any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or | To ensure there would be no serious detriment to EDF's undertaking as a result of the exercise of CA powers by the Applicant. [Note. The wording proposed is included in EDF's preferred form of PPs submitted at Deadline 6. Underlined text denotes our recommended addition to make consent explicitly subject to the test of reasonableness]. |

| Provision | Recommendation | ExA Reasoning |
|-----------|--|---------------|
| | <p>apparatus of EDF otherwise than by agreement, <u>such agreement not to be unreasonably withheld.</u></p> <p>(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between EDF and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of EDF or affect the provisions of any enactment or agreement regulating the relations between EDF and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as EDF reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between EDF and the undertaker acting reasonably and which must be no less favourable on the whole to EDF unless otherwise agreed by EDF, and the undertaker will use reasonable endeavours to procure or secure (or both) the consent and entering into of such</p> | |

| Provision | Recommendation | ExA Reasoning |
|-----------|---|---------------|
| | <p>deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.</p> <p>(3) Save where otherwise agreed in writing between EDF and the undertaker, the undertaker and EDF agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by EDF or other enactments relied upon by EDF as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule will prevail.</p> <p>(4) As a condition of an agreement between the parties in sub-paragraph (1) which relates to taking temporary access rights during construction over EDF's land, EDF may ensure that it retains flexibility to alter any construction routes (within the Order Limits) or to limit access for certain time periods, and may require the undertaker to</p> | |

| Provision | Recommendation | ExA Reasoning |
|-----------------------------|--|--|
| | <p>pay any reasonable security and maintenance costs involved in the grant of any such rights.</p> <p>(5) Any agreement or consent granted by EDF under paragraph 9 or any other paragraph of this Part of this Schedule, are not to be taken to constitute agreement under sub-paragraph (1).</p> | |
| Schedule 17, Paragraph 2(2) | Remove the words...ten weeks...' and replace with '...thirteen weeks...' | 1.1.1. Consequently, we recommend that the 10-week period set out in paragraph 2(2) of Schedule 17 is increased to 13 weeks. |

7.6. OTHER PARTICULAR CONSIDERATIONS

CROWN LAND

Article 49

- 7.6.1. Section 135(2) of the PA2008 precludes a DCO from including any provision applying to Crown Land or Crown rights without consent from the appropriate Crown authority. This is not limited to CA provisions in a DCO.
- 7.6.2. Crown Land has been identified within the Order Limits as shown by Plots 17-349 and 17-347 on the Crown Land Plan [[AS-009](#)]. This land relates to the land required as part of the proposed grid connection route where it crosses the River Trent. As is made clear in [Section 6](#) above, this land is excluded from the scope of CA powers by virtue of Article 49 of the rDCO.
- 7.6.3. The Applicant noted at ISH1 [[EV-012](#), [EV-014](#) and [EV-016](#)] that it was in contact with the Crown Estate's solicitors to obtain consent prior to the close of the Examination. However, it noted that, as the Crown Estate is involved in a number of DCOs, consent can sometimes be delayed.
- 7.6.4. We requested an update at ExQ2 (ExQ2.1.5) from both the Applicant and the Crown Estate. In response, the Applicant confirmed it was engaged with solicitors acting for the Crown Estate in relation to obtaining the necessary consents and was confident that they would be obtained

during the course of the Examination. No response was received from the Crown Estate. We were kept updated throughout the Examination by the Applicant. However, at the close of the Examination, such consent had not been obtained.

7.6.5. Nevertheless, we note that the Applicant has been actively engaged with the Crown Estate in order to obtain Crown Consent. Furthermore, we note that while not ideal, it is not unusual for such consent to be provided during the determination period.

7.6.6. Consequently, while the absence of Crown Consent under sections 135 of the PA2008 is at present an impediment to implementation of the consent, and the Proposed Development could not proceed without it, we note that the Applicant is confident that such consent will be obtained. We have therefore assumed consent will be in place before the SoS makes a decision on the Application.

7.7. STATUTORY NUISANCE

7.7.1. The application is accompanied by a Statutory Nuisance Statement (SNS) in accordance with regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 [[APP-209](#)]).

7.7.2. Having reviewed the SNS, we are content that the Applicant has appropriately identified the scope of potential nuisance sources from the construction and operation of the Proposed Development. It identified no effects that are likely to result in nuisance and concludes that no additional mitigation is necessary. We agree with this conclusion.

7.7.3. Article 7 of the dDCO contains a defence to proceedings in respect of statutory nuisance. As noted above, this Article is of a type commonly provided for in NSIPs and its drafting is based on other made DCOs. We agree that the necessary steps to reduce the risk of nuisance events have been taken and that this provision is an appropriate provision against circumstances where unforeseen but unavoidable nuisance occurs.

7.8. CONCLUSIONS

7.8.1. We have considered all versions of the dDCO as set out in Table 1 above and considered the degree to which the final dDCO has addressed matters arising during the Examination. We are satisfied that the Requirements set out in revision G of the dDCO provide mitigation for potential adverse effects identified in the ES and sufficiently address the issues raised during the course of the Examination.

7.8.2. Subject to the changes set out in Table 2 above, and some minor changes to punctuation and/ or formatting which do not affect meaning, the recommended DCO at Appendix C is identical to Revision G (save that Schedule 16 reflects the Applicant's preferred form of PPs submitted at Deadline 6 [[REP6-003](#)]).

- 7.8.3. Taking all matters raised in this chapter and all matters relevant to the DCO raised in the remainder of this Recommendation fully into account, if the SoS is minded to make the Order, we recommend it should be made in the form set out in [Annex C](#).

8. SUMMARY OF FINDINGS AND CONCLUSIONS

8.1. INTRODUCTION

8.1.1. This section summarises our conclusions and sets out our recommendation to the SoS.

8.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

8.2.1. In reaching our conclusions, we have had regard to the LIRs produced by LCC, NCC, WLDC and BDC.

8.2.2. As we have noted in Chapter 5 above, the urgent need for energy generation of all types is established through the 2011 NPSs and is carried forward into the 2024 NPSs. We consider the Proposed Development would make a meaningful contribution to meeting this need, would help in the transition to a low carbon system and would generally be in accordance with the both the 2011 NPSs and the 2024 NPSs.

8.2.3. As such, in relation to s105 of the PA2008, we conclude:

- that making the recommended dDCO would be in accordance with 2011 NPS EN-1, 2011 NPS EN-5, 2024 NPS EN-1, 2024 NPS ENS-3 and 2024 NPS EN-5. We also consider it would be generally in accordance with the NPPF and the local development plans as a whole and with other relevant policy, all of which have been considered in this Recommendation;
- the Proposed Development would have no significant adverse effects that would outweigh its benefits and there is nothing to indicate that the application should be decided other than in accordance with the relevant policies we have identified in this Recommendation;
- with regard to all other matters and representations received, we have found no relevant matters that would individually or collectively lead to a different recommendation to that below.

8.2.4. Furthermore, we are satisfied that there would be no likely significant effects on protected sites and that there is sufficient information before the SoS to enable them to conclude that an AA is not required.

8.2.5. In relation to the application for CA and TP powers, we conclude:

- The application site has been appropriately selected.
- All reasonable alternatives to CA have been explored.
- The Applicant would have access to the necessary funds and the rDCO provides a clear mechanism whereby the necessary funding can be guaranteed.
- There is a clear need for all the land included in the BoR to be subject to CA or TP.
- There is a need to secure the land and rights required to construct, operate and maintain the Proposed Development within a reasonable

timeframe, and the Proposed Development represents a significant public benefit to weigh in the balance.

- The private loss to those affected has been mitigated through the selection of the land; the minimisation of the extent of the rights and interests proposed to be acquired and the inclusion, where relevant, of PPs in favour of those affected.
- That in all cases relating to individual objections and issues that CA and TP is justified to enable implementation of the Proposed Development.
- The powers sought satisfy the conditions set out in s122 and s123 of the PA2008 as well as the CA Guidance.
- The powers sought in relation to SUs meet the conditions set out in s127 and s138 of the PA2008 and the CA Guidance.
- there is a compelling case in the public interest for the CA and TP powers sought.
- That the case for CA and TP powers has been made out and that the proposed interference with the human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate degree.

8.2.6. We have had regard to the Public Sector Equality Duty (PSED) throughout the Examination, including the method by which hearings and site inspections were undertaken, and in producing this Recommendation. The Proposed Development does not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, we consider there is no breach of the PSED.

8.2.7. In reaching our conclusions, we have considered the cumulative effects of the Proposed Development with other committed and planned development, including the other proposed solar NSIPs identified during the Examination.

8.2.8. We are satisfied that the mitigation hierarchy has been fully explored and the mitigation proposed has been secured by the requirements and other controls included in the rDCO. However, as our recommendation is already in favour of the Proposed Development, we do not consider it is necessary to apply the further tests set out in 2024 NPS EN-1 in relation to Critical National Priority.

8.3. RECOMMENDATION

8.3.1. For all of the above reasons, and having had regard to the LIRs produced by LCC, WLDC, NCC and BDC, as well as our findings and conclusions on important and relevant matters set out in this Recommendation, we conclude that the case for the development has been made and that, subject to the necessary Crown consent being obtained, development consent should be granted through a DCO in the form recommended in Annex C.

ANNEX A: KEY LEGISLATION AND POLICY

NATIONAL POLICY STATEMENTS

2011 Overarching National Policy Statement for Energy

- 2011 NPS EN-1 sets out general principles and generic impacts to be taken into account in considering applications for energy NSIPs. All other energy NPSs sit under the policy framework provided by this NPS. It provides the primary basis for determining if development consent should be granted. All other energy NPSs are used together with this NPS.
- 2011 NPS EN-1 sets out the United Kingdom Government's commitment to increasing renewable generation capacity and recognises that, in the short to medium term, much of the new capacity is likely to come from onshore and offshore wind. Paragraph 3.3.11 recognises the intermittent generating capability of some renewable technologies such as wind, solar and tidal. Paragraph 3.3.12 states *"There are a number of other technologies which can be used to compensate for the intermittency of renewable generation, such as electricity storage..."* and *"these technologies will play important roles in a low carbon electricity system..."*. In paragraph 3.3.31 it is explained that *"... electrical energy storage allows energy production to be decoupled from its supply, and provides a contribution to meeting peak demand ..."*.
- 2011 NPS EN-1 sets out overarching policy, including good design principles, and has effect for decision making in combination with the five technology specific NPSs, NPS EN-2 to NPS EN-6, for energy *"... developments that fall within the scope of the NPSs."* (paragraph 1.1.1 of 2011 NPS EN-1). Under section 104(2)(a) of the PA2008 the SoS must have regard to any NPS which has effect in relation to the development to which an application relates. However, paragraph 1.4.5 of 2011 NPS EN-1 states *"The generation of electricity from renewable sources other than wind, biomass or waste is not within the scope of this NPS"*. The Proposed Development, as a solar generating station, is expressly excluded from 2011 NPS EN-1's scope.
- In as far as 2011 NPS EN-1 sets out the Government's energy planning policy, and explains the need for new energy infrastructure, it is capable of being considered as important and relevant for the purposes of the determination of this application under section 105 of the PA2008.

2011 National Policy Statement for Electricity Networks

- 2011 NPS EN-5 (July 2011) concerns long distance transmission systems (400 kilovolts (kV) and 275kV lines) and distribution systems (lower voltage lines from 132kV to 230V from transmission substations to the end-user); and associated infrastructure, for example

substations and converter stations that facilitate the conversion between direct and alternating current.

- New substations and a lower voltage distribution system forms part of the Proposed Development. These elements would be associated development for the purposes of section 115 of the PA2008, being central to how the proposed electricity would be exported or imported. To this extent, NPS EN-5 is capable of being considered as important and relevant for the purposes of the determination of this application under section 105 of the PA2008.

2024 National Policy Statement for Energy

- 2024 NPS EN-1 recognises the need for new nationally significant energy infrastructure. Paragraph 3.3.20 acknowledges solar as one of the *“lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply.”*
- The transitional provisions included in the 2024 NPSs set out they will only have effect in relation to those applications accepted for Examination after the designation of those amendments. However, any such NPSs are potentially capable of being important and relevant considerations in the decision-making process. As such, we have had regard to 2024 NPS EN-1 in the Recommendation. The same applies to 2024 NPS EN-3 and 2024 NPS EN-5 below.

2024 National Policy Statement for Renewable Energy 2024

- Revised NPS EN-3 states in paragraph 2.10.9 that *“solar is a key part of the government’s strategy for low-cost decarbonisation of the energy sector.”* Paragraph 2.10.10 goes on to say that *“Solar also has an important role in delivering the government’s goals for greater energy independence.”*

2024 National Policy Statement for Electricity Networks 2024

- 2024 NPS EN-5 acknowledges in paragraph 1.1.1 that *“the security and reliability of the UK’s current and future energy supply is highly dependent on having an electricity network which will enable the new electricity generation, storage, and interconnection infrastructure that our country needs to meet the rapid increase in electricity demand required to transition to net zero, while maintaining energy security.”*

SUMMARY OF RELEVANT LEGISLATION

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

- The EIA Regulations provide the legislative framework for the EIA of the Proposed Development. The EIA Regulations originate from EU Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment. These regulations define the procedure by which information about the environmental effects for projects is collated and then evaluated by the relevant decision maker, as part of the decision-making process.

The Conservation of Habitats and Species Regulations 2017

- These came into force on 30 November 2017 and give effect to the Habitats Directive (92/43/EEC) and Wild Birds Directive (2009/147/EC). Following the UK's departure from the EU, these were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 in order to ensure they continue to operate effectively. Most of these changes involve transferring functions from the European Commission to the appropriate authorities in England and Wales.

The Water Framework Directive

- The WFD is transposed into UK law in England and Wales through The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. The WFD establishes a framework for water policy and managing the quality of receiving waters. Amongst other objectives, the WFD seeks to prevent the deterioration of surface water bodies, groundwater bodies and their ecosystems and improve the quality of surface water and groundwater bodies by progressively reducing pollution and by restoration. There are 10 WFD surface water bodies which lie within the operational catchments of the River Trent and tributaries, and the Upper Witham.

Air Quality Directive and UK Air Quality Strategy

- Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe entered into force on 11 June 2008. It sets Limit Values (LV) for compliance and establishes control actions where the LVs are exceeded for ambient air quality with respect to sulphur dioxide, nitrogen dioxide and mono-nitrogen oxides, particulate matter, lead, benzene and carbon monoxide. The Air Quality Standards Regulations 2010 give direct statutory effect to the Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe.
- The UK Air Quality Strategy establishes the UK framework for air quality improvements. It establishes a long-term vision and offers options to reduce the risk to health and the environment from air pollution. Individual plans prepared beneath its framework provide more detailed actions to address LV exceedances for individual pollutants. In turn, these plans set the framework for action in specific local settings where LV exceedances are found, including the designation of Clean Air Zones and more localised AQMAs where Air Quality Management Plans are prepared by local authorities.
- This Directive is of relevance because of the potential effect on air quality from the Proposed Development, especially during construction and decommissioning.

Control of Pollution Act 1974

- The Control of Pollution Act 1974 (CPA1974) provides the main legislation regarding demolition and construction site noise and vibration. If noise complaints are received, notices under section 60 of the CPA1974 can be issued by local authorities with instructions to cease work until specific conditions to reduce noise have been

adopted. Section 61 of the CPA1974 provides a means for applying to local authorities for prior consent to carry out noise generating construction activities. Once prior consent has been agreed under section 61, section 60 notices cannot be served if section 61 consent conditions are being adhered to. This legislation requires BPM to be applied to the control of construction noise.

The Wildlife and Countryside Act 1981

- The Wildlife and Countryside Act 1981 (WACA1981) is the primary legislation for protecting certain habitats and species in the UK. It provides for and protects wildlife, nature conservation, countryside protection, National Parks and PRowS. If a species protected under the WACA1981 is likely to be affected by a development, a protected species licence will be required from Natural England. The WACA1981 is relevant to the submitted application because there are PRowS crossing the Order Limits and some protected species are also present.

Environmental Protection Act 1990

- Section 79(1) of the Environmental Protection Act 1990 identifies a number of matters which are considered to be a statutory nuisance. This can include noise, smoke, fumes, dust and artificial light (not exclusively). We have had regard to this legislation in view of the implications on living conditions.

The Protection of Badgers Act 1992

- The Protection of Badgers Act 1992 proscribes offences relating to badgers, including interfering with badger setts, together with exceptions and licences and enforcement and penalties. We have had regard to this legislation in view of the biodiversity implications.

The Hedgerow Regulations 1997

- The Hedgerow Regulations 1997 (as amended) protect important hedgerows with licencing and enforcement and penalties. We have had regard to this legislation and in preparing this Recommendation.

Human Rights Act 1998

- The HRA1998 sets out a number of articles that concern the exercising of human rights and freedoms guaranteed under the European Convention on Human Rights. Such rights are either absolute, limited or qualified. The HRA1998 is applicable in the conduct of this Examination and reporting and to the SoS in decision-making.

The Countryside and Rights of Way Act 2000

- The Countryside and Rights of Way Act 2000 (as amended) includes provisions concerning PRowS and access to land. This legislation is relevant because PRowS cross the Order limits.

Natural Environment and Rural Communities Act 2006

- The Natural Environment and Rural Communities Act 2006 (NERCA2006) makes provisions for bodies concerned with the natural environment and rural communities. It includes a duty that every public body must have regard to the conservation of biodiversity in exercising its functions, so far as is consistent with the proper exercising of those functions. We have had regard to NERCA2006 and biodiversity in preparing this Recommendation.

Climate Change Act 2008

- S10(3)(a) of the PA2008 requires the SoS to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS. This duty has been addressed in Section 3 of this Recommendation. The Climate Change Act 2008 also established statutory climate change projections.
- Following the implementation of the Climate Change Act 2008 (2050 Target Amendment) Order 2019, it is the duty of the Government to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline.

Equality Act 2010

- Section 149 of the Equality Act 2010 (EA2010) established a duty (the Public Sector Equality Duty) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable in the conduct of this Examination and reporting and to the SoS in decision-making.

The Infrastructure Planning (Decisions) Regulations 2010

- The Infrastructure Planning (Decisions) Regulations 2010 prescribe a list of matters to which the SoS under s103 of the PA2008 must have regard to when taking decisions on applications for NSIPs.
- Regulation 3 requires, when deciding an application which affects an LB or its setting, area CoA or a SM monument or its setting the decision-maker must have regard to the desirability of preserving the LB or its setting or any features of special architectural or historic interest which it possesses, the desirability of preserving or enhancing the character or appearance of a CoA and the desirability of preserving an affected SM or its setting. This duty has been addressed in Sections 3 and 5 of this Recommendation.

NATIONAL PLANNING POLICY FRAMEWORK, PLANNING PRACTICE GUIDANCE AND WRITTEN MINISTERIAL STATEMENTS

National Planning Policy Framework

- The most up to date version of the NPPF was published on 20 December 2023. It sets out the Government's planning policies for England and how these are expected to be applied, for the purposes of making Development Plans and deciding applications for planning permission and related determinations under the Town and Country Planning Act 1990 (as amended).

- Paragraph 5 of the NPPF states: *“The Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework). ...”*
- The NPPF is an important and relevant matter to be considered as part of the decision making for the submitted application as solar generation lies outside of the scope of 2011 NPS EN-1. The 2024 NPSs have also incorporated policies from the NPPF. We have therefore had regard to the relevant NPPF policies during the Examination and those policies are referred to in Section 3 of this Recommendation.

Planning Practice Guidance

- The accompanying PPG provides additional guidance to be applied alongside the NPPF. The PPG: Renewable and low carbon energy provides guidance for various renewable energy generating technologies, including solar energy generation. We consider that the guidance provided in this PPG, most particularly paragraph 013, is important and relevant to the determination of this application. The same applies as regards PPG: Natural Environment and PPG: Noise.. We have referred to that guidance in the PPG in Section 3 of this Recommendation.

Written Ministerial Statements

- We have also considered the Written Ministerial Statement Planning Update (2015) and the Written Ministerial Statement Solar and protecting our Food Security and Best and Most Versatile (BMV) Land (2024) in this Recommendation. This is because they concern agricultural land, BMV land and food security.

DEVELOPMENT PLANS

Central Lincolnshire Local Plan (2023)

- Policy S1: The Spatial Strategy and Settlement Hierarchy
- Policy S2: Level and Distribution of Growth
- Policy S5: Development in the Countryside Parts E and F
- Policy S10: Supporting a Circular Economy
- Policy S11: Embodied Carbon
- Policy S14: Renewable Energy
- Policy S15: Protecting Renewable Energy Infrastructure
- Policy S16: Wider Energy Infrastructure
- Policy S17: Carbon Sinks
- Policy S20: Resilient and Adaptable Design
- Policy S21: Flood Risk and Water Resources
- Policy S28: Spatial Strategy for Employment
- Policy S29: Strategic Employment Sites
- Policy S31: Important Established Employment Areas
- Policy S43: Sustainable Rural Tourism
- Policy S45: Strategic Infrastructure Requirements

- Policy S49: Parking Provision
- Policy S47: Accessibility and Transport
- Policy S53: Design and Amenity
- Policy S54: Health and Well Being
- Policy S56: Development on Land Affected by Contamination
- Policy S57: The Historic Environment
- Policy S58: Protecting Lincoln, Gainsborough and Sleaford's Setting and Character
- Policy S59: Green and Blue Network
- Policy S60: Protecting Biodiversity and Geodiversity
- Policy S61: Biodiversity Opportunity and Delivering Measurable Net Gains
- Policy S62: Area of Outstanding Natural Beauty and Areas of General Landscape Value
- Policy S66: Trees, Woodland and Hedgerows
- Policy S67: Best and Most Versatile Agricultural Land

Bassetlaw Core Strategy & Development Management Policies DPD (2011)

- Policy CS1: Settlement Hierarchy
- Policy CS9: All Other Settlements
- Policy DM4: Design & Character
- Policy DM7: Securing Economic Development
- Policy DM8: The Historic Environment
- Policy DM9: Green Infrastructure; Biodiversity & Geodiversity; Landscape; Open Space and Sport Facilities
- Policy DM10: Renewable & Low Carbon Energy
- Policy DM12: Flood Risk, Sewerage & Drainage
- Policy DM13: Sustainable Transport

Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Management Policies (2016)

- Policy M2: Providing an Adequate Supply of Sand and Gravel
- Policy M11: Safeguarding of Mineral Resources
- Policy W1: Future Requirements for New Waste Facilities
- Policy W8: Safeguarding Waste Management Sites

Nottinghamshire Minerals Local Plan (2021)

- Policy SP7: Minerals Safeguarding, Consultation Areas and Associated Minerals Infrastructure
- Policy MP2: Sand and Gravel Provision

Nottinghamshire and Nottingham Replacement Waste Local Plan Part 1: Waste Core Strategy (2013)

- WCS2: Waste Awareness, Prevention and Reuse
- WCS10: Safeguarding Waste Management Sites

Corringham Neighbourhood Plan 2021 to 2036 (2021)

- Policy CNP1: Sustainable Development Principles
- Policy CNP5: Local Character and Design of New Development
- Policy CNP6: Key Views

- Policy CNP7: Designated Heritage Assets
- Policy CNP9: Protecting and Enhancing Archaeological Sites
- Policy CNP10: Existing Open Spaces and Recreation Facilities
- Policy CNP12: Development in the Countryside
- Policy CNP13: Nature Conservation and Biodiversity
- Policy CNP15: Employment
- Policy CNP16: Transport and Active Travel

Glentworth Neighbourhood Plan 2018 to 2036 (2019)

- Policy 2: Local Green Space
- Policy 3: Design and Character of Development
- Policy 5: Green Infrastructure

Hemswell and Harpswell Neighbourhood Plan (2022)

- Policy 5: Protecting the Wider Landscape Character and Setting of the Neighbourhood Plan Area
- Policy 8: Designated Local Green Spaces
- Policy 10: Public Rights of Way

Sturton by Stow and Stow Neighbourhood Plan 2019 – 2036 (2022)

- Policy 1: Sustainable Development
- Policy 5: Delivering Good Design
- Policy 7: Employment and Business Development
- Policy 9: Protected Views
- Policy 10: Local Green Space
- Policy 11: Green Infrastructure
- Policy 12: Environmental Protection
- Policy 13: Flood Risk
- Policy 15: Walking and Cycling

Rampton & Woodbeck Neighbourhood Plan 2019 – 2037 (2022)

- Policy 5: Development Principles
- Policy 7: Local Green Space
- Policy 8: Local Economy
- Policy 10: The Protection of the Parish Landscape

Treswell and Cottam Neighbourhood Plan (2017)

- Policy 1: Development in Treswell and Cottam
- Policy 6: Design Principles

OTHER RELEVANT POLICIES

National Policies

- Energy White Paper: Powering our Net Zero Future (2020);
- National Infrastructure Strategy (2020);
- A Green Future: Our 25 Year Plan to Improve the Environment (2018);
- Climate Change Committee. The Sixth Carbon Budget: The UK's path to Net Zero (2020);

- UN Climate Change Conference COP26. COP26: The Glasgow Climate Pact (2021); and
- British Energy Security Strategy (2022).

Emerging Bassetlaw Local Plan 2020-2038

- Policy ST1: Bassetlaw's Spatial Strategy
- Policy ST6: Cottam Priority Regeneration Area
- Policy ST11: Rural Economic Growth and Economic Growth Outside Employment Areas
- Policy ST35: Design Quality
- Policy ST37: Landscape Character
- Policy ST39: Green and Blue Infrastructure
- Policy ST40: Biodiversity and Geodiversity
- Policy 41: Trees, Woodlands and Hedgerows
- Policy ST42: The Historic Environment
- Policy 43: Designated and Non-Designated Heritage Assets
- Policy ST44: Promoting Healthy, Active Lifestyles
- Policy 48: Protecting Amenity
- Policy 49: Contaminated and Unstable Land
- Policy ST50: Reducing Carbon Emissions, Climate Change Mitigation and Adaptation
- Policy ST51 Renewable Energy Generation
- Policy ST52 Flood Risk and Drainage
- Policy ST54 Transport Infrastructure and Improvements Schemes

Other Local Policies

- Morton Neighbourhood Plan 2019-2036 Referendum Version March 2021;
- Central Lincolnshire Local Plan, Health Impact Assessment for Planning Applications: Guidance Note (Updated April 2023);
- Lincolnshire Local Industrial Strategy (2021);
- Local Enterprise Partnership, Economic Plan for Growth (2021);
- Greater Lincolnshire Enterprise Partnership Strategic Economic Plan (2016 Refresh);
- Corporate Plan 2019 – 2023 West Lindsey District Council
- Lincolnshire Joint Health and Wellbeing Strategy (June 2018);
- Lincolnshire Joint Strategic Needs Assessment 2021;
- Lincolnshire Biodiversity Action Plan 2011 – 2020 (3rd edition);
- Lincolnshire Local Transport Plan 5;
- Gainsborough Transport Strategy May 2022-2036; and
- Joint Lincolnshire Flood Risk and Drainage Management Strategy 2019-2050.

IMPORTANT AND RELEVANT MATTERS

The other matters' that the ExA consider 'important and relevant' for the purposes of s104(2)(d) of the PA2008 are:

- NPS EN-1 and EN-5, to the extent they are relevant to the Proposed 2011 Development, and 2024 NPS EN-1, EN-3 and EN-5;
- NPPF and PPG;
- Development Plans set out in this Appendix; and
- Other relevant policies that are set out in this Appendix.

ANNEX B: ABBREVIATIONS

| | |
|----------------|--|
| ACNB | Appropriate Nature Conservation Body |
| ALC | Agricultural Land Classification |
| AGLV | Area of Great Landscape Value |
| AoS | Area of Search (minerals) |
| AQMA | Air Quality Management Area |
| ASI | Accompanied Site Inspection |
| BCSDM | Bassetlaw Core Strategy & Development Management Policies DPD |
| BDC | Bassetlaw District Council |
| BESS | Battery Energy Storage System |
| BLP | Bassetlaw Local Plan |
| BMV | Best and most versatile (agricultural land) |
| BNG | Biodiversity Net Gain |
| BOAT | Byway Open to All Traffic |
| BoR | Book of Reference |
| BPM | Best Practicable Means |
| BS4142 | British Standard 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound |
| BS5228 | British Standard 5228:2009+A1 2014 Code of practice for noise and vibration control on construction and open sites |
| BSSMP | Battery Storage Safety Management Plan |
| CDE | Construction, Demolition and Excavation (waste) |
| CA | Compulsory Acquisition |
| CAH | Compulsory Acquisition Hearing |
| CA Regulations | The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 |
| CCA2008 | The Climate Change Act 2008 |
| CDMP | Construction Dust Management Plan |
| CDPP | Concept Design Parameters and Principles |
| CLLP | Central Lincolnshire Local Plan |
| CO | Carbon Monoxide |

| | |
|-----------------|--|
| CoA | Conservation Area |
| CPA1974 | The Control of Pollution Act 1974 |
| CRSA | Cable Route Study Area |
| CRT | Canal and River Trust |
| CTMP | Construction Traffic Management Plan |
| dB | Decibel |
| DC | Direct Current |
| DCLG | (Former) Department for Communities and Local Government |
| DCO | Development Consent Order |
| dDCO | Draft Development Consent Order |
| DEFRA | Department for the Environment, Food and Rural Affairs |
| DfT | Department for Transport |
| DLUCH | Department for Levelling Up, Housing and Communities |
| DML | Deemed Marine Licence |
| EA | Environment Agency |
| EDF | EDF Energy (Thermal Generation) Limited |
| EA2010 | Equality Act 2010 |
| eDNA | Environmental DNA |
| EEA | European Economic Area |
| EIA | Environmental Impact Assessment |
| EIA Regulations | The Environmental Impact Assessment Regulations 2017 |
| EM | Explanatory Memorandum |
| EMF | Electro-magnetic Fields |
| EqIA | Equalities Impact Assessment |
| ES | Environmental Statement |
| ESNZ | Energy Security and Net Zero |
| ExA | Examining Authority |
| ExQ1 | Examining Authority's First Written Questions |
| ExQ2 | Examining Authority's Second Written Questions |
| FRA | Flood Risk Assessment |
| FRDS | Flood Risk Assessment and Drainage Strategy |

| | |
|------------------|---|
| FTE | Full Time Equivalent |
| GCN | Great Crested Newts |
| GHG | Greenhouse Gas |
| ha | Hectare |
| HDD | Horizontal Directional Drilling |
| HE | Historic England |
| HGV | Heavy Goods Vehicle |
| HIA | Health Impact Assessment |
| HLC | Historic Landscape Characterisation |
| Host Authorities | Lincolnshire County Council, Nottinghamshire County Council, West Lindsey District Council and Bassetlaw District Council |
| HRA | Habitat Regulations Assessment |
| HRA1998 | Human Rights Act 1998 |
| IAPI | Initial Assessment of Principal Issues |
| ICNIRP | International Commission on Non-Ionizing Radiation Protection |
| IDB | Internal Drainage Board |
| IEMA | Institute of Environmental Management and Assessment |
| IP | Interested Party |
| ISH | Issue Specific Hearing |
| Joint Report | Joint Report on Interrelationships between Nationally Significant Infrastructure Projects |
| Joint CTMP | Joint Construction Traffic Management Plan |
| kV | Kilovolt |
| LAeq | A-weighted, equivalent continuous sound level |
| LB | Listed Building |
| LCA | Landscape Character Area |
| LCC | Lincolnshire County Council |
| LIA | Local Impact Area |
| LIR | Local Impact Report |
| LMWLP | Lincolnshire Minerals and Waste Local Plan |
| LNT | LNT Aviation Limited |
| LRFS | Lincolnshire Fire and Rescue Service |

| | |
|-----------------|---|
| LVIA | Landscape and Visual Impact Assessment |
| LWS | Local Wildlife Site |
| LV | Limit Values |
| m | Metres |
| MA and D | Major Accidents and Disasters |
| MSA | Mineral Safeguarding Areas |
| MMO | Marine Management Organisation |
| MW | Megawatts |
| NCC | Nottinghamshire County Council |
| NE | Natural England |
| NERCA2006 | The Natural Environment and Rural Communities Act 2006 |
| NMLP | Nottinghamshire Minerals Local Plan |
| NO ₂ | Nitrogen Dioxide |
| NPPF | National Planning Policy Framework |
| NPPWa | National Planning Policy for Waste |
| NPS | National Policy Statement |
| NPSE | Noise Policy Statement for England |
| NPS EN1 | Overarching National Policy Statement for Energy |
| NPS EN5 | National Policy Statement for Electricity Networks |
| NSIP | Nationally Significant Infrastructure Project |
| NWCS | Nottingham Replacement Waste Local Plan Part 1: Waste Core Strategy |
| oBSSMP | Outline Battery Storage Safety Management Plan |
| oCEMP | Outline Construction Environmental Management Plan |
| oCTMP | Outline Construction Traffic Management Plan |
| oDS | Outline Decommissioning Statement |
| oEPMS | Outline Ecological Protection and Mitigation Strategy |
| | |
| oLEMP | Outline Landscape and Ecological Management Plan |
| oOEMP | Outline Operational Environmental Management Plan |
| OEMP | Operational Environmental Management Plan |
| OFH | Open Floor Hearing |

| | |
|--------|---|
| oPRWMP | Outline Public Rights of Way Management Plan |
| oSMP | Outline Soil Management Plan |
| oSCEMP | Outline Skills Supply Chain and Employment Plan |
| PA2008 | Planning Act 2008 |
| PD | Procedural Decisions |
| PM | Preliminary Meeting |
| PPs | Protective Provisions |
| PPG | Planning Practice Guidance |
| PRoW | Public Right of Way |
| PSED | Public Sector Equality Duty |
| PV | Photovoltaic |
| rDCO | Recommended Development Consent Order |
| RMBP | River Basin Management Plan |
| RPG | Registered Park and Garden |
| RR | Relevant Representation |
| s | Section |
| SAC | Special Area of Conservation |
| SEIR | Supporting Environmental Information Report |
| SINC | Sites of Importance for Nature Conservation |
| SM | Scheduled Monument |
| SNS | Statutory Nuisance Statement |
| SOAEL | Significant Observed Adverse Effect Level |
| SoCG | Statement of Common Ground |
| SoR | Statement of Reasons |
| SoS | Secretary of State |
| SPA | Special Protection Area |
| SSNP | Sturton by Stow and Stow Neighbourhood Plan |
| SSSI | Sites of Special Scientific Interest |
| SU | Statutory Undertaker |
| SuDS | Sustainable Drainage Systems |

| | |
|--------------------|---|
| TA | Transport Assessment |
| TP | Temporary Possession |
| tCO ₂ e | Tonnes of Carbon Dioxide Equivalent |
| USI | Unaccompanied Site Inspection |
| WACA1981 | The Wildlife and Countryside Act 1981 |
| WaMS | Waste Management Strategy |
| WEEE | Waste Electrical or Electronic Equipment |
| WFD | Water Framework Directive |
| WLDC | West Lindsey District Council |
| WMP | Water Management Plan |
| WMS | Written Ministerial Statement |
| WPWSI | 'Without Prejudice' Written Scheme of Investigation (archaeology) |
| WSI | Written Scheme of Investigation (archaeology) |
| ZTV | Zone of Theoretical Visibility |

ANNEX C: THE RECOMMENDED DEVELOPMENT CONSENT ORDER

202[*] No.

INFRASTRUCTURE PLANNING

The Cottam Solar Project Order 202[*]

Made - - - - - ***

Coming into force ***

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- PART 13 — FOR THE PROTECTION OF THE CANAL & RIVER TRUST
- PART 14 — FOR THE PROTECTION OF UNIPER UK LIMITED
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An application has been made to the Secretary of State for an order granting development consent under section 37 of the Planning Act 2008 (“the 2008 Act”)(a) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b).

The application has been examined by the Examining Authority appointed by the Secretary of State pursuant to chapter 3 of Part 6 of the 2008 Act and carried out in accordance with chapter 4 of Part 6 of the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The Examining Authority, having considered the application together with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 74(2)(d) of the 2008 Act made a report and recommendation to the Secretary of State.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(e) and has had regard to the documents and matters referred to in section 105(2)(f) of the 2008 Act.

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

(a) 2008 c. 29. Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to the Localism Act 2011 (c. 20).
 (b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, and S.I. 2018/378.
 (c) S.I. 2010/103.
 (d) As amended by paragraph 29(1) and (3) of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
 (e) S.I. 2017/572.
 (f) Section 105(2) was amended by paragraph 50 of Schedule 13 to the Localism Act 2011.

The Secretary of State, in exercise of the powers conferred by sections 114(a), 115(b), 120(c), 122(d), and 123(e) of the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the [Cottam Solar Project Order 202[*]] and comes into force on [] 202[*].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(f);

“the 1965 Act” means the Compulsory Purchase Act 1965(g);

“the 1980 Act” means the Highways Act 1980(h);

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

“the 1984 Act” means the Road Traffic Regulation Act 1984(j);

“the 1989 Act” means the Electricity Act 1989(k);

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

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

“the 2008 Act” means the Planning Act 2008(n);

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

“access plan” means the plan of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the access plan for the purposes of this Order;

“address” includes any number or address used for the purposes of electronic transmission;

“apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act except that, unless otherwise provided, it further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity cables, telecommunications equipment and electricity cabinets;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) which is development within the meaning of section 32 (meaning of “development”) of the 2008 Act;

(a) As amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011.

(b) As amended by section 160 of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4).

(c) As amended by section 140 and paragraph 60 of Part 1 of Schedule 13 to the Localism Act 2011.

(d) As amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.

(e) Ibid.

(f) 1961 c. 33.

(g) 1965 c. 56.

(h) 1980 c. 66.

(i) 1981 c. 66.

(j) 1984 c. 27.

(k) 1989 c. 29.

(l) 1990 c. 8.

(m) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Sections 78(4), 80(4) and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(n) 2008 c. 29.

(o) 2009 c. 23.

“book of reference” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“commence” means beginning to carry out a material operation, as defined in section 56(4) of the 1990 Act^(a) (which explains when development begins), comprised in or carried out or for the purposes of the authorised development other than the permitted preliminary works (except where stated to the contrary) and “commencement”, “commenced” and cognate expressions are to be construed accordingly;

“concept design parameters and principles” means the document of that name identified in the table of Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the concept design parameters and principles for the purposes of this Order;

“crown land plan” means the plan of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the crown land plan for the purposes of this Order;

“date of decommissioning” means in respect of each part of the authorised development, the date that that part of the authorised development has permanently ceased to generate electricity on a commercial basis;

“date of final commissioning” means the date on which the authorised development commences operation by generating electricity on a commercial basis but excluding the generation of electricity during commissioning and testing;

“definitive map and statement” has the same meaning as in Part III of the Wildlife and Countryside Act 1981^(b);

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“environmental statement” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the environmental statement for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act;

“Gate Burton Energy Park Order” means a development consent order granted by the Secretary of State following the examination of the project known as the Gate Burton Energy Park and given reference number EN010131 by the Planning Inspectorate;

“highway” and “highway authority” have the same meaning as in the 1980 Act^(c);

“holding company” has the same meaning as in section 1159 of the Companies Act 2006^(d);

“important hedgerows plan” means the plan of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the important hedgerows plan for the purposes of this Order;

“land plan” means the plan of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the land plan for the purposes of this Order;

“maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of but not remove, reconstruct or replace the whole of, the authorised development and “maintenance” and “maintaining” are to be construed accordingly;

(a) As amended by paragraph 10(2) of Schedule 7 to the Planning and Compensation Act 1991 c. 34.

(b) 1981 c. 69.

(c) “highway” is defined in section 328(1). For “highway authority” see section 1.

(d) 2006 c. 46.

“National Grid” means National Grid Electricity Transmission plc (company number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the 1989 Act;

“Order land” means the land which is required for or is required to facilitate or is incidental to the authorised development and shown coloured pink, blue or yellow on the land plan and which is within the limits of land to be acquired or used and which is described in the book of reference;

“Order limits” means the limits shown on the works plan within which the authorised development may be carried out and land acquired or used;

“outline battery storage safety management plan” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the battery storage safety management plan for the purposes of this Order;

“outline construction environmental management plan” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the outline construction environmental management plan for the purposes of this Order;

“outline construction traffic management plan” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the outline construction traffic management plan for the purposes of this Order;

“outline decommissioning statement” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the outline decommissioning statement for the purposes of this Order;

“outline drainage strategy” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the outline drainage strategy for the purposes of this Order;

“outline ecological protection and mitigation strategy” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the outline ecological protection and mitigation strategy for the purposes of this Order;

“outline landscape and ecological management plan” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the outline landscape and ecological management plan for the purposes of this Order;

“outline operational environmental management plan” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the outline operational environmental management plan for the purposes of this Order;

“outline public rights of way management plan” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the outline public rights of way management plan for the purposes of this Order;

“outline skills, supply chain and employment plan” means the plan of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the outline skills, supply chain and employment plan for the purposes of this Order;

“outline soil management plan” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the outline soil management plan for the purposes of this Order;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(a);

“permitted preliminary works” means all or any of—

- (c) environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations for the purpose of assessing ground conditions;
- (d) removal of plant and machinery;
- (e) above ground site preparation for temporary facilities for the use of contractors;
- (f) remedial work in respect of any contamination or other adverse ground conditions;
- (g) diversion and laying of apparatus;
- (h) the provision of temporary means of enclosure and site security for construction;
- (i) the temporary display of site notices or advertisements; or
- (j) site clearance (including vegetation removal, demolition of existing buildings and structures);

“plot” means any plot as may be identified by reference to a number and which is listed in the book of reference and shown on the land plan;

“public right of way” includes any public right of way that is added to the definitive map and statement after the making of the Order;

“public rights of way plan” means the plan of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the public rights of way plan for the purposes of this Order;

“relevant planning authority” means the local planning authority for the area in which the land to which the provisions of this Order apply is situated;

“requirements” means those matters set out at Schedule 2 (requirements) and “requirement” means any one of the requirements;

“statutory undertaker” means any person falling within section 127(8) (statutory undertakers’ land) of the 2008 Act and includes a public communications provider defined by section 151(1) (interpretation of chapter 1) of the Communications Act 2003(b);

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes any footpath and part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act(c);

“streets plan” means the plan of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the streets plan for the purposes of this Order;

“street works” means the works listed in article 8(1) (street works);

“subsidiary” has the same meaning as in section 1159 of the Companies Act 2006(d);

“Tillbridge Solar Order” means a development consent order granted by the Secretary of State following the examination of the project known as Tillbridge Solar Project and given reference number EN010142 by the Planning Inspectorate;

“traffic authority” has the same meaning as in section 121A (traffic authorities) of the 1984 Act(e);

(a) 1981 c. 67.

(b) 2003 c. 21.

(c) “street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act (c. 7).

(d) 2006 c. 46.

(e) Section 121A was inserted by paragraph 70 of Schedule 8 to the 1991 Act, and subsequently amended by section 271 of the Greater London Authority Act 1999 (c. 29); section 1(6) of, and paragraphs 70 and 95 of Schedule 1 to the Infrastructure Act 2015; and S.I. 1999/1920 and S.I. 2001/1400.

“undertaker” means Cottam Solar Project Limited (company number 12711231) and any other person who for the time being has the benefit of this Order in accordance with article 34 (benefit of the Order) or article 35 (consent to transfer the benefit of the Order);

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

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

“West Burton Solar Project Order” means a development consent order granted by the Secretary of State following the examination of the project known as the West Burton Solar Project and given reference number EN010132 by the Planning Inspectorate;

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

“works plan” means the plan of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the works plan for the purposes of this Order; and

“written scheme of investigation” means the document of that name identified in the table at Schedule 14 (documents and plans to be certified) and which is certified by the Secretary of State as the written scheme of investigation for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain anything in, on or under land or in the airspace above its surface and to any trusts or incidents (including restrictive covenants) to which the land is subject and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or over which rights are created and acquired under this Order or is otherwise comprised in this Order.

(3) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between lines or points on a numbered work comprised in the authorised development and shown on the works plan, access plan and public rights of way plan are to be taken to be measured along that work.

(4) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 (authorised development) and shown on the works plan and a reference in this Order to a work designated by a number, or by a combination of letters and numbers, is a reference to the work so designated in that Schedule and a reference to “Work No. 1” or “numbered work 1” means numbered works 1A, 1B, 1C and 1D inclusive and the same principle applies to such numbered works that contain letters.

(5) In this Order, the expression “includes” is to be construed without limitation.

(6) In this Order, references to any statutory body include that body’s successor bodies.

(7) All areas described in square metres in the book of reference are approximate.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

3.—(1) Subject to the provisions of this Order and the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Each numbered work must be situated within the corresponding numbered area shown on the works plan.

Operation of generating station

4.—(1) The undertaker is authorised to use and operate the generating station comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

Power to maintain the authorised development

5.—(1) The undertaker may at any time maintain the authorised development.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

(3) This article does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement.

Application and modification of statutory provisions

6.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purposes of, or in connection with, the construction, operation or maintenance of any part of the authorised development—

- (a) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991(a);
- (b) section 32(b) (variation of awards) of the Land Drainage Act 1991;
- (c) the provisions of any byelaws made under section 66(c) (powers to make byelaws) of the Land Drainage Act 1991;
- (d) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25(d) (byelaw making powers of the appropriate agency) to the Water Resources Act 1991;
- (e) section 118 (consent request for discharge of trade effluent into public sewer) of the Water Industry Act 1991(e);
- (f) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(f) in respect of a flood risk activity only;
- (g) the legislation listed in Schedule 3 (legislation to be disapplied) in so far as the provisions still in force are incompatible with the powers contained within this Order and do not impact on the operation or maintenance of the river Trent as a navigable river; and
- (h) the provisions of the Neighbourhood Planning Act 2017(g) insofar as they relate to the temporary possession of land under articles 29 (temporary use of land for constructing the authorised development) and 30 (temporary use of land for maintaining the authorised development) of this Order.

