

2014 No. 1052

INFRASTRUCTURE PLANNING

**The National Grid (North London Reinforcement Project)
Order 2014**

Made - - - -

16th April 2014

Coming into force - -

7th May 2014

CONTENTS

PART 1

PRELIMINARY

1. Citation and Commencement
2. Interpretation
3. Application and modification of legislative provisions

PART 2

PRINCIPAL POWERS

4. Development consent etc. granted by the Order
5. Maintenance of authorised development
6. Limits of Deviation
7. Benefit of Order
8. Consent to transfer benefit of Order

PART 3

STREETS

9. Street works
10. Construction and maintenance of new or altered streets
11. Power to alter layout, etc., of streets
12. Permanent stopping up of streets
13. Application of the 1991 Act
14. Temporary stopping up of streets
15. Access to works
16. Agreements with street authorities

PART 4
SUPPLEMENTAL POWERS

17. Discharge of water
18. Protective work to buildings
19. Authority to survey and investigate the land
20. Temporary closure of, and works in, the canal
21. Moorings

PART 5
POWERS OF ACQUISITION

22. Compulsory acquisition of land
23. Compulsory acquisition of land – incorporation of the mineral code
24. Time limit for exercise of authority to acquire land compulsorily
25. Compulsory acquisition of rights
26. Private rights
27. Application of the Compulsory Purchase (Vesting Declarations) Act 1981
28. Acquisition of subsoil or airspace only
29. Acquisition of part of certain properties
30. Rights under or over streets
31. Temporary use of land for carrying out the authorised development
32. Temporary use of land for maintaining the authorised development
33. Special category land
34. Statutory undertakers
35. Apparatus and rights of statutory undertakers in stopped-up streets
36. Recovery of costs of new connections

PART 6
OPERATIONS

37. Felling or lopping of trees

PART 7
MISCELLANEOUS AND GENERAL

38. Application of landlord and tenant law
 39. Operational land for purposes of the 1990 Act
 40. Defence to proceedings in respect of statutory nuisance
 41. Traffic regulation
 42. Protection of Interests
 43. Certification of plans etc.
 44. Service of notices
 45. Requirements, Appeals etc.
 46. Arbitration
-

SCHEDULES

- SCHEDULE 1 — AUTHORISED DEVELOPMENT
- SCHEDULE 2 — REQUIREMENTS
- SCHEDULE 3 — DISCHARGE OF REQUIREMENTS
- SCHEDULE 4 — STREETS SUBJECT TO ALTERATION OF LAYOUT
 - PART 1 — STREETS SUBJECT TO PERMANENT ALTERATION OF LAYOUT
 - PART 2 — STREETS SUBJECT TO TEMPORARY ALTERATION OF LAYOUT
- SCHEDULE 5 — STREETS TO BE PERMANENTLY STOPPED UP
- SCHEDULE 6 — STREETS TO BE TEMPORARILY STOPPED UP
 - PART 1 — STREETS TO BE TEMPORARILY STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED
 - PART 2 — STREETS TO BE TEMPORARILY STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED
- SCHEDULE 7 — ACCESS TO WORKS
- SCHEDULE 8 — TEMPORARY CLOSURE OF, AND WORKS IN, THE CANAL
- SCHEDULE 9 — LAND TO BE ACQUIRED COMPULSORILY
- SCHEDULE 10 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS
- SCHEDULE 11 — LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN
- SCHEDULE 12 — TRAFFIC REGULATION
- SCHEDULE 13 — PROTECTIVE PROVISIONS
 - PART 1 — FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS
 - PART 2 — PROTECTION FOR HIGHWAYS AND TRAFFIC

An application has been made to the Secretary of State in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009(a) for an Order under sections 114, 115 and 120 of the Planning Act 2008(b) (“the 2008 Act”);

The application was examined by a single appointed person appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the 2008 Act, and the examination was carried out in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c);

The single appointed person, having considered the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with section 83(1) of the 2008 Act, made a report and recommendation to the Secretary of State;

The Secretary of State, having considered the report and recommendation of the single appointed person, and decided the application, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals;

The Secretary of State, in exercise of the powers conferred by sections 114, 115 and 120 of the 2008 Act, makes the following Order:

PART 1 PRELIMINARY

Citation and Commencement

1. This Order may be cited as the National Grid (North London Reinforcement Project) Order 2014 and shall come into force on 7th May 2014.

Interpretation

2.—(1) In this Order—

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

-
- (a) S.I. 2009/2264, amended by S.I. 2010/439, 602, 2012/635, 2654, 2732, 2013/522, 755. Schedule 1 of those Regulations should be read in accordance with article 2(6) of the British Waterways Board (Transfer of Functions) Order 2012 S.I. 2012/1659.
- (b) 2008 c. 29. The relevant provisions of the Planning Act 2008 are amended by Chapter 6 of Part 6 of, and Schedule 13 to, the Localism Act 2011 (c. 20), and by sections 22-27 of the Growth and Infrastructure Act 2013 (c. 27) (see S.I. 2013/1124 for transitional provisions).
- (c) S.I. 2010/103, amended by S.I. 2012/635.
- (d) 1961 c. 33. Sections 1 and 4 were amended by the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). Sections 2 and 3 were repealed by that Order. There are other amendments to the 1961 Act which are not relevant to this Order.