(a) 1991 c. 59. Section 23 was amended by paragraph 192(2) of Schedule 22 to the Environment Act 1995 (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755.

(b) Section 32 was amended by S.I. 2013/755.

(c) Section 66 was amended by paragraphs 25 and 38 of Schedule 2 to the Flood and Water Management Act 2010 and section 86 of the Water Act 2014 (c. 21).

(d) Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to the 2009 Act and S.I. 2013/775. Paragraph 6 was amended by section 105 of, and paragraph 26 of Schedule 15 to, the Environment Act 1995, sections 224, 233 and 321 of and paragraphs 20 and 24 of Schedule 16 and Part 5(B) of Schedule 22 to the 2009 Act and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995.

(e) 1991 c. 56. Section 118 was amended by sections 2(2)(b) and 5(5)(f) of the Environment Act 1995 (c. 25) and sections 66(2)(a) and (b) of the Environment (Wales) Act 2016 (anaw 3).

(f) S.I. 2016/1154. Regulation 12 was amended by S.I. 2018/110.

(g) 2017 c. 20.

(2) For the purposes of section 9 (requirement of licence for felling) of the Forestry Act 1967^(a) any felling comprised in the carrying out of any work or operation required for the purposes of, or in connection with, the construction of the authorised development is deemed to be immediately required for the purpose of carrying out development authorised by planning permission granted under the 1990 Act.

(3) Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 (meaning of “development”) of the Community Infrastructure Levy Regulations 2010^(b) any building comprised in the authorised development is deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Defence to proceedings in respect of statutory nuisance

7.—(1) Where proceedings are brought under section 82(1) (summary proceedings by a person aggrieved by statutory nuisance) of the Environmental Protection Act 1990^(c) in relation to a nuisance falling within sub-paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the construction or maintenance of the authorised development in accordance with a notice served under section 60 (control of noise on construction site) of the Control of Pollution Act 1974^(d), or a consent given under section 61 (prior consent for work on construction site) of that Act; or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

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

PART 3 STREETS

Street works

8.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) drill, tunnel or bore under the street;
- (c) place and keep apparatus in the street;

(a) Section 9 was amended by section 4 of, and paragraph 141 of, Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2013/755. There are other amendments to section 9 that are not relevant to this Order.
(b) S.I. 2010/948, amended by S.I. 2011/987. There are other amending instruments but none are relevant to this Order.
(c) 1990 c. 43.
(d) 1974 c. 40.

- (d) maintain apparatus in the street, change its position or remove it;
- (e) repair, replace or otherwise alter the surface or structure of the street or any culvert under the street; and
- (f) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e).

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

(3) Where the undertaker is not the street authority, the provisions of sections 54 (notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any street works carried out under paragraph (1).

Power to alter layout, etc., of streets

9.—(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the street—

- (a) in the case of the streets specified in column 2 of the table in Part 1 (permanent alteration of layout) of Schedule 5 (alteration of streets) permanently in the manner specified in relation to that street in column 3; and
- (b) in the case of the streets as specified in column 2 of the table in Part 2 (temporary alteration of layout) of Schedule 5 (alteration of streets) temporarily in the manner specified in relation to that street in column 3.

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing, operating or maintaining the authorised development, alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, cycle track or verge; and
- (b) make and maintain passing places.

(3) The undertaker must restore any street that has been temporarily altered under this Order to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority, such consent to be in a form reasonably required by the street authority.

(5) Paragraphs (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Construction and maintenance of altered streets

10.—(1) The permanent alterations to each of the streets specified in Part 1 (permanent alteration of layout) of Schedule 5 (alteration of streets) to this Order that are maintained by the highway authority must be completed to the reasonable satisfaction of the highway authority where applicable and, unless otherwise agreed by the highway authority, the alterations must be maintained by and at the expense of the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the highway authority.

(2) The permanent alterations to each of the streets specified in Part 1 (permanent alteration of layout) of Schedule 5 (alteration of streets) to this Order that are maintained by the street authority must be completed to the reasonable satisfaction of the street authority where applicable and, unless otherwise agreed by the street authority, the alterations must be maintained by the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the street authority.

(3) Subject to paragraph (4), the temporary alterations to each of the streets specified in Part 2 (temporary alteration of layout) of Schedule 5 (alteration of streets) must be completed to the reasonable satisfaction of the street authority and the temporary alterations must be maintained by and at the expense of the undertaker.

(4) Those restoration works carried out pursuant to article 9(3) (power to alter layout, etc., of streets) must be completed to the reasonable satisfaction of the street authority and must be maintained by the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the street authority.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), a court must in particular have regard to the following matters—

- (a) the character of the street including the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

(7) Paragraphs (2) to (6) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Temporary prohibition or restriction of use of streets and public rights of way

11.—(1) The undertaker, during and for the purposes of constructing or maintaining the authorised development, may temporarily prohibit the use of, restrict the use of, authorise the use of, alter or divert any street or public right of way and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street or public right of way;
- (b) authorise the use of motor vehicles on classes of public rights of way where, notwithstanding the provisions of this article, there is otherwise no public right to use motor vehicles; and
- (c) subject to paragraph (2), prevent all persons from passing along the street or public right of way.

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

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily prohibit the use of, authorise the use of, restrict the use of, alter or divert—

- (a) the streets specified in column 2 of the table in Part 1 (temporary prohibition or restriction of the use of streets) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table;
- (b) the public rights of way specified in column 2 of the table in Part 2 (temporary prohibition or restriction of public rights of way with diversion) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table; and

- (c) the public rights of way specified in column 2 of the table in Part 3 (temporary prohibition or restriction of public rights of way) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table; and
 - (d) the public rights of way specified in column 2 of the table in Part 4 (temporary prohibition or restriction of public rights of way with or without diversion) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table.
- (4) The undertaker must not temporarily prohibit the use of, authorise the use of, restrict the use of, alter or divert—
- (a) any street or public right of way specified in paragraph (3) without first consulting the street authority; and
 - (b) any other street or public right of way without the consent of the street authority, and the street authority may attach reasonable conditions to any such consent.
- (5) Any person who suffers loss by the suspension of any street or private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (6) Without prejudice to the scope of paragraph (1), the undertaker may use any street or public right of way the use of which has been temporarily prohibited, restricted, altered or diverted under the powers conferred by this article and within the Order limits as a temporary working site.
- (7) In this article expressions used both in this article and in the 1984 Act have the same meaning as in that Act.

Use of private roads

- 12.—**(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction or maintenance of the authorised development.
- (2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).
- (3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Access to works

- 13.** The undertaker may, for the purposes of the authorised development—
- (a) form and lay out the permanent means of access, or improve existing means of access, in the locations specified in Part 1 (permanent means of access to works) of Schedule 7 (access to works);
 - (b) form and lay out the temporary means of access in the location specified in Part 2 (temporary means of access) of Schedule 7 (access to works); and
 - (c) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

Agreements with street authorities

- 14.—**(1) A street authority and the undertaker may enter into agreements with respect to—
- (a) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
 - (b) any prohibition, restriction, alteration or diversion of a street authorised by this Order;

- (c) the undertaking in the street of any of the works referred to in article 8 (street works) and article 10(1) (construction and maintenance of altered streets); or
- (d) the adoption by a street authority which is the highway authority of works—
 - (i) undertaken on a street which is existing public maintainable highway; or
 - (ii) which the undertaker and highway authority agree to be adopted as public maintainable highway.

(2) If such agreement provides that the street authority must undertake works on behalf of the undertaker the agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) specify a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Traffic regulation measures

15.—(1) Subject to the provisions of this article the undertaker may at any time, in the interests of safety and for the purposes of, or in connection with, the construction of the authorised development, temporarily place traffic signs and signals in the extents of the road specified in column 2 of the table in Schedule 8 (traffic regulation measures) and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016^(a).

(2) Subject to the provisions of this article and without limitation to the exercise of the powers conferred by paragraph (1), the undertaker may make temporary provision for the purposes of the construction of the authorised development—

- (a) as to the speed at which vehicles may proceed along any road;
- (b) permitting, prohibiting or restricting the stopping, waiting, loading or unloading of vehicles on any road;
- (c) as to the prescribed routes for vehicular traffic or the direction or priority of vehicular traffic on any road;
- (d) permitting, prohibiting or restricting the use by vehicular traffic or non-vehicular traffic of any road; and
- (e) suspending or amending in whole or in part any order made, or having effect as if made, under the 1984 Act.

(3) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011^(b) when in accordance with regulation 3(5) of those regulations.

(4) Before exercising the power conferred by paragraph (2) the undertaker must—

- (a) consult with the chief officer of police in whose area the road is situated; and
- (b) obtain the written consent of the traffic authority.

(5) The undertaker must not exercise the powers in paragraphs (1) or (2) unless it has—

- (a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) not less than 7 days before the provision is to take effect published the undertaker's intention to make the provision in one or more newspapers circulating in the area in which any road to which the provision relates is situated.

(a) S.I. 2016/362.

(b) S.I. 2011/935.

(6) Any provision made under the powers conferred by paragraphs (1) or (2) of this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (1) or (2).

(7) Any provision made by the undertaker under paragraphs (1) or (2)—

- (a) must be made by written instrument in such form as the undertaker considers appropriate;
- (b) has effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify specific savings and exemptions to which the provision is subject; and
- (c) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004^(a) (road traffic contraventions subject to civil enforcement).

PART 4

SUPPLEMENTAL POWERS

Discharge of water

16.—(1) Subject to paragraphs (3), (4) and (7) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the construction or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

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

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs whose consent may be given subject to terms and conditions as that person may reasonably impose.

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

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) Where the undertaker discharges water into, or makes any opening into, a watercourse, public sewer or drain belonging to or under the control of a drainage authority, the provisions of Part 8 of Schedule 16 (protective provisions) apply in substitution for the provisions of paragraphs (3) and (4).

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

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters requires a licence pursuant to the Environmental Permitting (England and Wales) Regulations 2016^(c).

(8) In this article—

- (a) “drainage authority” means the drainage board concerned within the meaning of section 23 of the Land Drainage Act 1991^(d);
- (b) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local

(a) 2004 c. 18.
(b) 1991 c. 56.
(c) S.I. 2016/1154.
(d) 1991 c. 59.

authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

- (c) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991^(a) have the same meaning as in that Act.

Removal of human remains

17.—(1) Before the undertaker constructs any part of the authorised development or carries out works which will or may disturb any human remains in the Order limits it must remove those human remains from the Order limits, or cause them to be removed, in accordance with the following provisions of this article.

(2) Before any such remains are removed from the Order limits the undertaker must give notice of the intended removal, describing the Order limits and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near the Order limits.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant planning authority.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred in the Order limits may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and reinterred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium, and that person must, as soon as reasonably practicable after such reinterment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question cannot be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(7) The undertaker must pay the reasonable expenses of removing and reintering or cremating the remains of any deceased person under this article.

(8) If—

- (a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the Order limits; or
- (b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker must remove the remains and cause them to be reinterred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be reinterred

(a) 1991 c. 57.

in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and reinterment or cremation of the remains.

(10) On the reinterment or cremation of any remains under this article—

- (a) a certificate of reinterment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of reinterment or cremation and identifying the place from which the remains were removed and the place in which they were reinterred or cremated; and
- (b) a copy of the certificate of reinterment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (3).

(11) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(12) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(13) Section 25 (offence of removal of body from burial ground) of the Burial Act 1857^(a) is not to apply to a removal carried out in accordance with this article.

Protective works to buildings

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

(2) Protective works may be carried out—

- (a) at any time before or during the construction of any part of the authorised development in the vicinity of the building; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of five years beginning with the date of final commissioning.

(3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

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

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

(5) Before exercising—

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

^(a) 1857 c. 81. Substituted by Church of England (Miscellaneous Provisions) Measure 2014 No., 1 s.2 (January 1, 2015: substitution has effect subject to transitional and saving provisions specified in S.I. 2014/2077 Schedule 1 paragraphs 1 and 2.

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

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 42 (arbitration).

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

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of five years beginning with the date of final commissioning it appears protective works are inadequate to protect the building against damage caused by the construction or use of that part of the authorised development,

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

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 10(2) (compensation for injurious affection) of the 1965 Act.

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

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

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

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

Authority to survey and investigate the land

19.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or enter on any land which may be affected by the authorised development or enter on any land upon which entry is required in order to carry out monitoring or surveys in respect of the authorised development and—

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

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

- (3) Any person entering land under this article on behalf of the undertaker—
- (a) must, if so required before entering the land, produce written evidence of their authority to do so; and
 - (b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes are to be made under this article—
- (a) in land located within the highway boundary without the consent of the highway authority; or
 - (b) in a private street without the consent of the street authority.
- (5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

- 20.**—(1) The undertaker may—
- (a) acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or as is incidental, to it; and
 - (b) use any land so acquired for the purpose authorised by this Order or for any other purposes in connection with or ancillary to the authorised development.
- (2) This article is subject to article 21 (time limit for exercise of authority to acquire land compulsorily), paragraph (2) of article 22 (compulsory acquisition of rights), article 29 (temporary use of land for constructing the authorised development) and article 31 (statutory undertakers).

Time limit for exercise of authority to acquire land compulsorily

- 21.**—(1) After the end of the period of five years beginning on the day on which this Order is made—
- (a) no notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act; and
 - (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 24 (application of the 1981 Act) .
- (2) The authority conferred by article 29 (temporary use of land for constructing the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights

- 22.**—(1) Subject to paragraph (2) and article 29 (temporary use of land for constructing the authorised development), the undertaker may acquire compulsorily such rights over the Order land or impose such restrictive covenants over the Order land as may be required for any purpose for

which that land may be acquired under article 20 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this paragraph, article 23 (private rights) and article 31 (statutory undertakers), in the case of the Order land specified in column 1 of Schedule 10 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of existing rights and benefit of restrictive covenants over that land and the creation and acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column 2 of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) and Schedule 2A (counter-notice requiring purchase of land) of the 1965 Act (as substituted by paragraph 6(8) of Schedule 11 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants)), where the undertaker creates or acquires an existing right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 11 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of restrictive covenants.

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

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) This article is subject to article 488 (Crown rights).

Private rights

23.—(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to compulsory acquisition under this Order are extinguished—

- (a) from the date of acquisition of the land, or of the right, or of the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement or through the grant of a lease of the land by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 22 (compulsory acquisition of rights) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

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

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

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of

section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 31 (statutory undertakers) applies.

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

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of the land;

(iii) the undertaker's entry onto the land; or

(iv) the undertaker's taking temporary possession of the land,

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

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

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

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

(b) is expressed to have effect also for the benefit of those deriving title from or under that person, the agreement is effective in respect of the persons so deriving title, whether that title was derived before or after the making of the agreement.

(8) References in this article to private rights over land include any right of way, trust, incident, restrictive covenant, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support; and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Application of the 1981 Act

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

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

(3) In section 1 (application of the Act), for subsection 2 substitute—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.

(4) In section 5(2) (earliest date for execution of declaration) omit the words from “and this subsection” to the end.

(5) Section 5A (time limit for general vesting declaration) is omitted(a).

(6) In section 5B(1) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in 5A” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act, the five year period mentioned in article 21 (time limit for exercise of authority to acquire land compulsorily) of the Cottam Solar Project Order 202[].”.

(7) In section 6 (notices after extension of declaration), in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition of the Planning Act 2008”.

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

(a) Section 5A to the 1981 Act was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

“(2) But see article 25(3) (acquisition of subsoil only) of the Cottam Solar Project Order 202[], which excludes the acquisition of subsoil only from this Schedule.”.

(10) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 27 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil only

25.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 20 (compulsory acquisition of land) or article 22 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

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

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Power to override easements and other rights

26.—(1) Any authorised activity which takes place on land within the Order land (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article “authorised activity” means—

- (a) the erection, construction or maintenance of any part of the authorised development;
- (b) the exercise of any power authorised by the Order; or
- (c) the use of any land within the Order land (including the temporary use of land).

(3) The interests and rights to which this article applies include any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

- (c) Where a person deriving title under the undertaker by whom the land in question was acquired—
 - (i) is liable to pay compensation by virtue of paragraph (4); and
 - (ii) fails to discharge that liability,
 the liability is enforceable against the undertaker.

(5) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1).

Modification of Part 1 of the Compulsory Purchase Act 1965

27.—(1) Part 1 of the 1965 Act (compulsory acquisition under Acquisition of Land Act 1946), as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 21 (time limit for exercise of authority to acquire land compulsorily) of the Cottam Solar Project Order 202[]”.

(3) In section 11A (powers of entry: further notice of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”; and
- (b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 21 (time limit for exercise of authority to acquire land compulsorily) of the Cottam Solar Project Order 202[]”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 25(3) (acquisition of subsoil only) of the Cottam Solar Project Order 202[], which excludes the acquisition of subsoil only from this Schedule”; and

(b) after paragraph 29 insert—

“PART 4 INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 18 (protective works to buildings), article 29 (temporary use of land for constructing the authorised development) or article 30 (temporary use of land for maintaining the authorised development) of the Cottam Solar Project Order 202[].”.

Rights under or over streets

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

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

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

- (a) any subway or underground building; or

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

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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

Temporary use of land for constructing the authorised development

29.—(1) The undertaker may, in connection with the construction of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) so much of the land specified in column (1) of the table in Schedule 12 (land of which temporary possession may be taken) for the purpose specified in relation to the land in column (2) of that table; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (powers of entry) and no declaration has been made under section 4 of the 1981 Act (execution of declaration);
- (b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;
- (c) construct temporary works (including means of access), haul roads, security fencing, bridges, structures and buildings on that land;
- (d) use the land for the purposes of a temporary working site with access to the working site in connection with the authorised development;
- (e) construct any works on that land as are mentioned in Schedule 1 (authorised development); and
- (f) carry out mitigation works required under the requirements in Schedule 2 (requirements).

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

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

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

(4) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of the land referred to in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for which temporary possession of the land was taken; or
- (b) in the case of land referred to in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(5) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, the undertaker must before giving up possession of land of which temporary possession has been taken under this article, remove all works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace any building, structure, debris, drain or electric line removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 4 (streets subject to street works), Schedule 5 (alteration of streets) or Schedule 7 (access to works);
- (d) remove any fencing or boundary treatments installed by the undertaker under this article to replace or enhance existing fencing or boundary treatments; or
- (e) restore the land on which any works have been carried out under paragraph (1)(f) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 2 (requirements).

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

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

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) The undertaker must not compulsorily acquire, acquire new rights over or impose restrictive covenants over, the land referred to in paragraph (1)(a)(i) under this Order.

(11) Nothing in this article precludes the undertaker from—

- (a) creating and acquiring new rights or imposing restrictions over any part of the Order land identified in Schedule 10 (land in which only new rights etc. may be acquired); or
- (b) acquiring any part of the subsoil of (or rights in the subsoil of) that land under article 25 (acquisition of subsoil only) or any part of the subsoil of or airspace over that land under article 28 (rights under or over streets).

(12) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(13) Nothing in this article prevents the taking of temporary possession more than once in relation to any land that the undertaker takes temporary possession of under this article.

Temporary use of land for maintaining the authorised development

30.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order land if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

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

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

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

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

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

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

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

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article "the maintenance period" means the period of five years beginning with the date of final commissioning of the part of the authorised development for which temporary possession is required under this article except in relation to landscaping where "the maintenance period" means such period as set out in the landscape and ecological management plan which is approved by the relevant planning authority pursuant to requirement 7 beginning with the date on which that part of the landscaping is completed.

Statutory undertakers

31. Subject to the provisions of Schedule 16 (protective provisions) the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plan within the Order land; and
- (b) extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Apparatus and rights of statutory undertakers in stopped up streets

32. Where a street is altered or diverted or its use is temporarily prohibited or restricted under article 8 (street works), article 9 (power to alter layout, etc., of streets), article 10 (construction and maintenance of altered streets) or article 11 (temporary prohibition or restriction of use of streets and public rights of way) any statutory undertaker whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to Schedule 16 (protective provisions), as if this Order had not been made.

Recovery of costs of new connections

33.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from

the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 31 (statutory undertakers), any person who is—

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

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

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

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

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

PART 6

MISCELLANEOUS AND GENERAL

Benefit of the Order

34.—(1) Subject to paragraph (2), paragraph (3) and article 35 (consent to transfer the benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to Work No. 5 in respect of which the provisions of this Order are for the benefit of the undertaker and National Grid.

(3) Paragraph (1) does not apply to Work No. 1D, 2D, 4D, 6A(iv)-(viii), 7D, 8D and 9 in respect of which the provisions of this Order are for the benefit of the undertaker and Bonsdale Solar Farm Limited (company number 13563009).

Consent to transfer the benefit of the Order

35.—(1) Subject to the powers of this Order, the undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where a transfer or grant has been made references in this Order to the undertaker, except in paragraph (8), are to include references to the transferee or lessee.

(3) The consent of the Secretary of State is required for the exercise of the powers of paragraph (1) except where—

- (a) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply etc.) of the 1989 Act;

(a) 2003 c. 21.

- (b) in respect of Work No. 6B, the transferee or lessee is the undertaker as defined in the Gate Burton Energy Park Order, the West Burton Solar Project Order, or the Tillbridge Solar Order;
 - (c) [in respect of Work No. 9, 10, or 11,] the transferee or lessee is a holding company or subsidiary of the undertaker; or
 - (d) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
 - (i) no such claims have been made;
 - (ii) any such claim has been made and has been compromised or withdrawn;
 - (iii) compensation has been paid in full and final settlement of any such claim;
 - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or
 - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable.
- (4) Where the consent of the Secretary of State is not required, the undertaker must notify the Secretary of State in writing before transferring or granting a benefit referred to in paragraph (1).
- (5) The notification referred to in paragraph (4) must state—
- (a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;
 - (b) subject to paragraph (6), the date on which the transfer will take effect;
 - (c) the powers to be transferred or granted;
 - (d) pursuant to paragraph (8), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and
 - (e) where relevant, a plan showing the works or areas to which the transfer or grant relates.
- (6) The date specified under paragraph (5)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notification.
- (7) The notification given must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notification.
- (8) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit—
- (a) the benefit transferred or granted (“the transferred benefit”) must include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;
 - (b) the transferred benefit will reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit will not be enforceable against the undertaker; and
 - (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

Application of landlord and tenant law

36.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

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

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

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement, so as to—

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

Operational land for the purposes of the 1990 Act

37. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3) (cases in which land is to be treated as operational land) of the 1990 Act.

Felling or lopping of trees and removal of hedgerows

38.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised development or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

- (a) obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development;
- (b) constituting a danger to persons using the authorised development;
- (c) obstructing or interfering with the passage of construction vehicles to the extent necessary for the purposes of construction of the authorised development.

(2) In carrying out any activity authorised by paragraph (1) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

(4) The undertaker may, for the purposes of the authorised development or in connection with the authorised development and subject to paragraph (2) remove part of the hedgerows specified in column 2 of the table in Part 1, column 2 of the table in Part 2 and column 2 of the table in Part 3 of Schedule 13 (hedgerows to be removed) to the extent set out in the landscape and ecological management plan approved pursuant to requirement 7 in Schedule 2 (requirements).

(5) The undertaker may not pursuant to paragraphs (1) and (4) fell or lop a tree or remove hedgerows within the extent of the publicly maintainable highway without the prior consent of the highway authority.

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

Trees subject to tree preservation orders

39.—(1) The undertaker may fell or lop any tree that is subject to a tree preservation order within or overhanging land within the Order limits or cut back its roots, if it reasonably believes it

(a) S.I. 1997/1160.

to be necessary to do so in order to prevent the tree from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development.

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

- (a) the undertaker must do no unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act does not apply.

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

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

Certification of plans and documents, etc.

40.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all documents and plans listed in the table at Part 1 of Schedule 14 (documents and plans to be certified) for certification that they are true copies of the documents referred to in this Order.

(2) Before submitting the documents and plans in accordance with paragraph (1), the undertaker must substitute or supplement, as the case may be, the documents listed in column 1 of the table at Part 2 of Schedule 14 (documents and plans to be certified) with the documents listed in column 2 of that table.

(3) 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.

No double recovery

41. Compensation is not payable in respect of the same matter both under this Order and under any enactment, any contract or any rule of law.

Arbitration

42.—(1) Any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled in arbitration in accordance with the rules set out in Schedule 15 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Protective provisions

43. Schedule 16 (protective provisions) has effect.

Service of notices

44.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at that time of service.

(4) Where for the purpose of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by the description of “owner”, or as the case may be “occupier” of the land (describing it); and

(b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

Procedure in relation to certain approvals etc.

45.—(1) Where an application is made to or request is made of a consenting authority for any consent, agreement or approval required or contemplated by any of the provisions of the Order

(a) 1978 c. 30.

(not including the requirements), such consent, agreement or approval to be validly given, must be given in writing.

(2) Where paragraph (1) applies to any consent, agreement or approval, such consent, agreement or approval must not be unreasonably withheld or delayed.

(3) Schedule 17 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals required, granted, refused or withheld in relation to the requirements.

(4) Save for applications made pursuant to Schedule 17 (procedure for discharge of requirements) and where stated to the contrary if, within ten weeks (or such longer period as may be agreed between the undertaker and the relevant consenting authority in writing) after the application or request has been submitted to a consenting authority it has not notified the undertaker of its disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

(5) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (4).

(6) Schedule 17 (procedure for discharge of requirements) does not apply in respect of any consents, agreements or approvals contemplated by the provisions of Schedule 16 (protective provisions) or any dispute under article 18(6) (protective work to buildings) to which paragraph (4) applies.

(7) In this article “consenting authority” means the relevant planning authority, highway authority, traffic authority, street authority, the owner of a watercourse, sewer or drain or the beneficiary of any of the protective provisions contained in Schedule 16 (protective provisions).

Guarantees in respect of payment of compensation

46.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any part of the Order land unless it has first put in place either—

- (a) a guarantee, the form and amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) in respect of the exercise of the relevant provision in relation to that part of the Order land; or
- (b) an alternative form of security, the form and amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) in respect of the exercise of the relevant provision in relation to that part of the Order land.

(2) The provisions are—

- (a) article 20 (compulsory acquisition of land);
- (b) article 22 (compulsory acquisition of rights);
- (c) article 23 (private rights);
- (d) article 28 (rights under or over streets);
- (e) article 29 (temporary use of land for constructing the authorised development);
- (f) article 30 (temporary use of land for maintaining the authorised development); and
- (g) article 31 (statutory undertakers).

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

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

Compulsory acquisition of land – incorporation of the mineral code

47. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 are incorporated into this Order subject to the modifications that—

- (a) for “the acquiring authority” substitute “the undertaker”;
- (b) for the “undertaking” substitute “authorised development”; and
- (c) paragraph 8(3) is not incorporated.

Crown rights

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

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

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

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions and is deemed to have been given in writing where it is sent electronically.

Signatory text

Address
Date

Name
Parliamentary Under Secretary of State
Department

AUTHORISED DEVELOPMENT

1. In this Schedule—

- “energy storage” means equipment used for the storage of electrical energy;
- “inverter” means electrical equipment required to convert direct current power to alternating current;
- “mounting structure” means a frame or rack made of galvanised steel, anodised aluminium or other material designed to support the solar modules;
- “National Grid Cottam substation” means the existing 400kV substation at Cottam Power Station, owned and operated by National Grid;
- “solar module” means a solar photovoltaic panel or module designed to convert solar irradiance to electrical energy;
- “substation” means a substation containing electrical equipment required to switch, transform, convert electricity and provide reactive power consumption;
- “switchgear” means a combination of electrical disconnect switches, fuses or circuit breakers used to control, protect and isolate electrical equipment; and
- “transformer” means a structure serving to transform electricity to a different voltage.

In the District of West Lindsey and in the County of Lincolnshire a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act and associated development under section 115(1)(b) of the 2008 Act.

The nationally significant infrastructure project comprises up to four generating stations with a gross electrical output capacity of over 50 megawatts comprising all or any of the work numbers in this Schedule or any part of any work number in this Schedule—

Work No. 1—

- (a) **Work No. 1A**— a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts including—
- (i) solar modules fitted to mounting structures;
 - (ii) DC electrical cabling and combiner DC boxes;
 - (iii) conversion units including inverters, transformers, switchgear, and monitoring and control systems; and
 - (iv) electrical and communications cabling connecting Work No. 1A(iii) to Work No. 4A.
- (b) **Work No. 1B**— a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts including—
- (i) solar modules fitted to mounting structures;
 - (ii) DC electrical cabling and combiner DC boxes;
 - (iii) conversion units including inverters, transformers, switchgear, and monitoring and control systems; and
 - (iv) electrical and communications cabling connecting Work No. 1B(iii) to Work No. 4B.
- (c) **Work No. 1C**— a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts including—
- (i) solar modules fitted to mounting structures;
 - (ii) DC electrical cabling and combiner DC boxes;

- (iii) conversion units including inverters, transformers, switchgear, and monitoring and control systems; and
- (iv) electrical and communications cabling connecting Work No. 1C(iii) to Work No. 4C.
- (d) **Work No. 1D**— a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts including—
 - (i) solar modules fitted to mounting structures;
 - (ii) DC electrical cabling and combiner DC boxes;
 - (iii) conversion units including inverters, transformers, switchgear, and monitoring and control systems; and
 - (iv) electrical and communications cabling connecting Work No. 1D(iii) to Work No. 4D.

and associated development within the meaning of section 115(2) of the 2008 Act comprising—

Work No. 2— an energy storage facility comprising—

- (e) battery energy storage cells with automatic fire suppression system or dry pipe sprinkler system;
- (f) a structure protecting the battery energy storage cells comprised in Work No. 2(a) and ancillary equipment, being either one container or multiple containers joined to each other, mounted on a reinforced concrete foundation slab or concrete piling;
- (g) interconnection units including heating, ventilation and air conditioning or liquid cooling systems and temperature management either housed within the containers comprised in Work No. 2(b), attached to the side or top of each of the containers, or located separate from but near to each of the containers;
- (h) conversion units including inverters, transformers, switchgear and energy management system;
- (i) monitoring and control systems housed within a container with Work No. 2(c) or located separately in its own container or control room;
- (j) electrical cabling including electrical cables connecting Work No. 2 to Work No. 4A;
- (k) bunded impermeable surface to manage surface water drainage;
- (l) water storage facility for the purposes of firefighting water supply; and
- (m) bunded impermeable surface and associated infrastructure to contain used firewater.

Work No. 3— an energy storage facility comprising—

- (n) battery energy storage cells with automatic fire suppression system or dry pipe sprinkler system;
- (o) a structure protecting the battery energy storage cells comprised in Work No. 3(a) and ancillary equipment, being either one container or multiple containers joined to each other, mounted on a reinforced concrete foundation slab or concrete piling;
- (p) interconnection units including heating, ventilation and air conditioning or liquid cooling systems and temperature management either housed within the containers comprised in Work No. 3(b), attached to the side or top of each of the containers, or located separate from but near to each of the containers;
- (q) conversion units including inverters, transformers, switchgear and energy management system;
- (r) monitoring and control systems housed within a container with Work No. 3(c) or located separately in its own container or control room;
- (s) electrical cabling including electrical cables connecting Work No. 3 to Work No. 4A;
- (t) bunded impermeable surface to manage surface water drainage;
- (u) water storage facility for the purposes of firefighting water supply; and

- (v) bunded impermeable surface and associated infrastructure to contain used firewater.

Work No. 4— works in connection with onsite substations including—

- (w) **Work No. 4A**— a substation with works comprising—
 - (i) an up to 400kV substation, with associated transformer bays, feeder bays, transformers, switchgear buildings and ancillary equipment including reactive power units;
 - (ii) control building or container relay rooms with associated offices, storage and welfare facilities;
 - (iii) monitoring and control systems for Work Nos. 1A and 4A;
 - (iv) maintenance compound;
 - (v) electrical cabling; and
 - (vi) earthworks, including soil stripping and site levelling.
- (x) **Work No. 4B**— a substation with works comprising—
 - (i) an up to 132kV substation, with associated transformer bays, feeder bays, transformers, switchgear buildings and ancillary equipment including reactive power units;
 - (ii) control building or container relay rooms with associated offices, storage and welfare facilities;
 - (iii) monitoring and control systems for Work Nos. 1B and 4B;
 - (iv) maintenance compound;
 - (v) electrical cabling; and
 - (vi) earthworks, including soil stripping and site levelling.
- (y) **Work No. 4C**— a substation with works comprising—
 - (i) an up to 132kV substation, with associated transformer bays, feeder bays, transformers, switchgear buildings and ancillary equipment including reactive power units;
 - (ii) control building or container relay rooms with associated offices, storage and welfare facilities;
 - (iii) monitoring and control systems for Work Nos. 1C and 4C;
 - (iv) maintenance compound;
 - (v) electrical cabling; and
 - (vi) earthworks, including soil stripping and site levelling.
- (z) **Work No. 4D**— a substation with works comprising—
 - (i) an up to 132kV substation, with associated transformer bays, feeder bays, transformers, switchgear buildings and ancillary equipment including reactive power units;
 - (ii) control building or container relay rooms with associated offices, storage and welfare facilities;
 - (iii) monitoring and control systems for Work Nos. 1D and 4D;
 - (iv) maintenance compound;
 - (v) electrical cabling; and
 - (vi) earthworks, including soil stripping and site levelling.

In the Districts of West Lindsey and Bassetlaw and in the Counties of Lincolnshire and Nottinghamshire a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act and associated development under section 115(1)(b) of the 2008 Act.

Work No. 5— works to the National Grid Cottam substation to facilitate connection of the authorised development to the National Grid including—

- (aa) busbars and connectors to connect to the existing busbar disconnectors at the National Grid Cottam substation;
- (bb) a 400kV 3phase 4000A circuit breaker for control and protection of the outgoing circuit serving the authorised development;
- (cc) a 3phase set of current transformers for protection of the new outgoing 400kV feeder circuit and the overlap with the National Grid system;
- (dd) a 3phase high accuracy metering current and voltage transformer assembly for commercial metering of the connection;
- (ee) a 3phase 400kV line disconnector/earth switch for isolation and earthing of the outgoing 400kV feeder circuit;
- (ff) a 3phase set of 400kV high voltage cable sealing ends and cables connecting the National Grid Cottam substation with Work No. 6; and
- (gg) provision of a stand-alone building to house duplicate feeder protection systems, commercial metering systems, protection and control equipment and user remote control and data acquisition apparatus.

Work No. 6— works in connection with electrical cabling including—

- (hh) **Work No. 6A**— works to lay electrical cables, accesses, and temporary construction laydown areas for the electrical cables including—
 - (i) high voltage electrical cables connecting Work No. 4A to Work No. 5;
 - (ii) high voltage electrical cables connecting Work No. 4A to Work No. 4B;
 - (iii) high voltage electrical cables connecting Work No. 4A to Work No. 4C;
 - (iv) high voltage electrical cables connecting Work No. 4A to Work No. 4D;
 - (v) laying down of access tracks, ramps, footpaths, roads, including the laying and construction of drainage infrastructure, signage and information boards;
 - (vi) joint bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable marker, tiles and tape, communications chambers, fibre optic cables and lighting and other works associated with cable laying;
 - (vii) tunnelling, boring and drilling works; and
 - (viii) temporary construction and decommissioning laydown areas comprising—
 - (aa) areas of hardstanding, compacted ground or track matting;
 - (bb) car parking;
 - (cc) area to store materials and equipment;
 - (dd) site and welfare offices and workshops;
 - (ee) security infrastructure, including cameras, perimeter fencing and lighting;
 - (ff) safety infrastructure to manage traffic when crossing roads or other obstacles;
 - (gg) site drainage and waste management infrastructure (including sewerage); and
 - (hh) electricity, water, waste water and telecommunications connections.
- (ii) **Work No. 6B**— works to lay electrical cables, accesses, and temporary construction laydown areas for the electrical cables including—
 - (i) high voltage electrical cables connecting Work No. 4A to Work No. 5;
 - (ii) laying down of access tracks, ramps, footpaths, roads, including the laying and construction of drainage infrastructure, signage and information boards;
 - (iii) joint bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable marker, tiles and tape, communication chambers, fibre optic cables and lighting and other works associated with cable laying.

- (iv) tunnelling, boring and drilling works; and
- (v) temporary construction and decommissioning laydown areas comprising—
 - (aa) areas of hardstanding, compacted ground or track matting;
 - (bb) car parking;
 - (cc) area to store materials and equipment;
 - (dd) site and welfare offices and workshops;
 - (ee) security infrastructure, including cameras, perimeter fencing and lighting;
 - (ff) safety infrastructure to manage traffic when crossing roads or other obstacles;
 - (gg) site drainage and waste management infrastructure (including sewerage); and
 - (hh) electricity, water, waste water and telecommunications connections.

Work No. 7— works including—

(jj) **Work No. 7A**— works including—

- (i) fencing, gates, boundary treatment and other means of enclosure;
- (ii) works for the provision of security and monitoring measures including CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure, and perimeter fencing;
- (iii) landscaping and biodiversity mitigation and enhancement measures including planting;
- (iv) improvement, maintenance and use of existing private tracks;
- (v) laying down of internal access tracks, ramps, means of access and footpaths;
- (vi) temporary footpath diversions;
- (vii) earthworks;
- (viii) sustainable drainage system ponds, runoff outfalls, general drainage and irrigation infrastructure and improvements or extensions to existing drainage and irrigation systems;
- (ix) acoustic barriers;
- (x) electricity and telecommunications connections; and
- (xi) secondary temporary construction and decommissioning laydown areas.

(kk) **Work No. 7B**— works including—

- (i) fencing, gates, boundary treatment and other means of enclosure;
- (ii) works for the provision of security and monitoring measures including CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure, and perimeter fencing;
- (iii) landscaping and biodiversity mitigation and enhancement measures including planting;
- (iv) improvement, maintenance and use of existing private tracks;
- (v) laying down of internal access tracks, ramps, means of access and footpaths;
- (vi) temporary footpath diversions;
- (vii) earthworks;
- (viii) sustainable drainage system ponds, runoff outfalls, general drainage and irrigation infrastructure and improvements or extensions to existing drainage and irrigation systems;
- (ix) acoustic barriers;
- (x) electricity and telecommunications connections; and
- (xi) secondary temporary construction and decommissioning laydown areas.

- (ll) **Work No. 7C**— works including—
 - (i) fencing, gates, boundary treatment and other means of enclosure;
 - (ii) works for the provision of security and monitoring measures including CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure, and perimeter fencing;
 - (iii) landscaping and biodiversity mitigation and enhancement measures including planting;
 - (iv) improvement, maintenance and use of existing private tracks;
 - (v) laying down of internal access tracks, ramps, means of access and footpaths;
 - (vi) temporary footpath diversions;
 - (vii) earthworks;
 - (viii) sustainable drainage system ponds, runoff outfalls, general drainage and irrigation infrastructure and improvements or extensions to existing drainage and irrigation systems;
 - (ix) acoustic barriers;
 - (x) electricity and telecommunications connections; and
 - (xi) temporary construction and decommissioning laydown areas.
- (mm) **Work No. 7D**— works including—
 - (i) fencing, gates, boundary treatment and other means of enclosure;
 - (ii) works for the provision of security and monitoring measures including CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure, and perimeter fencing;
 - (iii) landscaping and biodiversity mitigation and enhancement measures including planting;
 - (iv) improvement, maintenance and use of existing private tracks;
 - (v) laying down of internal access tracks, ramps, means of access and footpaths;
 - (vi) temporary footpath diversions;
 - (vii) earthworks;
 - (viii) sustainable drainage system ponds, runoff outfalls, general drainage and irrigation infrastructure and improvements or extensions to existing drainage and irrigation systems;
 - (ix) acoustic barriers;
 - (x) electricity and telecommunications connections; and
 - (xi) temporary construction and decommissioning laydown areas.

Work No. 8— temporary construction and decommissioning laydown areas including—

- (nn) **Work No. 8A**— temporary construction and decommissioning laydown area comprising—
 - (i) areas of hardstanding;
 - (ii) car parking;
 - (iii) site and welfare offices and workshops;
 - (iv) security infrastructure, including cameras, perimeter fencing and lighting;
 - (v) area to store materials and equipment;
 - (vi) site drainage and waste management infrastructure (including sewerage); and
 - (vii) electricity, water, waste water and telecommunications connections.
- (oo) **Work No. 8B**— temporary construction and decommissioning laydown area comprising—

- (i) areas of hardstanding;
 - (ii) car parking;
 - (iii) site and welfare offices and workshops;
 - (iv) security infrastructure, including cameras, perimeter fencing and lighting;
 - (v) area to store materials and equipment;
 - (vi) site drainage and waste management infrastructure (including sewerage); and
 - (vii) electricity, water, waste water and telecommunications connections.
- (pp) **Work No. 8C**— temporary construction and decommissioning laydown area comprising—
- (i) areas of hardstanding;
 - (ii) car parking;
 - (iii) site and welfare offices and workshops;
 - (iv) security infrastructure, including cameras, perimeter fencing and lighting;
 - (v) area to store materials and equipment;
 - (vi) site drainage and waste management infrastructure (including sewerage); and
 - (vii) electricity, water, waste water and telecommunications connections.
- (qq) **Work No. 8D**— temporary construction and decommissioning laydown area comprising—
- (i) areas of hardstanding;
 - (ii) car parking;
 - (iii) site and welfare offices and workshops;
 - (iv) security infrastructure, including cameras, perimeter fencing and lighting;
 - (v) area to store materials and equipment;
 - (vi) site drainage and waste management infrastructure (including sewerage); and
 - (vii) electricity, water, waste water and telecommunications connections.

Work No. 9— works to facilitate access to Work Nos. 1 to 8 and 10 to 11 including—

- (rr) **Work No. 9A**— works to facilitate temporary construction and decommissioning access to Work Nos. 1 to 8 and 10 to 11 including—
- (i) creation of accesses from the public highway;
 - (ii) creation of visibility splays;
 - (iii) works to alter the layout of any street or highway temporarily; and
 - (iv) offsite works adjacent to highways land including those to structures, boundary features, drainage features on private land required for the facilitation of movement of abnormal indivisible loads associated with Work Nos. 4 and 6.
- (ss) **Work No. 9B**— works to facilitate permanent access to Work Nos. 1 to 7 and 10 to 11 including—
- (i) creation of accesses from the public highway;
 - (ii) creation of visibility splays; and
 - (iii) works to alter the layout of any street or highway permanently.

Work No. 10— works to create and maintain habitat management areas, including—

- (tt) fencing, gates, boundary treatment and other means of enclosure;
- (uu) earth works including bunds, embankments, ponds, trenching and swales;
- (vv) landscaping and biodiversity mitigation and enhancement measures including planting;
- (ww) means of access; and

(xx) drainage.

Work No. 11— creation of a permissive footpath comprising—

- (yy) creation of a permissive footpath from Normanby Road, Stow to Fleets Lane, Stow Pastures;
- (zz) fencing, gates, boundary treatment and other means of enclosure; and
- (aaa) landscaping and biodiversity mitigation and enhancement measures including planting.

In connection with and in addition to Work Nos. 1 to 11 further associated development within the Order limits including—

- (bbb) fencing, gates, boundary treatment and other means of enclosure;
- (ccc) bunds, embankments, trenching and swales;
- (ddd) works to the existing irrigation system and works to alter the position and extent of such irrigation system;
- (eee) surface water drainage systems, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage networks;
- (fff) electrical, gas, water, foul water drainage and telecommunications infrastructure connections, diversions and works to, and works to alter the position of, such services and utilities connections;
- (ggg) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- (hhh) ramps, bridges and other means of access;
- (iii) works for the provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, lightning protection masts, weather stations, storage containers, communication infrastructure, and perimeter fencing;
- (jjj) improvement, maintenance and use of existing private tracks;
- (kkk) temporary footpath diversions and footpath enhancement;
- (lll) landscaping and related works;
- (mmm) habitat creation and enhancement;
- (nnn) site establishments and preparation works including site clearance (including vegetation removal, demolition of existing buildings and structures); earthworks (including soil stripping and storage and site levelling) and excavations; the alteration of the position of services and utilities; and works for the protection of buildings and land;
- (ooo) works to maintain and repair streets and access roads;
- (ppp) tunnelling, boring and drilling works; and
- (qqq) other works to mitigate any adverse effects of the construction, maintenance, operation or decommissioning of the authorised development,

and further associated development comprising such other works or operations as may be necessary or expedient for the purposes of or in connection with the construction, operation and maintenance of the authorised development but only within the Order limits and insofar as they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

SCHEDULE 2 REQUIREMENTS

Article 3

Interpretation

1. In this Schedule—

“relevant planning authority” means—

- (a) Lincolnshire County Council for the purposes of—
 - (i) Requirement 6 (battery safety management);
 - (ii) Requirement 11 (surface and foul water drainage);
 - (iii) Requirement 15 (construction traffic management plan);
 - (iv) Requirement 18 (public rights of way);
 - (v) Requirement 19 (soils management); and
- (b) West Lindsey District Council and Bassetlaw District Council for the purposes of—
 - (i) Requirement 3 (approved details and amendments to them);
 - (ii) Requirement 4 (community liaison group);
 - (iii) Requirement 5 (detailed design approval);
 - (iv) Requirement 7 (landscape and ecological management plan);
 - (v) Requirement 8 (ecological protection and mitigation strategy);
 - (vi) Requirement 9 (biodiversity net gain);
 - (vii) Requirement 10 (fencing and other means of enclosure);
 - (viii) Requirement 13 (construction environmental management plan);
 - (ix) Requirement 14 (operational environmental management plan);
 - (x) Requirement 16 (operational noise);
 - (xi) Requirement 20 (skills, supply chain and employment);
 - (xii) Requirement 21 (decommissioning and restoration);

and “relevant planning authorities” and “relevant planning authority” means Lincolnshire County Council, West Lindsey District Council and Bassetlaw District Council, as applicable.