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

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

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

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

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

“the 2008 Act” means the Planning Act 2008;

“the access/rights of way plans” means the plans submitted with the application (A1/PTD/6283/027 (rev D), A1/PTD/6283/93 (rev E), A1/PTD/6283/94 (rev D), A1/PTD/6283/95 (rev D), A1/PTD/6283/96 (rev D), A1/PTD/6283/97 (rev D), A1/PTD/6283/98 (rev D), A1/PTD/6283/99 (rev D), A1/PTD/6283/100 (rev D), A1/PTD/6283/101 (rev D) and A1/PTD/6283/102 (rev D)) and certified as the access/rights of way plans by the Secretary of State for the purposes of this Order”;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) or any part thereof and any other development authorised by this Order or part thereof, which is development within the meaning of section 32 of the 2008 Act;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

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

“the canal” means the River Lee Navigation;

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

-
- (a) 1965 c. 56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71). Section 5 was amended by section 67 of the Planning and Compensation Act 1991; section 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 make provisions in respect of interest payable on compensation. Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c. 39). Section 11(1) and sections 31 and 32 were amended, and section 30 was substituted, by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67); sections 11(1) and 31 were also amended by section 14 of, and paragraph 12 of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1). Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c. 15). Section 20 was amended by section 70 of, and paragraph 4 of Schedule 15 to, the Planning and Compensation Act 1991. Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991. Section 125 of the Planning Act 2008 applies Part 1 of the 1965 Act with modifications. There are other amendments to the 1965 Act which are not relevant to this Order.
- (b) 1980 c. 66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c. 22); sections 1(2), (3) and (4) were amended by section 8 of, and paragraph 1 of Schedule 4 to, the Local Government Act 1985 (c. 51); section 1(2A) was inserted, and section 1(3) was amended, by section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c. 29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985, by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11), by section 64(1), (2) and (3) of the Transport and Works Act 1992 (c. 42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c. 37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985; and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994. Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (c) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990. Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c. 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are other amendments to the 1981 Act which are not relevant to this Order.
- (d) 1990 c. 8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008. There are other amendments to the 1990 Act which are not relevant to this Order.
- (e) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18). There are other amendments to the 1991 Act which are not relevant to this Order.

“the design drawings and sections” means the drawings and sections submitted with the application (WALX4-00-N0-032 (rev C), WALX4-00-N0-033 (rev A), WALX4-00-N0-34 (rev B), WALX4-00-N0-35 (rev B), WALX4-00-N0-36 (rev B), BRIM4-00-N0-001 (rev A), BRIM4-00-N0-002 (rev C), BRIM4-00-N0-003 (rev B), PN/CSED/8106 (issue N), PN/CSED/8106 (issue M), BRIM4-00-N0-004 (rev C), PN/CSED/8107 (issue M), PN/CSED/8107 (issue H), PN/CSED/8111 (issue H) and PN/CSED/8172 (issue G)) and certified as the design drawings and sections by the Secretary of State for the purposes of this Order;

“electronic transmission” means communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

“the environmental measures document” means the document approved and certified by the Secretary of State as the environmental measures document for the purposes of this Order;

“the environmental statement” means the statement submitted with the application and certified as the environmental statement by the Secretary of State for the purposes of this Order;

“highway” and “highway authority”, except in Part 2 of Schedule 13, have the same meaning as in the 1980 Act;

“the land plans” means the plans submitted with the application (A1/PTD/6283/020 (rev D), A1/PTD/6283/12 (rev D), A1/PTD/6283/13 (rev E), A1/PTD/6283/14 (rev D), A1/PTD/6283/15 (rev D), A1/PTD/6283/16 (rev E), A1/PTD/6283/17 (rev D), A1/PTD/6283/18 (rev D), A1/PTD/6283/19 (rev E), A1/PTD/6283/22 (rev D), A1/PTD/6283/23 (rev D), A1/PTD/6283/136 (rev D), A1/PTD/6283/103 (rev D), A1/PTD/6283/104 (rev D), A1/PTD/6283/105 (rev D), A1/PTD/6283/106 (rev D), A1/PTD/6283/107 (rev D), A1/PTD/6283/108 (rev D), A1/PTD/6283/109 (rev D), A1/PTD/6283/110 (rev D), A1/PTD/6283/111 (rev D) and A1/PTD/6283/112 (rev D)) and certified as the land plans by the Secretary of State for the purposes of this Order;

“Lee Valley Regional Park and “Lee Valley Regional Park Authority” have the same meaning as in the Lee Valley Regional Park Act 1966(a);

“limits of deviation” means the limits of deviation referred to in article 6 (limits of deviation);

“maintain” includes to inspect, repair, adjust, alter, remove, reconstruct and replace or relay, but not so as to vary from the description of the authorised development in Schedule 1 and any derivative of “maintain” shall be construed accordingly;

“Order land” means the land shown on the land plans which is within the Order limits and described in the book of reference;

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

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

“relevant highway authority” means, in any provision of this Order, the highway authority for any area of land to which that provision relates;

“relevant local authority” means, in any provision of this Order, the local authority for any area of land to which that provision relates;

“relevant planning authority” means, in any provision of this Order, the local planning authority for any area of land to which that provision relates;

(a) 1966 c. xli.

(b) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991. Paragraph 1(5) of Part 1 of Schedule 2 was amended by section 67 of, and paragraph 27(3) of Schedule 9 to, the Coal Industry Act 1994 (c. 21). There are other amendments to this Act which are not relevant to this Order.

“relevant street authority” means, in any provision of this Order, the street authority for any area of land to which that provision relates;

“the replacement land” means the land identified as replacement land in the book of reference and on the special category land/replacement land plans;

“the sections” means the sections shown in the design drawings and sections;

“the special category land/replacement land plans” means the plans submitted with the application (A1/PTD/6283/137 (rev D), A1/PTD/6283/123 (rev D), A1/PTD/6283/124 (rev D), A1/PTD/6283/125 (rev D), A1/PTD/6283/126 (rev D), A1/PTD/6283/127 (rev D), A1/PTD/6283/128 (rev D), A1/PTD/6283/129 (rev D), A1/PTD/6283/130 (rev D), A1/PTD/6283/131 (rev D) and A1/PTD/6283/132 (rev D)) and certified as the special category land/replacement land plans by the Secretary of State for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“traffic” has the same meaning as in section 329(1) of the 1980 Act;

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

“undertaker” means the person who has the benefit of this Order in accordance with article 7(1) (benefit of Order);

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans submitted with the application (A1/PTD/6283/021 (rev D), A1/PTD/6283/83 (rev D), A1/PTD/6283/84 (rev D), A1/PTD/6283/85 (rev D), A1/PTD/6283/86 (rev D), A1/PTD/6283/87 (rev D), A1/PTD/6283/88 (rev D), A1/PTD/6283/89 (rev D), A1/PTD/6283/90 (rev D), A1/PTD/6283/91 (rev D) and A1/PTD/6283/92 (rev D)) and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to restrictions over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

(4) All areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters, or numbers, shall be construed as references to points so lettered or numbered on the access/rights of way plans and references to pylons identified by letters and numbers shall be construed as references to pylons so lettered and numbered on the works plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

Application and modification of legislative provisions

3. Subject to the modifications set out in Schedule 10 the enactments for the time being in force with respect to compensation for compulsory purchase of land shall apply in the case of the compulsory acquisition under this Order of a right by the creation of a new right as they apply with respect to compensation for the compulsory purchase of land and interests in land.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

4.—(1) Subject to the provisions of this Order and to 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) The undertaker may install, and keep installed, above ground the electric lines included in the authorised development.

(3) Subject to article 6 (limits of deviation) the authorised development shall be constructed and installed in the lines and situations shown on the works plans and in accordance with the levels shown on the sections.

Maintenance of authorised development

5. The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

Limits of Deviation

6. In carrying out the authorised development the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the Order limits; and
- (b) deviate vertically from the levels of the authorised development shown on the sections—
 - (i) to any extent not exceeding 3 metres upwards; or
 - (ii) to any extent downwards as may be found to be necessary or convenient.

Benefit of Order

7.—(1) Subject to article 8 (consent to transfer benefit of Order), the provisions of this Order shall have effect solely for the benefit of National Grid Electricity Transmission plc (company number 2366977).

(2) Paragraph (1) does not apply to the benefit of the consent granted by this Order for works for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

Consent to transfer benefit of Order

8.—(1) The undertaker may, with the consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where a transfer or grant has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), shall include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

PART 3 STREETS

Street works

9.—(1) The undertaker may, for the purposes of constructing and maintaining the authorised development, enter upon any street subject to works shown on the works plans and may—

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

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) The powers conferred in paragraphs (1) and (2) are without prejudice to the powers of the undertaker under the Electricity Act 1989(a).

(4) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Construction and maintenance of new or altered streets

10.—(1) Any street to be constructed under this Order shall be completed to the reasonable satisfaction of the relevant authority and, unless otherwise agreed with the relevant authority, shall be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the relevant authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street shall, when completed to the reasonable satisfaction of the relevant street authority, unless otherwise agreed with the relevant street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the relevant street authority.