Commencement of the authorised development

2.—(1) The authorised development must not be commenced after the expiration of five years from the date this Order comes into force.

(2) No part of the authorised development may commence until a written scheme setting out the phase or phases of construction of the authorised development has been submitted to the relevant planning authorities.

(3) The written scheme submitted pursuant to sub-paragraph (2) must include a timetable for the construction of the phase or phases of the authorised development and a plan identifying the phasing area.

Approved details and amendments to them

3.—(1) The undertaker may submit any amendments to any Approved Document to the relevant planning authority for approval and, following approval, the relevant Approved Document is to be taken to include the amendments as approved under this paragraph.

(2) Approval under sub-paragraph (1) for the amendments to any Approved Document must not be given except where it has been demonstrated to the satisfaction of the relevant planning authority that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(3) In this paragraph, “Approved Document” means any document certified under article 40 (certification of plans and documents, etc) and any plans, details or schemes which have been approved pursuant to any requirement.

Community liaison group

4.—(1) Prior to the commencement of the authorised development the undertaker must submit to the relevant planning authorities for approval the terms of reference for a community liaison group whose aim is to facilitate liaison between representatives of people living in the vicinity of the Order limits and other relevant organisations in relation to the construction of the authorised development.

(2) The community liaison group must be established prior to commencement of the authorised development and must be administered by the undertaker and operated in accordance with the approved terms of reference.

(3) The community liaison group is to continue to meet until the date of final commissioning of the authorised development unless otherwise agreed with the relevant planning authorities.

Detailed design approval

5.—(1) No part of Work Nos. 1, 2, 3 or 4 may commence until details of—

- (a) the layout;
- (b) scale;
- (c) proposed finished ground levels;
- (d) external appearance;
- (e) hard surfacing materials;
- (f) vehicular and pedestrian access, parking and circulation areas; and
- (g) refuse or other storage units, signs and lighting,

relating to that part have been submitted to and approved in writing by the relevant planning authority for that part or, where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities.

(2) The details submitted must accord with the concept design parameters and principles.

(3) The authorised development must be carried out in accordance with the approved details.

(4) Work No. 6 must be carried out in accordance with the concept design parameters and principles.

Battery safety management

6.—(1) Work Nos. 2 and 3 must not commence until a battery storage safety management plan has been submitted to and approved by the relevant planning authority.

(2) The battery storage safety management plan must be substantially in accordance with the outline battery storage safety management plan.

(3) The relevant planning authority must consult with West Lindsey District Council, Lincolnshire Fire and Rescue, Nottinghamshire Fire and Rescue Service and the Environment Agency before determining an application for approval of the battery storage safety management plan.

(4) The battery storage safety management plan must be implemented as approved.

Landscape and ecological management plan

7.—(1) No part of the authorised development may commence until a written landscape and ecological management plan has been submitted to and approved by the relevant planning authority for that part or, where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities, in consultation with the Environment Agency.

(2) The landscape and ecological management plan must be substantially in accordance with the outline landscape and ecological management plan.

(3) The landscape and ecological management plan must be implemented as approved.

(4) For the purposes of sub-paragraph (1), “commence” includes part (j) (site clearance (including vegetation removal, demolition of existing buildings and structures)) of permitted preliminary works.

Ecological protection and mitigation strategy

8.—(1) No part of the authorised development may commence until a written ecological protection and mitigation strategy has been submitted to and approved by the relevant planning authority for that part or, where the phase falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities, in consultation with the Environment Agency.

(2) The ecological protection and mitigation strategy must be substantially in accordance with the outline ecological protection and mitigation strategy.

(3) The ecological protection and mitigation strategy must be implemented as approved.

Biodiversity net gain

9.—(1) No part of the authorised development may commence until a biodiversity net gain strategy has been submitted to and approved by the relevant planning authority, in consultation with the relevant statutory nature conservation body.

(2) The biodiversity net gain strategy must include details of how the strategy will secure a minimum of 76.8% biodiversity net gain in habitat units, a minimum of 56.1% biodiversity net gain in hedgerow units and a minimum of 10% biodiversity net gain in river units for all of the authorised development during the operation of the authorised development, and the metric that has been used to calculate that those percentages will be reached.

(3) The biodiversity net gain strategy must be substantially in accordance with the outline landscape and ecological management plan and must be implemented as approved.

Fencing and other means of enclosure

10.—(1) No part of the authorised development may commence until written details of all proposed temporary fences, walls or other means of enclosure, including those set out in the construction environmental management plan, for that part have been submitted to and approved by the relevant planning authority or, where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities.

(2) No part of the authorised development may commence until written details of all permanent fences, walls or other means of enclosure for that part have been submitted to and approved by the relevant planning authority or, where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities.

(3) For the purposes of sub-paragraph (1), “commence” includes any permitted preliminary works.

(4) The written details provided under sub-paragraph (2) must be substantially in accordance with the relevant concept design parameters and principles.

(5) Any construction site must remain securely fenced in accordance with the approved details under sub-paragraph (1) or (2) at all times during construction of the authorised development.

(6) Any temporary fencing must be removed on completion of the part of construction of the authorised development for which it was used.

(7) Any approved permanent fencing for a part of the authorised development must be completed before the date of final commissioning in respect of that part.

Surface and foul water drainage

11.—(1) No part of the authorised development may commence until written details of the surface water drainage scheme and (if any) foul water drainage system for that part have been submitted to and approved by the relevant planning authority for that part, or where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities.

(2) The written details under sub-paragraph (1) must be substantially in accordance with the outline drainage strategy.

(3) Before approving the written details under sub-paragraph (1) the relevant planning authority must consult with Anglian Water Services Limited or its successor in function as the relevant water undertaker.

(4) Any approved scheme must be implemented as approved.

Archaeology

12. The authorised development must be implemented in accordance with the written scheme of investigation.

Construction environmental management plan

13.—(1) No part of the authorised development may commence until a construction environmental management plan for that part has been submitted to and approved by the relevant planning authority or, where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities, in consultation with the relevant highway authority and the Environment Agency.

(2) The construction environmental management plan must be substantially in accordance with the outline construction environmental management plan.

(3) All construction works associated with the authorised development must be carried out in accordance with the approved construction environmental management plan.

Operational environmental management plan

14.—(1) Prior to the date of final commissioning for any part of the authorised development, an operational environmental management plan for that part must be submitted to and approved by the relevant planning authority or, where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities, in consultation with the relevant highway authority, the relevant waste planning authority and the Environment Agency.

(2) The operational environmental management plan must be substantially in accordance with the outline operational environmental management plan and must include a waste management strategy that has been submitted to and approved by the relevant waste planning authority.

(3) The operational environmental management plan must be implemented as approved.

Construction traffic management plan

15.—(1) No part of the authorised development may commence until a construction traffic management plan for that part has been submitted to and approved by the relevant planning

authority or, where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities.

(2) The construction traffic management plan must be substantially in accordance with the outline construction traffic management plan.

(3) Before approving the construction traffic management plan the relevant planning authority must consult with the relevant highway authority and West Lindsey District Council.

(4) All construction works associated with the authorised development must be carried out in accordance with the approved construction traffic management plan.

Operational noise

16.—(1) No part of Work Nos. 1, 2, 3, or 4 may commence until an operational noise assessment containing details of how the design of that numbered work has incorporated the operational mitigation measures set out in Section 15.6 of Chapter 15 of the environmental statement for that part has been submitted to and approved by the relevant planning authority.

(2) The design as described in the operational noise assessment must be implemented as approved.

Permissive path

17.—(1) Work No. 11 must be provided and open to the public prior to the date of final commissioning of Work No. 1A.

(2) The permissive path must be maintained and access by the public permitted for 364 days a year except where closure is required for maintenance or in an emergency until the date of decommissioning.

Public rights of way

18.—(1) No part of the authorised development may commence until a public rights of way management plan for any sections of public rights of way shown to be temporarily closed on the public rights of way plan for that part has been submitted to and approved by the relevant planning authority, or, where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities.

(2) The public rights of way management plan must be substantially in accordance with the outline public rights of way management plan.

(3) Before approving the public rights of way management plan the relevant planning authority must consult with the relevant highway authority.

(4) The public rights of way management plan must be implemented as approved.

Soils management

19.—(1) No part of the authorised development may commence until a soil management plan for that part has been submitted to and approved by the relevant planning authority or, where the part falls within the administrative areas of multiple planning authorities, each of the relevant planning authorities.

(2) The soil management plan must be substantially in accordance with the outline soil management plan.

(3) The soil management plan must be implemented as approved.

Skills, supply chain and employment

20.—(1) No part of the authorised development may commence until a skills, supply chain and employment plan in relation to that part has been submitted to and approved by the relevant planning authority for that part or, where the part falls within the administrative areas of multiple

planning authorities, each of the relevant planning authorities, in consultation with Lincolnshire County Council.

(2) The skills, supply chain and employment plan must be substantially in accordance with the outline skills, supply chain and employment plan.

(3) Any plan under this paragraph must identify opportunities for individuals and businesses to access employment and supply chain opportunities associated with that part of the authorised development and the means for publicising such opportunities.

(4) The skills, supply chain and employment plan must be implemented as approved.

Decommissioning and restoration

21.—(1) The date of decommissioning must be no later than 60 years following the date of final commissioning.

(2) Unless otherwise agreed with the relevant planning authority, no later than 12 months prior to the date the undertaker intends to decommission any part of the authorised development, the undertaker must notify the relevant planning authority of the intended date of decommissioning for that part of the authorised development.

(3) Unless otherwise agreed with the relevant planning authority, no later than ten weeks prior to the intended date of decommissioning of any part of the authorised development notified pursuant to sub-paragraph (2), the undertaker must submit to the relevant planning authority for that part a decommissioning plan for approval.

(4) Where the undertaker decides to decommission a part of the authorised development that falls within the administrative areas of multiple planning authorities, the decommissioning plan must be submitted to each relevant planning authority and the approval of all relevant planning authorities is required for the purposes of this paragraph.

(5) The decommissioning plan must be substantially in accordance with the outline decommissioning statement and must include a timetable for its implementation.

(6) No decommissioning works must be carried out until the relevant planning authority has approved the decommissioning plan submitted in relation to those works, in consultation with the Environment Agency.

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

(8) This requirement is without prejudice to any other consents or permissions that may be required to decommission any part of the authorised development.

Long term flood risk mitigation

22.—(1) No part of the authorised development may commence until an updated flood risk assessment of the flood risk arising from the river Trent in respect of the continued operation of Work Nos. 1 to 4 for 60 years from the date of final commissioning has been submitted to and approved by the Environment Agency.

(2) The updated flood risk assessment submitted pursuant to sub-paragraph (1) must, unless otherwise agreed by the Environment Agency, include—

- (a) the details of any mitigation or compensation measures that are necessary (if applicable);
- (b) the implementation timetable for any mitigation or compensation measures identified under sub-paragraph (a) (if applicable); and
- (c) the details of any maintenance and monitoring requirements for any mitigation or compensation measures identified under sub-paragraph (a) required until the date of decommissioning (if applicable).

(3) The undertaker must submit the details approved by the Environment Agency under sub-paragraph (1) to the relevant planning authority, within five days of such approval being given.

(4) The undertaker must implement the approved mitigation or compensation measures identified under sub-paragraph (2)(a) in accordance with the approved implementation timetable

identified under sub-paragraph (2)(b) or such other time period as is agreed with the Environment Agency and must implement the approved maintenance and monitoring requirements identified under sub-paragraph (2)(c) until the date of decommissioning of Work Nos. 1 to 4.

SCHEDULE 3

Article 6

LEGISLATION TO BE DISAPPLIED

1. The following provisions do not apply in so far as they relate to the construction of any numbered work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation, maintenance or decommissioning of the authorised development—

- (a) Great Grimsby and Sheffield Junction Railway Act 1845**(a)**;
- (b) Great Northern Railway Act 1846**(b)**;
- (c) Sheffield and Lincolnshire Junction Railway Act 1846**(c)**;
- (d) Manchester, Sheffield, and Lincolnshire Railways, and Manchester and Lincolnshire Union Railway and Chesterfield and Gainsborough Canal Amalgamation Act 1847**(d)**;
- (e) Trent (Burton on Trent and Humber) Navigation Act 1887**(e)**;
- (f) Trent Navigation Act 1906**(f)**;
- (g) Great Central Railway Act 1907**(g)**;
- (h) Lincolnshire Rivers Fisheries Provisional Order Confirmation Act 1928**(h)**;
- (i) Trent and Lincolnshire Water Act 1971**(i)**; and
- (j) Anglian Water Authority Act 1977**(j)**.

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- (a) 1845 c. 1.
 - (b) 1846 c. lxxi.
 - (c) 1846 c. ccciv.
 - (d) 1847 c. cxc.
 - (e) 1887 c. cxv.
 - (f) 1906 c. lvii.
 - (g) 1907 c. lxxviii.
 - (h) 1928 c. lxvii.
 - (i) 1971 c. xiii.
 - (j) 1977 c. i.

SCHEDULE 4

Article 8

STREETS SUBJECT TO STREET WORKS

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street</i> | <i>(3)</i> <i>Extent of the street works</i> |
|---------------------------|---|---|
| District of West Lindsey | Kirton Road, Blyton | Between points 1a and 1b, 1c and 1d, and 1e and 1f and shaded purple on sheet 1 of the streets plan |
| District of West Lindsey | Private track south of Blyton Grange | Between points 1g and 1h shaded purple and outlined in yellow on sheet 1 of the streets plan |
| District of West Lindsey | Private track east of Brook Farm and north of Kirton Road | Between points 1i and 1j and shaded purple and outlined in yellow on sheet 1 of the streets plan |
| District of West Lindsey | Private track from Kirton Road to Cold Harbour | Between points 1k and 1l and shaded purple and outlined in yellow on sheet 1 of the streets plan |
| District of West Lindsey | Pilham Footpath/Track | Between points 2a and 2b, and 2c and 2e and shaded purple on sheet 2 of the streets plan |
| District of West Lindsey | Green Lane, Pilham | Between points 2f and 2i and shaded purple on sheet 2 of the streets plan |
| District of West Lindsey | Private track west of Bonsdale Farm, north of Green Lane | Between points 2j and 2k and shaded purple and outlined in yellow on sheet 2 of the streets plan |
| District of West Lindsey | Pilham Lane, Aisby near Gainsborough | Between points 3a and 3d and shaded purple on sheet 3 of the streets plan |
| District of West Lindsey | East Lane/Track | Between points 3e and 3f and shaded purple on sheet 3 of the streets plan |
| District of West Lindsey | Private track east of Aisby, southeast of Corringham Beck | Between points 3g and 3h and shaded purple and outlined in yellow on sheet 3 of the streets plan |
| District of West Lindsey | Private track north of Corringham Grange Farm | Between points 3i and 3j and shaded purple and outlined in yellow on sheet 3 of the streets plan |
| District of West Lindsey | Private track south of Corringham Grange Farm | Between points 3k and 3l and shaded purple and outlined in yellow on sheet 3 of the streets plan |
| District of West Lindsey | Private track east of Corringham Grange Farm | Between points 3m and 3n and shaded purple and outlined in yellow on sheet 3 of the streets |

| | | |
|--------------------------|--|---|
| | | plan |
| District of West Lindsey | Harpwell Lane, Corringham (A631) | Between points 4a and 4d and shaded purple on sheet 4 of the streets plan |
| District of West Lindsey | School Lane, Springthorpe | Between points 4e and 4g and shaded purple on sheet 4 of the streets plan |
| District of West Lindsey | Private track, Bratt Field Middle Road | Between points 4h and 4i and shaded purple and outlined in yellow on sheet 4 of the streets plan |
| District of West Lindsey | Common Lane, Heapham | Between points 5a and 5b, and 5c and 5d and shaded purple on sheet 5 of the streets plan |
| District of West Lindsey | Private track north of Common Lane, between Heapham Cliff and Heapham Grange | Between points 5e and 5f and shaded purple and outlined in yellow on sheet 5 of the streets plan |
| District of West Lindsey | Cow Lane, Upton | Between points 6a and 6c and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Kexby Road, Glentworth | Between points 6d and 6e and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Glentworth Road, Kexby | Between points 6f and 6g and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Private track along Gipsy Lane | Between points 6h and 6i and shaded purple and outlined in yellow on sheet 6 of the streets plan |
| District of West Lindsey | Private track from Gipsy Lane to Turpin Wood | Between points 6j and 6k and shaded purple and outlined in yellow on sheet 6 of the streets plan |
| District of West Lindsey | Private track from Turpin Wood to Turpin Bungalows | Between points 6l and 8g and shaded purple and outlined in yellow on sheets 6 and 8 of the streets plan |
| District of West Lindsey | Private track east of Fillingham Low Wood to Willingham Road | Between points 7a and 9c and shaded purple and outlined in yellow on sheets 7 and 9 of the streets plan |
| District of West Lindsey | Private track north of Fillingham Grange | Between points 7b and 7c and shaded purple and outlined in yellow on sheet 7 of the streets plan |
| District of West Lindsey | Private track from Fillingham Grange to Greystones Farm | Between points 7d and 9g and shaded purple and outlined in yellow on sheets 7 and 9 of the streets plan |
| District of West Lindsey | Willingham Road | Between points 8a and 8b and shaded purple on sheet 8 of the streets plan |
| District of West Lindsey | South Lane, Willingham by | Between points 8c and 8f and |

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| | Stow | shaded purple on sheet 8 of the streets plan |
| District of West Lindsey | Private track west of Lowfield Farm | Between points 8d and 8l and shaded purple and outlined in yellow on sheet 8 of the streets plan |
| District of West Lindsey | Private track south of Turpin Farm | Between points 8h and 8i and shaded purple and outlined in yellow on sheet 8 of the streets plan |
| District of West Lindsey | Private track south of Turpin Farm | Between points 8j and 8k and shaded purple and outlined in yellow on sheet 8 of the streets plan |
| District of West Lindsey | Private track south of Moor Farm | Between points 8m and 8n and shaded purple and outlined in yellow on sheet 8 of the streets plan |
| District of West Lindsey | Willingham Road | Between points 9a and 9d and shaded purple on sheet 9 of the streets plan |
| District of West Lindsey | Willingham Road | Between points 9e and 9h and shaded purple on sheet 9 of the streets plan |
| District of West Lindsey | Private track southeast of Side Farm | Between points 9l and 9m and shaded purple and outlined in yellow on sheet 9 of the streets plan |
| District of West Lindsey | Private track south of Willingham Road | Between points 9n and 9o and shaded purple and outlined in yellow on sheet 9 of the streets plan |
| District of West Lindsey | Private track south of Greystones Farm | Between points 9g and 9i and shaded purple and outlined in yellow on sheet 9 of the streets plan |
| District of West Lindsey | Private track, off Willingham Road, along the access to Side farm | Between points 9j and 9k and shaded purple and outlined in yellow on sheet 9 of the streets plan |
| District of West Lindsey | Coates Lane, Coates by Stow | Between points 10b and 15a and shaded purple on sheets 10 and 15 of the streets plan |
| District of West Lindsey | Ingham Road | Between points 10c and 10d, and 10e and 10i and shaded purple on sheet 10 of the streets plan |
| District of West Lindsey | Fleets Lane, Sturton by Stow | Between points 10f and 10k and shaded purple on sheet 10 of the streets plan |
| District of West Lindsey | Private track west of Normanby by Stow | Between points 10l and 14e and shaded purple and outlined in yellow on sheets 10 and 14 of the streets plan |
| District of West Lindsey | Private track north of Coates | Between points 10m and 10n |

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| | Lane, south of Normanby Gorse | and shaded purple and outlined in yellow on sheet 10 of the streets plan |
| District of West Lindsey | Track from Coates Lane to Ingham Road, Stow | Between points 10o and 10q and shaded purple and outlined in yellow on sheet 10 of the streets plan |
| District of West Lindsey | Private track east of Stow, North of Ingham Road | Between points 10r and 10s and shaded purple and outlined in yellow on sheet 10 of the streets plan |
| District of West Lindsey | Ingham Road | Between points 11a to 11b and shaded purple on sheets 10 and 11 of the streets plan |
| District of West Lindsey | Stow Lane, Ingham | Between points 11c and 11f and shaded purple on sheet 11 of the streets plan |
| District of West Lindsey | Private track along Blackthorn Lane, Cammeringham | Between points 11g and 11m and shaded purple and outlined in yellow on sheet 11 of the streets plan |
| District of West Lindsey | Private track east of Furze Hill, north of Ingham Road | Between points 11i and 11j and shaded purple and outlined in yellow on sheet 11 of the streets plan |
| District of West Lindsey | Private track south of Blackthorn Hill | Between points 11k and 11l and shaded purple and outlined in yellow on sheet 11 of the streets plan |
| District of West Lindsey | Blackthorn Lane, Cammeringham | Between points 11h and 11m and shaded purple on sheet 11 of the streets plan |
| District of West Lindsey | Private track east of Furze Hill, north of Ingham Road | Between points 11i and 11j and shaded purple and outlined in yellow on sheet 11 of the streets plan |
| District of West Lindsey | Private track south of Blackthorn Hill | Between points 11k and 11l and shaded purple and outlined in yellow on sheet 11 of the streets plan |
| District of West Lindsey | Track north of Cold Harbour, south of Stow Lane | Between points 11m and 11o and shaded purple on sheet 11 of the streets plan |
| District of West Lindsey | Private track north of Cold Harbour, south of Stow Lane | Between points 11n and 11o and shaded purple and outlined in yellow on sheet 11 of the streets plan |
| District of West Lindsey | Thorpe Lane, Thorpe in the Falls | Between points 12a and 12c and shaded purple on sheet 12 of the streets plan |
| District of West Lindsey | Private track east of Fleets Lane | Between points 12d and 12e and shaded purple and outlined in yellow on sheet 12 of the streets plan |
| District of West Lindsey | Private track east of Fleets | Between points 12f and 12g |

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| | Lane | and shaded purple and outlined in yellow on sheet 12 of the streets plan |
| District of West Lindsey | Private track east of Fleets Lane and north of Fleets Cottages | Between points 12h and 12i and shaded purple and outlined in yellow on sheet 12 of the streets plan |
| District of West Lindsey | Private track from Thorpe le Fallows to north of The Grange | Between points 12j and 13a and shaded purple and outlined in yellow on sheets 12 and 13 of the streets plan |
| District of West Lindsey | Private track south of Thorpe Wood | Between points 13b and 13c and shaded purple and outlined in yellow on sheet 13 of the streets plan |
| District of West Lindsey | Private track south of Thorpe Wood, north of The Grange | Between points 13d and 13e and shaded purple and outlined in yellow on sheet 13 of the streets plan |
| District of West Lindsey | Private track south of The Grange and north of Thorpe Lane | Between points 13f and 13g and shaded purple and outlined in yellow on sheet 13 of the streets plan |
| District of West Lindsey | Cot Garth Lane, Willingham by Stow | Between points 14a and 14b and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Normanby Road, Normanby by Stow | Between points 14c and 15m and shaded purple on sheets 14 and 15 of the streets plan |
| District of West Lindsey | Cot Garth Lane, Willingham by Stow | Between points 14f and 14g and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Stone Pit Lane, Willingham by Stow | Between points 14h and 14i and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Cot Garth Lane, Willingham by Stow | Between points 14j and 14k and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Normanby Road, Stow | Between points 15b and 15c and shaded purple on sheet 15 of the streets plan |
| District of West Lindsey | Wooden Lane, Stow Park | Between points 15d and 15f and shaded purple on sheet 15 of the streets plan |
| District of West Lindsey | Stow Park Road | Between points 15g and 15h and shaded purple on sheet 15 of the streets plan |
| District of West Lindsey | Private track west of Wooden Lane | Between points 15i and 15j and shaded purple and outlined in yellow on sheet 15 of the streets plan |
| District of West Lindsey | Private track along drain north of Highfields Farm | Between points 15k and 15l and shaded purple and outlined in yellow on sheet 15 of the streets plan |

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| District of West Lindsey | Till Bridge Lane | Between points 16a and 16b and shaded purple on sheet 16 of the streets plan |
| District of West Lindsey | Stow Park Road, Marton | Between points 16c and 16d and shaded purple on sheet 16 of the streets plan |
| District of West Lindsey | Private track north of Tillbridge Lane adjacent to Manor Farm | Between points 16e and 16g and shaded purple and outlined in yellow on sheet 16 of the streets plan |
| District of West Lindsey | Private track at Grange Farm Stables | Between points 16h and 16i and shaded purple and outlined in yellow on sheet 16 of the streets plan |
| District of West Lindsey | Private track at Poplar Farm | Between points 16j and 16k and shaded purple and outlined in yellow on sheet 16 of the streets plan |
| District of West Lindsey | High Street, Marton (A156) | Between points 17a and 17b and shaded purple on sheet 17 of the streets plan |
| District of West Lindsey | Stow Park Road, Marton (A1500) | Between points 17c and 17d and shaded purple on sheet 17 of the streets plan |
| District of West Lindsey | High Street, Marton (A156) | Between points 17e and 17g and shaded purple on sheet 17 of the streets plan |
| District of West Lindsey | High Street, Marton (A156) | Between points 17h and 17i and shaded purple on sheet 17 of the streets plan |
| District of Bassetlaw | Headstead Bank, Cottam | Between points 17j and 18i and shaded purple on sheets 17 and 18 of the streets plan |
| District of Bassetlaw | Private track west of Lea Road, Brampton | Between points 17l and 17m and shaded purple and outlined in yellow on sheet 17 of the streets plan |
| District of Bassetlaw | Private track east of Headstead Bank | Between points 17n and 17o and shaded purple and outlined in yellow on sheet 17 of the streets plan |
| District of Bassetlaw | Private track east of Headstead Bank | Between points 17p and 17q and shaded purple and outlined in yellow on sheet 17 of the streets plan |
| District of Bassetlaw | Overcoat Lane, Cottam | Between points 18a and 18b and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Cow Pasture Lane, South Leverton | Between points 18c and 18d and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Private track along Cow Pastures Lane | Between points 18d and 18h and shaded purple and outlined in yellow on sheet 18 of the streets plan |

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| District of Bassetlaw | Outgang Lane, Cottam | Between points 18e and 18g and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Town Street, Cottam | Between points 18i and 18j and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Nightleys Road, Rampton | Between points 19c and 19d and shaded purple on sheet 19 of the streets plan |
| District of Bassetlaw | Shortleys Road, Rampton | Between points 19e and 19f and shaded purple on sheet 19 of the streets plan |
| District of Bassetlaw | Cottam Road, Treswell | Between points 19g and 19h and shaded purple on sheet 19 of the streets plan |
| District of Bassetlaw | Rampton Road, Woodbeck | Between points 19i and 19j and shaded purple on sheet 19 of the streets plan |
| District of Bassetlaw | Private track north of Torksey Ferry Road, West of Cottam Power Station | Between points 19k and 19l and shaded purple and outlined in yellow on sheet 19 of the streets plan |
| District of Bassetlaw | Torksey Ferry Road, Rampton | Between points 19m and 20a and shaded purple on sheets 19 and 20 of the streets plan |

SCHEDULE 5

Article 9 and Article 10

ALTERATION OF STREETS

PART 1

PERMANENT ALTERATION OF LAYOUT

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street</i> | <i>(3)</i> <i>Description of alteration</i> |
|---------------------------|---|---|
| District of West Lindsey | Kirton Road, Blyton | Permanent alteration of layout between points 1a and 1b, and 1e and 1f and shaded purple on sheet 1 of the streets plan |
| District of West Lindsey | Private track south of Blyton Grange | Permanent alteration of layout between points 1g and 1h and shaded purple on sheet 1 of the streets plan |
| District of West Lindsey | Private track east of Brook Farm and north of Kirton Road | Permanent alteration of layout between points 1i and 1j and shaded purple on sheet 1 of the streets plan |
| District of West Lindsey | Private track from Kirton Road to Cold Harbour | Permanent alteration of layout between points 1k and 1l and shaded purple on sheet 1 of the streets plan |
| District of West Lindsey | Pilham Footpath/Track | Permanent alteration of layout between points 2c and 2e and shaded purple on sheet 2 of the streets plan |
| District of West Lindsey | Private track west of Bonsdale Farm, north of Green Lane | Permanent alteration of layout between points 2j and 2k and shaded purple on sheet 2 of the streets plan |
| District of West Lindsey | East Lane/Track | Permanent alteration of layout between points 3e and 3f and shaded purple on sheet 3 of the streets plan |
| District of West Lindsey | Private track east of Aisby, southeast of Corringham Beck | Permanent alteration of layout between points 3g and 3h and shaded purple and outlined in yellow on sheet 3 of the streets plan |
| District of West Lindsey | Private track north of Corringham Grange Farm | Permanent alteration of layout between points 3i and 3j and shaded purple and outlined in yellow on sheet 3 of the streets plan |
| District of West Lindsey | Private track south of Corringham Grange Farm | Permanent alteration of layout between points 3k and 3l and shaded purple and outlined in yellow on sheet 3 of the streets |

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| | | plan |
| District of West Lindsey | Private track east of Corringham Grange Farm | Permanent alteration of layout between points 3m and 3n and shaded purple and outlined in yellow on sheet 3 of the streets plan |
| District of West Lindsey | Private track from Turpin Wood to Turpin Bungalows | Permanent alteration of layout between points 6l and 8g and shaded purple and outlined in yellow on sheets 6 and 8 of the streets plan |
| District of West Lindsey | Private track east of Fillingham Low Wood to Willingham Road | Permanent alteration of layout between points 7a and 9c and shaded purple and outlined in yellow on sheets 7 and 9 of the streets plan |
| District of West Lindsey | Private track north of Fillingham Grange | Permanent alteration of layout between points 7b and 7c and shaded purple and outlined in yellow on sheet 7 of the streets plan |
| District of West Lindsey | Private track from Fillingham Grange to Greystones Farm | Permanent alteration of layout between points 7d and 9g and shaded purple and outlined in yellow on sheets 7 and 9 of the streets plan |
| District of West Lindsey | Willingham Road | Permanent alteration of layout between points 8a and 8b and shaded purple on sheet 8 of the streets plan |
| District of West Lindsey | South Lane, Willingham by Stow | Permanent alteration of layout between points 8c and 8f and shaded purple on sheet 8 of the streets plan |
| District of West Lindsey | Private track west of Lowfield Farm | Permanent alteration of layout between points 8d and 8l and shaded purple and outlined in yellow on sheet 8 of the streets plan |
| District of West Lindsey | Private track south of Turpin Farm | Permanent alteration of layout between points 8h and 8i and shaded purple and outlined in yellow on sheet 8 of the streets plan |
| District of West Lindsey | Private track south of Turpin Farm | Permanent alteration of layout between points 8j and 8k and shaded purple and outlined in yellow on sheet 8 of the streets plan |
| District of West Lindsey | Private track south of Moor Farm | Permanent alteration of layout between points 8m and 8n and shaded purple and outlined in yellow on sheet 8 of the streets plan |
| District of West Lindsey | Willingham Road | Permanent alteration of layout between points 9a and 9d and |

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| | | shaded purple on sheet 9 of the streets plan |
| District of West Lindsey | Willingham Road | Permanent alteration of layout between points 9e and 9h and shaded purple on sheet 9 of the streets plan |
| District of West Lindsey | Private track south of Greystones Farm | Permanent alteration of layout between points 9g and 9i and shaded purple and outlined in yellow on sheet 9 of the streets plan |
| District of West Lindsey | Private track southeast of Side Farm | Permanent alteration of layout between points 9l and 9m and shaded purple and outlined in yellow on sheet 9 of the streets plan |
| District of West Lindsey | Private track south of Willingham Road | Permanent alteration of layout between points 9n and 9o and shaded purple and outlined in yellow on sheet 9 of the streets plan |
| District of West Lindsey | Coates Lane, Coates by Stow | Permanent alteration of layout between points 10b and 15a and shaded purple on sheets 10 and 15 of the streets plan |
| District of West Lindsey | Ingham Road | Permanent alteration of layout between points 10e and 10i and shaded purple on sheet 10 of the streets plan |
| District of West Lindsey | Fleets Lane, Sturton by Stow | Permanent alteration of layout between points 10f and 10k and shaded purple on sheet 10 of the streets plan |
| District of West Lindsey | Private track west of Normanby by Stow | Permanent alteration of layout between points 10l and 14e and shaded purple and outlined in yellow on sheets 10 and 14 of the streets plan |
| District of West Lindsey | Private track north of Coates Lane, south of Normanby Gorse | Permanent alteration of layout between points 10m and 10n and shaded purple and outlined in yellow on sheet 10 of the streets plan |
| District of West Lindsey | Track from Coates Lane to Ingham Road, Stow | Permanent alteration of layout between points 10o and 10q and shaded purple on the streets plan |
| District of West Lindsey | Ingham Road | Permanent alteration of layout between points 11a to 11b and shaded purple on sheets 10 and 11 of the streets plan |
| District of West Lindsey | Blackthorn Lane, Cammeringham | Permanent alteration of layout between points 11m and 11h and shaded purple on sheet 11 of the streets plan |
| District of West Lindsey | Private track along Blackthorn | Permanent alteration of layout |

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| | Lane, Cammeringham | between points 11g and 11m and shaded purple and outlined in yellow on sheet 11 of the streets plan |
| District of West Lindsey | Private track east of Furze Hill, north of Ingham Road | Permanent alteration of layout between points 11i and 11j and shaded purple and outlined in yellow on sheet 11 of the streets plan |
| District of West Lindsey | Private track south of Blackthorn Hill | Permanent alteration of layout between points 11k and 11l and shaded purple and outlined in yellow on sheet 11 of the streets plan |
| District of West Lindsey | Private track north of Cold Harbour, south of Stow Lane | Permanent alteration of layout between points 11n and 11o and shaded purple and outlined in yellow on sheet 11 of the streets plan |
| District of West Lindsey | Thorpe Lane, Thorpe in the Fallows | Permanent alteration of layout between points 12a and 12c and shaded purple on sheet 12 of the streets plan |
| District of West Lindsey | Private track east of Fleets Lane | Permanent alteration of layout between points 12f and 12g and shaded purple and outlined in yellow on sheet 12 of the streets plan |
| District of West Lindsey | Private track east of Fleets Lane and north of Fleets Cottages | Permanent alteration of layout between points 12h and 12i and shaded purple and outlined in yellow on sheet 12 of the streets plan |
| District of West Lindsey | Private track from Thorpe le Fallows to north of The Grange | Permanent alteration of layout between points 12j and 13a and shaded purple and outlined in yellow on sheets 12 and 13 of the streets plan |
| District of West Lindsey | Private track south of Thorpe Wood | Permanent alteration of layout between points 13b and 13c and shaded purple and outlined in yellow on sheet 13 of the streets plan |
| District of West Lindsey | Private track south of Thorpe Wood, north of The Grange | Permanent alteration of layout between points 13d and 13e and shaded purple and outlined in yellow on sheet 13 of the streets plan |
| District of West Lindsey | Private track south of The Grange and north of Thorpe Lane | Permanent alteration of layout between points 13f and 13g and shaded purple and outlined in yellow on sheet 13 of the streets plan |
| District of West Lindsey | Normanby Road, Normanby by Stow | Permanent alteration of layout between points 14c and 15m and shaded purple on sheets 14 |

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| | | and 15 of the streets plan |
| District of West Lindsey | Cot Garth Lane, Willingham by Stow | Permanent alteration of layout between points 14f and 14g and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Stone Pit Lane, Willingham by Stow | Permanent alteration of layout between points 14h and 14i and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Wooden Lane, Stow Park | Permanent alteration of layout between points 15d and 15f and shaded purple on sheet 15 of the streets plan |
| District of West Lindsey | Private track north of Tillbridge Lane adjacent to Manor Farm | Permanent alteration of layout between points 16e and 16g and shaded purple and outlined in yellow on sheet 16 of the streets plan |
| District of West Lindsey | High Street, Marton (A156) | Permanent alteration of layout between points 17h and 17i and shaded purple on sheet 17 of the streets plan |
| District of Bassetlaw | Private track west of Lea Road, Brampton | Between points 17l and 17m and shaded purple and outlined in yellow on sheet 17 of the streets plan |
| District of Bassetlaw | Overcoat Lane, Cottam | Permanent alteration of layout between points 18a and 18b and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Cow Pasture Lane, South Leverton | Permanent alteration of layout between points 18c and 18d and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Private track along Cow Pastures Lane | Permanent alteration of layout between points 18d and 18h and shaded purple and outlined in yellow on sheet 18 of the streets plan |
| District of Bassetlaw | Town Street, Cottam | Permanent alteration of layout between points 18i and 18j and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Nightleys Road, Rampton | Permanent alteration of layout between points 19c and 19d and shaded purple on sheet 19 of the streets plan |
| District of Bassetlaw | Shortleys Road, Rampton | Permanent alteration of layout between points 19e and 19f and shaded purple on sheet 19 of the streets plan |

PART 2

TEMPORARY ALTERATION OF LAYOUT

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street</i> | <i>(3)</i> <i>Description of alteration</i> |
|---------------------------|--|---|
| District of West Lindsey | Kirton Road, Blyton | Temporary alteration of layout between reference 1c and 1d and shaded purple on sheet 1 of the streets plan |
| District of West Lindsey | Pilham Footpath/Track | Temporary alteration of layout between points 2a and 2b and shaded purple on sheet 2 of the streets plan |
| District of West Lindsey | Green Lane, Pilham | Temporary alteration of layout between points 2f and 2i and shaded purple on sheet 2 of the streets plan |
| District of West Lindsey | Pilham Lane, Aisby near Gainsborough | Temporary alteration of layout between points 3a and 3d and shaded purple on sheet 3 of the streets plan |
| District of West Lindsey | Harpwell Lane, Corringham (A631) | Temporary alteration of layout between points 4a and 4d and shaded purple on sheet 4 of the streets plan |
| District of West Lindsey | School Lane, Springthorpe | Temporary alteration of layout between points 4e and 4g and shaded purple on sheet 4 of the streets plan |
| District of West Lindsey | Common Lane, Heapham | Temporary alteration of layout between points 5a and 5b, and 5c and 5d and shaded purple on sheet 5 of the streets plan |
| District of West Lindsey | Private track north of Common Lane, between Heapham Cliff and Heapham Grange | Temporary alteration of layout between points 5e and 5f and shaded purple and outlined in yellow on sheet 5 of the streets plan |
| District of West Lindsey | Cow Lane, Upton | Temporary alteration of layout between points 6a and 6c and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Kexby Road, Glentworth | Temporary alteration of layout between points 6d and 6e and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Glentworth Road, Kexby | Temporary alteration of layout between points 6f and 6g and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Private track along Gipsy Lane | Temporary alteration of layout between points 6h and 6i and shaded purple and outlined in yellow on sheet 6 of the streets |

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| District of West Lindsey | Private track from Gipsy Lane to Turpin Wood | Temporary alteration of layout between points 6j and 6k and shaded purple and outlined in yellow on sheet 6 of the streets plan |
| District of West Lindsey | Kexby Road, Glentworth | Temporary alteration of layout between points 6m and 6n and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Willingham Road | Temporary alteration of layout between points 8a and 8b and shaded purple on sheet 8 of the streets plan |
| District of West Lindsey | Ingham Road | Temporary alteration of layout between points 10c and 10d and shaded purple on sheet 10 of the streets plan |
| District of West Lindsey | Private track east of Stow, North of Ingham Road | Temporary alteration of layout between points 10r and 10s and shaded purple and outlined in yellow on sheet 10 of the streets plan |
| District of West Lindsey | Stow Lane, Ingham | Temporary alteration of layout between points 11c and 11f and shaded purple on sheet 11 of the streets plan |
| District of West Lindsey | Blackthorn Lane, Cammeringham | Temporary alteration of layout between points 11h and 11m and shaded purple on sheet 11 of the streets plan |
| District of West Lindsey | Track north of Cold Harbour, south of Stow Lane | Temporary alteration of layout between points 11m and 11o and shaded purple on sheet 11 of the streets plan |
| District of West Lindsey | Cot Garth Lane, Willingham by Stow | Temporary alteration of layout between points 14a and 14b and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Cot Garth Lane, Willingham by Stow | Temporary alteration of layout between points 14j and 14k on and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Normanby Road, Stow | Temporary alteration of layout between points 15b and 15c and shaded purple on sheet 15 of the streets plan |
| District of West Lindsey | Stow Park Road | Temporary alteration of layout between points 15g and 15h and shaded purple on sheet 15 of the streets plan |
| District of West Lindsey | Private track west of Wooden Lane | Temporary alteration of layout between points 15i and 15j and shaded purple and outlined in yellow on sheet 15 of the streets plan |

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| District of West Lindsey | Private track along drain north of Highfields Farm | Temporary alteration of layout between points 15k and 15l and shaded purple and outlined in yellow on sheet 15 of the streets plan |
| District of West Lindsey | Till Bridge Lane | Temporary alteration of layout between points 16a and 16b and shaded purple on sheet 16 of the streets plan |
| District of West Lindsey | Stow Park Road, Marton | Temporary alteration of layout between points 16c and 16d and shaded purple on sheet 16 of the streets plan |
| District of West Lindsey | Private track at Poplar Farm | Temporary alteration of layout between points 16j and 16k and shaded purple and outlined in yellow on sheet 16 of the streets plan |
| District of West Lindsey | High Street, Marton (A156) | Temporary alteration of layout between points 17a and 17b and shaded purple on sheet 17 of the streets plan |
| District of West Lindsey | Stow Park Road, Marton (A1500) | Temporary alteration of layout between points 17c and 17d and shaded purple on sheet 17 of the streets plan |
| District of West Lindsey | High Street, Marton (A156) | Temporary alteration of layout between points 17e and 17g and shaded purple on sheet 17 of the streets plan |
| District of Bassetlaw | Headstead Bank, Cottam | Temporary alteration of layout between points 17j and 17k and shaded purple on sheet 17 of the streets plan |
| District of Bassetlaw | Private track east of Headstead Bank | Temporary alteration of layout between points 17n and 17o and shaded purple and outlined in yellow on sheet 17 of the streets plan |
| District of Bassetlaw | Private track east of Headstead Bank | Temporary alteration of layout between points 17p and 17q and shaded purple and outlined in yellow on sheet 17 of the streets plan |
| District of Bassetlaw | Outgang Lane, Cottam | Temporary alteration of layout between points 18e and 18g and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Cottam Road, Treswell | Temporary alteration of layout between points 19g and 19h and shaded purple on sheet 19 of the streets plan |
| District of Bassetlaw | Rampton Road, Woodbeck | Temporary alteration of layout between points 19i and 19j and shaded purple on sheet 19 of the streets plan |

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| District of Bassetlaw | Torksey Ferry Road, Rampton | Temporary alteration of layout between points 19m and 20a and shaded purple on sheets 19 and 20 of the streets plan |
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SCHEDULE 6

Article 11

STREETS AND PUBLIC RIGHTS OF WAY

PART 1

TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF STREETS

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street</i> | <i>(3)</i> <i>Measure</i> |
|---------------------------|---|--|
| District of West Lindsey | Approximately 51 metres of Kirton Road, Blyton as shown between points 1c and 1d and coloured green on sheet 1 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 1,093 metres of private track south of Blyton Grange, as shown between points 1g and 1h and coloured green and outlined in yellow on sheet 1 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 1363 metres of private track from Kirton road to Cold Harbour, as shown between points 1k and 1l and coloured green and outlined in yellow on sheet 1 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 503 metres of private track east of Brook Farm and north of Kirton Road, as shown between points 1i and 1j and coloured green and outlined in yellow on sheet 1 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 914 metres of Pilham Footpath/Track, as shown between points 2d and 2e and coloured green on sheet 2 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 140 metres of Green Lane, Pilham as shown between points 2g and 2h and coloured green on sheet 2 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 123 metres of private track west of Bonsdale Farm, north of Green Lane, as shown between points 2j and 2k and coloured green and outlined in yellow on sheet 2 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |

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| District of West Lindsey | Approximately 51 metres of Pilham Lane, Aisby near Gainsborough, as shown between points 3b and 3c and coloured green on sheet 3 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 301 metres of private track east of Aisby, southeast of Corringham Beck, as shown between points 3g and 3h and coloured green and outlined in yellow on sheet 3 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 297 metres private track north of Corringham Grange Farm, as shown between points 3i and 3j and coloured green and outlined in yellow on sheet 3 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 253 metres of private track south of Corringham Grange Farm, as shown between points 3k and 3l and coloured green and outlined in yellow on sheet 3 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 787 metres of private track east of Corringham Grange Farm, as shown between points 3m and 3n and coloured green and outlined in yellow on sheet 3 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 59 metres of Harpswell Lane, Corringham (A631) as shown between points 4b and 4c and coloured green on sheet 4 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 77 metres of School Lane, Springthorpe as shown between points 4f and 4g and coloured green on sheet 4 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 54 metres of private track, Bratt Field Middle Road, as shown between points 4h and 4i and coloured green and outlined in yellow on sheet 4 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 65 metres of Common Lane, Heapham, as shown between points 5a and 5b and coloured green on sheet | Temporarily closed to all traffic save for traffic under the direction of the undertaker |