(3) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(4) For the purposes of a defence under paragraph (3), the court shall in particular have regard to the following matters—

- (a) the character of the street and 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 traffic; and

(a) 1989 c. 29.

- (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 to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(5) Nothing in this article shall—

- (a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the undertaker shall not by reason of any duty under that article to maintain a street be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) have effect in relation to the street works with regard to which the provisions of Part 3 of the 1991 Act apply.

(6) In this article—

- (a) “relevant authority” means the relevant highway authority for all streets except footpaths where it will be the relevant local authority or street manager; and
- (b) “street manager” has the same meaning as in the 1991 Act.

Power to alter layout, etc., of streets

11.—(1) The undertaker may for the purposes of constructing and maintaining authorised development permanently alter the layout of or carry out any works in the streets specified in column (1) of Part 1 of Schedule 4 (streets subject to permanent alteration of layout), and temporarily alter the layout of or carry out any works in the street specified in column (1) of Part 2 of that Schedule (streets subject to temporary alteration of layout), in each case in the manner specified in relation to that street in column (2).

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street;
- (d) make and maintain crossovers and passing places; and
- (e) carry out works for the provision or alteration of parking places, loading bays and cycle tracks.

(3) Before reinstating any street which has been temporarily altered under this article, the undertaker shall restore the street to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) shall not be exercised without the consent of the street authority; but such consent shall not be unreasonably withheld and may be granted subject to reasonable conditions.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it shall be deemed to have granted consent.

(6) The procedure set out in paragraphs 3, 4 and 5 of Schedule 3 (discharge of requirements) has effect in relation to any consent required under this article where such consent is granted subject to conditions to which the undertaker objects, or is refused.

(7) Within a period of three months beginning with the date of the completion of any works carried out pursuant to this article, the undertaker must provide plans of the works as constructed to the street authority.

Permanent stopping up of streets

12.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Schedule 5 (streets to be permanently stopped up) to the extent specified and described in column (3) of that Schedule.

(2) No street specified in columns (1) and (2) of Schedule 5 shall be wholly or partly stopped up under this article unless—

- (a) the new street to be constructed and substituted for it, which is specified in column (4) of that Schedule, has been constructed and completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up shall be extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the undertaker.

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

(5) This article is subject to article 35 (apparatus and rights of statutory undertakers in stopped up streets).

Application of the 1991 Act

13.—(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the relevant highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts).

(2) The provisions of the 1991 Act mentioned in paragraph (3) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved, under those provisions shall apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 14 (temporary stopping up of streets) and the carrying out of street works under article 9 (street works) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(3) The provisions of the 1991 Act referred to in paragraph (2) are—

- section 54 (advance notice of certain works), subject to paragraph (4);
- section 55 (notice of starting date of works), subject to paragraph (4);

section 57 (notice of emergency works);
section 59 (general duty of street authority to co-ordinate works);
section 60 (general duty of undertakers to co-operate);
section 68 (facilities to be afforded to street authority);
section 69 (works likely to affect other apparatus in the street);
section 76 (liability for cost of temporary traffic regulation);
section 77 (liability for cost of use of alternative route); and

all such other provisions as apply for the purposes of the provisions mentioned above.

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

Temporary stopping up of streets

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

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

(2) Without prejudice to the scope of paragraph (1), the undertaker may use any street where the use has been temporarily stopped up, altered or diverted under the powers conferred by this article and within the Order limits as a temporary working site for the purposes of carrying out the authorised development.

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

(4) Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, alter or divert the use of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 6 (streets to be temporarily stopped up) to the extent specified in column (3) of that Schedule and, if it does so in respect of a street specified in Part 1 of the Schedule, must provide the temporary diversion to be substituted as specified in column (4) of that Part.

(5) The undertaker shall not temporarily stop up, alter or divert the use of—

- (a) any street specified as mentioned in paragraph (4) without first consulting the street authority; and
- (b) any other street without the consent of the street authority which may attach reasonable conditions to any consent, but such consent not to be unreasonably withheld.

(6) Any person who suffers loss by the suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) If a street authority which receives an application for consent under paragraph (5)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it shall be deemed to have granted consent.

(8) The procedure set out in paragraphs 3, 4 and 5 of Schedule 3 (discharge of requirements) has effect in relation to any consent required under this article where such consent is granted subject to conditions to which the undertaker objects, or is refused.

Access to works

15.—(1) The undertaker may, for the purposes of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, as specified in columns (1) and (2) of Schedule 7 (access to works); and

- (b) with the consent of the relevant planning authority after consultation with the relevant 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.

(2) If a relevant planning authority which receives an application for consent under paragraph (1)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it shall be deemed to have granted consent.

(3) The procedure set out in paragraphs 3, 4 and 5 of Schedule 3 (discharge of requirements) has effect in relation to any consent required under this article where such consent is granted subject to conditions to which the undertaker objects, or is refused.