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| | 5 of the streets plan | |
| District of West Lindsey | Approximately 41 metres of private track north of Common Lane, between Heapham Cliff and Heapham Grange, as shown between points 5e and 5f and coloured green and outlined in yellow on sheet 5 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 47 metres of Cow Lane, Upton as shown between points 6b and 6c and coloured green on sheet 6 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 51 metres of Kexby Road, Glentworth as shown between points 6d and 6e and coloured green on sheet 6 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 32 metres of Glentworth Road, Kexby as shown between points 6f and 6g and coloured green on sheet 6 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 28 metres of private track along Gipsy Lane, as shown between points 6h and 6i and coloured green and outlined in yellow on sheet 6 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 54 metres of private track from Gipsy Lane to Turpin Wood, as shown between points 6j and 6k and coloured green and outlined in yellow on sheet 6 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 366 metres of private track from Turpin Wood to Turpin Bungalows, as shown between points 6l and 8g and coloured green and outlined in yellow on sheets 6 and 8 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 844 metres of private track east of Fillingham Low Wood to Willingham Road, as shown between points 7a and 9c and coloured green and outlined in yellow on sheets 7 and 9 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 617 metres of private track north of Fillingham Grange, as shown between points 7b and 7c and | Temporarily closed to all traffic save for traffic under the direction of the undertaker |

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| | coloured green and outlined in yellow on sheet 7 of the streets plan | |
| District of West Lindsey | Approximately 663 metres of private track from Fillingham Grange to Greystones Farm, as shown between points 7d and 9g and coloured green and outlined in yellow on sheets 7 and 9 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 669 metres of Willingham Road as shown between points 8a and 8b and coloured green on sheet 8 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 54 metres of South Lane, Willingham by Stow as shown between points 8d and 8e and coloured green on sheet 8 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 208 metres of private track west of Lowfield Farm, as shown between points 8d and 8l and coloured green and outlined in yellow on sheet 8 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 338 metres of private track south of Turpin Farm, as shown between points 8h and 8i and coloured green and outlined in yellow on sheet 8 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 702 metres of private track south of Turpin Farm, as shown between points 8j and 8k and coloured green and outlined in yellow on sheet 8 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 464 metres of private track south of Moor Farm, as shown between points 8m and 8n and coloured green and outlined in yellow on sheet 8 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 51 metres of Willingham Road as shown between points 9b and 9c and coloured green on sheet 9 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 69 metres of Willingham Road as shown between points 9f and 9g and coloured green on sheet 9 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 568 metres of private track south of | Temporarily closed to all traffic save for traffic under |

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| | Greystones Farm, as shown between points 9g and 9i and coloured green and outlined in yellow on sheet 9 of the streets plan | the direction of the undertaker |
| District of West Lindsey | Approximately 17 metres of private track, off Willingham Road, along the access to Side Farm, as shown between points 9j and 9k and coloured green and outlined in yellow on sheet 9 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 299 metres of private track southeast of Side Farm, as shown between points 9l and 9m and coloured green and outlined in yellow on sheet 9 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 163 metres of private track south of Willingham Road, as shown between points 9n and 9o and coloured green and outlined in yellow on sheet 9 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 255 metres of Coates Lane, Coates by Stow as shown between points 10a and 10b and coloured green on sheet 10 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 30 metres of Ingham Road as shown between points 10c and 10d and coloured green on sheet 10 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 51 metres of Ingham Road as shown between points 10g and 10h and coloured green on sheet 10 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 256 metres of Fleets Lane, Sturton by Stow as shown between points 10j and 10k and coloured green on sheet 10 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 933 metres of private track west of Normanby by Stow, as shown between points 10l and 14e and coloured green and outlined in yellow on sheets 10 and 14 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 30 metres of private track north of Coates Lane, south of Normanby Gorse, as shown between | Temporarily closed to all traffic save for traffic under the direction of the undertaker |

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| | points 10m and 10n and coloured green and outlined in yellow on sheet 10 of the streets plan | |
| District of West Lindsey | Approximately 383 metres of track from Coates Lane to Ingham Road, Stow as shown between points 10o and 10p and coloured green on sheet 10 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 192 metres of private track east of Stow, North of Ingham Road, as shown between points 10r and 10s and coloured green and outlined in yellow on sheet 10 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 61 metres of Stow Lane, Ingham as shown between points 11d and 11e and coloured green on sheet 11 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 728 metres of private track along Blackthorn Lane, Cameringham as shown between points 11g and 11m and coloured green and outlined in yellow on sheet 11 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 803 metres of Blackthorn Lane, Cammeringham as shown between points 11h and 11m and coloured green on sheet 11 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 125 metres of track north of Cold Harbour, south of Stow Lane, as shown between points 11m and 11o and coloured green on sheet 11 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 178 metres of private track south of Blackthorn Hill, as shown between points 11k and 11l and coloured green and outlined in yellow on sheet 11 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 56 metres of private track north of Cold Harbour, south of Stow Lane, as shown between points 11n and 11o and coloured green and outlined in yellow on sheet 11 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 303 metres of | Temporarily closed to all |

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| | Thorpe Lane, Thorpe in the Fallows as shown between points 12b and 12c and coloured green on sheet 12 of the streets plan | traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 50 metres of private track east of Fleets Lane, as shown between points 12d and 12e and coloured green and outlined in yellow on sheet 12 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 310 metres of private track east of Fleets Lane, as shown between points 12f and 12g and coloured green and outlined in yellow on sheet 12 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 159 metres of private track east of Fleets Lane and north of Fleets Cottages, as shown between points 12h and 12i and coloured green and outlined in yellow on sheet 12 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 1,097 metres of private track from Thorpe le Fallows to north of The Grange, as shown between points 12j and 13a and coloured green and outlined in yellow on sheets 12 and 13 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 425 metres of private track south of Thorpe Wood, as shown between points 13b and 13c and coloured green and outlined in yellow on sheet 13 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 60 metres of private track south of Thorpe Wood, north of The Grange, as shown between points 13d and 13e and coloured green and outlined in yellow on sheet 13 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 344 metres of private track south of The Grange and north of Thorpe Lane, as shown between points 13f and 13g and coloured green and outlined in yellow on sheet 13 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 115 metres of Cot Garth Lane, Willingham | Temporarily closed to all traffic save for traffic under |

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| | by Stow as shown between points 14a and 14b and coloured green on sheet 14 of the streets plan | the direction of the undertaker |
| District of West Lindsey | Approximately 287 metres of Normanby Road, Normanby by Stow as shown between points 14c and 14d and coloured green on sheet 14 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 161 metres of Cot Garth Lane, Willingham by Stow as shown between points 14f and 14g and coloured green on sheet 14 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 210 metres of Stone Pit Lane, Willingham by Stow as shown between points 14h and 14i and coloured green on sheet 14 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 224 metres of Normanby Road, Stow as shown between points 15b and 15c and coloured green on sheet 15 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 205 metres of Wooden Lane, Stow Park as shown between points 15d and 15e and coloured green on sheet 15 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 305 metres of private track west of Wooden Lane, as shown between points 15i and 15j and coloured green and outlined in yellow on sheet 15 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 50 metres of private track along drain north of Highfields Farm, as shown between points 15k and 15l and coloured green and outlined in yellow on sheet 15 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 470 metres of Stow Park Road, Marton as shown between points 16c and 16d and coloured green on sheet 16 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 35 metres of private track north of Tillbridge Lane adjacent to Manor Farm, as shown between points 16e and 16f and coloured green and | Temporarily closed to all traffic save for traffic under the direction of the undertaker |

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| | outlined in yellow on sheet 16 of the streets plan | |
| District of West Lindsey | Approximately 192 metres of private track at Grange Farm Stables, between points 16h and 16i and coloured green and outlined in yellow on sheet 16 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 138 metres of private track at Poplar Farm, between points 16j and 16k and coloured green and outlined in yellow on sheet 16 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 59 metres of High Street, Marton (A156) as shown between points 17a and 17b and coloured green on sheet 17 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 51 metres of Stow Park Road, Marton (A1500) as shown between points 17c and 17d and coloured green on sheet 17 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of West Lindsey | Approximately 242 metres of High Street, Marton as shown between points 17f and 17g and coloured green on sheet 17 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 237 metres of Headstead Bank, Cottam as shown between points 17j and 17k and coloured green on sheet 17 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 629 metres of private track east of Headstead Bank, as shown between points 17n and 17o and shaded purple and outlined in yellow on sheet 17 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 103 metres of private track east of Headstead Bank, between points 17p and 17q and coloured green and outlined in yellow on sheet 17 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 175 metres of Overcoat Lane, Cottam as shown between points 18a and 18b and coloured green on sheet 18 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 181 metres of Cow Pasture Lane, South Leverton as shown between points 18c and 18d and | Temporarily closed to all traffic save for traffic under the direction of the undertaker |

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| | coloured green on sheet 18 of the streets plan | |
| District of Bassetlaw | Approximately 366 metres of Outgang Lane, Cottam as shown between points 18f and 18g and coloured green on sheet 18 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 2,293 metres of Torksey Ferry Road, Rampton as shown between points 19m and 20a and coloured green on sheets 19 and 20 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 84 metres of Nightleys Road, Rampton as shown between points 19c and 19d and coloured green on sheet 19 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 90 metres of Shortleys Road, Rampton as shown between points 19e and 19f and coloured green on sheet 19 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 84 metres of Cottam Road, Treswell as shown between points 19g and 19h and coloured green on sheet 19 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 64 metres of Rampton Road, Woodbeck as shown between points 19i and 19j and coloured green on sheet 19 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |
| District of Bassetlaw | Approximately 561 metres of private track north of Torksey Ferry Road, West of Cottam Power Station, as shown between points 19k and 19l and coloured green and outlined in yellow on sheet 19 of the streets plan | Temporarily closed to all traffic save for traffic under the direction of the undertaker |

PART 2

TEMPORARY PROHIBITION OR RESTRICTION OF PUBLIC RIGHTS OF WAY WITH DIVERSION

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Public right of way</i> | <i>(3)</i> <i>Measure</i> |
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| District of West Lindsey | Approximately 1423 metres of Footpath reference 2i Pilh/20/1 between points marked 2i/a and 2i/b on sheet 2 of the public rights of way plan | Temporarily closed along a route shown in yellow and diverted along a route contained within the diversion area shown hatched olive |

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| | | green on sheet 2 of the public rights of way plan to facilitate the construction of the authorised development |
| District of West Lindsey | Approximately 555 metres of Bridleway reference 9i Fill/86/1 between points marked 9i/a and 9i/b on sheet 9 of the public rights of way plan | Temporarily closed along a route shown in green and diverted along a route contained within the diversion area shown hatched olive green on sheet 9 of the public rights of way plan to facilitate the construction of the authorised development |
| District of West Lindsey | Approximately 473 metres of Footpath reference 11i Stow/83/1 between points marked 11i/a and 11i/b on sheet 11 of the public rights of way plan | Temporarily closed along a route shown in yellow and diverted along a route contained within the diversion area shown hatched olive green on sheet 11 of the public rights of way plan to facilitate the construction of the authorised development |
| District of West Lindsey | Approximately 345 metres of Bridleway reference 15i TLFe/31/2 between points marked 15i/a and 15i/b on sheet 13 of the public rights of way plan | Temporarily closed along a route shown in green and diverted along a route contained within the diversion area shown hatched olive green on sheet 13 of the public rights of way plan to facilitate the construction of the authorised development |
| District of Bassetlaw | Approximately 2,293 metres of Byway Open to All Traffic reference 19iv NT Rampton BOAT13 between points marked 19iv/a and 19iv/b on sheets 19 and 20 of the public rights of way plan | Temporarily closed along the route shown in blue and diverted along a route contained within the diversion area shown hatched olive green on sheets 19 and 20 of the public rights of way plan to facilitate the construction of the development |
| District of Bassetlaw | Approximately 83 metres of Footpath reference 19v NT Rampton FP20 between points marked 19v/a and 19v/b on sheet 19 of the public rights of way plan | Temporarily closed along the route shown in yellow and diverted along a route contained within the diversion area shown hatched olive green on sheet 19 of the public rights of way plan to facilitate the construction of the development |
| District of Bassetlaw | Approximately 84 metres of Byway Open to All Traffic reference 19vi NT Rampton BOAT12 between points marked 19vi/a and 19vi/b on sheet 19 of the public rights of way plan | Temporarily closed along the route shown in blue and diverted along a route contained within the diversion area shown hatched olive green on sheet 20 of the public rights of way plan to facilitate |

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| | | the construction of the development |
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PART 3

TEMPORARY PROHIBITION OR RESTRICTION OF PUBLIC RIGHTS OF WAY

| <i>(1) Area</i> | <i>(2) Public right of way</i> | <i>(3) Measures</i> |
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| District of West Lindsey | Approximately 512 metres of Footpath reference 2i Pilh/20/1 between points 2i/a and 2i/b on sheet 2 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 2i Pilh/20/1 to facilitate the construction of the authorised development |
| District of West Lindsey | Approximately 839 metres of Footpath reference 2i Pilh/20/1 between points marked 2i/b and 2i/c on sheet 2 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 2i Pilh/20/1 to facilitate the construction of the authorised development |
| District of West Lindsey | Approximately 71 metres of Footpath reference 2i Pilh/20/1 between points marked 2i/c and 2i/d on sheet 2 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 2i Pilh/20/1 to facilitate the construction of the authorised development |
| District of West Lindsey | Approximately 202 metres of Footpath reference 16i Mton/68/1 between points marked 16i/a and 16i/b on sheet 16 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 16i Mton/68/1 to facilitate the construction of the authorised development |
| District of West Lindsey | Approximately 129 metres of Footpath reference 17i Mton/66/4 between points marked 17i/a and 17i/b on sheet 17 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 17i Mton/66/4 to facilitate the construction of the authorised development |
| District of West Lindsey | Approximately 580 metres of Footpath reference 17ii Bram/66/1 between points marked 17ii/a and 17ii/b on sheet 17 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 17II – Bram/66/1 to facilitate the construction of the authorised development |
| District of Bassetlaw | Approximately 150 metres of Footpath reference 17iii NT Cottam FP1 between points marked 17iii/a and 17iii/b on sheet 17 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 17iii – NT Cottam FP1 to facilitate the construction of the authorised development |
| District of Bassetlaw | Approximately 323 metres of Footpath reference 17iv NT Cottam FP3 between points marked 17iv/a and 17iv/b on sheet 17 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 17iv – NT Cottam FP3 to facilitate the construction of the authorised development |

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| District of Bassetlaw | Approximately 173 metres of Restricted Byway reference 18i NT Cottam RB4 between points marked 18i/a and 18i/b on sheet 18 of the public rights of way plan | Temporarily closed along the route shown in pink and labelled 18i – NT Cottam RB4 to facilitate the construction of the authorised development |
| District of Bassetlaw | Approximately 622 metres of Byway Open to All Traffic reference 18ii NT South Leverton BOAT16 between points marked 18ii/a and 18ii/b on sheet 18 of the public rights of way plan | Temporarily closed along the route shown in blue and labelled 18ii – NT South Leverton BOAT16 to facilitate the construction of the authorised development |
| District of Bassetlaw | Approximately 342 metres of Footpath reference 19i NT Rampton FP5 between points marked 19i/a and 19i/b on sheet 19 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 19i – NT Rampton FP5 to facilitate the construction of the authorised development |
| District of Bassetlaw | Approximately 80 metres of Footpath reference 19ii NT Treswell FP5 between points marked 19ii/a and 19ii/b on sheet 19 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 19ii – NT Treswell FP5 to facilitate the construction of the authorised development |
| District of Bassetlaw | Approximately 500 metres of Footpath reference 19iii NT Rampton FP6 between points marked 19iii/a and 19iii/b on sheet 19 of the public rights of way plan | Temporarily closed along the route shown in yellow and labelled 19iii – NT Rampton FP6 to facilitate the construction of the authorised development |

PART 4

TEMPORARY PROHIBITION OR RESTRICTION OF PUBLIC RIGHTS OF WAY WITH OR WITHOUT DIVERSION

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Public right of way</i> | <i>(3)</i> <i>Measures</i> |
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| District of West Lindsey | Any public right of way between points marked 8i/a and 8i/b on sheet 8 of the public rights of way plan | Temporarily closed along the route shown in purple on sheet 8 of the public rights of way plan to facilitate the construction of the authorised development; or Temporarily closed along the route shown in purple and diverted along a route contained within the diversion area shown hatched pink on sheet 8 of the public rights of way plan to facilitate the construction of the authorised development |

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| District of West Lindsey | Any public right of way between points marked 8ii/a and 8ii/b on sheet 8 of the public rights of way plan | Temporarily closed along the route shown in purple on sheet 8 of the public rights of way plan to facilitate the construction of the authorised development; or Temporarily closed along the route shown in purple and diverted along a route contained within the diversion area shown hatched pink on sheet 8 of the public rights of way plan to facilitate the construction of the authorised development |
| District of West Lindsey | Any public right of way between points marked 10i/a and 10i/b on sheet 10 of the public rights of way plan | Temporarily closed along the route shown in purple on sheet 10 of the public rights of way plan to facilitate the construction of the authorised development |
| District of West Lindsey | Any public right of way between points marked 10ii/a and 10ii/b on sheet 10 of the public rights of way plan | Temporarily closed along the route shown in purple on sheet 10 of the public rights of way plan to facilitate the construction of the authorised development; or Temporarily closed along the route shown in purple and diverted along a route contained within the diversion area shown hatched pink on sheet 10 of the public rights of way plan to facilitate the construction of the authorised development |
| District of West Lindsey | Any public right of way between points marked 10i/c and 10i/d on sheet 10 of the public rights of way plan | Temporarily closed along the route shown in purple on sheet 10 of the public rights of way plan to facilitate the construction of the authorised development; or Temporarily closed along the route shown in purple and diverted along a route contained within the diversion area shown hatched pink on sheet 10 of the public rights of way plan to facilitate the construction of the authorised development |
| District of West Lindsey | Any public right of way between points marked 10i/e | Temporarily closed along the route shown in purple on sheet |

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| | and 10i/f on sheet 10 of the public rights of way plan | <p>10 of the public rights of way plan to facilitate the construction of the authorised development; or</p> <p>Temporarily closed along the route shown in purple and diverted along a route contained within the diversion area shown hatched pink on sheet 10 of the public rights of way plan to facilitate the construction of the authorised development</p> |
| District of West Lindsey | Any public right of way between points marked 10i/g and 10i/h on sheet 10 of the public rights of way plan | <p>Temporarily closed along the route shown in purple on sheet 10 of the public rights of way plan to facilitate the construction of the authorised development; or</p> <p>Temporarily closed along the route shown in purple and diverted along a route contained within the diversion area shown hatched pink on sheet 10 of the public rights of way plan to facilitate the construction of the authorised development</p> |
| District of West Lindsey | Any public right of way between points marked 14i/a and 14i/b on sheet 14 of the public rights of way plan | <p>Temporarily closed along the route shown in purple on sheet 14 of the public rights of way plan to facilitate the construction of the authorised development; or</p> <p>Temporarily closed along the route shown in purple and diverted along a route contained within the diversion area shown hatched pink on sheet 14 of the public rights of way plan to facilitate the construction of the authorised development</p> |
| District of West Lindsey | Any public right of way between points marked 15i/a and 15i/b on sheet 15 of the public rights of way plan | Temporarily closed along the route shown in purple on sheet 15 of the public rights of way plan to facilitate the construction of the authorised development |
| District of West Lindsey | Any public right of way between points marked 15ii/a and 15ii/b on sheet 15 of the public rights of way plan | Temporarily closed along the route shown in purple on sheet 15 of the public rights of way plan to facilitate the construction of the authorised |

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| | | development |
| District of West Lindsey | Any public right of way between points marked 15ii/c and 15ii/d on sheet 15 of the public rights of way plan | Temporarily closed along the route shown in purple on sheet 15 of the public rights of way plan to facilitate the construction of the authorised development |

SCHEDULE 7
ACCESS TO WORKS

Article 13

PART 1
PERMANENT MEANS OF ACCESS TO WORKS

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street</i> | <i>(3)</i> <i>Description of means of access</i> |
|---------------------------|--|--|
| District of West Lindsey | Kirton Road B1205, adj. Blyton Park Driving Centre | The provision of a permanent means of access to the authorised development from the point marked AC015 on sheet 1 of the access plan |
| District of West Lindsey | Kirton Road B1205, 150m west of JG Pears | The provision of a permanent means of access to the authorised development from the point marked AC016 on sheet 1 of the access plan |
| District of West Lindsey | Station Road/Pilham Lane, adj. Glebe Farm | The provision of a permanent means of access to the authorised development from the point marked AC017 on sheet 2 of the access plan |
| District of West Lindsey | Access road from East Lane to A631, adj. Corringham Grange | The provision of a permanent means of access to the authorised development from the point marked AC014 on sheet 3 of the access plan |
| District of West Lindsey | Willingham Road, west of Turpin Farm | The provision of a permanent means of access to the authorised development from the point marked AC007 on sheet 8 of the access plan |
| District of West Lindsey | South Lane, opp. Lowfield Farm | The provision of a permanent means of access to the authorised development from the point marked AC012/AC117 on sheet 8 of the access plan |
| District of West Lindsey | Willingham Road, Fillingham Grange track (north and south) | The provision of a permanent means of access to the authorised development from the point marked AC005 on sheet 9 of the access plan |
| District of West Lindsey | Willingham Road, adj. North Farm | The provision of a permanent means of access to the authorised development from the point marked AC006 on sheet 9 of the access plan |
| District of West Lindsey | Fleets Lane, 200m south of Ingham Road | The provision of a permanent means of access to the |

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| | | authorised development from the point marked AC002 on sheet 10 of the access plan |
| District of West Lindsey | Green Lane Track from Coates Lane to Ingham Road, 400m north of Ingham Road | The provision of a permanent means of access to the authorised development from the point marked AC009 on sheet 10 of the access plan |
| District of West Lindsey | Coates Lane, at River Till bridge | The provision of a permanent means of access to the authorised development from the point marked AC010 on sheet 10 of the access plan |
| District of West Lindsey | Coates Lane, 200m east of River Till bridge | The provision of a permanent means of access to the authorised development from the point marked AC011 on sheet 10 of the access plan |
| District of West Lindsey | Stow Lane, Grange Farm access | The provision of a permanent means of access to the authorised development from the point marked AC004 on sheet 11 of the access plan |
| District of West Lindsey | Thorpe Lane, at Thorpe Bridge | The provision of a permanent means of access to the authorised development from the point marked AC001 on sheet 12 of the access plan |
| District of West Lindsey | Stone Pit Lane, at Cot Garth Lane | The provision of a permanent means of access to the authorised development from the point marked AC013 on sheet 14 of the access plan |

PART 2

TEMPORARY MEANS OF ACCESS

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street</i> | <i>(3)</i> <i>Description of means of access</i> |
|---------------------------|--|--|
| District of West Lindsey | Kirton Road B1205, 300m east of The Fields | The provision of a temporary means of access to the authorised development from the point marked AC132 on sheet 1 of the access plan |
| District of West Lindsey | Green Lane, 400m east of Pilham Lane | The provision of a temporary means of access to the authorised development from the point marked AC130 on sheet 2 of the access plan |
| District of West Lindsey | Green Lane, 400m east of Pilham Lane | The provision of a temporary means of access to the authorised development from the point marked AC131 on |

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| | | sheet 2 of the access plan |
| District of West Lindsey | Unnamed road (south), 400m east of Aisby | The provision of a temporary means of access to the authorised development from the point marked AC128 on sheet 3 of the access plan |
| District of West Lindsey | Unnamed road (north), 400m east of Aisby | The provision of a temporary means of access to the authorised development from the point marked AC129 on sheet 3 of the access plan |
| District of West Lindsey | School Lane (south), 350m west of Grange Cottage | The provision of a temporary means of access to the authorised development from the point marked AC124 on sheet 4 of the access plan |
| District of West Lindsey | School Lane (north), 350m west of Grange Cottage | The provision of a temporary means of access to the authorised development from the point marked AC125 on sheet 4 of the access plan |
| District of West Lindsey | A631 Harpswell Lane (north), 600m west of Grange Lane | The provision of a temporary means of access to the authorised development from the point marked AC126 on sheet 4 of the access plan |
| District of West Lindsey | A631 Harpswell Lane (south), 600m west of Grange Lane | The provision of a temporary means of access to the authorised development from the point marked AC127 on sheet 4 of the access plan |
| District of West Lindsey | Cow Lane, 1100m east of Upton Grange | The provision of a temporary means of access to the authorised development from the point marked AC121 on sheet 5 of the access plan |
| District of West Lindsey | Common Lane (south), 250m west of Heapham Cliff | The provision of a temporary means of access to the authorised development from the point marked AC122 on sheet 5 of the access plan |
| District of West Lindsey | Common Lane (north), 250m west of Heapham Cliff | The provision of a temporary means of access to the authorised development from the point marked AC123 on sheet 5 of the access plan |
| District of West Lindsey | Glentworth Road, 600m south of Kexby Road | The provision of a temporary means of access to the authorised development from the point marked AC119 on sheet 6 of the access plan |
| District of West Lindsey | Kexby Road, 100m east of Glentworth Road | The provision of a temporary means of access to the authorised development from the point marked AC120 on sheet 6 of the access plan |

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| District of West Lindsey | South Lane, adj. Lowfield Farm | The provision of a temporary means of access to the authorised development from the point marked AC116 on sheet 8 of the access plan |
| District of West Lindsey | Fillingham Lane | The provision of a temporary means of access to the authorised development from the point marked AC118 on sheet 8 of the access plan |
| District of West Lindsey | Ingham Road, 100m east of 31 Ingham Road | The provision of a temporary means of access to the authorised development from the point marked AC008 on sheet 10 of the access plan |
| District of West Lindsey | Stow Lane (north), between Blackthorn Hill and Furze Hill | The provision of a temporary means of access to the authorised development from the point marked AC003 on sheet 11 of the access plan |
| District of West Lindsey | Wooden Lane | The provision of a temporary means of access to the authorised development from the point marked AC113 on sheet 15 of the access plan |
| District of West Lindsey | B1241 Normanby Road | The provision of a temporary means of access to the authorised development from the point marked AC114 on sheet 15 of the access plan |
| District of West Lindsey | B1241 Normanby Road | The provision of a temporary means of access to the authorised development from the point marked AC115 on sheet 15 of the access plan |
| District of West Lindsey | A1500 Stow Park Road (north), west of Marton | The provision of a temporary means of access to the authorised development from the point marked AC109 on sheet 16 of the access plan |
| District of West Lindsey | A1500 Stow Park Road (south), west of Marton | The provision of a temporary means of access to the authorised development from the point marked AC110 on sheet 16 of the access plan |
| District of West Lindsey | A1500 Stow Park Road, Marton Grange track | The provision of a temporary means of access to the authorised development from the point marked AC111 on sheet 16 of the access plan |
| District of West Lindsey | A1500 Till Bridge Lane, Manor Farm track | The provision of a temporary means of access to the authorised development from the point marked AC112 on sheet 16 of the access plan |
| District of West Lindsey | Lea Road A156, via Footpath | The provision of a temporary |

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| | Bram/66/1 | means of access to the authorised development from the point marked AC107 on sheet 17 of the access plan |
| District of West Lindsey | A156 High Street, 200m south of Chestnut House | The provision of a temporary means of access to the authorised development from the point marked AC108 on sheet 17 of the access plan |
| District of Bassetlaw | Cottam Lane, 150m west of Cow Pasture Lane | The provision of a temporary means of access to the authorised development from the point marked AC102 on sheet 18 of the access plan |
| District of Bassetlaw | Cottam Lane, to the west of Cow Pasture Lane | The provision of a temporary means of access to the authorised development from the point marked AC103 on sheet 18 of the access plan |
| District of Bassetlaw | Headstead Bank (west) | The provision of a temporary means of access to the authorised development from the point marked AC105 on sheet 18 of the access plan |
| District of Bassetlaw | Headstead Bank (east) | The provision of a temporary means of access to the authorised development from the point marked AC106 on sheet 18 of the access plan |
| District of Bassetlaw | Torksey Ferry Road, to the west of Nightleys Road | The provision of a temporary means of access to the authorised development from the point marked AC101 on sheet 19 of the access plan |
| District of Bassetlaw | Torksey Ferry Road | The provision of a temporary means of access to the authorised development from the point marked AC100-1 on sheet 19 of the access plan |
| District of Bassetlaw | Shortleys Road, 20m from the junction with Torksey Ferry Road | The provision of a temporary means of access to the authorised development from the point marked AC100-2 on sheet 19 of the access plan |

SCHEDULE 8

Article 15

TRAFFIC REGULATION MEASURES

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street</i> | <i>(3)</i> <i>Extent of the street works</i> |
|---------------------------|--------------------------------------|---|
| District of West Lindsey | Kirton Road, Blyton | Between points 1a and 1b, 1c and 1d, and 1e and 1f and shaded purple on sheet 1 of the streets plan |
| District of West Lindsey | Pilham Footpath/Track | Between points 2a and 2b, and 2c and 2e and shaded purple on sheet 2 of the streets plan |
| District of West Lindsey | Green Lane, Pilham | Between points 2f and 2i and shaded purple on sheet 2 of the streets plan |
| District of West Lindsey | Pilham Lane, Aisby near Gainsborough | Between points 3a and 3d and shaded purple on sheet 3 of the streets plan |
| District of West Lindsey | East Lane/Track | Between points 3e and 3f and shaded purple on sheet 3 of the streets plan |
| District of West Lindsey | Harpswell Lane, Corringham (A631) | Between points 4a and 4d and shaded purple on sheet 4 of the streets plan |
| District of West Lindsey | School Lane, Springthorpe | Between points 4e and 4g and shaded purple on sheet 4 of the streets plan |
| District of West Lindsey | Common Lane, Heapham | Between points 5a and 5b, and 5c and 5d and shaded purple on sheet 5 of the streets plan |
| District of West Lindsey | Cow Lane, Upton | Between points 6a and 6c and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Kexby Road, Glentworth | Between points 6d and 6e and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Glentworth Road, Kexby | Between points 6f and 6g and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Kexby Road, Glentworth | Between points 6m and 6n and shaded purple on sheet 6 of the streets plan |
| District of West Lindsey | Willingham Road | Between points 8a and 8b and shaded purple on sheet 8 of the streets plan |
| District of West Lindsey | South Lane, Willingham by Stow | Between points 8c and 8f and shaded purple on sheet 8 of the streets plan |
| District of West Lindsey | Willingham Road | Between points 9a and 9d and shaded purple on sheet 9 of the streets plan |

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| District of West Lindsey | Willingham Road | Between points 9e and 9h and shaded purple on sheet 9 of the streets plan |
| District of West Lindsey | Coates Lane, Coates by Stow | Between points 15a and 10b and shaded purple on sheets 10 and 15 of the streets plan |
| District of West Lindsey | Ingham Road | Between points 10c and 10d, and 10e and 10i and shaded purple on sheet 10 of the streets plan |
| District of West Lindsey | Fleets Lane, Sturton by Stow | Between points 10f and 10k and shaded purple on sheet 10 of the streets plan |
| District of West Lindsey | Track from Coates Lane to Ingham Road, Stow | Between points 10o and 10q and shaded purple on the streets plan |
| District of West Lindsey | Ingham Road | Between points 11a to 11b and shaded purple on sheets 10 and 11 of the streets plan |
| District of West Lindsey | Stow Lane, Ingham | Between points 11c and 11f and shaded purple on sheet 11 of the streets plan |
| District of West Lindsey | Blackthorn Lane, Cammeringham | Between points 11h and 11m and shaded purple on sheet 11 of the streets plan |
| District of West Lindsey | Track north of Cold Harbour, south of Stow Lane | Between points 11n and 11o and shaded purple on sheet 11 of the streets plan |
| District of West Lindsey | Thorpe Lane, Thorpe in the Fallows | Between points 12a and 12c and shaded purple on sheet 12 of the streets plan |
| District of West Lindsey | Cot Garth Lane, Willingham by Stow | Between points 14a and 14b and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Normanby Road, Normanby by Stow | Between points 14c and 15m and shaded purple on sheets 14 and 15 of the streets plan |
| District of West Lindsey | Cot Garth Lane, Willingham by Stow | Between points 14f and 14g and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Stone Pit Lane, Willingham by Stow | Between points 14h and 14i and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Cot Garth Lane, Willingham by Stow | Between points 14j and 14k and shaded purple on sheet 14 of the streets plan |
| District of West Lindsey | Normanby Road, Stow | Between points 15b and 15c and shaded purple on sheet 15 of the streets plan |
| District of West Lindsey | Wooden Lane, Stow Park | Between points 15d and 15f and shaded purple on sheet 15 of the streets plan |
| District of West Lindsey | Stow Park Road | Between points 15g and 15h and shaded purple on sheet 15 of the streets plan |

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| District of West Lindsey | Till Bridge Lane | Between points 16a and 16b and shaded purple on sheet 16 of the streets plan |
| District of West Lindsey | Stow Park Road, Marton | Between points 16c and 16d and shaded purple on sheet 16 of the streets plan |
| District of West Lindsey | High Street, Marton (A156) | Between points 17a and 17b and shaded purple on sheet 17 of the streets plan |
| District of West Lindsey | Stow Park Road, Marton (A1500) | Between points 17c and 17d and shaded purple on sheet 17 of the streets plan |
| District of West Lindsey | High Street, Marton (A156) | Between points 17e and 17g and shaded purple on sheet 17 of the streets plan |
| District of West Lindsey | High Street, Marton (A156) | Between points 17h and 17i and shaded purple on sheet 17 of the streets plan |
| District of Bassetlaw | Headstead Bank, Cottam | Between points 17j and 18i and shaded purple on sheet 17 of the streets plan |
| District of Bassetlaw | Overcoat Lane, Cottam | Between points 18a and 18b and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Cow Pasture Lane, South Leverton | Between points 18c and 18d and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Outgang Lane, Cottam | Between points 18e and 18g and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Town Street, Cottam | Between points 18i and 18j and shaded purple on sheet 18 of the streets plan |
| District of Bassetlaw | Torksey Ferry Road, Rampton | Between points 19m and 20a and shaded purple on sheets 19 and 20 of the streets plan |
| District of Bassetlaw | Nightleys Road, Rampton | Between points 19c and 19d and shaded purple on sheet 19 of the streets plan |
| District of Bassetlaw | Shortleys Road, Rampton | Between points 19e and 19f and shaded purple on sheet 19 of the streets plan |
| District of Bassetlaw | Cottam Road, Treswell | Between points 19g and 19h and shaded purple on sheet 19 of the streets plan |
| District of Bassetlaw | Rampton Road, Woodbeck | Between points 19i and 19j and shaded purple on sheet 19 of the streets plan |

SCHEDULE 9

Not Used

SCHEDULE 10

Article 22

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

| <i>(1)</i> <i>Plot reference number shown on the land plan</i> | <i>(2)</i> <i>Purposes for which rights over land may be required and restrictive covenants imposed</i> |
|---|---|
| <p>01-004, 01-005, 01-008, 01-014, 01-019, 01-023, 01-025, 01-027, 02-054, 02-057, 02-058, 02-059, 02-060, 02-074, 03-091, 04-103, 04-104, 05-124, 05-125, 05-128, 05-129, 05-130, 06-146, 06-147, 07-157, 07-159, 07-160, 08-161, 08-162, 08-163, 08-182, 09-188, 09-192, 09-194a, 10-208, 10-214, 10-215, 10-220, 10-221, 10-222, 10-223, 10-224, 10-226, 10-228, 10-229, 10-232, 10-241a, 10-244, 11 246, 11-247, 12-274, 12-276, 14-289, 14-291, 15-305, 15-307, 16-315, 17-338a, 17-339, 17-339a, 17-340, 17-362, 17-363, 17-364, 18-377 and 19-394.</p> | <p>Alter, improve, form, maintain, retain, use (with or without vehicles, plant and machinery), remove, reinstate means of access to the authorised development including visibility splays, bridges and road widening and to remove impediments (including vegetation) to such access;</p> <p>pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface) for all purposes in connection with the authorised development;</p> <p>install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary;</p> <p>install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures, the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works;</p> <p>restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development.</p> |
| <p>01-036, 01-041, 02-042, 02-064, 02-065, 02-070, 02-071, 02-076, 02-077, 02-078, 02-079, 02-080, 03-084, 03-089, 03-096, 03-097, 03-098, 04-099, 04-107, 04-111, 04-114, 04-115, 04-116, 04-117, 04-118, 04-119, 05-120, 05-121, 05-126, 05-133, 05-134, 05-135, 05-136, 05-140, 05-141, 06-142, 06-143, 06-145, 06-148, 06-152,</p> | <p>install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain electrical underground cables, earthing cables, optical fibre cables, data cables, telecommunications cables and other services, works associated with such cables including bays, ducts, protection and safety measures and equipment,</p> |

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| <p>07-157, 07-159, 07-160, 08-170, 08-171, 08-172, 08-174, 08-175, 08-177, 08-186, 09-188, 09-192, 10-201, 10-202, 10-203, 10-206, 10-209, 10-210, 10-212, 10-213, 10-215, 10-216, 10-217, 10-220, 10-221, 10-222, 10-223, 10-228, 10-229, 10-233, 10-235, 10-239, 11-251, 11-252, 11-253, 11-255, 11-257, 12-274, 12-275, 12-276, 14-291, 14-292c, 14-292f, 14-292g, 14-292h, 14-301, 15-303, 15-304, 15-309, 15-310, 15-311, 15-312, 15-313, 16-310, 16-314, 16-317, 16-318, 16-319, 16-320, 16-321, 16-322, 16-324, 16-326, 16-327, 16-328, 16-329, 16-330, 16-331, 17-335, 17-336, 17-337, 17-338, 17-339, 17-345, 17-346, 17-347, 17-348, 17-349, 17-350, 17-351, 17-352, 17-353, 17-354, 17-355, 17-356, 17-357, 17-358, 17-359, 17-360, 17-361, 18-365, 18-366, 18-367, 18-368, 18-369, 18-370, 18-371, 18-372, 18-373, 18-374, 18-375, 18-379, 18-381, 18-382, 18-383, 18-384, 18-385, 18-385a, 18-385b, 18-385c, 18-385d, 19-390, 19-391, 19-392, 19-395, 19-396, 19-397, 19-398, 19-399 and 19-400.</p> | <p>and other ancillary apparatus and structures (including but not limited to access chambers, manholes and marker posts) and any other works necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said cables, telecommunications and other ancillary apparatus;</p> |
| | <p>remain, pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface or form a temporary compound) for all purposes in connection with the authorised development;</p> |
| | <p>continuous vertical and lateral support for the authorised development;</p> |
| | <p>install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain sewers, drains, pipes, ducts, mains, conduits, services, flues and to drain into and manage waterflows in any drains, watercourses and culverts;</p> |
| | <p>install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures, the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works;</p> |
| | <p>install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary;</p> |
| | <p>restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove vegetation and restrict the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development.</p> |
| <p>01-004, 01-005, 01-008, 01-014, 01-019, 01-023, 01-025, 01-027, 02-054, 02-057, 02-058, 02-059, 02-060, 03-091, 08-161, 08-162, 08-163, 10-208, 10-214, 10-215, 10-220, 10-221, 10-222, 10-223, 10-224, 10-226, 10-228, 10-229, 10-232, 11-246, and 11-247.</p> | <p>install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain sewers, drains, pipes, ducts, mains, conduits, services, flues and to drain into and manage waterflows in any drains, watercourses and culverts;</p> |
| | <p>remain, pass and repass on foot, with or without vehicles, plant and machinery, including rights to lay and use any temporary surface or form a</p> |

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| | temporary compound) for all purposes in connection with the substation works; |
| | restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development; |

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIVE COVENANTS

Compensation enactments

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

3.—(1) Without limitation on the scope of paragraph 2, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 6—

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

4.—(1) Without limitation on the scope of paragraph 2, the 1961 Act has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 5A(5A) (relevant valuation date), omit the words after “if—” and substitute—

- “(a) the acquiring authority enters on land for the purpose of exercising a right in pursuant of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 6(5) of Schedule 11 to the Cottam Solar Project Order 202[];
 - (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 6(8) of Schedule 11 to the Cottam Solar Project Order [20**]) to acquire an interest in the land; and
 - (c) the acquiring authority enters on and takes possession of that land,
- the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

Application of Part 1 of the 1965 Act

5. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the acquisition of land under article 20 (compulsory acquisition of land) and as modified by article 27 (modification of Part 1 of the Compulsory Purchase Act 1965), applies to the compulsory acquisition of a right by the creation of a new right under article 22 (compulsory acquisition of rights)—

- (a) with the modifications specified in paragraph 6; and
- (b) with such other modifications as may be necessary.

(a) 1973 c. 26.

6.—(1) The modifications referred to in paragraph 5(a) are as follows—

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

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

(3) For section 7 of the 1965 Act (measure of compensation in case of severance) substitute—

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

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

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

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

(5) Section 11(a) (powers of entry) of the 1965 Act is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 20 (compulsory acquisition of land)), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A(b) (powers of entry: further notices of entry), 11B(c) (counter-notice requiring possession to be taken on specified date), 12(d) (penalty for unauthorised entry) and 13(e) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

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

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- (a) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1958 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.
 - (b) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.
 - (c) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016.
 - (d) Section 12 was amended by sections 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraphs (2) and (4) of Schedule 16 to the Housing and Planning Act 2016.
 - (e) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to the Tribunals, Courts and Enforcement Act 2007 (c. 15).
 - (f) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 27(4) (modification of Part 1 of the Compulsory Purchase Act 1965) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act (counter notice requiring purchase of land not in notice to treat) substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 24 (application of the 1981 Act) of the Cottam Solar Project Order 202[] in respect of the land to which the notice to treat relates.

(2) But see article 25(3) (acquisition of subsoil only) of the Cottam Solar Project Order 202[] which excludes the acquisition of subsoil only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter notice, or
- (c) refer the counter notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of three months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decides to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory; cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

SCHEDULE 12

Article 29

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

| <i>(1)</i> <i>Plot reference number shown on the land plan</i> | <i>(2)</i> <i>Purpose for which temporary possession may be taken</i> |
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| 01-031, 01-033, 01-034, 01-037, 01-038, 01-039, 01-040, 02-048, 02-049, 02-050, 02-051, 02-052, 02-053, 02-055, 02-056, 02-067, 02-068, 02-069, 02-072, 02-073, 03-082, 03-083, 03-085, 03-086, 03-087, 03-094, 03-095, 04-100, 04-101, 04-102, 04-105, 04-109, 04-110, 04-112, 05-122, 05-127, 05-132, 05-138, 05-139, 06-144, 06-150, 06-151, 08-173, 08-176, 09-187, 09-189, 09-191, 09-193, 10-234, 10-236, 10-237, 10-238, 10-242, 10-245, 11-254, 11-256, 12-281, 14-284, 14-284a, 14-284b, 14-284c, 14-284d, 14-284e, 14-284f, 14-284g, 14-285, 14-286, 14-287, 14-290, 14-292, 14-292a, 14-292b, 14-292d, 14-293, 14-293a, 14-294, 14-295, 14-296, 15-306, 15-308, 16-325, 17-341, 18-378, 18-380, 19-386, 19-387, 19-388 and 19-389. | Temporary use (including access) to facilitate the construction of Work Nos. 1 to 11. |
| 01-035, 02-066, 02-075, 03-081, 03-088, 04-106, 04-108, 04-113, 05-123, 05-131, 05-137, 06-149, 08-185, 15-302, 16-316, 16-323, 17-332, 17-333, 17-334, 17-334a, 17-342, 17-343, 17-344, 18-376, 19-401, 19-402 and 20-403. | Temporary use (including access and compound) to facilitate the construction of Work No. 6. |

SCHEDULE 13

Article 38

HEDGEROWS TO BE REMOVED

PART 1

REMOVAL OF HEDGEROWS

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Number of hedgerow and extent of removal</i> |
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| District of West Lindsey | Removal of part of approximately 330.22m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H001 |
| District of West Lindsey | Removal of part of approximately 366.01m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H002 |
| District of West Lindsey | Removal of part of approximately 141.12m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H005 |
| District of West Lindsey | Removal of part of approximately 40.51m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H006 |
| District of West Lindsey | Removal of part of approximately 194.49m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H007 |
| District of West Lindsey | Removal of part of approximately 94.68m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H008 |
| District of West Lindsey | Removal of part of approximately 30.67m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H009 |
| District of West Lindsey | Removal of part of approximately 44.63m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H010 |
| District of West Lindsey | Removal of part of approximately 72.77m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H011 |
| District of West Lindsey | Removal of part of approximately 88.75m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H012 |

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| District of West Lindsey | Removal of part of approximately 162.31m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H015 |
| District of West Lindsey | Removal of part of approximately 40.76m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H021 |
| District of West Lindsey | Removal of part of approximately 20.07m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H022 |
| District of West Lindsey | Removal of part of approximately 251.27m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H030 |
| District of West Lindsey | Removal of part of approximately 45.67m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H034 |
| District of West Lindsey | Removal of part of approximately 110.18m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H036 |
| District of West Lindsey | Removal of part of approximately 238.85m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H037 |
| District of West Lindsey | Removal of part of approximately 192.34m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H038 |
| District of West Lindsey | Removal of part of approximately 213.29m of hedgerow within the area identified by a green line on sheet 1 of the important hedgerows plan, reference H039 |
| District of West Lindsey | Removal of part of approximately 70.29m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H043 |
| District of West Lindsey | Removal of part of approximately 51.11m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H044 |
| District of West Lindsey | Removal of part of approximately 20.88m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H045 |
| District of West Lindsey | Removal of part of approximately 399.66m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H046 |
| District of West Lindsey | Removal of part of approximately 85.96m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H049 |

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| District of West Lindsey | Removal of part of approximately 252.06m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H050 |
| District of West Lindsey | Removal of part of approximately 50.03m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H051 |
| District of West Lindsey | Removal of part of approximately 423.8m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H052 |
| District of West Lindsey | Removal of part of approximately 10.19m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H055 |
| District of West Lindsey | Removal of part of approximately 225.49m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H056 |
| District of West Lindsey | Removal of part of approximately 179.1m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H060 |
| District of West Lindsey | Removal of part of approximately 25.77m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H066 |
| District of West Lindsey | Removal of part of approximately 6.19m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H067 |
| District of West Lindsey | Removal of part of approximately 210.13m of hedgerow within the area identified by a green line on sheet 2 of the important hedgerows plan, reference H069 |
| District of West Lindsey | Removal of part of approximately 419.76m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H071 |
| District of West Lindsey | Removal of part of approximately 269.92m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H072 |
| District of West Lindsey | Removal of part of approximately 447.89m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H073 |
| District of West Lindsey | Removal of part of approximately 159.16m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H074 |
| District of West Lindsey | Removal of part of approximately 50.05m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H075 |

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| District of West Lindsey | Removal of part of approximately 163.18m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H076 |
| District of West Lindsey | Removal of part of approximately 19.15m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H077 |
| District of West Lindsey | Removal of part of approximately 202.71m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H079 |
| District of West Lindsey | Removal of part of approximately 82.18m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H084 |
| District of West Lindsey | Removal of part of approximately 151.93m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H085 |
| District of West Lindsey | Removal of part of approximately 129.79m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H086 |
| District of West Lindsey | Removal of part of approximately 330.09m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H087 |
| District of West Lindsey | Removal of part of approximately 224.61m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H088 |
| District of West Lindsey | Removal of part of approximately 223.7m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H089 |
| District of West Lindsey | Removal of part of approximately 332.41m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H090 |
| District of West Lindsey | Removal of part of approximately 159.65m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H091 |
| District of West Lindsey | Removal of part of approximately 87.31m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H092 |
| District of West Lindsey | Removal of part of approximately 355.36m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H093 |
| District of West Lindsey | Removal of part of approximately 42.89m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H094 |

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| District of West Lindsey | Removal of part of approximately 93.41m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H097 |
| District of West Lindsey | Removal of part of approximately 208.76m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H100 |
| District of West Lindsey | Removal of part of approximately 231.68m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H101 |
| District of West Lindsey | Removal of part of approximately 177.98m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H102 |
| District of West Lindsey | Removal of part of approximately 152.55m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H103 |
| District of West Lindsey | Removal of part of approximately 39.93m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H107 |
| District of West Lindsey | Removal of part of approximately 58.16m of hedgerow within the area identified by a green line on sheet 3 of the important hedgerows plan, reference H109 |
| District of West Lindsey | Removal of part of approximately 56.08m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H112 |
| District of West Lindsey | Removal of part of approximately 37.25m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H113 |
| District of West Lindsey | Removal of part of approximately 411.34m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H114 |
| District of West Lindsey | Removal of part of approximately 182.87m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H115 |
| District of West Lindsey | Removal of part of approximately 714.42m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H116 |
| District of West Lindsey | Removal of part of approximately 261.08m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H117 |
| District of West Lindsey | Removal of part of approximately 432.23m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H118 |

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| District of West Lindsey | Removal of part of approximately 50.06m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H119 |
| District of West Lindsey | Removal of part of approximately 50.06m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H120 |
| District of West Lindsey | Removal of part of approximately 240.56m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H121 |
| District of West Lindsey | Removal of part of approximately 251.97m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H122 |
| District of West Lindsey | Removal of part of approximately 192.63m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H123 |
| District of West Lindsey | Removal of part of approximately 274.35m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H124 |
| District of West Lindsey | Removal of part of approximately 59.68m of hedgerow within the area identified by a green line on sheet 4 of the important hedgerows plan, reference H125 |
| District of West Lindsey | Removal of part of approximately 242.85m of hedgerow within the area identified by a green line on sheet 5 of the important hedgerows plan, reference H126 |
| District of West Lindsey | Removal of part of approximately 50.01m of hedgerow within the area identified by a green line on sheet 5 of the important hedgerows plan, reference H129 |
| District of West Lindsey | Removal of part of approximately 50.01m of hedgerow within the area identified by a green line on sheet 5 of the important hedgerows plan, reference H135 |
| District of West Lindsey | Removal of part of approximately 91m of hedgerow within the area identified by a green line on sheet 8 of the important hedgerows plan, reference H149 |
| District of West Lindsey | Removal of part of approximately 562.68m of hedgerow within the area identified by a green line on sheet 7 of the important hedgerows plan, reference H156 |
| District of West Lindsey | Removal of part of approximately 121.9m of hedgerow within the area identified by a green line on sheet 7 of the important hedgerows plan, reference H157 |
| District of West Lindsey | Removal of part of approximately 141.34m of hedgerow within the area identified by a green line on sheet 7 of the important hedgerows plan, reference H158 |

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| District of West Lindsey | Removal of part of approximately 171.83m of hedgerow within the area identified by a green line on sheet 7 of the important hedgerows plan, reference H160 |
| District of West Lindsey | Removal of part of approximately 150.08m of hedgerow within the area identified by a green line on sheet 7 of the important hedgerows plan, reference H161 |
| District of West Lindsey | Removal of part of approximately 308.38m of hedgerow within the area identified by a green line on sheet 7 of the important hedgerows plan, reference H162 |
| District of West Lindsey | Removal of part of approximately 246.29m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H164 |
| District of West Lindsey | Removal of part of approximately 582.33m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H165 |
| District of West Lindsey | Removal of part of approximately 75.99m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H166 |
| District of West Lindsey | Removal of part of approximately 134.09m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H167 |
| District of West Lindsey | Removal of part of approximately 33.04m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H168 |
| District of West Lindsey | Removal of part of approximately 155.91m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H169 |
| District of West Lindsey | Removal of part of approximately 29.72m of hedgerow within the area identified by a green line on sheet 7 of the important hedgerows plan, reference H170 |
| District of West Lindsey | Removal of part of approximately 714.79m of hedgerow within the area identified by a green line on sheet 7 of the important hedgerows plan, reference H171 |
| District of West Lindsey | Removal of part of approximately 85.45m of hedgerow within the area identified by a green line on sheet 8 of the important hedgerows plan, reference H175b |
| District of West Lindsey | Removal of part of approximately 155.28m of hedgerow within the area identified by a green line on sheet 8 of the important hedgerows plan, reference H176 |
| District of West Lindsey | Removal of part of approximately 155.9m of hedgerow within the area identified by a green line on sheet 8 of the important hedgerows plan, reference H180 |

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| District of West Lindsey | Removal of part of approximately 193.15m of hedgerow within the area identified by a green line on sheet 8 of the important hedgerows plan, reference H181 |
| District of West Lindsey | Removal of part of approximately 197.54m of hedgerow within the area identified by a green line on sheet 8 of the important hedgerows plan, reference H182 |
| District of West Lindsey | Removal of part of approximately 134.26m of hedgerow within the area identified by a green line on sheet 8 of the important hedgerows plan, reference H183 |
| District of West Lindsey | Removal of part of approximately 156.89m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H187 |
| District of West Lindsey | Removal of part of approximately 47.6m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H193 |
| District of West Lindsey | Removal of part of approximately 550.2m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H194 |
| District of West Lindsey | Removal of part of approximately 441.41m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H195 |
| District of West Lindsey | Removal of part of approximately 265.76m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H196 |
| District of West Lindsey | Removal of part of approximately 311.25m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H197 |
| District of West Lindsey | Removal of part of approximately 124.89m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H198 |
| District of West Lindsey | Removal of part of approximately 92.13m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H199 |
| District of West Lindsey | Removal of part of approximately 485.91m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H200 |
| District of West Lindsey | Removal of part of approximately 209.81m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H204 |
| District of West Lindsey | Removal of part of approximately 290.34m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H205 |

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| District of West Lindsey | Removal of part of approximately 263.95m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H206 |
| District of West Lindsey | Removal of part of approximately 262.59m of hedgerow within the area identified by a green line on sheet 9 of the important hedgerows plan, reference H207 |
| District of West Lindsey | Removal of part of approximately 454.61m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H208 |
| District of West Lindsey | Removal of part of approximately 228.29m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H209 |
| District of West Lindsey | Removal of part of approximately 248.28m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H210 |
| District of West Lindsey | Removal of part of approximately 36.31m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H211 |
| District of West Lindsey | Removal of part of approximately 10.5m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H212 |
| District of West Lindsey | Removal of part of approximately 290.71m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H213 |
| District of West Lindsey | Removal of part of approximately 184.88m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H214 |
| District of West Lindsey | Removal of part of approximately 188.85m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H215 |
| District of West Lindsey | Removal of part of approximately 230.31m of hedgerow within the area identified by a green line on sheet 10 of the important hedgerows plan, reference H216 |
| District of West Lindsey | Removal of part of approximately 102.36m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H217 |
| District of West Lindsey | Removal of part of approximately 856.73m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H221 |
| District of West Lindsey | Removal of part of approximately 150.21m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H223 |

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| District of West Lindsey | Removal of part of approximately 171.72m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H224 |
| District of West Lindsey | Removal of part of approximately 466.8m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H225 |
| District of West Lindsey | Removal of part of approximately 290.23m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H226 |
| District of West Lindsey | Removal of part of approximately 223.67m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H227 |
| District of West Lindsey | Removal of part of approximately 48.2m of hedgerow within the area identified by a green line on sheet 11 of the important hedgerows plan, reference H230 |
| District of West Lindsey | Removal of part of approximately 258.07m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H231 |
| District of West Lindsey | Removal of part of approximately 124.88m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H234 |
| District of West Lindsey | Removal of part of approximately 338.43m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H236 |
| District of West Lindsey | Removal of part of approximately 69.56m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H238 |
| District of West Lindsey | Removal of part of approximately 252.36m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H240 |
| District of West Lindsey | Removal of part of approximately 62.18m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H242 |
| District of West Lindsey | Removal of part of approximately 513.12m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H250 |
| District of West Lindsey | Removal of part of approximately 109.1m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H259 |
| District of West Lindsey | Removal of part of approximately 247.83m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H260 |

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| District of West Lindsey | Removal of part of approximately 312.57m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H262 |
| District of West Lindsey | Removal of part of approximately 220.15m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H266 |
| District of West Lindsey | Removal of part of approximately 195.14m of hedgerow within the area identified by a green line on sheet 13 of the important hedgerows plan, reference H267 |
| District of West Lindsey | Removal of part of approximately 171.05m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H269 |
| District of West Lindsey | Removal of part of approximately 327.45m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H270 |
| District of West Lindsey | Removal of part of approximately 325.29m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H275 |
| District of West Lindsey | Removal of part of approximately 150.25m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H277 |
| District of West Lindsey | Removal of part of approximately 218.68m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H278 |
| District of West Lindsey | Removal of part of approximately 136.12m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H279 |
| District of West Lindsey | Removal of part of approximately 142.89m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H280 |
| District of West Lindsey | Removal of part of approximately 190.11m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H284 |
| District of West Lindsey | Removal of part of approximately 278.45m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H285 |
| District of West Lindsey | Removal of part of approximately 194.58m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H286 |
| District of West Lindsey | Removal of part of approximately 164.97m of hedgerow within the area identified by a green line on sheet 12 of the important hedgerows plan, reference H287 |

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| District of West Lindsey | Removal of part of approximately 263.97m of hedgerow within the area identified by a green line on sheet 10 of the important hedgerows plan, reference H303 |
| District of West Lindsey | Removal of part of approximately 17.41m of hedgerow within the area identified by a green line on sheet 10 of the important hedgerows plan, reference H311 |
| District of West Lindsey | Removal of part of approximately 45.48m of hedgerow within the area identified by a green line on sheet 10 of the important hedgerows plan, reference H312 |
| District of West Lindsey | Removal of part of approximately 119.81m of hedgerow within the area identified by a green line on sheet 16 of the important hedgerows plan, reference H359 |
| District of West Lindsey | Removal of part of approximately 233.56m of hedgerow within the area identified by a green line on sheet 16 of the important hedgerows plan, reference H360 |
| District of West Lindsey | Removal of part of approximately 159.83m of hedgerow within the area identified by a green line on sheet 17 of the important hedgerows plan, reference H361 |
| District of West Lindsey | Removal of part of approximately 101.69m of hedgerow within the area identified by a green line on sheet 17 of the important hedgerows plan, reference H362 |
| District of West Lindsey | Removal of part of approximately 96.92m of hedgerow within the area identified by a green line on sheet 17 of the important hedgerows plan, reference H371 |
| District of West Lindsey | Removal of part of approximately 151.93m of hedgerow within the area identified by a green line on sheet 17 of the important hedgerows plan, reference H372 |
| District of West Lindsey | Removal of part of approximately 392.84m of hedgerow within the area identified by a green line on sheet 17 of the important hedgerows plan, reference H373 |
| District of West Lindsey | Removal of part of approximately 11.26m of hedgerow within the area identified by a green line on sheet 17 of the important hedgerows plan, reference H374 |
| District of Bassetlaw | Removal of part of approximately 195.34m of hedgerow within the area identified by a green line on sheet 18 of the important hedgerows plan, reference H377 |
| District of Bassetlaw | Removal of part of approximately 90.3m of hedgerow within the area identified by a green line on sheet 18 of the important hedgerows plan, reference H378 |
| District of Bassetlaw | Removal of part of approximately 95.31m of hedgerow within the area identified by a green line on sheet 18 of the important hedgerows plan, reference H379 |

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| District of Bassetlaw | Removal of part of approximately 168.56m of hedgerow within the area identified by a green line on sheet 18 of the important hedgerows plan, reference H383 |
| District of Bassetlaw | Removal of part of approximately 36.89m of hedgerow within the area identified by a green line on sheet 18 of the important hedgerows plan, reference H386 |
| District of Bassetlaw | Removal of part of approximately 129m of hedgerow within the area identified by a green line on sheet 18 of the important hedgerows plan, reference H387 |
| District of Bassetlaw | Removal of part of approximately 36.13m of hedgerow within the area identified by a green line on sheet 18 of the important hedgerows plan, reference H390 |
| District of Bassetlaw | Removal of part of approximately 59.95m of hedgerow within the area identified by a green line on sheet 19 of the important hedgerows plan, reference H391 |
| District of Bassetlaw | Removal of part of approximately 103.27m of hedgerow within the area identified by a green line on sheet 19 of the important hedgerows plan, reference H392 |
| District of Bassetlaw | Removal of part of approximately 98m of hedgerow within the area identified by a green line on sheet 18 of the important hedgerows plan, reference H393 |
| District of Bassetlaw | Removal of part of approximately 70.3m of hedgerow within the area identified by a green line on sheet 18 of the important hedgerows plan, reference H395 |
| District of Bassetlaw | Removal of part of approximately 482.41m of hedgerow within the area identified by a green line on sheet 18 of the important hedgerows plan, reference H396 |
| District of Bassetlaw | Removal of part of approximately 67.39m of hedgerow within the area identified by a green line on sheet 19 of the important hedgerows plan, reference H402 |

PART 2

REMOVAL OF POTENTIALLY IMPORTANT HEDGEROWS

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Number of hedgerow and extent of removal</i> |
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| District of West Lindsey | Removal of part of approximately 160.15m of potentially important hedgerow within the area identified by a yellow line on sheet 1 of the important hedgerows plan, reference H026 |

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| District of West Lindsey | Removal of part of approximately 80.66m of potentially important hedgerow within the area identified by a yellow line on sheet 1 of the important hedgerows plan, reference H031 |
| District of West Lindsey | Removal of part of approximately 290.58m of potentially important hedgerow within the area identified by a yellow line on sheet 1 of the important hedgerows plan, reference H032 |
| District of West Lindsey | Removal of part of approximately 207.43m of potentially important hedgerow within the area identified by a yellow line on sheet 3 of the important hedgerows plan, reference H082 |
| District of West Lindsey | Removal of part of approximately 366.09m of potentially important hedgerow within the area identified by a yellow line on sheet 3 of the important hedgerows plan, reference H095 |
| District of West Lindsey | Removal of part of approximately 460.95m of potentially important hedgerow within the area identified by a yellow line on sheet 7 of the important hedgerows plan, reference H174 |
| District of West Lindsey | Removal of part of approximately 370.82m of potentially important hedgerow within the area identified by a yellow line on sheet 9 of the important hedgerows plan, reference H190 |
| District of West Lindsey | Removal of part of approximately 226.22m of potentially important hedgerow within the area identified by a yellow line on sheet 11 of the important hedgerows plan, reference H218 |
| District of West Lindsey | Removal of part of approximately 198.4m of potentially important hedgerow within the area identified by a yellow line on sheet 11 of the important hedgerows plan, reference H220 |
| District of West Lindsey | Removal of part of approximately 333.7m of potentially important hedgerow within the area identified by a yellow line on sheet 11 of the important hedgerows plan, reference H222 |
| District of West Lindsey | Removal of part of approximately 230.73m of potentially important hedgerow within the area identified by a yellow line on sheet 11 of the important hedgerows plan, reference H229 |
| District of West Lindsey | Removal of part of approximately 224.03m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H237 |
| District of West Lindsey | Removal of part of approximately 115.37m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H239 |
| District of West Lindsey | Removal of part of approximately 258.61m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H241 |
| District of West Lindsey | Removal of part of approximately 26.68m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H245 |

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| District of West Lindsey | Removal of part of approximately 153.28m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H247 |
| District of West Lindsey | Removal of part of approximately 191.05m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H248 |
| District of West Lindsey | Removal of part of approximately 436.72m of potentially important hedgerow within the area identified by a yellow line on sheet 11 of the important hedgerows plan, reference H249 |
| District of West Lindsey | Removal of part of approximately 193.47m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H251 |
| District of West Lindsey | Removal of part of approximately 169.94m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H252 |
| District of West Lindsey | Removal of part of approximately 464.78m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H253 |
| District of West Lindsey | Removal of part of approximately 137.85m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H255 |
| District of West Lindsey | Removal of part of approximately 199.96m of potentially important hedgerow within the area identified by a yellow line on sheet 13 of the important hedgerows plan, reference H256 |
| District of West Lindsey | Removal of part of approximately 165.89m of potentially important hedgerow within the area identified by a yellow line on sheet 12 of the important hedgerows plan, reference H268 |
| District of West Lindsey | Removal of part of approximately 214.86m of potentially important hedgerow within the area identified by a yellow line on sheet 12 of the important hedgerows plan, reference H271 |
| District of West Lindsey | Removal of part of approximately 268.52m of potentially important hedgerow within the area identified by a yellow line on sheet 12 of the important hedgerows plan, reference H274 |

PART 3

REMOVAL OF IMPORTANT HEDGEROWS

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| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Number of hedgerow and extent of removal</i> |
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| District of West Lindsey | Removal of part of approximately 212.32m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H003 |
| District of West Lindsey | Removal of part of approximately 156.65m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H004 |
| District of West Lindsey | Removal of part of approximately 214.82m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H013 |
| District of West Lindsey | Removal of part of approximately 145.89m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H014 |
| District of West Lindsey | Removal of part of approximately 424.05m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H016 |
| District of West Lindsey | Removal of part of approximately 24.78m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H017 |
| District of West Lindsey | Removal of part of approximately 112.15m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H018 |
| District of West Lindsey | Removal of part of approximately 175.08m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H019 |
| District of West Lindsey | Removal of part of approximately 124.78m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H020 |
| District of West Lindsey | Removal of part of approximately 144.25m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H023 |
| District of West Lindsey | Removal of part of approximately 438.97m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H024 |
| District of West Lindsey | Removal of part of approximately 409.22m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H025 |
| District of West Lindsey | Removal of part of approximately 345.96m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H027 |
| District of West Lindsey | Removal of part of approximately 181.32m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H028 |

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| District of West Lindsey | Removal of part of approximately 117.29m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H029 |
| District of West Lindsey | Removal of part of approximately 268.39m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H033 |
| District of West Lindsey | Removal of part of approximately 539.18m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H035 |
| District of West Lindsey | Removal of part of approximately 244.33m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H040 |
| District of West Lindsey | Removal of part of approximately 270.95m of important hedgerow within the area identified by an orange line on sheet 1 of the important hedgerows plan, reference H041 |
| District of West Lindsey | Removal of part of approximately 468.4m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H042 |
| District of West Lindsey | Removal of part of approximately 828.07m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H047 |
| District of West Lindsey | Removal of part of approximately 131.56m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H048 |
| District of West Lindsey | Removal of part of approximately 288.06m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H053 |
| District of West Lindsey | Removal of part of approximately 448.29m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H054 |
| District of West Lindsey | Removal of part of approximately 235.18m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H057 |
| District of West Lindsey | Removal of part of approximately 512.16m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H058 |
| District of West Lindsey | Removal of part of approximately 1271.2m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H059 |
| District of West Lindsey | Removal of part of approximately 511.02m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H061 |

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| District of West Lindsey | Removal of part of approximately 121.05m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H062 |
| District of West Lindsey | Removal of part of approximately 350.1m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H063 |
| District of West Lindsey | Removal of part of approximately 492.1m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H064 |
| District of West Lindsey | Removal of part of approximately 158.96m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H065 |
| District of West Lindsey | Removal of part of approximately 58.07m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H068 |
| District of West Lindsey | Removal of part of approximately 50.05m of important hedgerow within the area identified by an orange line on sheet 2 of the important hedgerows plan, reference H070 |
| District of West Lindsey | Removal of part of approximately 499.36m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H078 |
| District of West Lindsey | Removal of part of approximately 231.25m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H080 |
| District of West Lindsey | Removal of part of approximately 177.27m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H081 |
| District of West Lindsey | Removal of part of approximately 135.21m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H083 |
| District of West Lindsey | Removal of part of approximately 773.19m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H096 |
| District of West Lindsey | Removal of part of approximately 228.16m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H098 |
| District of West Lindsey | Removal of part of approximately 191.85m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H099 |
| District of West Lindsey | Removal of part of approximately 84.7m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H104 |

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| District of West Lindsey | Removal of part of approximately 492.21m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H105 |
| District of West Lindsey | Removal of part of approximately 212.98m of important hedgerow within the area identified by an orange line on sheet 4 of the important hedgerows plan, reference H106 |
| District of West Lindsey | Removal of part of approximately 349.15m of important hedgerow within the area identified by an orange line on sheet 4 of the important hedgerows plan, reference H108 |
| District of West Lindsey | Removal of part of approximately 374.96m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H110 |
| District of West Lindsey | Removal of part of approximately 197.54m of important hedgerow within the area identified by an orange line on sheet 3 of the important hedgerows plan, reference H111 |
| District of West Lindsey | Removal of part of approximately 132.61m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H127 |
| District of West Lindsey | Removal of part of approximately 146.07m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H128 |
| District of West Lindsey | Removal of part of approximately 50.39m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H130 |
| District of West Lindsey | Removal of part of approximately 151.37m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H131 |
| District of West Lindsey | Removal of part of approximately 51.28m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H132 |
| District of West Lindsey | Removal of part of approximately 51.34m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H133 |
| District of West Lindsey | Removal of part of approximately 173.27m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H134 |
| District of West Lindsey | Removal of part of approximately 140.85m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H136 |
| District of West Lindsey | Removal of part of approximately 50.98m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H137 |

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| District of West Lindsey | Removal of part of approximately 119.99m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H138 |
| District of West Lindsey | Removal of part of approximately 233.96m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H139 |
| District of West Lindsey | Removal of part of approximately 42.78m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H140 |
| District of West Lindsey | Removal of part of approximately 65.74m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H141 |
| District of West Lindsey | Removal of part of approximately 118.77m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H142 |
| District of West Lindsey | Removal of part of approximately 132.51m of important hedgerow within the area identified by an orange line on sheet 5 of the important hedgerows plan, reference H143 |
| District of West Lindsey | Removal of part of approximately 194.78m of important hedgerow within the area identified by an orange line on sheet 6 of the important hedgerows plan, reference H144 |
| District of West Lindsey | Removal of part of approximately 50.65m of important hedgerow within the area identified by an orange line on sheet 6 of the important hedgerows plan, reference H145 |
| District of West Lindsey | Removal of part of approximately 189.57m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H146 |
| District of West Lindsey | Removal of part of approximately 563.03m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H147 |
| District of West Lindsey | Removal of part of approximately 623.76m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H148 |
| District of West Lindsey | Removal of part of approximately 294.07m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H150 |
| District of West Lindsey | Removal of part of approximately 450.92m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H151 |
| District of West Lindsey | Removal of part of approximately 584.35m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H152 |

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| District of West Lindsey | Removal of part of approximately 215.05m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H153 |
| District of West Lindsey | Removal of part of approximately 212.76m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H154 |
| District of West Lindsey | Removal of part of approximately 238.51m of important hedgerow within the area identified by an orange line on sheet 7 of the important hedgerows plan, reference H155 |
| District of West Lindsey | Removal of part of approximately 550.45m of important hedgerow within the area identified by an orange line on sheet 7 of the important hedgerows plan, reference H163 |
| District of West Lindsey | Removal of part of approximately 391.27m of important hedgerow within the area identified by an orange line on sheet 7 of the important hedgerows plan, reference H172 |
| District of West Lindsey | Removal of part of approximately 303.03m of important hedgerow within the area identified by an orange line on sheet 7 of the important hedgerows plan, reference H173 |
| District of West Lindsey | Removal of part of approximately 169.03m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H175a |
| District of West Lindsey | Removal of part of approximately 387.05m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H177 |
| District of West Lindsey | Removal of part of approximately 538.19m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H178 |
| District of West Lindsey | Removal of part of approximately 373.85m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H179 |
| District of West Lindsey | Removal of part of approximately 629.09m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H184 |
| District of West Lindsey | Removal of part of approximately 213.44m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H185 |
| District of West Lindsey | Removal of part of approximately 219.51m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H186 |
| District of West Lindsey | Removal of part of approximately 85.32m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H188 |

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| District of West Lindsey | Removal of part of approximately 162.47m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H189 |
| District of West Lindsey | Removal of part of approximately 174.31m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H191 |
| District of West Lindsey | Removal of part of approximately 954.24m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H192 |
| District of West Lindsey | Removal of part of approximately 515.17m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H201 |
| District of West Lindsey | Removal of part of approximately 224.81m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H202 |
| District of West Lindsey | Removal of part of approximately 257.88m of important hedgerow within the area identified by an orange line on sheet 9 of the important hedgerows plan, reference H203a |
| District of West Lindsey | Removal of part of approximately 568.75m of important hedgerow within the area identified by an orange line on sheet 11 of the important hedgerows plan, reference H203b |
| District of West Lindsey | Removal of part of approximately 211.7m of important hedgerow within the area identified by an orange line on sheet 11 of the important hedgerows plan, reference H219 |
| District of West Lindsey | Removal of part of approximately 800.26m of important hedgerow within the area identified by an orange line on sheet 11 of the important hedgerows plan, reference H228 |
| District of West Lindsey | Removal of part of approximately 202.85m of important hedgerow within the area identified by an orange line on sheet 11 of the important hedgerows plan, reference H232 |
| District of West Lindsey | Removal of part of approximately 118.33m of important hedgerow within the area identified by an orange line on sheet 11 of the important hedgerows plan, reference H233 |
| District of West Lindsey | Removal of part of approximately 234.24m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H235 |
| District of West Lindsey | Removal of part of approximately 149.7m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H243 |
| District of West Lindsey | Removal of part of approximately 149.86m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H244 |

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| District of West Lindsey | Removal of part of approximately 132.06m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H246 |
| District of West Lindsey | Removal of part of approximately 274.64m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H254 |
| District of West Lindsey | Removal of part of approximately 397.61m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H257 |
| District of West Lindsey | Removal of part of approximately 913.94m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H258 |
| District of West Lindsey | Removal of part of approximately 328.86m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H261 |
| District of West Lindsey | Removal of part of approximately 504.13m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H263 |
| District of West Lindsey | Removal of part of approximately 169.18m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H264 |
| District of West Lindsey | Removal of part of approximately 141.12m of important hedgerow within the area identified by an orange line on sheet 13 of the important hedgerows plan, reference H265 |
| District of West Lindsey | Removal of part of approximately 464.79m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H272 |
| District of West Lindsey | Removal of part of approximately 384.49m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H273 |
| District of West Lindsey | Removal of part of approximately 107.33m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H276 |
| District of West Lindsey | Removal of part of approximately 241.83m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H281 |
| District of West Lindsey | Removal of part of approximately 476.97m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H282 |
| District of West Lindsey | Removal of part of approximately 159.61m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H283 |

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| District of West Lindsey | Removal of part of approximately 179.67m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H288 |
| District of West Lindsey | Removal of part of approximately 923.92m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H289 |
| District of West Lindsey | Removal of part of approximately 258.72m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H290 |
| District of West Lindsey | Removal of part of approximately 441.14m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H291 |
| District of West Lindsey | Removal of part of approximately 306.5m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H292 |
| District of West Lindsey | Removal of part of approximately 156.25m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H293 |
| District of West Lindsey | Removal of part of approximately 181.85m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H294 |
| District of West Lindsey | Removal of part of approximately 218.84m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H295 |
| District of West Lindsey | Removal of part of approximately 160.73m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H296 |
| District of West Lindsey | Removal of part of approximately 431.83m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H297 |
| District of West Lindsey | Removal of part of approximately 193.37m of important hedgerow within the area identified by an orange line on sheet 12 of the important hedgerows plan, reference H298 |
| District of West Lindsey | Removal of part of approximately 775.34m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H299 |
| District of West Lindsey | Removal of part of approximately 30.21m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H300 |
| District of West Lindsey | Removal of part of approximately 386.86m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H301 |

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| District of West Lindsey | Removal of part of approximately 427.37m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H302 |
| District of West Lindsey | Removal of part of approximately 48.8m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H304 |
| District of West Lindsey | Removal of part of approximately 323.06m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H305 |
| District of West Lindsey | Removal of part of approximately 124.75m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H306 |
| District of West Lindsey | Removal of part of approximately 416.63m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H307 |
| District of West Lindsey | Removal of part of approximately 160.03m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H308 |
| District of West Lindsey | Removal of part of approximately 330.83m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H309 |
| District of West Lindsey | Removal of part of approximately 404.84m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H310 |
| District of West Lindsey | Removal of part of approximately 448.44m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H313 |
| District of West Lindsey | Removal of part of approximately 326.71m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H314 |
| District of West Lindsey | Removal of part of approximately 697.79m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H315 |
| District of West Lindsey | Removal of part of approximately 268.8m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H316 |
| District of West Lindsey | Removal of part of approximately 326.03m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H317 |
| District of West Lindsey | Removal of part of approximately 256.09m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H318 |

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| District of West Lindsey | Removal of part of approximately 188.1m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H319 |
| District of West Lindsey | Removal of part of approximately 97.38m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H320 |
| District of West Lindsey | Removal of part of approximately 176.55m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H321 |
| District of West Lindsey | Removal of part of approximately 308.43m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H322 |
| District of West Lindsey | Removal of part of approximately 707.73m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H323 |
| District of West Lindsey | Removal of part of approximately 85.63m of important hedgerow within the area identified by an orange line on sheet 10 of the important hedgerows plan, reference H324 |
| District of West Lindsey | Removal of part of approximately 266.91m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H325 |
| District of West Lindsey | Removal of part of approximately 594.04m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H326 |
| District of West Lindsey | Removal of part of approximately 365.91m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H327 |
| District of West Lindsey | Removal of part of approximately 135.76m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H328 |
| District of West Lindsey | Removal of part of approximately 767.29m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H329 |
| District of West Lindsey | Removal of part of approximately 305.08m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H330 |
| District of West Lindsey | Removal of part of approximately 473.07m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H331 |
| District of West Lindsey | Removal of part of approximately 516.61m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H332 |

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| District of West Lindsey | Removal of part of approximately 372.85m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H333 |
| District of West Lindsey | Removal of part of approximately 210.06m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H334 |
| District of West Lindsey | Removal of part of approximately 167.94m of important hedgerow within the area identified by an orange line on sheet 8 of the important hedgerows plan, reference H335 |
| District of West Lindsey | Removal of part of approximately 91.14m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H336 |
| District of West Lindsey | Removal of part of approximately 50m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H337 |
| District of West Lindsey | Removal of part of approximately 41.8m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H338 |
| District of West Lindsey | Removal of part of approximately 10.55m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H339 |
| District of West Lindsey | Removal of part of approximately 54.28m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H344 |
| District of West Lindsey | Removal of part of approximately 365.26m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H345 |
| District of West Lindsey | Removal of part of approximately 192.39m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H346 |
| District of West Lindsey | Removal of part of approximately 27.39m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H347 |
| District of West Lindsey | Removal of part of approximately 172.25m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H348 |
| District of West Lindsey | Removal of part of approximately 34.16m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H349 |
| District of West Lindsey | Removal of part of approximately 38.45m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H350 |

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| District of West Lindsey | Removal of part of approximately 122.04m of important hedgerow within the area identified by an orange line on sheet 16 of the important hedgerows plan, reference H351 |
| District of West Lindsey | Removal of part of approximately 353.52m of important hedgerow within the area identified by an orange line on sheet 16 of the important hedgerows plan, reference H352 |
| District of West Lindsey | Removal of part of approximately 35.09m of important hedgerow within the area identified by an orange line on sheet 16 of the important hedgerows plan, reference H353 |
| District of West Lindsey | Removal of part of approximately 175.38m of important hedgerow within the area identified by an orange line on sheet 16 of the important hedgerows plan, reference H354 |
| District of West Lindsey | Removal of part of approximately 300.37m of important hedgerow within the area identified by an orange line on sheet 16 of the important hedgerows plan, reference H355 |
| District of West Lindsey | Removal of part of approximately 469.55m of important hedgerow within the area identified by an orange line on sheet 16 of the important hedgerows plan, reference H356 |
| District of West Lindsey | Removal of part of approximately 227.37m of important hedgerow within the area identified by an orange line on sheet 16 of the important hedgerows plan, reference H357 |
| District of West Lindsey | Removal of part of approximately 523.74m of important hedgerow within the area identified by an orange line on sheet 17 of the important hedgerows plan, reference H358 |
| District of West Lindsey | Removal of part of approximately 148.65m of important hedgerow within the area identified by an orange line on sheet 17 of the important hedgerows plan, reference H363 |
| District of West Lindsey | Removal of part of approximately 170.01m of important hedgerow within the area identified by an orange line on sheet 17 of the important hedgerows plan, reference H364 |
| District of West Lindsey | Removal of part of approximately 74.68m of important hedgerow within the area identified by an orange line on sheet 17 of the important hedgerows plan, reference H365 |
| District of West Lindsey | Removal of part of approximately 240.52m of important hedgerow within the area identified by an orange line on sheet 17 of the important hedgerows plan, reference H366 |
| District of West Lindsey | Removal of part of approximately 238.99m of important hedgerow within the area identified by an orange line on sheet 17 of the important hedgerows plan, reference H367 |
| District of West Lindsey | Removal of part of approximately 168.02m of important hedgerow within the area identified by an orange line on sheet 17 of the important hedgerows plan, reference H368 |

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| District of West Lindsey | Removal of part of approximately 156.91m of important hedgerow within the area identified by an orange line on sheet 17 of the important hedgerows plan, reference H369 |
| District of West Lindsey | Removal of part of approximately 358.62m of important hedgerow within the area identified by an orange line on sheet 17 of the important hedgerows plan, reference H370 |
| District of Bassetlaw | Removal of part of approximately 45.74m of important hedgerow within the area identified by an orange line on sheet 17 of the important hedgerows plan, reference H375 |
| District of Bassetlaw | Removal of part of approximately 468.49m of important hedgerow within the area identified by an orange line on sheet 18 of the important hedgerows plan, reference H376 |
| District of Bassetlaw | Removal of part of approximately 93.74m of important hedgerow within the area identified by an orange line on sheet 18 of the important hedgerows plan, reference H380 |
| District of Bassetlaw | Removal of part of approximately 344.41m of important hedgerow within the area identified by an orange line on sheet 18 of the important hedgerows plan, reference H381 |
| District of Bassetlaw | Removal of part of approximately 142.43m of important hedgerow within the area identified by an orange line on sheet 18 of the important hedgerows plan, reference H382 |
| District of Bassetlaw | Removal of part of approximately 157.45m of important hedgerow within the area identified by an orange line on sheet 18 of the important hedgerows plan, reference H384 |
| District of Bassetlaw | Removal of part of approximately 171.52m of important hedgerow within the area identified by an orange line on sheet 18 of the important hedgerows plan, reference H385 |
| District of Bassetlaw | Removal of part of approximately 347.45m of important hedgerow within the area identified by an orange line on sheet 18 of the important hedgerows plan, reference H388 |
| District of Bassetlaw | Removal of part of approximately 417.79m of important hedgerow within the area identified by an orange line on sheet 18 of the important hedgerows plan, reference H389 |
| District of Bassetlaw | Removal of part of approximately 82.33m of important hedgerow within the area identified by an orange line on sheet 18 of the important hedgerows plan, reference H394 |
| District of Bassetlaw | Removal of part of approximately 367.17m of important hedgerow within the area identified by an orange line on sheet 19 of the important hedgerows plan, reference H397 |
| District of Bassetlaw | Removal of part of approximately 688.50m of important hedgerow within the area identified by an orange line on sheet 19 of the important hedgerows plan, reference H398 |

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| District of Bassetlaw | Removal of part of approximately 1381.20m of important hedgerow within the area identified by an orange line on sheet 19 of the important hedgerows plan, reference H399 |
| District of Bassetlaw | Removal of part of approximately 343.43m of important hedgerow within the area identified by an orange line on sheet 19 of the important hedgerows plan, reference H400 |
| District of Bassetlaw | Removal of part of approximately 119.4m of important hedgerow within the area identified by an orange line on sheet 19 of the important hedgerows plan, reference H401 |
| District of Bassetlaw | Removal of part of approximately 555.83m of important hedgerow within the area identified by an orange line on sheet 20 of the important hedgerows plan, reference H403 |
| District of Bassetlaw | Removal of part of approximately 109.97m of important hedgerow within the area identified by an orange line on sheet 20 of the important hedgerows plan, reference H404 |
| District of Bassetlaw | Removal of part of approximately 224.58m of important hedgerow within the area identified by an orange line on sheet 20 of the important hedgerows plan, reference H405 |
| District of West Lindsey | Removal of part of approximately 104.11m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H406 |
| District of West Lindsey | Removal of part of approximately 255.91m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H407 |
| District of West Lindsey | Removal of part of approximately 91.30m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H408 |
| District of West Lindsey | Removal of part of approximately 151.20m of important hedgerow within the area identified by an orange line on sheet 14 of the important hedgerows plan, reference H409 |
| District of West Lindsey | Removal of part of approximately 116.72m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H410 |
| District of West Lindsey | Removal of part of approximately 101.26m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H411 |
| District of West Lindsey | Removal of part of approximately 173.78m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H412 |
| District of West Lindsey | Removal of part of approximately 107.19m of important hedgerow within the area identified by an orange line on sheet 15 of the important hedgerows plan, reference H413 |

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| District of Bassetlaw | Removal of part of approximately 10.95m of important hedgerow within the area identified by an orange line on sheet 20 of the important hedgerows plan, reference H414 |
| District of Bassetlaw | Removal of part of approximately 59.03m of important hedgerow within the area identified by an orange line on sheet 20 of the important hedgerows plan, reference H415 |
| District of Bassetlaw | Removal of part of approximately 10.09m of important hedgerow within the area identified by an orange line on sheet 20 of the important hedgerows plan, reference H416 |
| District of Bassetlaw | Removal of part of approximately 58.28m of important hedgerow within the area identified by an orange line on sheet 20 of the important hedgerows plan, reference H417 |
| District of Bassetlaw | Removal of part of approximately 79.50m of important hedgerow within the area identified by an orange line on sheet 20 of the important hedgerows plan, reference H418 |
| District of Bassetlaw | Removal of part of approximately 62.69m of important hedgerow within the area identified by an orange line on sheet 20 of the important hedgerows plan, reference H419 |
| District of Bassetlaw | Removal of part of approximately 80.45m of important hedgerow within the area identified by an orange line on sheet 20 of the important hedgerows plan, reference H420 |

SCHEDULE 14

Article 40

DOCUMENTS AND PLANS TO BE CERTIFIED

PART 1

DOCUMENTS AND PLANS

| <i>(1)</i> <i>Document name</i> | <i>(2)</i> <i>Document reference</i> | <i>(3)</i> <i>Revision number</i> | <i>(4)</i> <i>Date</i> |
|---|---|--------------------------------------|---------------------------|
| Access plan | EN010133/APP/C2.6 | C | January 2024 |
| Book of reference | EN010133/APP/C4.3 | G | February 2024 |
| Concept design parameters and principles | EN010133/APP/C7.1 5 | C | January 2024 |
| Crown land plan | EN010133/APP/C2.1 2 | A | 6 April 2023 |
| Environmental statement | EN010133/APP/C6.1- C6.5 | 1 | 11 January 2023 |
| Important hedgerows plan | EN010133/APP/C2.1 1 | B | January 2024 |
| Land plan | EN010133/APP/C2.2 | D | January 2024 |
| Outline battery storage safety management plan | EN010133/APP/C7.9 | B | December 2023 |
| Outline construction environmental management plan | EN010133/APP/C7.1 | D | February 2024 |
| Outline construction traffic management plan | EN010132/APP/C6.3. 14.2 | F | February 2024 |
| Outline decommissioning statement | EN010133/APP/C7.2 | A | December 2023 |
| Outline drainage strategy | EN010133/APP/C6.3. 10.1 | 1 | 11 January 2023 |
| Outline ecological protection and mitigation strategy | EN010133/APP/C7.1 9 | 1 | 11 January 2023 |
| Outline landscape and ecological management plan | EN010133/APP/C7.3 | E | January 2024 |
| Outline operational environmental management plan | EN010133/APP/C7.1 6 | D | February 2024 |
| Outline public rights of way management plan | EN010133/APP/C6.3. 14.3 | E | February 2024 |
| Outline skills, supply chain and employment plan | EN010133/APP/C7.1 0 | A | January 2024 |

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| Outline soil management plan | EN010133/APP/C7.1 8 | B | December 2023 |
| Public rights of way plan | EN010133/APP/C2.5 | E | February 2024 |
| Streets plan | EN010133/APP/C2.1 3_A | E | February 2024 |
| Works plan | EN010133/APP/C2.4 | C | January 2024 |
| Written scheme of investigation | EN010133/APP/C8.2. 14 | 1 | February 2024 |

PART 2

SUBSTITUTE AND SUPPLEMENTARY DOCUMENTS

| <i>(1)</i> Originating Document | <i>(2)</i> Replacement or supplementary part | <i>(3)</i> Document reference | <i>(4)</i> Date | <i>(5)</i> Examination library reference |
|------------------------------------|---|----------------------------------|--------------------|---|
| Environmental statement | Chapter 4: Scheme Description | EX1/C6.2.4_A | October 2023 | [REP-012] |
| Environmental Statement | Chapter 7: Climate Change | EX1/C6.2.7_A | October 2023 | [REP-014] |
| Environmental Statement | Chapter 8: Landscape and Visual Impact | EX2/C6.2.8_A | November 2023 | [REP-012] |
| Environmental Statement | Chapter 19: Soils and Agriculture | EX1/C6.2.19_A | October 2023 | [REP-010] |
| Environmental Statement | Chapter 23: Summary of Significant Effects | EX2/C6.2.23_A | November 2023 | [REP2-010] |
| Environmental Statement | Without Prejudice Archaeological WSI | EX5/8.2.14 | February 2024 | [REP5-035] |
| Environmental Statement | Appendix 14.1: Transport Assessment | EX5s/C6.3.14.1_C | February 2024 | [REP5-014] |
| Environmental Statement | Volume 4: Non-Technical Summary | EX4/C6.5_C | January 2024 | [REP4-033] |
| Environmental Statement | Technical Note on Horizontal Directional Drilling and Cabling under the River Trent | EX5/C8.2.13 | February 2024 | [REP5-034] |
| Environmental Statement | ES Addendum 9.1: Ecology and Biodiversity | EX4/C8.4.9.1 | December 2023 | [REP4-067] |
| Environmental Statement | ES Addendum: Chapter 10:, Hydrology, | EX1/C8.4.10.1 | October 2023 | [REP-076] |

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| | Flood Risk and Drainage | | | |
| Environmental Statement | ES Addendum: Chapter 10: Hydrology, Flood Risk and Drainage Appendix C8.4.10.2: FRA Sequential and Exception Test | EX3/C8.4.10.2 | December 2023 | [REP3-048] |
| Environmental Statement | ES Addendum: Chapter 13: Archaeological Trial Trenching Evaluation Fieldwork Report for the Shared Cable Corridor | EX3/C8.4.13.1 | December 2023 | [REP3-049] |
| Environmental Statement | ES Addendum: Chapter 13: Additional Archaeological Trial Trenching Interim Report | EX5/C8.4.13.2 | February 2024 | [REP5-048] |
| Environmental Statement | ES Addendum: Appendix 16.1: Solar Photovoltaic Glint and Glare Study | EX1/C8.4.16.1 | October 2023 | [REP-077] |
| Environmental Statement | ES Addendum: 21.1: Human Health and Wellbeing Effects | EX4/C8.4.21.1 | January 2024 | [REP4-068] |
| Environmental Statement | ES Addendum: 21.2: Blyton Park Driving Centre | EX4/C8.4.21.2 | January 2024 | [REP4-069] |
| Environmental Statement | ES Addendum: Updated Air Quality Impact Assessment of a Solar Panel Fire Incident | EX1/C8.4.17.1 | August 2023 | [REP-078] |
| Environmental Statement | ES Addendum: Air Quality Impact Assessment of Battery Energy Storage Systems (BESS) Fire | EX2/C8.4.17.2_A | November 2023 | [REP2-071] |
| Environmental Statement | ES Addendum: Cumulative Effects | EX5/C8.4.23.1 | February 2024 | [REP5-051] |
| Environmental | Technical Note | EX4/C8.2.11 | January 2024 | [REP4-059] |

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| Statement | on Cumulative Effects of Additional Schemes | | | |
| Environmental Statement | Joint Report on Interrelationships between Nationally Significant Infrastructure Projects | EX4/C8.1.8_D | February 2024 | [REP5-025] |

SCHEDULE 15

Article 42

ARBITRATION RULES

Commencing an arbitration

1. The arbitration is deemed to have commenced when a party (“the claimant”) serves a written notice of arbitration on the other party (“the respondent”).