Agreements with street authorities

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

- (a) the construction of any new street including any structure carrying the street over or under an electric line authorised by this Order;
- (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under an electric line authorised by this Order;
- (c) the strengthening, improvement, repair or reconstruction of any street authorised by this Order;
- (d) any stopping up, alteration or diversion of a street authorised by this Order; or
- (e) the carrying out in the street of any of the works referred to in article 9 (street works).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

17.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The undertaker shall not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but shall not be unreasonably withheld.

(a) 1991 c. 56. Section 106 was amended by the Water Act 2003 (c. 37), sections 36(2) and 99, subject to the transitional provisions contained in article 6 of, and Schedule 3 to, S.I. 2004/641. There are other amendments to section 106 which are not relevant to this Order.

- (4) The undertaker shall not make any opening into any public sewer or drain except—
- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval shall not be unreasonably withheld; and
 - (b) where that person has been given the opportunity to supervise the making of the opening.
- (5) The undertaker shall not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.
- (6) The undertaker shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by 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 groundwaters or inland freshwaters of any matter whose entry or discharge into those waters is prohibited by regulation 12 of the Environmental Permitting (England and Wales) Regulations 2010(a).
- (8) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person shall be deemed to have granted consent or given approval, as the case may be.
- (9) The procedure set out in paragraphs 3, 4 and 5 of Schedule 3 (discharge of requirements) has effect in relation to any consent required under this article where such consent is granted subject to conditions to which the undertaker objects, or is refused.
- (10) In this article—
- (a) “main river” has the same meaning as in the Water Resources Act 1991(b);
 - (b) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, a harbour authority within the meaning of section 57 of the Harbours Act 1964(c), an internal drainage board, a joint planning board, a local 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 Environmental Permitting (England and Wales) Regulations 2010 have the same meaning as in those regulations.

Protective work 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 limits as the undertaker considers necessary or expedient.

- (2) Protective works may be carried out—
- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
 - (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first used for the transmission of electricity at 400kV.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(a) S.I. 2010/675. Regulation 12 was amended by S.I. 2011/2043 and 2013/390. There are other amendments to these Regulations which are not relevant to this Order.

(b) 1991 c. 57.

(c) 1964 c. 40. Paragraph 9B was inserted into Schedule 2 by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 9(1) and (2).

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specify the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 46 (arbitration).

(7) The undertaker shall 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 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first used for the transmission of electricity at 400kV it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

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

(9) Nothing in this article shall relieve the undertaker from any liability to pay compensation under section 10(2) of the 1965 Act (compensation for injurious affection).

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

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

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, 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 carrying out, 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 which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;

- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 14 days' notice has been served on every owner and occupier of the land.

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

- (a) shall, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

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

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

but such consent shall not be unreasonably withheld.

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

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

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

that authority shall be deemed to have granted consent.

Temporary closure of, and works in, the canal

20.—(1) The undertaker may, in connection with the construction of the authorised works temporarily interfere with each part of the canal specified in columns (1) and (2) of Schedule 8 (temporary closure of, and works in, the canal) to the extent specified in column (3), and may also temporarily close and divert the towpath adjacent to that part of the canal temporarily interfered with.

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraphs (3), (4) and (5) the undertaker may, in connection with the construction of the authorised works—

- (a) temporarily interfere with the relevant part of the canal by constructing or maintaining caissons, cofferdams or other temporary works at any point within that part of the canal as the undertaker considers necessary or expedient;
- (b) temporarily moor or anchor barges or other vessels or craft in the relevant part of the canal and may load or unload into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction of the authorised works;
- (c) on grounds of health and safety only, temporarily close to navigation the relevant part of the canal; and
- (d) temporarily remove the water from the relevant part of the canal that is so interfered with or closed.

(3) During the period of any closure referred to in paragraph (1)(c), all rights of navigation and other rights relating to, and any obligations of the Canal and River Trust^(a) to manage, the relevant part of the canal so closed shall be suspended and unenforceable against the Canal and River Trust.

(4) The power conferred by paragraph (1) shall be exercised in such a way which secures—

- (a) that no more of the relevant part of the canal is closed to navigation at any time than is necessary in the circumstances; and
- (b) that, if complete closure to navigation of the relevant part of the canal becomes necessary, all reasonable steps are taken to secure that the period of closure is kept to a minimum and that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the part so closed.

(5) In exercising the powers conferred by paragraph (1) in relation to the relevant part of the canal the undertaker shall—

- (a) take such reasonable steps as are necessary to ensure that the functioning of any intake or discharge along the canal is unaffected; and
- (b) keep any interference with water levels or flow to the minimum reasonably necessary to construct the authorised works.

(6) In exercising the powers conferred by paragraph (1) in relation to the relevant part of the canal towpath the undertaker shall—

- (a) take such reasonable steps as are necessary to ensure that persons in control of barges or other vessels or craft in the canal are made aware of any temporary closure and diversion of the towpath; and
- (b) provide such emergency assistance as may reasonably be requested by persons in control of barges or other vessels or craft in the canal following an accident or mechanical failure, for the safety of persons on board and/or the recovery of the barge, vessel or craft to a location where it can safely be moored adjacent to and accessed from the towpath.

(7) Any person who suffers loss or damage as a result of—

- (a) the suspension of any private right of navigation or the suspension of any private right to use the towpath under this article; or
- (b) any effect of the exercise of the powers conferred by paragraph (1) on the functioning of any intake or discharge along the canal,

shall be entitled to be paid compensation for such loss and damage by the undertaker, to be determined, in case of dispute, under Part 1 of the 1961 Act.

Moorings

21.—(1) Without prejudice to the other powers conferred on the undertaker by this Order or otherwise available to it, and subject to paragraph (2), the undertaker may, along the canal area for the purposes of or in connection with the construction, operation or maintenance of the authorised works and notwithstanding any interference this may have with any public or private rights, temporarily suspend any right to moor in such manner and to such extent as may appear to the undertaker to be necessary or convenient.

(2) Subject to any closure of the canal required under article 20 (temporary closure of, and works in, the canal) the undertaker shall permit vessels to moor temporarily along the canal area for such periods and in such locations as may appear to the undertaker to be reasonably necessary to permit the use of the lock.

(3) In this article—

(a) The functions of the British Waterways Board were transferred to Canal and River Trust by the British Waterways Board (Transfer of Functions) Order 2012.

- (a) “canal area” means so much of the eastern bank of the canal between MR1 and MR2 as shown on sheets 7 and 8 of the access/rights of way plans; and
- (b) “the lock” means the lock known as Pickett’s Lock used for the raising and lowering of boats between stretches of the canal.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

22.—(1) The undertaker may acquire compulsorily so much of the Order land specified in columns (1) and (2) of Schedule 9 (land to be acquired compulsorily) as is required for the construction, operation and maintenance of the authorised development or is incidental to the authorised development or necessary to facilitate it or is required as replacement land.

(2) This article is subject to paragraph (2) of article 25 (compulsory acquisition of rights) and article 31 (temporary use of land for carrying out the authorised development).

Compulsory acquisition of land – incorporation of the mineral code

23. Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981 (minerals) are incorporated into this Order subject to the modifications that—

- (a) paragraph 8(3) is not incorporated; and
- (b) for “the acquiring authority” substitute “the undertaker”.

Time limit for exercise of authority to acquire land compulsorily

24.—(1) After the end of the period of 5 years beginning on the day on which the Order is made—

- (a) no notice to treat shall be served under Part 1 of the 1965 Act; and
- (b) no declaration shall be executed under section 4 of the 1981 Act as applied by article 27 (application of 1981 Act).

(2) The authority conferred by article 31 (temporary use of land for carrying out the authorised development) shall cease at the end of the period referred to in paragraph (1), save that nothing in this article shall prevent 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

25.—(1) The undertaker may acquire compulsorily such rights over the Order land, or impose restrictive covenants affecting the Order land, as may be required for the construction, operation and maintenance of the authorised development or is incidental to the authorised development or necessary to facilitate it by creating them as well as by acquiring rights and the benefit of restrictive covenants already in existence.

(2) Subject to section 8 of the 1965 Act as substituted by paragraph 5 of Schedule 10 (modification of compensation and compulsory purchase enactments for creation of new rights) where the undertaker acquires a right over land or the benefit of a restrictive covenant under paragraph (1) the undertaker shall not be required to acquire a greater interest in that land.

(3) Schedule 10 shall have effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

Private rights

26.—(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to compulsory acquisition under this Order shall be extinguished—

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

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights and restrictive covenants over Order land owned by the undertaker shall be extinguished on the commencement of any activity authorised by this Order which would otherwise interfere with or breach such rights or such restrictive covenants.

(3) 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 the Order shall be extinguished in so far as their continuance would be inconsistent with the exercise of the right acquired or the burden of the restrictive covenant imposed—

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

whichever is the earliest.

(4) 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 shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 34 (statutory undertakers) applies.

(7) Paragraphs (1) to (3) shall have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker's appropriation of it;
 - (iii) the undertaker's entry onto it; or
 - (iv) the undertaker's taking temporary possession of it,that any or all of those paragraphs shall not apply to any right specified in the notice; and
- (b) any agreement made, in so far as it relates to the authorised development, at any time between the undertaker and the person in or to whom the right or the benefit of the restrictive covenant in question is vested, belongs or benefits.

(8) If any such agreement as is referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right or the benefit of the restrictive covenant is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

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

(9) Reference in this article to private rights over land includes any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

27.—(1) The 1981 Act shall apply as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, shall have effect with the following modifications.