Time periods

2.—(1) All time periods in these arbitration rules are measured in days and include weekends, but not bank or public holidays.

(2) Time periods are calculated from the day after the arbitrator is appointed which is either—

- (a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or
- (b) the date the arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration is that which is set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 14 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

- (a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant’s contentions as to those issues, the amount of its claim or the remedy it is seeking;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 14 days of receipt of the claimant’s statements under sub-paragraph (2) by the arbitrator and respondent, the respondent must provide the claimant and the arbitrator with—

- (a) a written statement of defence consisting of a response to the claimant’s statement of claim, its statement in respect of the nature of the difference, the legal and factual issues in the claimant’s claim, its acceptance of any elements of the claimant’s claim and its contentions as to those elements of the claimant’s claim it does not accept;
- (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports;
- (c) any objection it wishes to make to the claimant’s statements, comments on the claimant’s expert reports (if submitted by the claimant) and explanations of the objections.

(4) Within seven days of the respondent serving its statements under sub-paragraph (3), the claimant may make a statement of reply by providing both the respondent and the arbitrator with—

- (a) a written statement responding to the respondent’s submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;
- (b) all statements of evidence and copies of documents in response to the respondent’s submissions;
- (c) any expert report in response to the respondent’s submissions;

- (d) any objections to the statements of evidence, expert reports or other documents submitted by the respondent; and
- (e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The parties' pleadings, witness statements and expert reports (if any) must be concise. A single pleading must not exceed 30 single-sided A4 pages using 10pt Arial font.

(2) The arbitrator will make an award on the substantive differences based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(3) Either party may, within two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within seven days of receiving the last submission, the arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(5) Within ten days of the arbitrator advising the parties that a hearing is to be held, the date and venue for the hearing are to be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which the arbitrator considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(6) A decision must be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any experts attending the hearing may be asked questions by the arbitrator.

(7) There is to be no examination or cross-examination of experts, but the arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the experts in response to the arbitrator's questions. Prior to the hearing in relation to the experts—

- (a) at least 28 days before a hearing, the arbitrator must provide a list of issues to be addressed by the experts;
- (b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 14 days of the issues being provided; and
- (c) the form and content of a joint report must be as directed by the arbitrator and must be provided at least seven days before the hearing.

(8) Within 14 days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator must take these submissions into account in the award.

(9) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which the arbitrator is appointed, unless both parties otherwise agree to an extension to the date for the award.

(10) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before the arbitrator attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure or direction.

(11) The arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given must be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the Arbitration Act 1996, save where modified in this Schedule.

(2) There must be no discovery or disclosure, except that the arbitrator is to have the power to order the parties to produce such documents as are reasonably requested by another party no later than the statement of reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales or procedure—

- (a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;
- (b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Costs

6.—(1) The costs of the arbitration must include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the arbitration.

(2) Where the difference involves connected or interrelated issues, the arbitrator must consider the relevant costs collectively.

(3) The final award must fix the costs of the arbitration and decide which of the parties are to bear them or in what proportion they are to be borne by the parties.

(4) The arbitrator must award recoverable costs on the general principle that each party should bear its own costs, having regard to all material circumstances, including such matters as exaggerated claims or defences, the degree of success for different elements of the claims, claims that have incurred substantial costs, the conduct of the parties and the degree of success of a party.

Confidentiality

7.—(1) Hearings in this arbitration are to take place in private.

(2) Materials, documents, awards, expert reports and any matters relating to the arbitration are confidential and must not be disclosed to any third party without prior written consent of the other party, save for any application to the courts or where disclosure is required under any legislative or regulatory requirement.

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule (save for any utility undertakers which are specifically protected by any other Part of this Schedule, which will take precedence), the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertakers concerned.

2. In this Part of this Schedule—

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

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the 1989 Act), belonging to or maintained by that utility undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker—
 - (i) mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and
 - (ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991;
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(a); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus; and

- (e) any other mains, pipelines or cables that are not the subject of the protective provisions in Parts 2 to 19 of this Schedule;

“functions” includes powers and duties;

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

“utility undertaker” means—

- (f) any licence holder within the meaning of Part 1 of the 1989 Act;
- (g) a gas transporter within the meaning of Part 1 of the Gas Act 1986(a);

(a) 1991 c. 56.

- (h) water undertaker within the meaning of the Water Industry Act 1991;
 - (i) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991; and
 - (j) an owner or operator of apparatus within paragraph (e) of the definition of that term,
- for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 11 (temporary prohibition or restriction of use of streets and public rights of way), a utility undertaker is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

5. Regardless of any provision in this Order or anything shown on the land plan, the undertaker must not acquire any apparatus otherwise than by agreement.

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 42 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation

(a) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

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

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

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

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part 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 42 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 6(2); and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 6(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it

withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

11. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaking in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

12. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

13. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“electronic communications code” has the same meaning as in section 106 (application of the electronic communications code) of the 2003 Act;

“electronic communications code network” means—

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

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

14. The exercise of the powers of article 31 (statutory undertakers) is subject to Part 10 (undertakers’ works affecting electronic communications apparatus) of the electronic communications code.

15.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the

(a) 2003 c. 21.

undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 42 (arbitration).

16. This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

17. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER

Application

18.—(1) For the protection of National Grid as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing, between the undertaker and National Grid.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid, where the benefit of this Order is transferred or granted to another person under article 35 (consent to transfer the benefit of the Order)—

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but without prejudice to paragraph 28(3)(b)).

Interpretation

19. In this Part of this Schedule—

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

“apparatus” means any electric lines or electrical plant as defined in the 1989 Act, belonging to or maintained by National Grid together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

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

“commence” and “commencement” in this Part of this Schedule will include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

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

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

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

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

“incentive deduction” means any incentive deduction National Grid receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

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

“National Grid” means National Grid Electricity Transmission Plc (company number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the 1989 Act;

“NGESO” is as defined in the STC;

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

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

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 24 or otherwise; or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 24 or otherwise; or
- (c) includes any of the activities that are referred to in development near overhead lines EN43-8 and HSE’s guidance note 6 “Avoidance of Danger from Overhead Lines”;

“STC” means the System Operator Transmission Owner Code prepared by the electricity transmission owners and NGESO as modified from time to time;

“STC claims” means any claim made under the STC against National Grid arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector’s equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid’s transmission system which arises as a result of the authorised works; and

“transmission owner” is as defined in the STC.

On Street Apparatus

20. Except for paragraph 21 (apparatus of National Grid in streets subject to temporary prohibition or restriction of use), paragraph 26 (retained apparatus: protection of National Grid as electricity undertaker), paragraph 27 (expenses), and paragraph 28 (indemnity) of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid in streets subject to temporary prohibition or restriction of use and public rights of way

21. Notwithstanding the temporary prohibition or restriction of use or diversion of a street or public right of way under the powers of article 11 (temporary prohibition or restriction of use of streets and public rights of way), National Grid is at liberty at all times to take all necessary access across any such street or public right of way and to execute and do all such works and things in, upon or under any such street or public right of way as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction of use or diversion was in that street or public right of way.

Protective works to buildings

22. The undertaker, in the case of the powers conferred by article 18 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid.

Acquisition of land

23.—(1) Regardless of any provision in this Order or anything shown on the land plan or contained in the book of reference to the Order, the undertaker may not appropriate or acquire or take temporary possession of any land or apparatus or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of National Grid otherwise than by agreement.

(2) As a condition of an agreement between the parties in paragraph 23(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and the undertaker must use reasonable endeavours to procure and secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule will prevail.

(4) Any agreement or consent granted by National Grid under paragraph 26 or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under paragraph 23(1).

Removal of apparatus

24.—(1) If, in the exercise of the powers conferred by the Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid to its satisfaction (taking into account paragraph 25(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

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

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by

it in respect of the apparatus to be removed (in National Grid's opinion, acting reasonably), the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 32 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case

Retained apparatus: protection of National Grid as electricity undertaker

26.—(1) Not less than 56 days before the commencement of any specified works, the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity assets.

(2) The plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

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

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

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

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

(5) Any approval of National Grid required under sub-paragraph (4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and
- (b) must not be unreasonably withheld or delayed and National Grid must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or, as relevant, sub-paragraph (6) as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any specified works for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2). Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

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

- (a) sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (11) at all times.

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

Expenses

27.—(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably or properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 24(3); or

- (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 32 to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

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

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

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

28.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than

apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party and including STC claims or an incentive deduction other than arising from any negligence or default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not accord with the approved plan or as otherwise agreed in writing between the undertaker and National Grid.

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

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 35 (consent to transfer the benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this paragraph 28(3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 28; or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering its representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid’s reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid’s control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

Enactments and agreements

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

Co-operation

30.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph 24(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 26, the undertaker will use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid’s undertaking and National Grid will use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid’s consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

31. If in consequence of the agreement reached in accordance with paragraph 23 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

32. Save for differences or disputes arising under paragraphs 24(2), 24(4), 25(1), and 26, any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 42 (arbitration).

Notices

33. Notwithstanding article 44 (service of notices), any plans submitted to National Grid by the undertaker pursuant to paragraph 26 must be submitted using the LSBUD system (<https://lsbud.co.uk>) or to such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 4

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY DISTRIBUTION (EAST MIDLANDS) PLC AS ELECTRICITY UNDERTAKER

Application

34. For the protection of National Grid Electricity Distribution (East Midlands) plc the following provisions, unless otherwise agreed in writing between the undertaker and National Grid Electricity Distribution (East Midlands) plc, have effect.

Interpretation

35. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable NGED to fulfil its statutory functions in a manner not less efficient than previously and where the context requires includes any part of such alternative apparatus;

“alternative rights” means all and any necessary legal easements, leases, consents, or permissions required by NGED in order to permit or authorise a diversion and to permit or authorise NGED to lay, keep, operate, maintain, adjust, repair, alter, relay, renew, supplement, inspect, examine, test and remove the alternative apparatus;

“apparatus” means electric lines or electrical plant as defined in the 1989 Act^(a), belonging to or maintained by NGED;

“diversion” means an alteration to the NGED Network in order to enable or facilitate the authorised development;

“functions” includes powers and duties;

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

“NGED” means National Grid Electricity Distribution (East Midlands) plc (company number 02366923) whose registered office is at Avonbank, Feeder Road, Bristol, BS2 0TB;

“NGED Network” means NGED’s distribution network operated pursuant to its distribution licence issued pursuant to section 6 of the 1989 Act;

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

“specified work” means so much of any of the authorised development that is carried out within 6 metres of any apparatus.

Precedence of 1991 Act in respect of apparatus in streets

36. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and NGED are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

No acquisition except by agreement

37. Regardless of any provision in this Order or anything shown on the land plan, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

38.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of NGED to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, alternative rights acquired or granted for the alternative apparatus and the alternative apparatus is in operation and access to it has been provided if necessary to the reasonable satisfaction of NGED in accordance with sub-paragraphs (2) to (10) or with such alternative or supplementary provisions as the undertaker and NGED may agree between them.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to NGED written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed.

(3) If as a consequence of the exercise of any of the powers conferred by this Order NGED reasonably needs to remove or divert any of its apparatus and the removal of that apparatus has not been required by the undertaker under sub-paragraph (2) then NGED must give to the undertaker written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and this Part has effect as if the removal or diversion of such apparatus had been required by the undertaker under sub-paragraph (2).

(a) 1989 c. 29. The definition of “electrical plant” (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c.27).

(4) If as a consequence of the removal or diversion of apparatus under sub-paragraph (2) or (3) alternative apparatus is to be constructed in land owned or controlled by the undertaker then the undertaker must afford to NGED the necessary facilities, alternative rights and any necessary third party consent or approvals for the construction of alternative apparatus in the other land owned or controlled by the undertaker as reasonably required by NGED.

(5) If the undertaker or NGED requires to remove or divert any apparatus placed within the Order land and alternative apparatus is to be constructed in land not owned or controlled by the undertaker as a consequence of the removal or diversion of apparatus then NGED shall use its reasonable endeavours to obtain alternative rights in the land in which the alternative apparatus is to be constructed.

(6) If alternative apparatus is to be constructed in land not owned or controlled by the undertaker and NGED is unable to obtain such alternative rights as are mentioned in sub-paragraph (5), the undertaker and NGED shall consider whether there is an alternative engineering solution that can achieve the diversion without the need for the use of compulsory powers. Should such an alternative engineering solution not be practicable and deliverable in a reasonable timescale and at a reasonable cost (which shall be determined by the undertaker acting reasonably), NGED may but shall not be compelled to use the powers of compulsory acquisition set out in this Order or the 1989 Act to obtain the necessary facilities and rights in the land outside the Order limits in which the alternative apparatus is to be constructed in accordance with a timetable agreed between NGED and the undertaker.

(7) Any alternative apparatus required pursuant to sub-paragraphs (2) or (3) must be constructed in such manner and in such line or situation as may be agreed between NGED and the undertaker or in default of agreement settled in accordance with paragraph 43 (expert determination).

(8) NGED must, after the alternative apparatus to be provided or constructed has been agreed or settled in accordance with paragraph 43 (expert determination) and, after the acquisition by or grant to NGED of any such facilities and alternative rights as are referred to in sub-paragraphs (2) to (6), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required to be removed by the undertaker under the provisions of this Part of this Schedule.

(9) Regardless of anything in sub-paragraph (8), if the undertaker gives notice in writing to NGED 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 NGED, must be executed by the undertaker—

- (a) in accordance with plans and specifications and in such line or situation agreed between the undertaker and NGED, or, in default of agreement, determined in accordance with paragraph 43; and
- (b) without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of NGED.

(10) Nothing in sub-paragraph (9) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or alternative apparatus, or execute any filling around the apparatus or alternative apparatus (where the apparatus or alternative apparatus is laid in a trench) within 600 millimetres of the point of connection or disconnection.

Facilities and rights for alternative apparatus

39.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to NGED facilities and alternative rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and alternative rights must be granted upon such terms and conditions as may be agreed between the undertaker and NGED or in default of agreement settled in accordance with paragraph 43 (expert determination).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the expert must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker;
- (b) have regard to the terms and conditions, if any, applicable to the apparatus for which the alternative apparatus is to be substituted;
- (c) have regard to NGED's ability to fulfil its service obligations and comply with its licence conditions; and
- (d) have regard to the standard form rights NGED ordinarily secures for the type of alternative apparatus to be constructed in the circumstances similar to the authorised development.

(3) If the facilities and alternative rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and alternative rights are to be granted, are in the opinion of the expert less favourable on the whole to NGED 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 expert must make such provision for the payment of compensation by the undertaker to NGED as appears to the expert to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

40.—(1) Not less than 60 days before the undertaker intends to start the execution of any specified work where the removal of the apparatus in question has not been required under paragraph 38 (removal of apparatus), the undertaker shall submit to NGED a plan of the works to be executed. Any submission must note the time limits imposed on NGED under sub-paragraph (3).

(2) Subject to sub-paragraph (3) below the undertaker shall not commence any works to which sub-paragraph (1) applies until NGED has identified any reasonable requirements it has for the alteration or protection of the apparatus, or for securing access to it.

(3) If by the expiry of 60 days beginning with the date on which a plan under sub-paragraph (1) is submitted NGED has not advised the undertaker in writing of any reasonable requirements for the alteration or protection of the apparatus, or for securing access to it, it shall be deemed not to have any such requirements and the undertaker shall be at liberty to proceed with the works.

(4) The works referred to in sub-paragraph (1) must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with any reasonable requirements as may be notified in accordance with sub-paragraph (2) by NGED and NGED shall be entitled to watch and inspect the execution of those works.

(5) At all times when carrying out the authorised development the undertaker must comply with NGED's Avoidance of Danger from Electricity Overhead Lines and Underground Cables (2014), the Energy Network Association's A Guide to the Safe Use of Mechanical Plant in the Vicinity of Electricity Overhead Lines (undated), the Health and Safety Executive's GS6 Avoiding Danger from Overhead Power Lines, and the Health and Safety Executive's HSG47 Avoiding Danger from Underground Services (Third Edition) (2014) as the same may be replaced from time to time.

(6) If NGED, in accordance with sub-paragraph (2) and in consequence of the works proposed by the undertaker, reasonably requires the removal or diversion of any apparatus and gives written notice to the undertaker of that requirement, this Part of this Schedule applies as if the removal or diversion of the apparatus had been required by the undertaker under paragraph 38(3) (removal of apparatus).

(7) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 60 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(8) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to NGED notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with any reasonable requirements stipulated by NGED under sub-paragraph (2) and with sub-paragraphs (4) and (5) in so far as is reasonably practicable in the circumstances. Nothing in this sub-paragraph prevents NGED from exercising its rights under sub-paragraph (6).

Expenses and costs

41.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to NGED the proper and reasonable expenses incurred by NGED in, or in connection with, the inspection, removal, diversion, alteration or protection of any apparatus, the construction of any alternative apparatus and the acquisition or grant of alternative rights for the alternative apparatus, arising as a result of the powers conferred upon the undertaker pursuant to this Order.

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

(3) If in accordance with the provisions of this Part of this Schedule NGED requires that alternative apparatus of better type, of greater capacity, of greater dimensions or at a greater depth is necessary in substitution for existing apparatus which for NGED's network requirements is over and above what is necessary as a consequence of and for the purpose of the authorised development, NGED shall reduce the cost of such additional requirements from the amount payable by the undertaker pursuant to sub-paragraph (1).

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

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

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

42.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified work or any subsidence resulting from any of those 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 NGED the undertaker is to—

- (a) bear and pay the cost reasonably incurred by NGED in making good such damage or restoring the supply; and
- (b) reimburse NGED for any other expenses, loss, damages, penalty or costs reasonably and properly incurred by NGED, by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of NGED, its officers, servants, contractors or agents.

(3) NGED must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) NGED must act reasonably in relation to any claim or demand served under sub-paragraph (1) and use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, claims, demands, proceedings and penalties to which a claim or demand under sub-paragraph (1) applies.

(5) NGED's liability to the undertaker for negligence or breach of contract in respect of each diversion shall be limited to the value of that diversion and NGED shall not otherwise be liable to the undertaker for any losses or costs incurred by the undertaker resulting from delays to the authorised development as a result of its failure to undertake works to deliver any alternative apparatus.

Expert determination

43.—(1) Article 42 (arbitration) shall apply to any difference as to the legal interpretation of this Part of this Schedule and as provided for in sub-paragraph (7).

(2) Save as provided for in sub-paragraph (1) or sub-paragraph (7) any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers or the President of the Royal Institution of Chartered Surveyors or the President of the Institution of Engineering and Technology (as relevant and agreed between NGED and the undertaker, both acting reasonably and without delay).

(3) All parties involved in settling any difference must use best endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The costs and fees of the expert and the costs of NGED and the undertaker are payable by the parties in such proportions as the expert may determine. In the absence of such determination the costs and fees of the expert are payable equally by the parties who shall each bear their own costs.

(5) The expert must—

- (a) invite the parties to make submissions to the expert in writing and copied to the other party to be received by the expert within 14 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;
- (c) issue a decision within 14 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(6) The expert must consider where relevant—

- (a) the development outcome sought by the undertaker;
- (b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;
- (c) the nature of the power sought to be exercised by the undertaker;
- (d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;
- (e) NGED's service obligations and licence conditions; and
- (f) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 42 (arbitration).

PART 5

FOR THE PROTECTION OF NORTHERN POWERGRID

44. The following provisions apply for the protection of Northern Powergrid unless otherwise agreed in writing between the undertaker and Northern Powergrid.

45. In this Part of this Schedule—

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

“apparatus” means electric lines or electrical plant (as defined in the 1989 Act), belonging to or maintained by Northern Powergrid and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“authorised works” means so much of the works authorised by this Order which affect existing Northern Powergrid’s apparatus within the Order limits;

“functions” includes powers and duties;

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

“Northern Powergrid” means Northern Powergrid (Yorkshire) PLC (Company Number 04112320) whose registered address is Lloyds Court, 78 Grey Street, Newcastle upon Tyne NE1 6AF; and

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed and shall include measures proposed by the undertaker to ensure the grant of sufficient land or rights in land necessary to mitigate the impacts of the works on Northern Powergrid’s undertaking.

46. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Northern Powergrid are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

47. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 11 (temporary prohibition or restriction of use of streets and public rights of way), Northern Powergrid is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

48. Regardless of any provision in this Order or anything shown on the land plan, or contained in the book of reference, the undertaker shall not acquire any apparatus, or override any easement or other interest of Northern Powergrid otherwise than by agreement with Northern Powergrid, such agreement not to be unreasonably withheld or delayed.

49. Regardless of any provision in the Order or anything shown on the land plan 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 acquire or interfere with rights or interest supporting the use, maintenance or renewal of such equipment other than by agreement of Northern Powergrid, such agreement not to be unreasonably withheld or delayed.

50.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that Northern Powergrid’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Northern Powergrid to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided pursuant to a completed easement which shall include rights to retain and subsequently maintain the apparatus being replaced or diverted and any access rights to it for the lifetime of that

alternative apparatus, all to the reasonable satisfaction of Northern Powergrid in accordance with sub-paragraphs (2) to (5).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Northern Powergrid 42 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 (3), afford to Northern Powergrid the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Northern Powergrid must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable and at the cost of the undertaker (subject to prior approval by the undertaker of its estimate of costs of doing so) use reasonable endeavours to procure 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—

- (a) the undertaker has first used reasonable endeavours to acquire the relevant land, rights and/or interests and provided reasonable evidence of the same to Northern Powergrid in accordance with the measures set out in the plan (in default of agreement, the reasonableness of any such measures to be determined through arbitration under article 42 (arbitration)); and
- (b) the undertaker and Northern Powergrid agree (or in default of agreement, it is determined through arbitration under article 42 (arbitration)) that the promotion of compulsory purchase powers by the undertaker would be significantly more onerous than the exercise of Northern Powergrid's own compulsory powers.

(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 42 (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 42 (arbitration), and after the grant to Northern Powergrid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

51.—(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 42 (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.

52.—(1) Not less than 48 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to (including conducting any activities whether intentionally or unintentionally, through for example ground or machinery collapse, which may affect Northern Powergrid’s apparatus or encroach on safety distances to live equipment) or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 50(5), 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 42 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 44 to 51 apply as if the removal of the apparatus had been required by the undertaker under paragraph (2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 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 notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

53.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Northern Powergrid within 50 days of receipt of an itemised invoice or claim all reasonable and proper expenses costs or charges incurred by Northern Powergrid—

- (a) in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 50(2) including without limitation—
 - (i) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that it is agreed Northern Powergrid elects to use compulsory purchase powers to acquire any necessary rights under paragraph 50(3) all costs reasonably incurred as a result of such action;
 - (ii) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
 - (iii) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
 - (iv) the approval of plans;
 - (v) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
 - (vi) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule); and

- (b) in assessing and preparing a design for its apparatus to address and accommodate the proposals of the undertaker whether or not the undertaker proceeds to implement those proposals or alternative or none at all,

provided that if it so prefers Northern Powergrid may abandon apparatus that the undertaker does not seek to remove in accordance with paragraph 50(1) having first decommissioned such apparatus.

(2) Where any payment falls due pursuant to this paragraph, Northern Powergrid must—

- (a) provide an itemised invoice or reasonable expenses claim to the undertaker;
- (b) provide “reminder letters” to the undertaker for payment to be made within the 50 day term on the following days after the invoice or reasonable expenses claim was provided to the undertaker—
 - (i) 15 days, being “reminder letter 1”;
 - (ii) 29 days, being “reminder letter 2”;
 - (iii) 43 days, being “reminder letter 3; and
- (c) provided that sub-paragraphs (a) and (b) have been complied with and the invoice or expenses have not been referred to arbitration pursuant to paragraph 56, be entitled to commence debt proceedings to recover any unpaid itemised invoice or reasonable expenses claim 51 days after receipt of the same by the undertaker where payment has not been made.

(3) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal and for the avoidance of doubt, if the apparatus removed under the provisions of this Part of this Schedule has nil value, no sum will be deducted from the amount payable under sub-paragraph (1) 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 placed,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 42 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Northern Powergrid by virtue of sub-paragraph (1) is to be reduced by the amount of that excess save where it is not possible on account of project time limits and/or supply issues 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 where such extension is required in consequence of the execution of any such works as are referred to in paragraph 50(2); and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

54.—(1) Subject to sub-paragraphs (2) and (3) if by reason or in consequence of the construction of any of the works referred to in paragraph 50(2), or in consequence of the, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of

carrying out such works, including without limitation works carried out by the undertaker under this Schedule or any subsidence resulting from any of these works any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Northern Powergrid, or there is any interruption in any service provided by Northern Powergrid, or Northern Powergrid becomes liable to pay any amount to a third party as a consequence of any default, negligence or omission by the undertaker in carrying out the authorised works, 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, damages, penalty, proceedings, claims or costs 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, employees, servants, contractors or agents.

(3) Northern Powergrid must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Northern Powergrid must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies. If requested to do so by the undertaker, Northern Powergrid must provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph (1). The undertaker shall only be liable under this paragraph for claims reasonably incurred by Northern Powergrid.

(5) Subject to sub-paragraphs (3) and (4), the fact that any act or thing may have been done by Northern Powergrid on behalf of the undertaker or in accordance with a plan approved by Northern Powergrid or in accordance with any requirement of Northern Powergrid as a consequence of the authorised development or under its supervision will not, unless sub-paragraph (2) applies, excuse the undertaker from liability under the provisions of this paragraph where the undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not materially accord with the approved plan or as otherwise agreed between the undertaker and Northern Powergrid.

55. 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.

56. Any difference under the provisions of this Part of this Schedule, unless otherwise agreed, is to be referred to and settled by arbitration in accordance with article 42 (arbitration).

57. 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 50 or otherwise or Northern Powergrid makes requirements for the protection or alteration of apparatus under paragraph 52, the undertaker shall use its reasonable 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.

58. If in consequence of an agreement reached in accordance with paragraph 48 or the powers granted under this Order the access to any apparatus or alternative apparatus is materially obstructed, the undertaker shall 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.

59. The plans submitted to Northern Powergrid by the undertaker pursuant to this Part of the Schedule must be sent to Northern Powergrid at property@northernpowergrid.com or such other address as Northern Powergrid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

60.—(1) Where practicable, the undertaker and Northern Powergrid will make reasonable efforts to liaise and cooperate in respect of information that is relevant to the safe and efficient construction, operation and maintenance of the authorised development.

(2) Liaison under sub-paragraph (1) shall be carried out where any works are—

- (a) within 15 metres of any above ground apparatus; or
- (b) to a depth of up to 4 metres below ground level under any apparatus.

PART 6

FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER

Application

61. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

62. In this Part of this Schedule—

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

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to or maintained by Cadent for the purposes of Cadent’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

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

“Cadent” means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986(a);

“Cadent’s undertaking” means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995(b));

“commence” has the same meaning as in article 2 of this Order and “commencement” will be construed to have the same meaning save that for the purposes of this Part of this Schedule only the terms “commence” and “commencement” include operations for the purposes of

(a) 1989 c. 29.

(b) 1995 c. 45.

intrusive archaeological investigations and intrusive investigations of the existing condition of the ground or of structures within 15 metres in any direction of Cadent’s apparatus;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

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

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

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

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

“maintain” and “maintenance” will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

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

“rights” includes rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

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

- (a) will or may be situated over or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 67(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 67(2) or otherwise; and
- (c) include any of the activities that are referred to in CD/SP/SSW/22 (Cadent’s policies for safe working in the vicinity of Cadent’s Assets).

On street apparatus

63.—(1) Except for—

- (a) paragraph 64 (apparatus of Cadent in stopped up streets);
- (b) paragraph 67 (removal of apparatus) insofar as sub-paragraph (2) applies;
- (c) paragraph 68 (facilities and rights for alternative apparatus) insofar as sub-paragraph (2) applies;
- (d) paragraph 69 (retained apparatus: protection of Cadent);
- (e) paragraph 70 (expenses); and
- (f) paragraph 71 (indemnity),

of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Cadent, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraphs 67 and 68 of this Part of this Schedule will apply to diversions even where the diversion is carried out under the 1991 Act, in circumstances where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

(3) Notwithstanding article 11 (temporary prohibition or restriction of use of streets and public rights of way), or any other powers in the Order generally, section 85 of the 1991 Act in relation to cost sharing and the regulations made thereunder will not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

Apparatus of Cadent in stopped up streets

64.—(1) Notwithstanding the temporary prohibition, diversion or restriction of use of any highway under the powers of article 11 (temporary prohibition or restriction of use of streets and public rights of way), Cadent will be at liberty at all times to take all necessary access across any such restricted or prohibited highway or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary prohibition, diversion or restriction in respect of any apparatus which at the time of the prohibition, diversion or restriction was in that highway.

(2) The Protective Provisions in this Part of this Schedule apply and take precedence over article 32 (apparatus and rights of statutory undertakers in stopped up streets) which shall not apply to Cadent.

Protective works to buildings

65.—(1) The undertaker, in the case of the powers conferred by article 18 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), will—

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

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

Acquisition of land

66.—(1) Regardless of any provision in this Order or anything shown on the land plan or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent and the undertaker must use reasonable endeavours to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent or other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule will prevail.

(4) Any agreement or consent granted by Cadent under paragraph 69 or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves decommissioned apparatus being left in situ in land owned by the undertaker, the undertaker must accept a surrender of any existing easement or other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such decommissioned apparatus from the date of such surrender but excluding any liabilities that exist prior to the date of such surrender.

(6) Where the undertaker acquires the freehold of any land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 68 do not apply, the undertaker must—

- (a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

67.—(1) If, in the exercise of any agreement reached in accordance with paragraph 66, or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account paragraph 69(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and
- (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to Cadent to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

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

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's opinion, acting reasonably), then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 75 (arbitration) of this Part of this Schedule and the arbitrator will make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

69.—(1) Not less than 56 days (or such time period as may be agreed in writing between Cadent and the undertaker) before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

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

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;

- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and
- (b) must not be unreasonably withheld or delayed.

(5) In relation to any specified works to which sub-paragraph (1) applies, Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraphs (1) and (2) or, as relevant, sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and Cadent, and in accordance with all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 67(2) provided that such written notice must be given by Cadent to the undertaker no later than as part of the approval of a plan submitted pursuant to sub-paragraph (1).

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

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

- (a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with Cadent's policies for safe working in proximity to gas apparatus "CD/SP/SSW/22 (Cadent's policies for safe working in the vicinity of Cadent's Assets)" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised works the undertaker must implement an appropriate ground mitigation scheme save that Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 70.

Expenses

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

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 67(3) if it elects to do so; or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule; and
- (g) any watching brief pursuant to paragraph 69(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 75 to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess, save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

71.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

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

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan or in a manner as may otherwise be agreed between the undertaker and Cadent.

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

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and
- (b) any authorised works or any other works authorised by this Part of this Schedule carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 35 (consent to transfer the benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this paragraph (b) will be subject to the full terms of this Part of this Schedule including this paragraph in respect of such new apparatus.

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

Enactments and agreements

72. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule, or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule will

affect the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

73.—(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or Cadent requires the removal of apparatus under paragraph 67(2)) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 69, the undertaker will use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent will use its best endeavours to co-operate with the undertaker for that purpose.

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

Access

74. If in consequence of any agreement reached in accordance with paragraph 66(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

75. Save for differences or disputes arising under paragraphs 67(2), 67(4), 68(1) and paragraph 69, any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 42 (arbitration) and in settling any difference or dispute, the arbitrator must have regard to the requirements of Cadent for ensuring the safety, economic and efficient operation of Cadent's apparatus.

Notices

76. The plans submitted to Cadent by the undertaker pursuant to paragraph 69(1) must be sent to Cadent Gas Limited Plant Protection by e-mail to plantprotection@cadentgas.com copied by e-mail to landservices@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 7

FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

77. The following provisions have effect for the protection of Anglian Water unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

78. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in no less efficient a manner than previously;

“Anglian Water” means Anglian Water Services Limited;

“apparatus” means—

- (a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;
- (b) any drain or works vested in Anglian Water under the Water Industry Act 1991(a);
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of the Water Industry Act 1991 or an agreement to adopt made under section 104 of that Act;
- (d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and
- (e) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works (within the meaning of section 219 of the Water Industry Act 1991), and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus,

and for the purpose of this definition, where words are defined by section 219 of that Act, they shall be taken to have the same meaning;

“functions” includes powers and duties;

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

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

On street apparatus

79. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

80.—(1) Where any street or public right of way is subject to temporary prohibition or restriction of use under article 11 (temporary prohibition or restriction of use of streets and public rights of way), where Anglian Water has apparatus in the street or accessed by virtue of that street, it has the same powers and rights in respect of that apparatus as it enjoyed immediately before the prohibition or restriction of use and the undertaker must grant to Anglian Water legal easements reasonably satisfactory to Anglian Water in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of Anglian Water to require the removal of that apparatus under paragraph 83 or the power of the undertaker to carry out works under paragraph 85.

(2) Regardless of the temporary prohibition or restriction of use or diversion of any highway under the powers conferred by article 11 (temporary prohibition or restriction of use of streets and public rights of way), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction of use or diversion was in that highway.

(a) 1991 c. 57.

Protective works to buildings

81. The undertaker, in the case of the powers conferred by article 18 (protective works to buildings), must not exercise those powers so as to obstruct or render less convenient the access to any apparatus without the written consent of Anglian Water (such consent not to be unreasonably withheld or delayed).

Acquisition of land

82. Regardless of any provision in this Order or anything shown on the land plan, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

83.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until

- (a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and
- (b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 84.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 42 (arbitration), and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water’s reasonable requests for a reasonable period of time to enable Anglian Water to—

- (a) make network contingency arrangements; or
- (b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

84.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 42 (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 Anglian Water 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 Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under The Environmental Permitting (England and Wales) Regulations 2010(a) or other legislation.

Retained apparatus

85.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 83(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If Anglian Water 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

(a) S.I. 2010/675.

notice to the undertaker of that requirement, paragraphs 77 to 79 and 82 to 84 apply as if the removal of the apparatus had been required by the undertaker under paragraph 83(2).

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

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its reasonable endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus—

- (a) 4 metres where the diameter of the pipe is less than 250 millimetres;
- (b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres, and
- (c) a distance to be agreed on a case by case basis and before the submission of the Plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres.

Expenses and costs

86.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of 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 and which is not re-used as part of the alternative apparatus that value being calculated after removal.

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

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 42 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus 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 pipe or 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.

87.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 81 or 83(2), or by reason of any subsidence resulting from such development or 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 Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by Anglian Water,

by reason or in consequence of any such damage or interruption.

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

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents.

(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) Anglian Water must use its reasonable endeavours to mitigate in whole or in part and to minimise any claims, demands, proceedings, costs, damages, expenses or loss to which this paragraph applies.

Cooperation

88. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 83(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 85, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

89. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

90. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

91. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

PART 8

FOR THE PROTECTION OF INTERNAL DRAINAGE BOARDS

92. The provisions of this Part have effect for the protection of the Board unless otherwise agreed in writing between the undertaker and the Board.

93. In this Part—

“construction” includes execution, placing, altering, replacing, relaying and removal; and “construct” and “constructed” must be construed accordingly.

“the Board” means Scunthorpe and Gainsborough Internal Drainage Board, Upper Witham Internal Drainage Board or Trent Valley Internal Drainage Board (as applicable);

“drainage work” means any ordinary watercourse and includes any land that provides or is expected to provide flood storage capacity for any ordinary watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence;

“evidence” includes hydraulic modelling, infiltration test results and geotechnical evaluations; and

“Internal Drainage District” has the meaning given in the Land Drainage Act 1991(a);

“ordinary watercourse” has the meaning given in section 72 (Interpretation) of the Land Drainage Act 1991;

“plans” includes sections, drawings, specifications and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 9 metres of a drainage work within the Board’s Internal Drainage District or is otherwise likely to—

- (a) affect any drainage work within the Board’s Internal Drainage District;
- (b) affect the total volume or volumetric rate of flow of water in or flowing to or from any drainage work within the Board’s Internal Drainage District;
- (c) affect the flow of water in any drainage work within the Board’s Internal Drainage District; or
- (d) affect the conservation, distribution or use of water resources.

94.—(1) Before beginning to construct any specified work, the undertaker must submit to the Board plans of the specified work, evidence to support said plans and any such further particulars available to it as the Board may within 28 days of the submission of the plans reasonably require (or submission of further particulars if required by the Board).

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Board or determined under paragraph 101.

(3) Any approval of the Board required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval (or the submission of further particulars if applicable) or, in the case of a refusal, if it is not accompanied by a statement of the grounds of refusal; and
- (c) may be given subject to such reasonable requirements and conditions as the Board may consider appropriate.

(a) 1991 c. 59.

(4) The Board must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3).

95. Without limiting paragraph 94, the requirements which the Board may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased, by reason of any specified work.

96.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Board under paragraph 94, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and
- (b) to the reasonable satisfaction of the Board, and an officer of the Board is entitled to give such notice as may be reasonably required in the circumstances to watch and inspect the construction of such works.

(2) The undertaker must give to the Board—

- (a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and
- (b) notice in writing of its completion not later than 7 days after the date on which it is brought into use.

(3) If the Board reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work.

(4) If any part of a specified work or any protective work required by the Board is constructed otherwise than in accordance with the requirements of this Part, the Board may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part or (if the undertaker so elects and the Board in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Board reasonably requires.

(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the Board may execute the works specified in the notice, and any expenditure reasonably incurred by it in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Board must not except in emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally resolved by agreement or determined under paragraph 101.

97. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or the drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Board and, if the undertaker fails to do so, the Board may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

98. The undertaker must compensate the Board in respect of all costs, charges and expenses that the Board may reasonably incur, have to pay or may sustain—

- (a) in the examination or approval of plans and evidence under this Part;
- (b) in inspecting the proposed site for and construction of any specified work or any protective works required by the Board under this Part; and
- (c) in carrying out of any surveys or tests by the Board that are reasonably required in connection with the construction of the specified work.

99.—(1) Without limiting the other provisions of this Part, the undertaker must compensate the Board in respect of all claims, demands, proceedings, costs, damages, expenses or loss that may be made or taken against, reasonably recovered from or incurred by the Board by reason of—

- (a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence;
- (b) any flooding or increased flooding of any such land which is caused by, or results from, the construction of the specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged upon the work.

(2) The Board must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(3) The Board must use its reasonable endeavours to mitigate in whole or in part and to minimise any claims, demands, proceedings, costs, damages, expenses or loss to which this paragraph applies. If requested to do so by the undertaker, the Board must provide an explanation of how the claim has been minimised. The undertaker is only liable under this paragraph for claims reasonably incurred by the Board.

100. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the Board, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part.

101. Any dispute between the undertaker and the Board under this Part, unless otherwise agreed, must be determined by arbitration under article 42 (arbitration).

PART 9

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

102. The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

103. In this Part of this Schedule—

“the Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” must be construed accordingly;

“drainage work” means any main river and includes any land which provides flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

“main river” has the same meaning given in section 113 of the Water Resources Act 1991;

“plans” includes sections, drawings, specifications, calculations and method statements;

“remote defence” means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river; and

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within—

- (a) 8 metres of the base of a remote defence which is likely to—
 - (i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence; or
 - (ii) interfere with the Agency’s access to or along that remote defence;
- (b) 16 metres of a drainage work involving a tidal main river or 8 metres of a drainage work involving a non-tidal main river; or
- (c) any distance of a drainage work and is otherwise likely to—
 - (i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
 - (ii) affect the flow, purity or quality of water in any main river or other surface waters;
 - (iii) cause obstruction to the free passage of fish or damage to any fishery;
 - (iv) affect the conservation, distribution or use of water resources; or
 - (v) affect the conservation value of the main river and habitats in its immediate vicinity;
 or which involves—
- (d) an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and
- (e) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work.

Submission and approval of plans

104.—(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 114.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval; and
- (c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or for nature conservation in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

(5) In the case of a refusal, if requested to do so, the Agency must provide reasons for the grounds of that refusal.

Construction of protective works

105. Without limiting paragraph 104, the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or

- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

Timing of works and service of notices

106.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 105, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved under this Part of this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

and the Agency is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work to which the protective works relate.

Works not in accordance with this Part of this Schedule

107.—(1) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency 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 (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(2) Subject to sub-paragraph (3), if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph 107(1) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(3) In the event of any dispute as to whether sub-paragraph 107(1) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (2) until the dispute has been finally determined in accordance with sub-paragraph 114.

Maintenance of works

108.—(1) Subject to sub-paragraph (6) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the Order limits and on Order land, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (5), if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 114.

(6) This paragraph does not apply to—

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and
- (b) any obstruction of a drainage work expressly authorised in the approval of specified works plan and carried out in accordance with the provisions of this Part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

Remediating impaired drainage work

109. If by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.

Agency access

110. If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours of or as soon as reasonably practicable after the undertaker becoming aware of such obstruction.

Free passage of fish

111.—(1) The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage.

(3) If within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker

fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in doing so is recoverable from the undertaker.

(4) In any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

Indemnity

112. The undertaker indemnifies the Agency in respect of all costs, charges and expenses which the Agency may reasonably incur—

- (a) in the examination or approval of plans under this Part of this Schedule;
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and
- (c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

113.—(1) The undertaker is responsible for and indemnifies the Agency against all costs and losses, liabilities, claims and demands not otherwise provided for in this Schedule which may be reasonably incurred or suffered by the Agency by reason of, or arising out of—

- (a) the construction, operation or maintenance of any specified works comprised within the authorised development or the failure of any such works comprised within them; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.

(2) For the avoidance of doubt, in sub-paragraph (1)—

“costs” includes—

- (a) expenses and charges;
- (b) staff costs and overheads; and
- (c) legal costs;

“losses” includes physical damage;

“claims” and “demands” include as applicable—

- (d) costs (within the meaning of this sub-paragraph) incurred in connection with any claim or demand; and
- (e) any interest element of sums claimed or demanded; and

“liabilities” includes—

- (f) contractual liabilities;
- (g) tortious liabilities (including liabilities for negligence or nuisance);
- (h) liabilities to pay statutory compensation or for breach of statutory duty; and
- (i) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(3) The Agency must give to the undertaker reasonable notice of any such claim or demand and must not settle or compromise a claim without the agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.

(4) The Agency must at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(5) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or

award of an arbitrator, must not relieve the undertaker from any liability under the provisions of this Part of this Schedule.

(6) Nothing in this paragraph imposes any liability on the undertaker with respect to any costs, charges, expenses, damages, claims, demands or losses to the extent that they are attributable to the neglect or default of the Agency, its officers, servants, contractors or agents.

Disputes

114. Any dispute arising between the undertaker and the Agency under this Part of this Schedule must, if the parties agree, be determined by arbitration under article 42 (arbitration), but failing agreement be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for the department of Energy, Security and Net Zero or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

PART 10

FOR THE PROTECTION OF RAILWAY INTERESTS

115. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 129 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

116. In this Part of this Schedule—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

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

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993(a);

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

(a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and

(a) 1993 c. 43.

- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

“regulatory consents” means any consent or approval required under—

- (c) the Railways Act 1993;
- (d) the network licence; and/or
- (e) any other relevant statutory or regulatory provisions,

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development; and

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

117.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

118.—(1) The undertaker must not exercise the powers conferred by—

- (a) article 3 (development consent etc granted by the Order);
- (b) article 5 (power to maintain the authorised development);
- (c) article 16 (discharge of water);
- (d) article 19 (authority to survey and investigate the land);
- (e) article 20 (compulsory acquisition of land);
- (f) article 22 (compulsory acquisition of rights);
- (g) article 23 (private rights);
- (h) article 25 (acquisition of subsoil only);
- (i) article 26 (power to override easements and other rights);
- (j) article 29 (temporary use of land for constructing the authorised development);
- (k) article 30 (temporary use of land for maintaining the authorised development);
- (l) article 31 (statutory undertakers);
- (m) article 38 (felling or lopping of trees and removal of hedgerows);
- (n) article 39 (trees subject to tree preservation orders);
- (o) the powers conferred by section 11(3) (power of entry) of the 1965 Act;
- (p) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;
- (q) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 31 (statutory undertakers), article 26 (power to override easements and other rights) or article 23 (private rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

119.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not

commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

120.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 119(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 119;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

121. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

122. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

123.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 119(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 124(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

124. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 119(3) or in constructing any protective works under the provisions of paragraph 119(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

125.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 119(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 119(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to paragraph (a); and

(c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 119(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and
- (d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 120.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 129(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph 119 applies.