(3) In section 3 (preliminary notices)—

(a) for subsection (1) there shall be substituted—

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

(a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and

(b) published in a local newspaper circulating in the area in which the land is situated.”;

(b) in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”;

(c) for subsections (5) and (6) there shall be substituted—

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

(a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or

(b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

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

(a) in subsection (1), after “publication” there shall be inserted “in a local newspaper circulating in the area in which the land is situated”; and

(b) subsection (2) shall be omitted.

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

(6) References to the 1965 Act in the 1981 Act shall be construed as references to the 1965 Act as applied by section 125 of the 2008 Act to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

28.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of, or the airspace over, the land referred to in article 22 (compulsory acquisition of land) 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 or the airspace over land under paragraph (1), the undertaker shall not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) shall not prevent article 29 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Acquisition of part of certain properties

29.—(1) This article shall apply instead of section 8(1) of the 1965 Act (other provisions as divided land) (as applied by section 125 of the 2008 Act) where—

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

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

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

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

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

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

the owner shall be required to sell the land subject to the notice to treat.

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

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

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

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

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

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

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

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

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

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

loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

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

Rights under or over streets

30.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space 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) shall 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, shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

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

Temporary use of land for carrying out the authorised development

31.—(1) The undertaker may, in connection with the carrying out of the authorised development—

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

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

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 11, or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to replace a building removed under this article.

(5) The undertaker shall 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.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(7) Nothing in this article shall affect any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker shall not be precluded from—

- (a) acquiring new rights or imposing restrictive covenants over any part of that land under article 25 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil or of airspace over (or rights in the subsoil or of airspace over) that land under article 28 (acquisition of subsoil or airspace only).

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

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

Temporary use of land for maintaining the authorised development

32.—(1) Subject to paragraph (2) the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) shall 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 upon and taking temporary possession of land under this article the undertaker shall 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 shall remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers 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, shall be determined under Part 1 of the 1961 Act.

(8) Nothing in this article shall affect any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the 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 shall not be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to the acquiring authority) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

Special category land

33.—(1) The special category land shall not vest in the undertaker until the undertaker has acquired the replacement land and the Secretary of State has certified that a scheme for the provision of the replacement land as open space has been implemented to the Secretary of State's satisfaction.

(2) On the requirements of paragraph (1) being satisfied, the replacement land shall vest in the Lee Valley Regional Park Authority subject to the same rights, trusts and incidents as attached to the special category land; and the special category land shall be discharged from all rights, trusts and incidents to which it was previously subject.

(3) In this article, "the special category land" means the land identified as forming part of a common, open space, or fuel or field allotment in the book of reference and on the special category land/replacement land plans, which may be acquired compulsorily under this Order.

Statutory undertakers

34. Subject to the provisions of Schedule 13 (protective provisions), the undertaker may—

- (a) acquire compulsorily the land belonging to statutory undertakers shown on the land plans within the limits of the land to be acquired and described in the book of reference;
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land; and
- (c) acquire compulsorily the new rights or impose restrictive covenants over land belonging to statutory undertakers shown on the land plans and described in the book of reference.

Apparatus and rights of statutory undertakers in stopped-up streets

35.—(1) Where a street is stopped up under article 12 (permanent stopping up of streets) any statutory utility whose apparatus is under, in, on, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 12 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker shall pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; 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 to be necessary, then, if it involves cost in the execution of the relocation works 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 paragraph, would be payable to the statutory utility by virtue of paragraph (3) shall be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility 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.

(7) Paragraphs (3) to (6) shall not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and
- (b) the allowable costs shall be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003(a).

(a) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.

Recovery of costs of new connections

36.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 34 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be 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) shall not apply in the case of the removal of a public sewer but where such a sewer is removed under article 34 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,

shall be 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 shall not have effect in relation to apparatus to which article 35 (apparatus and rights of statutory undertakers in stopped-up streets) or Part 3 of the 1991 Act applies.

(4) In this article—

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

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

PART 6 OPERATIONS

Felling or lopping of trees

37.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised development, within or encroaching upon the Order limits or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity.

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

(4) Development consent granted by this Order shall be treated as planning permission pursuant to Part III of the 1990 Act for the purposes of Regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012(a).

(a) S.I. 2012/605.

PART 7
MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

38.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

39. Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Defence to proceedings in respect of statutory nuisance

40.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order shall be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974(b); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—

(a) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

(b) 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 15 to, the Environmental Protection Act 1990, c. 43. There are other amendments to the 1974 Act which are not relevant to this Order.

- (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in accordance with any scheme of monitoring and attenuation of noise agreed with the relevant local authority; or
- (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Traffic regulation

41.—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent shall not be unreasonably withheld, the undertaker may, at any time for the purposes of the construction of the authorised development prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles in the manner specified in Schedule 12 (traffic regulation) on those roads specified in columns (1) and (2) and along the lengths and between the points specified, or to the extent otherwise described in column (3) of that Schedule.