(10) For the purpose of paragraph 124(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

126. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

127. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable

requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

128. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

129.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 41 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development,

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such claims or demands;
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and
- (c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of

the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

130. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 129) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

131. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

132. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the land plan and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

133. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

134. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State’s consent, under article 35 (consent to transfer the benefit of the Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

135. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 40 (certification of plans and documents, etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

136. Any dispute arising under this Part of this Schedule, unless otherwise provided for, must be referred to and settled by arbitration in accordance with article 42 (arbitration) and the Rules at Schedule 15 (arbitration rules).

PART 11

FOR THE PROTECTION OF GATE BURTON ENERGY PARK LIMITED

137. The provisions of this Part apply for the protection of Gate Burton unless otherwise agreed in writing between the undertaker and Gate Burton.

138. In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by Gate Burton or its successor in title within the Gate Burton Work No. 4B Area;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“Gate Burton” means an undertaker with the benefit of all or part of the Gate Burton Energy Park Order for the time being;

“Gate Burton Work No. 4B Area” means the area for Work No. 4B authorised in the Gate Burton Energy Park Order;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Gate Burton Work No. 4B Area; and

“specified works” means so much of any works of operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is—

- (a) within the Gate Burton Work No. 4B Area;
- (b) in, on, under, over or within 25 metres of the proposed Gate Burton Work No. 4B Area or any apparatus; or
- (c) may in any way adversely affect any apparatus.

139. The consent of Gate Burton under this Part is not required where the Gate Burton Energy Park Order has expired without the authorised development having been commenced pursuant to the Gate Burton Energy Park Order.

140. Where conditions are included in any consent granted by Gate Burton pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by Gate Burton.

141. The undertaker must not under the powers of this Order acquire, extinguish, suspend, override or interfere with any rights that Gate Burton has in respect of any apparatus or has in respect of the Gate Burton Work No. 4B Area without the consent of Gate Burton, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

142.—(1) The undertaker must not under the powers of this Order carry out any specified works without the consent of Gate Burton, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions and if Gate Burton does not respond within 28 days of the undertaker’s request for consent, then consent is deemed to be given.

(2) Subject to obtaining consent pursuant to sub-paragraph (1) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to Gate Burton and must submit any such further particulars available to it that Gate Burton may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by Gate Burton.

(4) Any approval of Gate Burton required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus (including proposed apparatus) in the Gate Burton Work No. 4B Area or for securing access to such apparatus or the Gate Burton Work No. 4B Area.

(5) Where Gate Burton requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to Gate Burton’s reasonable satisfaction.

(6) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any specified works, new plans instead of the plans previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans.

143.—(1) The undertaker must give to Gate Burton not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give Gate Burton written notice of the completion.

(2) The undertaker is not required to comply with paragraph 142 or sub-paragraph (1) in a case of emergency, but in that case it must give to Gate Burton notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with paragraph 142 in so far as is reasonably practicable in the circumstances.

144. The undertaker must at all reasonable times during construction of the specified works allow Gate Burton and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

145.—(1) After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from Gate Burton requiring the undertaker to do so, remove the temporary works in, on, under, over or within the Gate Burton Work No. 4B Area.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), Gate Burton may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

146. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable Gate Burton to maintain or use the apparatus no less effectively than was possible before the obstruction.

147. The undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by Gate Burton to the proposed Gate Burton Work No. 4B Area.

148. To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order within Gate Burton Work No. 4B Area request up-to-date written confirmation from Gate Burton of the location of any apparatus or proposed apparatus.

149. The undertaker and Gate Burton must each act in good faith and use reasonable endeavours to co-operate with and provide assistance to each other as may be required to give effect to the provisions of this Part.

150. The undertaker must pay to Gate Burton the reasonable expenses incurred by Gate Burton in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the proposed Gate Burton Work No. 4B Area.

151.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by Gate Burton, or Gate Burton becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Gate Burton in making good such damage or restoring the service or supply; and
- (b) compensate Gate Burton for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Gate Burton, by reason or in consequence of any such damage or interruption or Gate Burton becoming liable to any third party as aforesaid.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Gate Burton, its officers, servants, contractors or agents.

(3) Gate Burton must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) Gate Burton must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies. If requested to do so by the undertaker, Gate Burton shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph for claims reasonably incurred by Gate Burton.

(5) The fact that any work or thing has been executed or done with the consent of Gate Burton and in accordance with any conditions or restrictions prescribed by Gate Burton or in accordance with any plans approved by Gate Burton or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

152. Any dispute arising between the undertaker and Gate Burton under this Part must be determined by arbitration under article 42 (arbitration).

PART 12

FOR THE PROTECTION OF WEST BURTON SOLAR PROJECT LIMITED

153. The provisions of this Part apply for the protection of West Burton unless otherwise agreed in writing between the undertaker and West Burton.

154. In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by West Burton or its successor in title within the West Burton Work No. 5B Area;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the West Burton Work No. 5B Area;

“specified works” means so much of any works of operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is—

- (a) within the West Burton Work No. 5B Area;
- (b) in, on, under, over or within 25 metres of the proposed West Burton Work No. 5B Area or any apparatus; or
- (c) may in any way adversely affect any apparatus.

“West Burton” means an undertaker with the benefit of all or part of the West Burton Solar Project Order for the time being; and

“West Burton Work No. 5B Area” means the area for Work No. 5B authorised in the West Burton Solar Project Order.

155. The consent of West Burton under this Part is not required where the West Burton Solar Project Order has expired without the authorised development having been commenced pursuant to the West Burton Solar Project Order.

156. Where conditions are included in any consent granted by West Burton pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by West Burton.

157. The undertaker must not under the powers of this Order acquire, extinguish, suspend, override or interfere with any rights that West Burton has in respect of any apparatus or has in respect of the West Burton Work No. 5B Area without the consent of West Burton, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

158.—(1) The undertaker must not under the powers of this Order carry out any specified works without the consent of West Burton, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions and if West Burton does not respond within 28 days of the undertaker's request for consent, then consent is deemed to be given.

(2) Subject to obtaining consent pursuant to sub-paragraph (1) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to West Burton and must submit any such further particulars available to it that West Burton may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by West Burton.

(4) Any approval of West Burton required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus (including proposed apparatus) in the West Burton Work No. 5B Area or for securing access to such apparatus or the West Burton Work No. 5B Area.

(5) Where West Burton requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to West Burton's reasonable satisfaction.

(6) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any specified works, new plans instead of the plans previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans.

159.—(1) The undertaker must give to West Burton not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give West Burton written notice of the completion.

(2) The undertaker is not required to comply with paragraph 158 or sub-paragraph (1) in a case of emergency, but in that case it must give to West Burton notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with paragraph 158 in so far as is reasonably practicable in the circumstances.

160. The undertaker must at all reasonable times during construction of the specified works allow West Burton and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

161.—(1) After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from West Burton requiring the undertaker to do so, remove the temporary works in, on, under, over or within the West Burton Work No. 5B Area.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), West Burton may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

162. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable West Burton to maintain or use the apparatus no less effectively than was possible before the obstruction.

163. The undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by West Burton to the proposed West Burton Work No. 5B Area.

164. To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order within West Burton Work No. 5B Area request up-to-date written confirmation from West Burton of the location of any apparatus or proposed apparatus.

165. The undertaker and West Burton must each act in good faith and use reasonable endeavours to co-operate with and provide assistance to each other as may be required to give effect to the provisions of this Part.

166. The undertaker must pay to West Burton the reasonable expenses incurred by West Burton in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the proposed West Burton Work No. 5B Area.

167.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by West Burton, or West Burton becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by West Burton in making good such damage or restoring the service or supply; and
- (b) compensate West Burton for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from West Burton, by reason or in consequence of any such damage or interruption or West Burton becoming liable to any third party as aforesaid.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of West Burton, its officers, servants, contractors or agents.

(3) West Burton must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) West Burton must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies. If requested to do so by the undertaker, West Burton shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph for claims reasonably incurred by West Burton.

(5) The fact that any work or thing has been executed or done with the consent of West Burton and in accordance with any conditions or restrictions prescribed by West Burton or in accordance with any plans approved by West Burton or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

168. Any dispute arising between the undertaker and West Burton under this Part must be determined by arbitration under article 42 (arbitration).

PART 13

FOR THE PROTECTION OF THE CANAL & RIVER TRUST

Interpretation

169.—(1) For the protection of the Canal & River Trust the following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and the Canal & River Trust.

(2) In this Part of this Schedule—

“Canal & River Trust’s network” means the Canal & River Trust’s network of waterways;

“code of practice” means the Code of Practice for Works Affecting the Canal & River Trust (April 2023) or any updates or amendments thereto;

“construction”, in relation to any specified work or protective work, includes—

- (a) the execution and placing of that work; and
- (b) any relaying, renewal or maintenance of that work, and “construct” and “constructed” have corresponding meanings;

“detriment” means any damage to the waterway or any other property of the Canal & River Trust caused by the presence of the authorised development and, without prejudice to the generality of that meaning, includes—

- (c) any obstruction of, or interference with, or hindrance or danger to, navigation or to any use of the waterway (including towing paths);
- (d) the erosion of the bed or banks of the waterway, or the impairment of the stability of any works, lands or premises forming part of the waterway;
- (e) the deposit of materials or the siltation of the waterway so as to damage the waterway;
- (f) the pollution of the waterway;
- (g) any significant alteration in the water level of the waterway, or significant interference with the supply of water thereto, or drainage of water therefrom;
- (h) any harm to the ecology of the waterway; and
- (i) any interference with the exercise by any person of any lawful rights over Canal & River Trust's network;

“the engineer” means an engineer appointed by the Canal & River Trust for the purpose in question;

“plans” includes navigational risk assessments, sections, designs, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction) and programmes;

“practical completion” means practical completion of all of the specified work notwithstanding that items which would ordinarily be considered snagging items remain outstanding, and the expressions “practically complete” and “practically completed” are to be construed accordingly;

“protective work” means a work constructed under paragraph 173(4)(a) (approval of plans, protective works, etc.);

“specified work” means so much of the authorised development as is, may be, or takes place in, on, under or over the surface of land below the water level forming part of the waterway; or may affect the waterway or any function of the Canal & River Trust, including any projection over the waterway by any authorised work or any plant or machinery; and

“the waterway” means each and every part of the river Trent within the Order limits and includes any works, lands or premises belonging to the Canal & River Trust, or under its management or control, and held or used by the Canal & River Trust in connection with its statutory functions.

(3) Where the code of practice applies to any works or matter that are part of the authorised development or that form part of the protective works and there is an inconsistency between these protective provisions and the code of practice, the part of the code of practice that is inconsistent with these protective provisions will not apply and these protective provisions will apply. The undertaker will identify and agree with the Canal & River Trust those parts of the code of practice which are not applicable to the construction of the specified works and for the avoidance of doubt the undertaker will not be required to comply with those agreed parts of the code of practice.

Powers requiring the Canal & River Trust's consent

170.—(1) The undertaker must not in the exercise of the powers conferred by this Order obstruct or interfere with pedestrian or vehicular access to the waterway unless such obstruction or interference with such access is with the consent of the Canal & River Trust.

(2) The undertaker must not exercise any power conferred by this Order to discharge water into the waterway under article 16 (discharge of water) or in any way interfere with the supply of water to or the drainage of water from the waterway unless such exercise is with the consent of the Canal & River Trust, save as to surface water discharge which will not require the consent of the Canal & River Trust.

(3) The undertaker must not exercise the powers conferred by article 19 (authority to survey and investigate the land) or section 11(3) of the 1965 Act, in relation to the waterway unless such exercise is with the consent of the Canal & River Trust.

(4) The undertaker must not exercise any power conferred by article 29 (temporary use of land for constructing the authorised development) or article 30 (temporary use of land for maintaining the authorised development) in respect of the waterway unless such exercise is with the consent of the Canal & River Trust.

(5) The undertaker must not exercise any power conferred by article 20 (compulsory acquisition of land), article 22 (compulsory acquisition of rights), article 25 (acquisition of subsoil only) or article 31 (statutory undertakers) in respect of the Canal & River Trust's interests in the waterway unless such exercise is with the consent of the Canal & River Trust.

(6) The consent of the Canal & River Trust pursuant to sub-paragraphs (1) to (5) must not be unreasonably withheld or delayed but may be given subject to reasonable terms and conditions provided that it will not be reasonable for the Canal & River Trust to withhold or delay consent or impose terms and conditions that would prevent the undertaker from complying with the protective provisions in this Part of this Schedule or any condition contained in Schedule 2 (requirements).

Fencing

171. Where so required by the engineer acting reasonably the undertaker must, to the reasonable satisfaction of the engineer, fence off a specified work or a protective work or take such other steps as the engineer may require to be taken for the purpose of separating a specified work or a protective work from the waterway, whether on a temporary or permanent basis or both.

Survey of waterway

172.—(1) Before the commencement of the initial construction of any part of the specified works and again following practical completion of the specified works the undertaker must bear the reasonable and proper cost of the carrying out by a qualified engineer (“the surveyor”), to be approved by the Canal & River Trust and the undertaker, of a survey to measure the navigational depth of the waterway and profile of the riverbed (“the survey”) of so much of the waterway and of any land which may provide support for the waterway as will or may be affected by the specified works.

(2) The design of and methods proposed to be used for the survey are to be approved by the Canal & River Trust and the undertaker.

(3) For the purposes of the survey the undertaker must—

(a) on being given reasonable notice (save in case of emergency, when immediate access must be afforded) afford reasonable facilities to the surveyor for access to the site of the specified works and to any land of the undertaker which may provide support for the waterway as will or may be affected by the specified works; and

(b) supply the surveyor as soon as reasonably practicable with all such information as they may reasonably require and which the undertaker holds with regard to the specified works or the method of their construction.

(4) Copies of the survey results must be provided to both the Canal & River Trust and the undertaker at no cost to the Canal & River Trust.

Approval of plans, protective works, etc.

173.—(1) The undertaker must before commencing construction of any specified work including any temporary works supply to the Canal & River Trust proper and sufficient plans of that work, on the Canal & River Trust forms, having regard to the code of practice and such further particulars available to it as the Canal & River Trust may within 14 working days of the submission of the plans reasonably require for the approval of the engineer and must not commence such construction of a specified work until plans of that work have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, and if within 25 working days after such plans (including any other particulars reasonably

required under sub-paragraph (1)) have been received by the Canal & River Trust the engineer has not intimated disapproval of those plans and the grounds of disapproval, the engineer is deemed to have approved the plans as submitted.

(3) An approval of the engineer under this paragraph is not deemed to have been unreasonably withheld if approval within the time limited by sub-paragraph (2) has not been given pending the outcome of any consultation on the approval in question that the Canal & River Trust is obliged to carry out in the proper exercise of its functions, provided prior written notice of such consultation has been provided by the Canal & River Trust to the undertaker.

(4) When signifying approval of the plans the engineer may specify on land held or controlled by the Canal & River Trust or the undertaker and subject to such works being authorised by this Order or being development permitted by an Act of Parliament or general development order made under the 1990 Act—

- (a) any protective work (whether temporary or permanent) which in the reasonable opinion of the engineer should be carried out before the commencement of a specified work to prevent detriment; and
- (b) such other requirements as may be reasonably necessary to prevent detriment,

and such protective works must be constructed by the undertaker or by the Canal & River Trust at the undertaker's request with all reasonable dispatch and the undertaker must not commence the construction of a specified work until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction such consent not to be unreasonably withheld or delayed.

(5) The withholding of an approval of the engineer under this paragraph will be deemed to be unreasonable if it would prevent the undertaker from complying with any condition contained in Schedule 2 (requirements).

(6) The undertaker must pay to the Canal & River Trust a capitalised sum representing any reasonably increased and additional cost of maintaining and, when necessary, renewing any works, including any permanent protective works provided under sub-paragraph (4), and of carrying out any additional dredging of the waterway reasonably necessitated by the exercise of any of the powers under this Order but if the cost of maintaining the waterway, or of works of renewal of the waterway, is reduced in consequence of any such works, a capitalised sum representing such reasonable saving is to be set off against any sum payable by the undertaker to the Canal & River Trust under this paragraph.

(7) In the event that the undertaker fails to complete the construction of, or part of, the specified works the Canal & River Trust may, if it is reasonably required in order to avoid detriment, serve on the undertaker a notice in writing requesting that construction be completed. Any notice served under this sub-paragraph must state the works that are to be completed by the undertaker and lay out a reasonable timetable for the completion of the works. If the undertaker fails to comply with this notice within 35 working days, the Canal & River Trust may construct any of the specified works, or part of such works, (together with any adjoining works) in order to complete the construction of, or part of, the specified works or make such works and the undertaker must reimburse the Canal & River Trust all costs, fees, charges and expenses it has reasonably incurred in carrying out such works.

Design of works

174. Without prejudice to its obligations under the foregoing provisions of this Part of this Schedule the undertaker must consult, collaborate and respond constructively to any reasonable approach, suggestion, proposal or initiative made by the Canal & River Trust on—

- (a) the design of the specified works;
- (b) the environmental effects of those works;

and must have regard to such views as may be expressed by the Canal & River Trust in response to such consultation pursuant in particular to the requirements imposed on the Canal & River Trust by section 22 (general environmental and recreational duties) of the British Waterways Act 1995

and to the interest of the Canal & River Trust in preserving and enhancing the environment of its waterways; and

- (c) amendments or alterations to the construction environmental management plan, landscape and ecological management plan, operational environmental management plan or decommissioning plan (as may be approved pursuant to Schedule 2) in respect of a specified work or a protective work or otherwise in connection with the waterway.

Notice of works

175. The undertaker must give to the engineer 30 days notice of its intention to commence the construction of any of the specified works or protective works, or, in the case of repair carried out in an emergency, such notice as may be reasonably practicable so that, in particular, the Canal & River Trust may where appropriate arrange for the publication of notices bringing those works to the attention of users of the Canal & River Trust's network.

Construction of specified works

176.—(1) Any specified works or protective works must, when commenced, be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled as aforesaid and with any specifications made under paragraph 173 (approval of plans, protective works, etc.) and paragraph 174 (design of works);
- (b) under the supervision (if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little detriment to the waterway as is reasonably practicable;
- (d) in such manner as to cause as little inconvenience as is reasonably practicable to the Canal & River Trust, its officers and agents and all other persons lawfully using the waterways, except to the extent that temporary obstruction has otherwise been agreed by the Canal & River Trust;
- (e) in such a manner as to ensure that no materials are discharged or deposited into the waterway otherwise than in accordance with article 16 (discharge of water); and
- (f) in compliance with the code of practice (where appropriate and where consistent with the exercise of powers pursuant to this Order and for the timely, safe, economic and efficient delivery of the authorised works);

(2) Nothing in this Order authorises the undertaker to make or maintain any permanent works in or over the waterway so as to impede or prevent (whether by reducing the width of the waterway or otherwise) the passage of any vessel which is of a kind (as to its dimensions) for which the Canal & River Trust is required by section 105(1)(b) and (2) of the Transport Act 1968 to maintain the waterway.

(3) Following the completion of the construction of the specified works the undertaker must restore the waterway to a condition no less satisfactory than its condition immediately prior to the commencement of those works unless otherwise agreed between the undertaker and the Canal & River Trust and save to the extent that any deterioration to the condition of the waterway is not caused by the construction of the specified works.

(4) In assessing whether the condition of the waterway is no less satisfactory than immediately prior to the works pursuant to sub-paragraph (3), the Canal & River Trust and the undertaker must take account of any survey issued pursuant to paragraph 172 (survey of waterway) and any other information agreed between them pursuant to this Part.

Prevention of pollution

177. The undertaker must not in the course of constructing a specified work or a protective work or otherwise in connection therewith do or permit anything which may result in the pollution of the waterway or the deposit of materials therein (unless otherwise permitted by the Order or the protective provisions in this Part of this Schedule) and must take such steps as the engineer may reasonably require to avoid or make good any breach of its obligations under this paragraph.

Access to work – provision of information

- 178.**—(1) The undertaker on being given reasonable notice must—
- (a) at all reasonable times allow reasonable facilities to the engineer for access to a specified work during its construction; and
 - (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.
- (2) The Canal & River Trust on being given reasonable notice must—
- (a) at all reasonable times afford reasonable facilities to the undertaker and its agents for access to any works carried out by the Canal & River Trust under this Part during their construction; and
 - (b) supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them and the undertaker must reimburse the Canal & River Trust's reasonable costs in relation to the supply of such information.

Alterations to the waterway

179.—(1) If during the construction of a specified work or a protective work or during a period of 24 months after the completion of those works any alterations or additions, either permanent or temporary, to the waterway are reasonably necessary in consequence of the construction of the specified work or the protective work in order to avoid detriment, and the Canal & River Trust gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to the Canal & River Trust the reasonable costs of those alterations or additions including, in respect of any such alterations or additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by the Canal & River Trust in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If the cost of maintaining, working or renewing the waterway is reduced in consequence of any such alterations or additions a capitalised sum representing such saving is to be set off against any sum payable by the undertaker to the Canal & River Trust under this paragraph.

Repayment of the Canal & River Trust's fees, etc.

180.—(1) The undertaker must repay to the Canal & River Trust in accordance with the code of practice all fees, costs, charges and expenses reasonably incurred by the Canal & River Trust—

- (a) in constructing any protective works under the provisions of paragraph 173(4)(a); (approval of plans, protective provisions, etc.);
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction or repair of a specified work and any protective works;
- (c) in respect of the employment during the construction of the specified works or any protective works of any inspectors, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, watching and lighting any waterway and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works or any protective works;
- (d) in bringing the specified works or any protective works to the notice of users of the Canal & River Trust's network; and
- (e) in constructing and/or carrying out any measures related to any specified works or protective works which are reasonably required by the Canal & River Trust to ensure the safe navigation of the waterway save that nothing is to require the Canal & River Trust to construct and/or carry out any measures.

(2) If the Canal & River Trust considers that a fee, charge, cost or expense will be payable by the undertaker pursuant to sub-paragraph (1), the Canal & River Trust will first provide an

estimate of that fee, charge, cost or expense and supporting information in relation to the estimate to the undertaker along with a proposed timescale for payment for consideration and the undertaker may, within a period of 14 working days—

- (a) provide confirmation to the Canal & River Trust that the estimate is agreed and pay to the Canal & River Trust, by the date stipulated, that fee, charge, cost or expense; or
- (b) provide confirmation to the Canal & River Trust that the estimate is not accepted along with a revised estimate and a proposal as to how or why the undertaker considers that the estimate can be reduced and/or paid at a later date.

(3) The Canal & River Trust must take into account any representations made by the undertaker in accordance with this paragraph and must, within 15 working days of receipt of the information pursuant to sub-paragraph (1), confirm the amount of the fee, charge, cost or expense to be paid by the undertaker (if any) and the date by which this is to be paid.

(4) The Canal & River Trust must, when estimating and incurring any charge, cost or expense pursuant to this paragraph, do so with a view to being reasonably economic and acting as if the Canal & River Trust were itself to fund the relevant fee, charge, cost or expense.

Making good of detriment; compensation and indemnity, etc.

181.—(1) If any detriment is caused by the construction or failure of the specified works or the protective works if carried out by the undertaker, the undertaker (if so required by the Canal & River Trust) must make good such detriment and must pay to the Canal & River Trust all reasonable expenses incurred by the Canal & River Trust, and compensation for any loss sustained by the Canal & River Trust in making good or otherwise by reason of the detriment.

(2) The undertaker must be responsible for and make good to the Canal & River Trust all costs, charges, damages, expenses and losses not otherwise provided for in this Part which may be occasioned to and reasonably incurred by the Canal & River Trust—

- (a) by reason of the construction of a specified work or a protective work or the failure of such a work; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the construction of a specified work or protective work and subject to sub-paragraph (4), the undertaker must effectively indemnify and hold harmless the Canal & River Trust from and against all claims and demands arising out of or in connection with any of the matters referred to in sub-paragraphs (a) and (b) (provided that the Canal & River Trust is not entitled to recover from the undertaker any consequential losses which are not reasonably foreseeable).

(3) The fact that any act or thing may have been done by the Canal & River Trust on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision or in accordance with any directions or awards of an arbitrator is not to (if it was done without negligence on the part of the Canal & River Trust or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.

(4) Nothing in sub-paragraph (2) imposes any liability on the undertaker with respect to any detriment, loss or interruption to the extent that it is attributable to the act, neglect or default of the Canal & River Trust, its officers, servants, contractors or agents.

(5) The Canal & River Trust must give the undertaker reasonable notice of any such claim or demand as aforesaid and no settlement or compromise of such a claim or demand is to be made without the prior consent of the undertaker.

(6) The Canal & River Trust must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies. If requested to do so by the undertaker, the Canal & River Trust must provide an explanation of how the claim has been minimised.

Arbitration

182. Any difference arising between the undertaker and the Canal & River Trust under this Part (other than a difference as to the meaning or construction of this Part) must be referred to and settled by arbitration in accordance with article 42 (arbitration).

Capitalised sums

183.—(1) Any capitalised sum which is required to be paid under this Part must be calculated by multiplying the cost of the maintenance or renewal works to the waterway necessitated as a result of the operation of the authorised development by the number of times that the maintenance or renewal works will be required during the operation of the authorised development.

(2) The aggregate cap of the undertaker's gross liability to pay capitalised sums and any other payments or liabilities under the terms of this Part of this Schedule shall be limited to £5,000,000 (five million pounds) for any one occurrence or all occurrences of a series arising out of the one original cause.

As built drawings

184. As soon as reasonably practicable following the completion of the construction of the authorised development, the undertaker must provide to the Canal & River Trust as built drawings of any specified works in a form and scale to be agreed between the undertaker and the Canal & River Trust to show the position of those works in relation to the waterway.

Decommissioning

185. Where the decommissioning plan identifies activities which may impact the waterway, the protective provisions in this Part of this Schedule will, so far as appropriate, apply to those activities as if they were a specified work.

PART 14

FOR THE PROTECTION OF UNIPER UK LIMITED

186. For the protection of Uniper as referred to in this Part of this Schedule the following provisions will, unless otherwise agreed in writing between the undertaker and Uniper, have effect.

187. 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) “A-” if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and
- (b) “A3” if the rating is assigned by Moody's Investors Services Inc.;

“acceptable insurance” means a third party liability insurance effected and maintained by the undertaker or its contractor with a limit of indemnity of not less than £50,000,000 (fifty million pounds) per occurrence or series of occurrences arising out of one event or such lower amount as approved by Uniper, whether arising pursuant to the undertaker or any person on its behalf, arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters whose security/credit rating meets the same requirements as an “acceptable credit provider” (including any replacement insurance pursuant to paragraph 195(6)), such insurance to be maintained for the construction of that part or parts of the authorised development which constitute specified works and such policy must include (but without limitation)—

- (c) a waiver of subrogation and an indemnity to principal clause in favour of Uniper; and

(d) contractors' pollution liability for third party property damage and third party bodily damage arising from pollution, contamination or environmental harm.;

“acceptable security” means either—

(e) a parent company guarantee from a parent company in favour of Uniper to cover the undertaker's liability to Uniper to a total liability cap of £50,000,000 (fifty million pounds) (in a form reasonably satisfactory to Uniper and where required by Uniper, accompanied by a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee) including any replacement parent company pursuant to paragraph 195(6); or

(f) a bank bond or letter of credit from an acceptable credit provider in favour of Uniper to cover the undertaker's liability to Uniper up to a total liability cap of £50,000,000 (fifty million pounds) (in a form reasonably satisfactory to Uniper) which includes any replacement bank bond or letter of credit pursuant to paragraph 195(6);

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

“apparatus” means—

(g) any fixed and moveable items, which forms, or may form, part of Uniper's system, including cavities, chambers, pipelines, valves, ventilators, pumps, compressors, pumping or compression systems, control systems and any associated cables (including high voltage, low voltage and datacoms) and any equipment in which electrical conductors are used, supported, or otherwise form, or may form, part of the system, cathodic protection systems, roads, compounds and equipment owned by Uniper;

(h) any other equipment or apparatus belonging to or maintained by Uniper or apparatus and such other equipment or apparatus constructed that becomes operational for the purposes of Uniper's functions including any structure in which equipment or apparatus is, or will be, lodged or which gives, or will give, access to apparatus;

(i) any replacement equipment or apparatus as required or determined by Uniper; and

(j) paragraphs (g) to (i) include any of Uniper's future apparatus;

“applicable law” means any applicable legislation, statutes, directives, regulations (including safety regulations), judgments, decisions, decrees, orders and other legislative measures or decisions having the force of law, treaties, conventions and other agreements between states, or between states and the European Union or other supranational bodies, rules of common law, customary law and equity and all civil or other codes and all other laws of, or having effect in, any jurisdiction from time to time in each case to the extent the same is legally binding upon the relevant person;

“as-built records” means each as-built record or document prepared by the undertaker or delivered to the undertaker by its subcontractors or any other person carrying out the specified works;

“authorised development” has the same meaning as in article 2 of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Part of this Schedule;

“commence” has the same meaning as in article 2 of this Order and “commencement” will be construed to have the same meaning save that for the purposes of this Part of this Schedule the terms “commence” and “commencement” include operations consisting of ecological or archaeological investigations, investigations for the purpose of assessing and monitoring ground conditions and levels (including drilling and making trial or bore holes), remedial work in respect of any pollution, contamination or other adverse ground conditions, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, diversion and laying of underground apparatus (including cables) and site clearance (including removal of vegetation) or any other activities being undertaken under, over, across, along or upon the apparatus or alternative apparatus in land;

“deed of consent” means a deed of consent, crossing or proximity agreement, deed of easement, deed of variation or new deed of grant agreed between the parties;

“emergency works” has the meaning given to it in section 52 of the 1991 Act;

“good industry practice” means exercising the degree of skill, diligence, prudence, foresight and care reasonably expected of a skilled and experienced solar developer, which includes obtaining all necessary permits and compliance with any safety rules;

“functions” includes powers and duties;

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

“including” or “include” are to be construed without limitation, and such general words are not to be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words and references to “such as” or “for example” must be construed accordingly;

“insolvency related event” means, in respect of any person, any step, process, application, filing in court, order, proceeding, notice or appointment is taken or made by or in respect of such person in relation to the Banking Act 2009 special resolution regime or for a moratorium, composition, compromise or arrangement with creditors, administration, liquidation (other than for the purposes of amalgamation or reconstruction), dissolution, receivership (administrative or otherwise), distress (or the taking control of goods procedure set out in the Tribunals, Courts and Enforcement Act 2007) or execution in any jurisdiction or such person becomes insolvent or is unable or is deemed unable to pay its debts, suspends making payments on its debts, as they fall due in accordance with the law of any application jurisdiction;

“maintain” and “maintenance” include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Uniper including retain, lay, construct, use, maintain, repair, protect, access, alter, inspect, renew, replace, enlarge, decommission or remove the apparatus or alternative apparatus;

“parent company” means—

- (k) a parent company of the undertaker acceptable to and approved by Uniper acting reasonably; or
- (l) where a parent company is subject to an insolvency related event, a replacement parent company approved by Uniper acting reasonably;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and mitigation measures (including but not limited to integrity reports), earthing philosophies, proposed land and road crossings and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“representative” means Uniper’s directors, officers, employees, agents, consultants and advisers;

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

- (m) will or may be situated over, under, across, along, upon or within 15 metres measured in any direction of any apparatus, excluding any high pressure pipelines to which paragraph (n) below shall apply;
- (n) will or may be situated over, under, across, along, upon or within 50 metres measured in any direction of any high pressure pipeline; or
- (o) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 192(2) or otherwise; and

“Uniper” means Uniper UK Limited incorporated in England with company number 2796628 and whose registered office is at Compton House 2300 The Crescent, Birmingham Business Park, Birmingham, England, B37 7YE and for the purposes of this Part of this Schedule is a “statutory undertaker”.

188. Except for paragraphs 189 (apparatus of Uniper in streets subject to temporary prohibition or restriction of use and public rights of way), 192 (retained apparatus), 193 (removal or replacement of apparatus), 194 (expenses) and 195 (indemnity) of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Uniper, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Uniper are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of Uniper in streets subject to temporary prohibition or restriction of use and public rights of way

189. Notwithstanding the temporary prohibition or restriction of use or diversion of any street or public right of way under the powers of article 11 (temporary prohibition or restriction of use of streets and public rights of way), Uniper will be at liberty at all times to take all necessary access across any such street or public right of way and to execute and do all such works and things in, upon or under any such street or public right of way as it would have been entitled to do immediately before such temporary prohibition or restriction of use or diversion in respect of any apparatus which at the time of the prohibition or restriction of use or diversion was in that street or public right of way.

Protective works to buildings

190. The undertaker, in the case of the powers conferred by article 18 (protective works to buildings), must exercise those powers in accordance with paragraph 192 so as not to obstruct or render less convenient the access to any apparatus or alternative apparatus without the written consent of Uniper.

Acquisition of land

191.—(1) Regardless of any provision in this Order or anything shown on the land plan or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest of Uniper or appropriate, acquire, extinguish, interfere with or override any easement or other interest or right or apparatus of Uniper otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between Uniper and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Uniper or affects the provisions of any enactment or agreement regulating the relations between Uniper and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Uniper reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between Uniper and the undertaker acting reasonably and which must be no less favourable on the whole to Uniper unless otherwise agreed by Uniper, and the undertaker will use reasonable endeavours to procure or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by any part of the authorised development.

(3) Any agreement or consent granted by Uniper under paragraph 192 or any other paragraph of this Part of this Schedule will not be taken to constitute agreement under this paragraph.

(4) Where an undertaker acquires land which is subject to a right or interest of Uniper (including, without limitation, easements and agreements relating to rights or other interests), Uniper must—

- (a) retain any notice of the existing easement, right or other interest of Uniper on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) where no such notice of the existing easement, right or other interest of Uniper exists in relation to such acquired land or any such notice is registered only on the Land Charges Register include (with its application to register title to the undertaker's interest in such

acquired land at the Land Registry) a notice of Uniper's easement, right or other interest in relation to such acquired land.

Retained apparatus

192.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Uniper at the address stated in paragraph 199, a plan in respect of those works.

(2) The plan to be submitted to Uniper under sub-paragraph (1) must include all comprehensive risk assessments (including any quantitative risk assessments) and any method 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 etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any changes to the land drainage systems, temporary crossing designs, traffic management plans, health and safety management plans, emergency response plans, planned changes or rerouting of any assets and their corresponding design codes, earth schedules and earthing risk assessments;
- (g) submission of any method statement, risk assessment, plan, document, drawing, methodology or similar;
- (h) any recommendations and/or mitigation measures to avoid interference with, or loss or damage to the apparatus (including damage caused by passing over the apparatus by heavy construction machinery) and related remedies should such mitigation measures fail;
- (i) any intended maintenance regimes; and
- (j) a programme of the works, including any start dates and the duration of the works.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until Uniper has given written approval of the plan so submitted.

(4) Any approval of Uniper required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and
- (b) must not be unreasonably withheld or delayed.

(5) In relation to any work to which sub-paragraphs (1) or (2) apply, the undertaker will provide any additional information or documentation as requested by Uniper and Uniper may require modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) and (2) or as relevant sub-paragraph (4) and (5), as approved or as amended from time to time by agreement between the undertaker and Uniper and in accordance with all conditions imposed under sub-paragraph (4)(a) by Uniper for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Uniper (or its representative) will be entitled to attend any meetings related to the specified works and watch, monitor and inspect the execution of those works.

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

schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Uniper's satisfaction prior to the commencement.

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

(9) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works, provided that—

- (a) in respect of danger to persons it must give to Uniper notice as soon as is reasonably practicable by calling Uniper's emergency telephone line on 0800 389 4795 or such other telephone number notified by Uniper to the undertaker in writing; and
- (b) in respect of danger to property it shall notify Uniper in accordance with paragraph (a), before any emergency works are commenced by or on behalf of the undertaker,

and, in each case, as soon as is reasonably practicable give to Uniper a plan of those works and must—

- (c) comply with sub-paragraphs (5) to (7) insofar as is reasonably practicable in the circumstances; and
- (d) comply with sub-paragraph (10) at all times.

(10) At all times when carrying out any works authorised under the Order the undertaker must comply with, and procure compliance by any party acting on its behalf with, all applicable law and good industry practice. The undertaker must procure that any party carrying out any works on the land on its behalf has knowledge of the apparatus, its location (including as illustrated by a site map) and procure that the obligations contained in this Part of this Schedule are adhered to by such parties working on the land on its behalf.

(11) The undertaker must prepare and keep up to date a complete set of red-lined as-built records of the execution of the specified works, showing the exact as-built locations, sizes and details of such works as executed and the undertaker must submit the as-built records to Uniper no later than five working days after the completion of the specified works and Uniper may specify the number of copies of any as-built records acting reasonably.

Removal or replacement of apparatus

193.—(1) The undertaker is not permitted to remove, move or replace any apparatus in land without the prior written consent of Uniper.

(2) If, in the exercise of the powers conferred by the Order, the undertaker has exercised its compulsory purchase powers to acquire any interest in or possesses temporarily any Order land in which any apparatus is placed and has the power to move, replace or remove that apparatus, it must not do so under this Part of this Schedule and any right of Uniper to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of Uniper in accordance with sub-paragraphs (3) to (7) inclusive.

(3) If, for the purpose of executing any specified works in, on, under or over any land held, appropriated or used under this Order pursuant to exercising its compulsory purchase powers the undertaker requires the replacement or removal of any apparatus placed in that land it must give to Uniper no less than 56 days advance written notice of that requirement, together with a plan of the work proposed, and where applicable, the proposed replacement apparatus or the position of any alternative apparatus to be provided or constructed and in that case provided that where—

- (a) the undertaker requires the replacement of any apparatus placed in that land, it must be replaced with identical apparatus, provided that if identical apparatus is not available, it must not be replaced with any apparatus that is less advanced than the apparatus being replaced and must either be—
 - (i) replaced with apparatus on a similar or equivalent basis (i.e. like-for-like basis); or

- (ii) where it cannot be replaced on a similar or equivalent basis, then it must be replaced with more enhanced apparatus; and
 - (b) the undertaker requires the removal of any apparatus placed in that land (or if in consequence of the exercise of any of the powers conferred by this Order Uniper reasonably needs to remove any of its apparatus), Uniper must, subject to sub-paragraph (5), secure any necessary consents for the alternative apparatus and afford to Uniper to its satisfaction the necessary facilities and rights for the construction of alternative apparatus in other land of or land secured by Uniper and subsequently for the maintenance of that apparatus.
- (4) Prior to any removal or any replacement of the apparatus pursuant to this paragraph, the parties must agree the value attributable to such apparatus or alternative apparatus and, prior to any replacement or removal, if such value cannot be agreed between the parties, such value will be determined in accordance with paragraph 198 (arbitration).
- (5) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (3), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the undertaker must take all steps required in the circumstances to assist Uniper to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.
- (6) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the undertaker and Uniper.
- (7) Uniper must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written agreement having been entered into between the parties and the grant to Uniper of any such facilities and rights as are referred to in sub-paragraph (3) or (5), 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.

Expenses

194.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Uniper within 30 days of receipt of an invoice, all charges, costs and expenses incurred, or reasonably anticipated to be incurred, by Uniper in, or in connection with, the inspection, removal, relaying or replacing, alteration, repair, remediation or restoration of or protection of any apparatus or alternative apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any powers conferred on the undertaker, pursuant to the Order (including in the execution of any authorised development as is referred to in this Part of this Schedule) including without limitation—

- (a) in connection with the cost of the carrying out of any assessment of Uniper’s apparatus under P.S.R 1996 and G.S.M.R reasonably necessary as a consequence of the authorised development;
- (b) implementing any mitigation measures required as a result of any assessment referred to in sub-paragraph (a) reasonably necessary as a consequence of the authorised development;
- (c) the approval of plans;
- (d) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (e) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) For the purposes of calculating the sums payable pursuant to sub-paragraph (1) above, in the case of the replacement or removal of apparatus, the following applies—

- (a) Where apparatus is removed under the provisions of this Part of this Schedule and which will not be re-used as part of the apparatus or alternative apparatus, there will be excluded from any sum payable under sub-paragraph (1) the value of the apparatus being removed; and
- (b) subject to paragraph 193(3)(a), when replacing existing apparatus, there will be deducted from any sum payable under sub-paragraph (1) the value of that apparatus being removed under the provisions of this Part of this Schedule and which is not re-used as part of the apparatus or alternative apparatus, except that the value of any apparatus or alternative apparatus used to replace the apparatus being removed will be included in the sum payable under sub-paragraph (1), such value being agreed between the parties (or as determined in accordance with paragraph 198 (arbitration)) prior to any removal or replacement of the apparatus,

provided that, in each case, all charges, costs and expenses incurred, or reasonably anticipated to be incurred, by Uniper in, or in connection with the works required for the removal or replacement of such apparatus will be included in the sum payable under sub-paragraph (1).

(3) If, in accordance with sub-paragraph (2), any existing apparatus is replaced with enhanced apparatus where the undertaker's consent has not been obtained by Uniper (or where disputed in accordance with paragraph 198 (arbitration), decided not to be necessary), then, if the construction expenses for this replacement surpass the construction expenses that would have been paid for similar or equivalent apparatus then any excess costs will be borne by Uniper, except that where it is not possible in the circumstances to obtain similar or equivalent apparatus, full costs will be payable by the undertaker.

(4) Any amount which apart from this sub-paragraph would be payable to Uniper in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Uniper any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

195.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the authorised development, any loss or damage is caused to any apparatus, alternative apparatus or property of Uniper, or there is any interruption in any services provided, or in the supply of any goods, or in the use of the apparatus or alternative apparatus (as applicable) by Uniper, the undertaker must—

- (a) bear and pay the costs incurred by Uniper in making good such loss or damage or in restoring the supply or its use;
- (b) make compensation to Uniper for any other expenses, loss, damages, penalty or costs incurred by Uniper, by reason or in consequence of any such loss, damage or interruption; and
- (c) indemnify and hold harmless Uniper against all claims, liabilities, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by Uniper (an “indemnity claim”).

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to—

- (a) any damage or interruption to the extent that it is attributable to the act, neglect or default of Uniper or its representatives; or
- (b) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption which is not reasonably foreseeable.

(3) Uniper must give the undertaker reasonable notice of an indemnity claim and no settlement or compromise is to be made that is prejudicial to the undertaker without the consent of the undertaker (not to be unreasonably withheld) which, if it withholds such consent, it will assume the sole conduct of the indemnity claim, provided that if the undertaker does not assume the sole conduct of the indemnity claim within 30 days of the indemnified claim being notified to it,

Uniper, or a person designated by Uniper, may conduct the indemnity claim in such manner as it may deem appropriate and the undertaker will indemnify Uniper for any costs and expenses incurred in connection with defending any such indemnity claim.

(4) The undertaker will give assistance to Uniper, as requested, in connection with an indemnity claim (including circumstances where Uniper reasonably believes may give rise to an action, claim or demand by a third party).

(5) The undertaker undertakes not to commence construction (and not to permit the commencement of such construction) of the authorised development on any land owned by Uniper or in respect of which Uniper has an easement, wayleave or lease for its apparatus or any other interest or to carry out any works within 15 metres of Uniper's apparatus (except in respect of any high pressure pipelines) or within 50 metres of Uniper's high pressure pipelines until the following conditions are satisfied—

- (a) unless and until Uniper is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and unless otherwise agreed with Uniper acting reasonably provided evidence that it will maintain such acceptable security for the construction period of the authorised development from the proposed date of commencement of construction the authorised development) and Uniper has confirmed the same to the undertaker in writing; and
- (b) unless and until Uniper is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and unless otherwise agreed with Uniper acting reasonably provided evidence to Uniper that it will maintain such acceptable insurance for the construction period of the authorised development from the proposed date of commencement of construction of the authorised development) and Uniper has confirmed the same in writing to the undertaker.

(6) The undertaker agrees that if, at any time, the acceptable security or acceptable insurance expires or terminates, ceases to fulfil the criteria of acceptable security or acceptable insurance, ceases to be in full force and effect or becomes invalid or unenforceable for the purpose of this Part of this Schedule or an insolvency-related event occurs in respect of the undertaker or the parent company, then the relevant security or insurance will no longer constitute acceptable security or acceptable insurance (as applicable) and will promptly be replaced by the undertaker with alternative acceptable security or acceptable insurance as approved by the undertaker.

(7) In the event that the undertaker fails to comply with sub-paragraph (4) nothing in this Part of this Schedule will prevent Uniper from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

(8) Uniper must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within Uniper's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of Uniper's control and if reasonably requested to do so by the undertaker Uniper must provide an explanation of how the claim has been minimised, where relevant.

Co-operation

196.—(1) Where, in consequence of the proposed construction of any of the authorised development, Uniper makes requirements for the protection or alteration of apparatus under paragraph 192(5), the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe, efficient and economic operation of Uniper's apparatus and Uniper must use its best endeavours to co-operate with the undertaker for that purpose.

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

Access

197. If in consequence of the agreement reached in accordance with paragraph 191(1) of this Part of this Schedule or otherwise as granted by this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Uniper (or representative) in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Uniper (or its representative) to maintain or use the apparatus no less effectively than was possible before such obstruction. For the avoidance of doubt, Uniper (or its representative) will be entitled to access its apparatus in the land at all times.

Arbitration

198. Any difference or dispute arising between the undertaker and Uniper under this Part of this Schedule must be determined by arbitration in accordance with article 42 (arbitration).

Notices

199. Any notice, statement, request, plan or any other written communication (including the plan to be provided at paragraph 192) to be given or made in respect of this Part of this Schedule by the undertaker must be given or made in writing FAO Lead Pipeline Engineer, Uniper Pipelines Team, Pipelines Office, Uniper Killingholme Power Station, Chase Hill Road, Killingholme, North Lincolnshire, DN40 3LU and pipelinesuk@uniper.energy or such other address as Uniper may have notified to the undertaker from time to time.

PART 15

FOR THE PROTECTION OF EXOLUM PIPELINE SYSTEM LIMITED

Application

200.—(1) For the protection of Exolum the following provisions, unless otherwise agreed in writing at any time between the undertaker and Exolum, have effect.

(2) In this Part of this Schedule, the following terms have the following meanings—

“additional rights” means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of retained apparatus including any restrictions on the landowner and occupiers for the protection of the retained apparatus and to allow Exolum to perform its functions;

“alternative apparatus” means alternative apparatus adequate to enable Exolum to fulfil its functions as a pipeline operator in a manner not less efficient than previously;

“alternative rights” means rights for the construction and for access to and for the use, protection, inspection, maintenance, repair and renewal of alternative apparatus including any restrictions on the landowner and occupiers for the protection of the alternative apparatus and to allow Exolum to perform its functions;

“apparatus” means the pipeline and storage system and any ancillary apparatus owned or operated by Exolum and includes—

- (a) any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;
- (b) any ancillary works, all protective wrappings, valves, sleeves and slabs, cathodic protection units, together with ancillary cables and markers;
- (c) such legal interest, and benefit of property rights and covenants as are vested in respect of these items;

and, where the context requires, includes alternative apparatus;

“Exolum” means Exolum Pipeline System Ltd (company registration number 09497223 whose registered office is 1st Floor 55 King William Street, London, England, EC4R 9AD) and for the purpose of enforcing the benefit of any provisions in this Part of this Schedule, any group company of Exolum Pipeline System Ltd and in all cases any successor in title;

“functions” includes powers, duties and commercial undertaking;

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

“plan” includes all designs, drawings, sections, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to allow Exolum to assess the restrictive works to be executed properly and sufficiently and in particular must describe—

- (d) the position of the works as proposed to be constructed or renewed;
- (e) the level at which the works are proposed to be constructed or renewed;
- (f) the manner of the works’ construction or renewal including details of excavation, positioning of plant etc.;
- (g) the position of the affected apparatus and/or premises and any other apparatus belonging to another undertaker that may also be affected by the restrictive works;
- (h) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (i) any intended maintenance regime;
- (j) details of the proposed method of working and timing of execution of works; and
- (k) details of vehicle access routes for construction and operational traffic;

“premises” means land that Exolum owns, occupies or otherwise has rights to use including but not limited to storage facilities, administrative buildings and jetties;

“protective works” means works for the inspection and protection of apparatus; and

“restrictive works” means any works that are near to, or will or may affect any apparatus or premises including—

- (l) all works within 15 metres measured in any direction of any apparatus including embankment works and those that involve a physical connection or attachment to any apparatus;
- (m) the crossing of apparatus by other utilities;
- (n) the use of explosives within 400 metres of any apparatus;
- (o) piling, undertaking of a 3D seismic survey or the sinking boreholes within 30 metres of any apparatus; and
- (p) all works that impose a load directly upon the apparatus, wherever situated, whether carried out by the undertaker or any third party in connection with the authorised development.

Acquisition of apparatus

201.—(1) Regardless of any other provision in the Order or anything shown on the land plan—

- (a) the undertaker must not, otherwise than by agreement with Exolum, acquire any apparatus, Exolum’s rights in respect of apparatus or any of Exolum’s interests in the Order land;
- (b) where the undertaker acquires the freehold of any land in which Exolum holds an interest, the undertaker must afford to or secure for Exolum such rights in land in substitution for any right which would be extinguished by that acquisition (the replacement rights). These replacement rights must be granted upon substantially the same terms and conditions as the right to be extinguished, unless otherwise agreed between the undertaker and Exolum,

and must be granted or put in place contemporaneously with the extinguishment of the right which they replace;

- (c) the undertaker must not, otherwise than in accordance with this Part of this Schedule—
 - (i) obstruct or render less convenient the access to any apparatus;
 - (ii) interfere with or affect Exolum’s ability to carry out its functions as an oil pipeline operator;
 - (iii) require that apparatus is relocated or diverted; or
 - (iv) remove or required to be removed any apparatus;
- (d) any right of Exolum to maintain, repair, renew, adjust, alter or inspect apparatus must not be extinguished by the undertaker until any necessary alternative apparatus has been constructed and it is in operation and the alternative rights have been granted, all to the reasonable satisfaction of Exolum; and
- (e) any right of Exolum to access the Exolum operations must not be extinguished until necessary alternative access has been provided to Exolum’s reasonable satisfaction.

(2) Prior to the carrying out of any restrictive works or any works authorised by this Order that will affect the apparatus, and if required by Exolum, the parties must use their reasonable endeavours to negotiate and enter into such deeds of consent (crossing consent) and (if considered necessary) variations to the existing rights upon such terms and conditions as may be agreed between Exolum and the undertaker acting reasonably and which must be no less favourable on the whole to Exolum than this Part of this Schedule, and the undertaker will use reasonable endeavours to procure and secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such works.

(3) Where the undertaker acquires land which is subject to any existing rights and the provisions of paragraph 202(4) do not apply, the undertaker must—

- (a) retain any notice of the existing rights of Exolum on the title to the relevant land when registering the undertaker’s title to such acquired land;
- (b) (where no such notice of the existing rights or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with an application to register title to the undertaker’s interest in such acquired land at the Land Registry) a notice of the existing rights or other interest in relation to such acquired land; and
- (c) provide up to date official entry copies to Exolum within 20 working days of receipt of such up to date official entry copies.

(4) Where the undertaker takes temporary possession of any land or carries out survey works on land in respect of which Exolum has apparatus—

- (a) where reasonably necessary, Exolum may exercise its rights to access such land;
 - (i) in an emergency, without notice; and
 - (ii) in non-emergency circumstances, having first given not less than 14 days’ written notice to the undertaker in order to allow the parties to agree the timing of their respective works during the period of temporary possession; and
- (b) the undertaker must not remove or in any way alter Exolum’s rights in such land, unless in accordance with the provisions of this Order.

Removal of apparatus and rights for alternative apparatus

202.—(1) If, having used all reasonable endeavours to implement the authorised development without the removal of any apparatus—

- (a) the undertaker reasonably requires the removal of any apparatus; or
- (b) Exolum reasonably requires the removal of any apparatus,
then the relevant party must give written notice of that requirement to the other.

(2) The parties must use their reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of the alternative apparatus to be provided or constructed.

(3) The undertaker must afford to Exolum the necessary facilities and rights for the construction of alternative apparatus and subsequently the grant of alternative rights in accordance with paragraph 203.

(4) Any alternative apparatus is to be constructed in land owned by the undertaker or in land in respect of which alternative rights have been or are guaranteed to be granted to Exolum. The alternative apparatus must be constructed in such manner and in such line or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(5) After the details for the works for alternative apparatus to be provided or constructed have been agreed or settled in accordance with article 42 (arbitration), and after the grant to Exolum of any such facilities and rights as are referred to in sub-paragraph (4), Exolum must proceed as soon as reasonably practicable using reasonable endeavours to construct and bring into operation the alternative apparatus and subsequently to remove (or if agreed between the parties to allow the undertaker to remove) any redundant apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) The following sub-paragraphs (7) and (8) only apply if—

- (a) Exolum fails to comply with its obligations under sub-paragraph (5) to remove any redundant apparatus; and
- (b) the undertaker has served notice on Exolum specifying the default; and
- (c) Exolum has failed to remedy the default within 28 days.

(7) In the circumstances set out in sub-paragraph (6), if the undertaker then gives notice in writing to Exolum that it desires itself to remove the redundant apparatus, that work, instead of being executed by Exolum, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Exolum.

(8) Nothing in sub-paragraph (7) 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 3000 millimetres of the apparatus unless that apparatus is redundant and disconnected from Exolum's remaining system.

Facilities and Rights for alternative apparatus

203.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Exolum facilities and rights for the construction of alternative apparatus and the grant of alternative rights, 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 Exolum and must be materially no less favourable on the whole to Exolum than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by Exolum, in accordance with this Part of this Schedule or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(2) Alternative rights must be granted before any alternative apparatus is brought into use.

(3) The parties agree that the undertaker must use reasonable endeavours to procure the grant of the alternative rights by way of a 999 year sub-soil lease, substantially in the form of Exolum's precedent from time to time as amended by written agreement between the parties acting reasonably, or such other form of agreement as the parties otherwise agree acting reasonably.

(4) Nothing in this Part of this Schedule or contained in the alternative rights requires Exolum to divert or remove any alternative apparatus.

(5) 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 Exolum less favourable on the whole to Exolum 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, Exolum may refer the matter to arbitration in accordance with article 42 (arbitration).

Retained apparatus and alternative apparatus: protection

204.—(1) Before commencing the execution of any restrictive works, the undertaker must submit to Exolum a plan of the works to be executed and any other information that Exolum may reasonably require to allow Exolum to assess the works.

(2) No restrictive works are to be commenced until the plan to be submitted to Exolum under sub-paragraph (1) has been approved by Exolum in writing (acting reasonably) and are to be carried out only in accordance with the details submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be notified to the undertaker in writing in accordance with sub-paragraph (3) by Exolum.

(3) Any approval of Exolum in respect of restrictive works may be given subject to such reasonable requirements as Exolum may require to be made for—

- (a) the continuing safety and operational viability of any apparatus;
- (b) the requirement for Exolum to have reasonable access with or without vehicles to inspect, repair, replace, maintain and ensure the continuing safety and operation or viability of any apparatus; and
- (c) the requirement for Exolum to be entitled to watch and inspect the execution of restrictive works to ensure the continuing safety and operational viability of any apparatus and ensure compliance with the agreed plan,

providing such reasonable requirements will be notified to the undertaker in writing.

(4) Where reasonably required by either party, in view of the complexity of any proposed works, timescales, phasing or costs, the parties must with due diligence and good faith negotiate a works agreement for the carrying out of protective works or the installation of alternative apparatus.

(5) If in consequence of the works notified to Exolum by the undertaker under sub-paragraph (1), the circumstances in paragraph 202 apply, then the parties must follow the procedure in paragraph 202 onwards.

(6) Nothing in sub-paragraphs (1) to (5) precludes the undertaker from submitting prior to the commencement of works to protect retained apparatus or to construct alternative apparatus (unless otherwise agreed in writing between the undertaker and Exolum) a new plan, instead of the plan previously submitted, in which case the parties must re-run the procedure from sub-paragraph (1) onwards.

(7) Where Exolum reasonably requires protective works, the parties must use their reasonable endeavours to produce a plan of the work proposed and a plan of the proposed position of any physical features to be provided or constructed.

(8) The undertaker must afford to Exolum the necessary facilities and rights for the construction of protective works and subsequently the grant of additional rights in accordance with paragraph 203.

(9) Any protective works are to be constructed in land owned by the undertaker or in land in respect of which additional rights have been or are guaranteed to be granted to Exolum. The protective works must be constructed in such manner and in such line or situation as may be agreed between Exolum and the undertaker or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(10) After the details for the protective works to be provided or constructed have been agreed or settled in accordance with article 42 (arbitration), and after the grant to Exolum of any such facilities and rights as are referred to in paragraph 202(3), Exolum must proceed as soon as reasonably practicable using reasonable endeavours to construct and bring into operation the protective works.

Cathodic protection testing

205.—(1) Where in the reasonable opinion of Exolum or the undertaker—

- (a) the authorised development might interfere with the cathodic protection forming part of apparatus; or
- (b) any apparatus might interfere with the proposed or existing cathodic protection forming part of the authorised development,

Exolum and the undertaker must co-operate in undertaking the tests which they consider reasonably necessary for ascertaining the nature and extent of such interference and measures for providing or preserving cathodic protection.

(2) The Parties must carry out the works and enter into such agreements as are necessary to implement the measures for providing or preserving cathodic protection.

Expenses

206.—(1) Subject to the following provisions of this paragraph 206, the undertaker must pay to Exolum the reasonable and properly incurred costs and expenses (including reasonable staffing costs if work is carried out in-house) incurred by Exolum in, or in connection with—

- (a) undertaking its obligations under this Part of this Schedule including—
 - (i) the installation, inspection, removal, alteration, testing or protection of any apparatus, alternative apparatus and protective works;
 - (ii) the execution of any other works under this Part of this Schedule; and
 - (iii) the review and assessment of plans;
- (b) the watching of and inspecting the execution of the authorised development, any restrictive works and any works undertaken by third parties as a result of authorised development (including the assessment of plans); and
- (c) imposing reasonable requirements for the protection or alteration of apparatus affected by the authorised development or works as a consequence of the authorised development in accordance with paragraph 204(3),

together with any administrative costs properly and reasonably incurred by Exolum.

(2) There will be no deduction from any sum payable under sub-paragraph (1) as a result of—

- (i) the placing of apparatus of a better type, greater capacity or of greater dimensions, or at a greater depth than the existing apparatus, to the extent Exolum has acted reasonably in procuring such apparatus;
- (ii) the placing of apparatus in substitution of the existing apparatus that may defer the time for renewal of the existing apparatus in the ordinary course; or
- (iii) the scrap value (if any) of any apparatus removed.

(3) Upon the submission of proper and reasonable estimates of costs and expenses to be incurred by Exolum, the undertaker shall pay Exolum sufficiently in advance to enable Exolum to undertake its obligations under this Part of this Schedule in a manner that is neutral to its cash flow provided that in the event that the costs incurred by Exolum are less than the amount paid by the undertaker pursuant to this sub-paragraph (3) then Exolum shall within 35 days of payment being made by Exolum for the costs anticipated in the costs and expenses estimates, repay any overpayment to the undertaker.

Damage to property and other losses

207.—(1) Subject to sub-paragraphs (2) to (7), the undertaker shall—

- (a) indemnify Exolum for all reasonably incurred loss, damage, liability, costs and expenses suffered or reasonably incurred by Exolum arising out of—
 - (i) the carrying out of works under this Part of this Schedule;

- (ii) the carrying out of the authorised development;
 - (iii) the use or occupation of land over or in the vicinity of any apparatus or in the vicinity of any premises in connection with the carrying out of the authorised development;
 - (iv) any injury or damage whatsoever to any property, real or personal, including the property of Exolum; and
 - (v) any matters arising out of or in connection with this Order;
- (b) indemnify Exolum against any claim made against, or loss suffered by, Exolum as a result of any act or omission committed by the undertaker's officers, employees, contractors or agents whilst on or in the vicinity of any apparatus or premises for the purposes of carrying out any activity authorised by this Order;
 - (c) pay to Exolum, in accordance with the terms of the provisions of this Part of this Schedule, the cost reasonably incurred by Exolum in making good any damage to the apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) arising out of the carrying out of works under this Part of this Schedule and arising out of the carrying out of the authorised development; and
 - (d) pay to Exolum the cost reasonably incurred by Exolum in stopping, suspending and restoring the supply through its apparatus in consequence of the carrying out of works under this Part of this Schedule or the carrying out of the authorised development,

and make reasonable compensation to Exolum for any other expenses, losses, damages, penalty or costs incurred by Exolum by reason or in consequence of any such damage or interruption including all claims by third parties.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption which is not reasonably foreseeable.

(3) The fact that any act or thing may have been done by Exolum on behalf of the undertaker or in accordance with a plan approved by Exolum or in accordance with any requirement of Exolum or under its supervision shall not, subject to sub-paragraph (4), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(4) 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 negligent act, neglect or default of Exolum, its officers, servants, contractors or agents.

(5) The undertaker and Exolum shall at all times take reasonable steps to prevent and mitigate any loss, damage, liability, claim, cost or expense (whether indemnified or not) which either suffers in connection with this Part of this Schedule.

(6) The undertaker warrants that it will use reasonable endeavours to ensure—

- (a) the information it or any of its employees, agents or contractors provide to Exolum about the plans or the authorised development and on which Exolum relies in the design of and carrying out of any works is accurate; and
- (b) the undertaker or any of its employees, agents or contractors have exercised all the reasonable skill, care and diligence to be expected of a qualified and experienced member of their respective profession.

(7) Exolum must give the undertaker reasonable notice of any such claim or demand to which sub-paragraph (2) applies.

Insurance

208.—(1) The undertaker must not carry out any restrictive works unless and until Exolum has confirmed to the undertaker in writing that it is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker (or its contractor) has procured acceptable

professional indemnity insurance and public liability insurance with minimum cover of £25 million per event, with respect to the carrying out of the works.

(2) The undertaker shall maintain such insurance for the construction period of the authorised development from the proposed date of commencement of the authorised development unless otherwise agreed in writing with Exolum.

Co-operation and reasonableness

209.—(1) Where apparatus is required to be protected, altered, diverted or removed under this Part of this Schedule, the undertaker must use all reasonable endeavours to co-ordinate the execution of any works under this Part of this Schedule—

- (a) in the interests of safety;
- (b) in the interest of the efficient and economic execution of both Exolum’s works and the authorised development; and
- (c) taking into account the need to ensure the safe and efficient operation of the apparatus and carrying out of Exolum’s functions.

(2) Exolum must use its reasonable endeavours to co-operate with the undertaker for the purposes outlined in sub-paragraph (1).

(3) The undertaker and Exolum will act reasonably in respect of any given term of this Part of this Schedule and, in particular (without prejudice to generality), where any approval, consent or expression of satisfaction is required by this Part of this Schedule it must not be unreasonably withheld or delayed.

Emergency circumstances

210.—(1) The undertaker acknowledges that Exolum provides services to His Majesty’s Government, using the apparatus, which may affect any works to be carried under this Part of this Schedule and the authorised development.

(2) In the following circumstances, Exolum may on written notice to the undertaker immediately suspend all works that necessitate the stopping or suspending of the supply of product through any apparatus under this Part of this Schedule and Exolum shall not be in breach of its obligations under this Part of this Schedule—

- (a) circumstances in which, in the determination of His Majesty’s Government, there subsists a material threat to national security, or a threat or state of hostility or war or other crisis or national emergency (whether or not involving hostility or war); or
- (b) circumstances in which a request has been received, and a decision to act upon such request has been taken, by His Majesty’s Government for assistance in relation to the occurrence or anticipated occurrence of a major accident, crisis or natural disaster; or
- (c) circumstances in which a request has been received from or on behalf of NATO, the EU, the UN, the International Energy Agency (or any successor agency thereof) or the government of any other state for support or assistance pursuant to the United Kingdom’s international obligations and a decision to act upon such request has been taken by His Majesty’s Government; or
- (d) any circumstances identified as such by the COBRA committee of His Majesty’s Government (or any successor committee thereof); or
- (e) any situation in connection with which His Majesty’s Government requires fuel capacity, including where the United Kingdom is engaged in any planned or unplanned military operations within the United Kingdom or overseas.

(3) The parties agree to act in good faith and in all reasonableness to agree any revisions to any schedule, programme or costs estimate (which shall include costs of demobilising and remobilising any workforce, and any costs to protect the apparatus “mid-works”) to account for the suspension.

(4) Exolum shall not be liable for any costs, expenses, losses or liabilities the undertaker incurs as a result of the suspension of any activities under paragraphs to or delays caused by it.

Dispute Resolution

211.—(1) The undertaker and Exolum must use their reasonable endeavours to secure the amicable resolution of any dispute or difference arising between them out of or in connection with this Part of this Schedule in accordance with the following provisions.

(2) The undertaker and Exolum must each nominate a representative who will meet to try to resolve the matter. If the matter is not resolved at that level within ten working days of either the undertaker or Exolum requesting such a meeting (or such longer period as may be agreed between the undertaker and Exolum) the matter may at the request of either the undertaker or Exolum be referred for discussion at a meeting to be attended by a senior executive from each party.

(3) If the meeting between senior executives fails to result in a settlement within 20 working days of the date of the request for such a meeting (or if it is not possible to convene a meeting within this period) then, unless otherwise agreed in writing between the undertaker and Exolum, the dispute or difference will be determined by arbitration in accordance with article 42 (arbitration).

Miscellaneous

212. No failure or delay by a party to exercise any right or remedy provided under this Part of this Schedule or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

PART 16

FOR THE PROTECTION OF LINCOLNSHIRE FIRE & RESCUE SERVICE

213. For the protection of Lincolnshire Fire and Rescue as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and Lincolnshire Fire and Rescue.

Interpretation

214. In this Part of this Schedule—

“Index” means the Consumer Price Index;

“Index Linked” means an increase in the sums payable on an annual basis or pro rata per diem from the first day following the first year of operation of the authorised development, to the date of payment, based upon the relevant Index last published before the first day following the first year of operation of the authorised development; and

“Lincolnshire Fire and Rescue” means Lincolnshire County Council in its capacity as a fire and rescue authority pursuant to section 1(2)(a) of the Fire and Rescue Services Act 2004.

Site visits

215.—(1) The undertaker must, prior to the date of final commissioning of Work No. 2 or Work No. 3, use reasonable endeavours to facilitate a site familiarisation exercise in connection with Work No. 2 or Work No. 3 of the authorised development for Lincolnshire Fire and Rescue for the purposes of providing the necessary assurance to Lincolnshire Fire and Rescue that all the required systems and measures are in place in accordance with the battery storage safety management plan.

(2) Following the anniversary of the date of final commissioning of Work No. 2 or Work No. 3 of the authorised development, the undertaker must use reasonable endeavours to facilitate an annual review of the site by Lincolnshire Fire and Rescue at the reasonable request of Lincolnshire Fire and Rescue, up until the date of decommissioning of Work No. 2 or Work No. 3 of the authorised development.

Costs

216.—(1) Pursuant to the provisions set out at paragraph 215, the undertaker must pay to Lincolnshire Fire and Rescue—

- (a) £16,665 in the first year of operation of the authorised development for, or in connection with Lincolnshire Fire and Rescue’s attendance at the site familiarisation exercise facilitated by the undertaker pursuant to paragraph 215(1), such sum to be paid on a date mutually agreed between the parties (the “Payment Date”); and
- (b) £1,530 in each subsequent year of operation of the authorised development until the later of the date of decommissioning of Work No. 2 and the date of decommissioning of Work No. 3, payable on the anniversary of the Payment Date, if in that year an annual review has taken place pursuant to paragraph 215(2).

(2) The costs payable under sub-paragraph (1)(b) are to be Index Linked.

Arbitration

217. Any difference or dispute arising between the undertaker and Lincolnshire Fire and Rescue under this Part of this Schedule must be determined by arbitration in accordance with article 42 (arbitration).

PART 17

FOR THE PROTECTION OF TILLBRIDGE SOLAR PROJECT LIMITED

218. The provisions of this Part apply for the protection of Tillbridge unless otherwise agreed in writing between the undertaker and Tillbridge.

219. In this Part—

“apparatus” means the cables, structures or other infrastructure owned, occupied or maintained by Tillbridge or its successor in title within the Tillbridge Work No. [] Area;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Tillbridge Work No. [] Area; and

“specified works” means so much of any works of operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is—

- (a) within the Tillbridge Work No. [] Area;
- (b) in, on, under, over or within 25 metres of the Tillbridge Work No. [] Area or any apparatus; or
- (c) may in any way adversely affect any apparatus.

“Tillbridge” means an undertaker with the benefit of all or part of the Tillbridge Solar Order for the time being;

“Tillbridge Work No. [] Area” means the area for Work No. [] authorised in the Tillbridge Solar Order;

220. The consent of Tillbridge under this Part is not required where the Tillbridge Solar Order has expired without the authorised development having been commenced pursuant to the Tillbridge Solar Order.

221. Where conditions are included in any consent granted by Tillbridge pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by Tillbridge.

222. The undertaker must not under the powers of this Order acquire, extinguish, suspend, override or interfere with any rights that Tillbridge has in respect of any apparatus or has in respect of the Tillbridge Work No. [] Area without the consent of Tillbridge, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

223.—(1) The undertaker must not under the powers of this Order carry out any specified works without the consent of Tillbridge, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions and if Tillbridge does not respond within 28 days of the undertaker’s request for consent, then consent is deemed to be given.

(2) Subject to obtaining consent pursuant to sub-paragraph (1) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to Tillbridge and must submit any such further particulars available to it that Tillbridge may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by Tillbridge.

(4) Any approval of Tillbridge required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus (including proposed apparatus) in the Tillbridge Work No. [] Area or for securing access to such apparatus or the Tillbridge Work No. [] Area.

(5) Where Tillbridge requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to Tillbridge’s reasonable satisfaction.

(6) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any specified works, new plans instead of the plans previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans.

224.—(1) The undertaker must give to Tillbridge not less than 28 days’ written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give Tillbridge written notice of the completion.

(2) The undertaker is not required to comply with paragraph 223 or sub-paragraph (1) in a case of emergency, but in that case it must give to Tillbridge notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with paragraph 223 in so far as is reasonably practicable in the circumstances.

225. The undertaker must at all reasonable times during construction of the specified works allow Tillbridge and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

226.—(1) After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from Tillbridge requiring the undertaker to do so, remove the temporary works in, on, under, over or within the Tillbridge Work No. [] Area.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), Tillbridge may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

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

228. The undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by Tillbridge to the Tillbridge Work No. [] Area.

229. To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order within Tillbridge Work No. [] Area request up-to-date written confirmation from Tillbridge of the location of any apparatus or proposed apparatus.

230. The undertaker and Tillbridge must each act in good faith and use reasonable endeavours to co-operate with and provide assistance to each other as may be required to give effect to the provisions of this Part.

231. The undertaker must pay to Tillbridge the reasonable expenses incurred by Tillbridge in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the Tillbridge Work No. [] Area.

232.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by Tillbridge, or Tillbridge becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Tillbridge in making good such damage or restoring the service or supply; and
- (b) compensate Tillbridge for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Tillbridge, by reason or in consequence of any such damage or interruption or Tillbridge becoming liable to any third party as aforesaid.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Tillbridge, its officers, servants, contractors or agents.

(3) Tillbridge must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) Tillbridge must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies. If requested to do so by the undertaker, Tillbridge shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph for claims reasonably incurred by Tillbridge.

(5) The fact that any work or thing has been executed or done with the consent of Tillbridge and in accordance with any conditions or restrictions prescribed by Tillbridge or in accordance with any plans approved by Tillbridge or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

233. Any dispute arising between the undertaker and Tillbridge under this Part must be determined by arbitration under article 42 (arbitration).

PART 18
FOR THE PROTECTION OF EDF ENERGY (THERMAL GENERATION)
LIMITED

Application

234.—(1) For the protection of EDF as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and EDF.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and EDF, where the benefit of this Order is transferred or granted to another person under article 35 (consent to transfer the benefit of the Order)—

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between EDF and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to EDF on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to EDF (but without prejudice to 244(3)(b)).

Interpretation

235. 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) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and
- (b) “A3” if the rating is assigned by Moody’s Investors Services Inc;

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

“acceptable insurance” means a third party liability insurance policy effected and maintained by the undertaker or its contractor with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000 (fifty million pounds) per occurrence or series of occurrences arising out of one event or such lower amount as may be approved by EDF. Such insurance shall be maintained (a) during the construction period of the authorised development and (b) after the construction period of the authorised development in respect of any maintenance works to the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance must include (without limitation)—

- (c) a waiver of subrogation and an indemnity to principal clause in favour of EDF; and
- (d) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000 (twenty million pounds) in aggregate;

“acceptable security” means either—

- (e) a parent company guarantee from a parent company in favour of EDF to cover the undertaker’s liability to EDF to a total liability cap of £50,000,000 (fifty million pounds) or such lower amount as may be approved by EDF (granted by an entity and in a form reasonably satisfactory to EDF and where required by EDF, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or
- (f) a bank bond or letter of credit from an acceptable credit provider in favour of EDF to cover the undertaker’s liability to EDF for an amount of not less than £10,000,000 (ten million pounds) per asset per event up to a total liability cap of £50,000,000 (fifty million

pounds) or such lower amount as may be approved by EDF (in a form reasonably satisfactory to EDF);

“apparatus” means any electric lines or electrical plant as defined in the 1989 Act, or other apparatus as defined in article 2 of this Order, belonging to or maintained by EDF together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of EDF and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use, maintenance and decommissioning of the authorised development and construction of any works authorised by this Schedule;

“commence” and “commencement” has the same meaning as in article 2(1) of this Order, except in this Part of this Schedule it includes any below ground surveys, below ground monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“EDF” means EDF Energy (Thermal Generation) Limited (company number 04267569) whose registered office is at 90 Whitfield Street, London, England, W1T 4EZ or any successor as a licence holder within the meaning of Part 1 of the 1989 Act;

“functions” includes powers and duties;

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

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

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

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

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

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

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by EDF acting reasonably; and

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

- (g) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 240(2) or otherwise; or
- (h) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 240(2) or otherwise.

On street apparatus

236. Except for paragraphs 237 (apparatus of EDF in stopped up streets), 242 (retained apparatus: protection), 243 (expenses) and 244 (indemnity) of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of EDF, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and EDF are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of EDF in stopped up streets

237. Notwithstanding the temporary prohibition or restriction of any street or public right of way under the powers of article 11 (temporary prohibition or restriction of use of streets and public rights of way), EDF is at liberty at all times to take all necessary access across any such street or public right of way and to execute and do all such works and things in, upon or under any such street or public right of way as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the temporary prohibition or restriction was in that street or public right of way.

Protective works to buildings

238. The undertaker, in the case of the powers conferred by article 18 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of EDF.

Acquisition of land

239.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of or entry to any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of EDF otherwise than by agreement, such agreement not to be unreasonably withheld.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between EDF and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of EDF or affect the provisions of any enactment or agreement regulating the relations between EDF and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as EDF reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between EDF and the undertaker acting reasonably and which must be no less favourable on the whole to EDF unless otherwise agreed by EDF, and the undertaker will use reasonable endeavours to procure or secure (or both) the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.

(3) Save where otherwise agreed in writing between EDF and the undertaker, the undertaker and EDF agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by EDF or other enactments relied upon by EDF as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule will prevail.

(4) As a condition of an agreement between the parties in sub-paragraph (1) which relates to taking temporary access rights during construction over EDF's land, EDF may ensure that it retains flexibility to alter any construction routes (within the Order Limits) or to limit access for certain time periods, and may require the undertaker to pay any reasonable security and maintenance costs involved in the grant of any such rights.

(5) Any agreement or consent granted by EDF under paragraph 9 or any other paragraph of this Part of this Schedule, are not to be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

240.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of EDF to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of EDF in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to EDF advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order EDF reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to EDF to its satisfaction (taking into account paragraph 241(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance, operation and decommissioning of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, EDF may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for EDF to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between EDF and the undertaker.

(5) EDF must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to EDF of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

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

(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 less favourable on the whole to EDF than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the matter may be referred to arbitration in accordance with paragraph 248 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the

payment of compensation by the undertaker to EDF as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

242.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to EDF a plan of the works to be executed and request from EDF details of the underground extent of their assets which EDF must provide to the undertaker as soon as reasonably practicable and within 36 days of the submission of such request.

(2) In relation to specified works the plan to be submitted to EDF under sub-paragraph (1) must include a method statement and describe—

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

(3) The undertaker must not commence any works to which sub-paragraph (2) applies until EDF has given written approval of the plan so submitted.

(4) Any approval of EDF required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and
- (b) must not be unreasonably withheld and must be provided within 42 days of the date of submission of the plan under sub-paragraph (1).

(5) In relation to any work to which sub-paragraph (2) applies, EDF may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under sub-paragraph (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the undertaker and EDF and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by EDF for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and EDF will be entitled to watch and inspect the execution of those works.

(7) Where EDF requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to EDF's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required and EDF must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If EDF in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement within 42 days of the date of submission of a plan pursuant to this paragraph, paragraphs 234 to 236 and 239 to 241 apply as if the removal of the apparatus had been required by the undertaker under paragraph 240(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works,

a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to EDF notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order, the undertaker must comply with EDF's HSEQ Requirement for Contractors (document reference DD_STND_HAS_001) and any document that replaces or supersedes it.

Expenses

243.—(1) Save where otherwise agreed in writing between EDF and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to EDF within 30 days of receipt of an itemised invoice or claim from EDF all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by EDF in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by EDF in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by EDF as a consequence of EDF;
- (b) using its own compulsory purchase powers to acquire any necessary rights under paragraph 240(3); or
- (c) exercising any compulsory purchase powers in the Order transferred to or benefitting EDF;
- (d) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (e) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (f) the approval of plans;
- (g) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (h) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 248 (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 EDF by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

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

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

(5) Any amount which apart from this sub-paragraph would be payable to EDF in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on EDF any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Any sums paid by the undertaker to EDF under sub-paragraph (1) relating to anticipated costs and expenses will be returned on demand (in whole or in part as applicable) by EDF to the undertaker if not incurred.

Indemnity

244.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by them) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of EDF, or there is any interruption in any service provided, or in the supply of any goods, by EDF, or EDF becomes liable to pay any amount to any third party, the undertaker will—

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

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

(3) Nothing in sub-paragraph (1) is to impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of EDF, its officers, servants, contractors or agents; or
- (b) any authorised development or any other works authorised by this Part of this Schedule carried out by EDF as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 35 (consent to transfer the benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised development yet to be executed and not falling within this

paragraph (b) will be subject to the full terms of this Part of this Schedule including this paragraph 244; or

- (c) any consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) EDF must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) EDF must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) EDF must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within EDF's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of EDF's control and if reasonably requested to do so by the undertaker EDF must provide an explanation of how the claim has been minimised, where relevant.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised development on any land owned by EDF or in respect of which EDF has an easement or wayleave for its apparatus or any other interest or to carry out any works within 20 metres of EDF's apparatus until the following conditions are satisfied provided that the following conditions do not apply in relation to any specified works that are undertaken by EDF—

- (a) unless and until EDF is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and unless otherwise agreed with EDF (acting reasonably) provided evidence that it shall maintain such acceptable security for the construction period of the authorised development from the proposed date of commencement of construction of the authorised development) and EDF has confirmed the same to the undertaker in writing; and
- (b) unless and until EDF is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and unless otherwise agreed with EDF (acting reasonably) provided evidence to EDF that it shall maintain such acceptable insurance for the construction period of the authorised development from the proposed date of commencement of construction of the authorised development) and EDF has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with sub-paragraph (7), nothing in this Part of this Schedule will prevent EDF from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

245. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between EDF and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and EDF 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

246.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or EDF requires the removal of apparatus under paragraph 240(2) or EDF makes requirements for the protection or alteration of apparatus under paragraph 242, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into

account the need to ensure the safe and efficient operation of EDF's undertaking and EDF shall use its best endeavours to co-operate with the undertaker for that purpose.

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

Access

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

Arbitration

248. Any difference or dispute arising between the undertaker and EDF under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and EDF, be determined by arbitration in accordance with article 42 (arbitration).

Notices

249. Notwithstanding article 44 (service of notices), any plans submitted to EDF by the undertaker pursuant to paragraph 242 must be submitted to EDF addressed to the company secretary and copied to the land and estates team and sent to 90 Whitfield Street, London, England, W1T 4EZ or to such other address as EDF may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 19

FOR THE PROTECTION OF BLYTON PARK DRIVING CENTRE

250. The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and the Company, and subject to the Company having registered and enforceable property interests in the restricted land permitting the use of that land in accordance with the Blyton Park Driving Centre operations and the Automotive Research and Development Centre planning permission.

251. In this Part of this Schedule—

“approval” means approval given by the Company in writing, or such approval as shall be deemed to have been given by the Company in the event it fails to comply with the relevant deadlines set out in this Schedule, or as determined by arbitration;

“Automotive Research and Development Centre planning permission” means the planning permission granted under the 1990 Act by West Lindsey District Council and given reference number 145015;

“Automotive Research and Development Centre planning permission site location plan” means the plan with reference BLY-01A which forms part of the Automotive Research and Development Centre planning permission;

“Blyton Park Driving Centre” means the driving circuit and associated infrastructure located adjacent to Kirton Road, Blyton, Gainsborough, DN21 3PE;

“Blyton Park Driving Centre operations” means the recreational use of the driving circuit at Blyton Park Driving Centre by drivers of motor cars;

“the Company” means LNT Aviation Limited, a company incorporated and registered in England and Wales with company number 08323165, having its registered office at Helios 47, Isabella Road, Garforth, Leeds, West Yorkshire, LS25 2DY, which is the owner and operator of Blyton Park Driving Centre;

“restricted land” means only that land included in plots 01-003, 01-006, 01-007 and the northern half of plot 01-017 located between plots 01-013 and 01-015, shown on the land plan;

“restricted works” means any works forming any part of Work No. 1C of the authorised development that are within the restricted land; and

“works details” means plans, section drawings and a method statement demonstrating the measures proposed by the undertaker to ensure the use of the restricted land by—

(a) the authorised development; and

(b) the Blyton Park Driving Centre operations,

can coexist without significant detriment to either of those two uses.

252.—(1) The undertaker must not submit for approval by the relevant planning authorities written details for that part of Work No. 1C in the restricted land in accordance with requirement 5(1) (detailed design approval) without first confirming to the Company whether the undertaker intends to carry out the restricted works.

(2) If the undertaker confirms to the Company that it will carry out the restricted works, and unless a shorter period is otherwise agreed in writing between the undertaker and the Company, not less than 8 weeks before commencing any restricted works, the undertaker must submit to the Company the works details.

(3) No restricted works are to be commenced until the works details in respect of those works submitted under sub-paragraph (2) have been approved by the Company.

(4) Any approval of the Company required under this sub-paragraph (3) must not be unreasonably withheld or delayed but may be given subject to such reasonable requirements as the Company may require to be made for the safe use of the Blyton Park Driving Centre operations and in accordance with the Automotive Research and Development Centre planning permission.

(5) Any approval of the Company required under sub-paragraph (3) including any reasonable requirements required by the Company under sub-paragraph (4), must be made in writing within a period of 4 weeks (unless a shorter period is otherwise agreed in writing between the undertaker and the Company) beginning with the date on which the works details were submitted to the Company under sub-paragraph (2).

(6) Work No. 1C must be executed on the restricted land only in accordance with the works details approved by the Company under sub-paragraph (3) including any reasonable requirements notified to the undertaker in accordance with sub-paragraph (4) and the Company shall be entitled to watch and inspect the execution of those works, subject to it having the necessary property interests in the restricted land to do so.

(7) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but (unless otherwise agreed in writing between the undertaker and the Company) in no case less than 8 weeks before commencing the execution of any restricted works, new works details, instead of the works details previously submitted, and having done so the provisions of this Part of this Schedule apply to and in respect of the new works details.

253. If the Company notifies the undertaker that it intends to carry out the development permitted by the Automotive Research and Development Centre planning permission, the undertaker will not carry out the authorised development in the area shown edged red on the Automotive Research and Development Centre planning permission site location plan, insofar as this area overlaps with the Order limits, and will communicate such commitment to the Company in writing.

254. Any difference or dispute arising between the undertaker and the Company under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and the Company, be determined by arbitration in accordance with article 42 (arbitration).

255.—(1) Subject to sub-paragraph (2), the undertaker must pay to the Company any professional fees, costs, charges and expenses which are reasonably and properly incurred by the

Company in connection with reviewing and approving the works details in accordance with the provisions of this Part of this Schedule.

(2) Prior to incurring any professional fees, costs, charges and expenses to be paid by the undertaker in accordance with sub-paragraph (1), the Company must provide an estimate of the anticipated professional fees, costs, charges and expenses to the undertaker for approval, such approval not to be unreasonably withheld or delayed.

(3) The Company must, when estimating and incurring any professional fees, costs, charges and expenses pursuant to this paragraph do so with a view to being reasonably economic and acting as if the Company were itself to fund the relevant professional fees, costs, charges and expenses.

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation**1.** In this Schedule—

“discharge” means any consent, agreement or approval required by—

- (a) a requirement;
- (b) a document referred to by a requirement; or
- (c) a document that has been approved pursuant to a requirement;

“requirement consultee” means any body or authority named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement; and

“start date” means the date of the notification given by the Secretary of State under paragraph 4(2)(b).

Applications made under requirement

2.—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement, the undertaker will also submit a copy of that application to any requirement consultee.

(2) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement the relevant planning authority must give notice to the undertaker of its decision on the application within a period of thirteen weeks beginning with the later of—

- (a) the day immediately following that on which the application is received by the authority;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 3; or
- (c) such longer period that is agreed in writing by the undertaker and the relevant planning authority.

(3) Subject to paragraph 4, in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (2), the relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(4) Any application made to the relevant planning authority pursuant to sub-paragraph (2) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement and if it will then it must be accompanied by information setting out what those effects are.

(5) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement included in this Order and the relevant planning authority does not determine the application within the period set out in sub-paragraph (2) and is accompanied by a report pursuant to sub-paragraph (4) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement then the application is to be taken to have been refused by the relevant planning authority at the end of that period.

Further information and consultation

3.—(1) In relation to any application to which this Schedule applies, the relevant planning authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the relevant planning authority considers such further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required, the relevant planning authority must, within 20 working days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant planning authority must issue the consultation to the requirement consultee within 10 working days of receipt of the application, and must notify the undertaker in writing specifying any further information the relevant planning authority considers necessary or that is requested by the requirement consultee within 10 working days of receipt of such a request and in any event within 20 working days of receipt of the application (or such other period as is agreed in writing between the undertaker and the relevant planning authority).

(4) In the event that the relevant planning authority does not give notification as specified in sub-paragraph (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

(5) Where further information is requested under this paragraph in relation to part only of an application, that part is to be treated as separate from the remainder of the application for the purposes of calculating time periods in paragraph 2 and paragraph 3.

Appeals

4.—(1) The undertaker may appeal in the event that—

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions;
- (b) the relevant planning authority is deemed to have refused an application pursuant to paragraph 2(5);
- (c) on receipt of a request for further information pursuant to paragraph 3 the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the relevant planning authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The steps to be followed in the appeal process are as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any requirement consultee;
- (b) the Secretary of State must appoint a person to determine the appeal as soon as reasonably practicable and must, as soon as is reasonably practicable, notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person's attention should be sent;
- (c) the relevant planning authority and any requirement consultee must submit written representations to the appointed person in respect of the appeal within 20 working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

- (d) the undertaker may make any counter-submissions to the appointed person within 20 working days of receipt of written representations pursuant to sub-paragraph (c);
- (e) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (d); and
- (f) the appointment of the person pursuant to sub-paragraph (b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(3) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal they must, within five working days of the appointed person's appointment, notify the appeal parties in writing specifying the further information required.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the relevant party to the appointed person and the other appeal parties on the date specified by the appointed person (the "specified date"), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within 10 working days of the specified date, but otherwise the process and time limits set out in sub-paragraphs (c) to (e) of sub-paragraph (2) apply.

(5) The appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to them in the first instance.

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

(7) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to them that there is sufficient material to enable a decision to be made on the merits of the case.

(8) The decision of the appointed person on an appeal is to be final and binding on the parties, unless proceedings are brought by a claim for judicial review.

(9) If an approval is given by the appointed person pursuant to this Schedule, it is to be deemed to be an approval for the purpose of Schedule 2 (requirements) as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(10) Save where a direction is given pursuant to sub-paragraph (11) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(11) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to advice on planning appeals and award costs published in Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

Fees

5.—(1) Where an application is made to the relevant planning authority for a discharge, a fee is to apply and must be paid to the relevant planning authority for each application.

(2) The fee payable for each application under sub-paragraph (1) is as follows—

- (a) a fee of £2,535 for the first application for the discharge of each of the requirements 5, 6, 7, 8, 9, 11, 13, 14, 15, 18, 19, and 21;
 - (b) a fee of £578 for each subsequent application for the discharge of each of the requirements listed in paragraph (a) and any application under requirement 5 in respect of the requirements listed in paragraph (a); and
 - (c) a fee of £145 for any application for the discharge of—
 - (i) any other requirements not listed in paragraph (a);
 - (ii) any application under requirement 3 in respect of requirements not listed in paragraph (a); and
 - (iii) any approval required by a document referred to by any requirement or a document approved pursuant to any requirement.
- (3) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of—
- (a) the application being rejected as invalidly made; or
 - (b) the relevant planning authority failing to determine the application within the relevant period in paragraph 2(2) unless—
 - (i) within that period the undertaker agrees, in writing, that the fee is to be retained by the relevant planning authority and credited in respect of a future application; or
 - (ii) a longer period of time for determining the application has been agreed pursuant to paragraph 2(2) of this Schedule, as applicable.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Cottam Solar Project Limited (referred to in this Order as the undertaker) to construct, operate, maintain and decommission a ground mounted solar photovoltaic generating station with a gross electrical output capacity over 50 megawatts and associated development. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the Order plans and the book of reference mentioned in the Order and certified in accordance with article 40 (certification of plans and documents, etc) of this Order may be inspected free of charge during working hours at Lincolnshire County Council, County Offices, Newland, Lincoln, LN1 1YL.

ANNEX D: LVIA SUPPORTING DOCUMENTS

- ES Appendix 8.1 (LVIA Methodology) [[APP-068](#), [APP-069](#), [APP-070](#), [APP-071](#), [APP-072](#), [APP-073](#)]
- ES Appendix 8.2 (Assessment of Potential Landscape Effects) [[REP-020](#)]
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- ES Appendix 8.4 (Consultation) [[APP-076](#)]
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