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, which consent shall not be unreasonably withheld, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction of the authorised development, at any time prior to the opening of the authorised development for use—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The undertaker shall not exercise the powers of paragraphs (1) and (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) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2) shall—

- (a) have effect as if duly made by, as the case may be—
 - (i) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
 - (ii) the local authority in whose area the road is situated as an order under section 32 of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 12 (traffic regulation)) to which the prohibition, restriction or other provision is subject; and

(b) be 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).

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (2) at any time prior to the opening of the authorised development for use.

(6) Before complying with the provisions of paragraph (3) the undertaker shall consult the chief officer of police and the traffic authority in whose area the road is situated.

(7) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

(8) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (1) the traffic authority shall be deemed to have granted consent.

(9) In this article “the 1984 Act” means the Road Traffic Regulation Act 1984(b).

Protection of Interests

42. Schedule 13 (protective provisions) has effect.

Certification and approval of plans etc.

43.—(1) The undertaker shall, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the book of reference;
- (b) the land plans;
- (c) the works plans;
- (d) the access/rights of way plans;
- (e) the special category land/replacement land plans;
- (f) the environmental statement;
- (g) the design drawings and sections; and
- (h) any other plans or documents referred to in this Order,

for certification that they are true copies of the documents referred to in this Order.

(2) The undertaker shall, as soon as practicable after the making of this Order, amend the document containing environmental measures submitted by the undertaker on 26 July 2013 in accordance with changes set out in the Secretary of State’s decision letter of 16 April 2014, and submit a copy of the amended document to the Secretary of State for approval.

(3) The Secretary of State shall certify any document which has been approved pursuant to paragraph (2) as the environmental measures document for the purposes of this Order.

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

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

(a) 2004 c. 18. There are amendments to this Act not relevant to this Order.

(b) 1984 c. 27. There are amendments to this Act not relevant to this Order.

(c) with the written 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 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 the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement shall 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) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender shall provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person shall give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation shall be final and shall take effect on a date specified by the person in the notice but that date shall not be less than 7 days after the date on which the notice is given.

(9) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

(a) 1978 c. 30. There are amendments to this Act not relevant to this Order.

Requirements, Appeals etc.

45. Schedule 3 (discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements set out in Schedule 2 (requirements).

Arbitration

46. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Signed by authority of the Secretary of State for Energy and Climate Change

16th April 2014

Giles Scott
Head of National Infrastructure Consents
Department of Energy and Climate Change

SCHEDULE 1

Article 2 and 4

AUTHORISED DEVELOPMENT

In Epping Forest District Council, London Borough of Enfield, London Borough of Waltham Forest and London Borough of Haringey

UPRATING OF ZBC OVERHEAD ELECTRIC LINE

Work No. 1 — Uprating of the existing ZBC overhead electric line between pylon ZBC2 and pylon ZBC43 from 275 kilovolts (kV) to 400kV including—

- (a) uprating the existing phase conductors, insulators and fittings;
- (b) steel work replacement; and
- (c) replacing existing earthwire.

In Epping Forest District Council

WALTHAM CROSS SUBSTATION

Work No. 2A — Construction and installation of a new transmission pylon 4ZM1R, installation of new phase conductors, insulators, fittings and an earthwire conductor from pylon 4ZM1R to pylon 4ZM2, and installation of new connections from pylon 4ZM1R into the new gas insulated switchgear substation at Waltham Cross.

Work No. 2B — Removal of existing transmission pylon 4ZM1, the phase and earthwire conductors between pylon 4ZM1 and pylon 4ZM2 and the connections between pylon 4ZM1 and the existing Waltham Cross substation.

Work No. 3A — Construction and installation of two new transmission pylons ZBC1A and ZBC1B, installation of new phase conductors, insulators, fittings and an earthwire from pylon ZBC2 to pylon ZBC1B and pylon ZBC1A, and installation of new connections from pylon ZBC1A into the new gas insulated switchgear substation at Waltham Cross.

Work No. 3B — Removal of existing transmission pylon ZBC1, the phase and earthwire conductors between pylon ZBC1 and pylon ZBC2, and the connections from pylon ZBC1 to Waltham Cross substation.

Work No. 4 — Construction of a new gas insulated switchgear substation at Waltham Cross including the following works—

- (a) construction of a gas insulated switchgear building comprising the following—
 - (i) a steel and fibre board clad building;
 - (ii) up to ten bays of gas insulated switchgear;
 - (iii) low voltage mechanical and electrical equipment;
 - (iv) electrical control panels; and
 - (v) gas insulated bus bar tubes to transfer electricity; and
- (b) construction of up to nine ancillary plant modules;
- (c) construction of gas insulated bus bar tubes;
- (d) construction of a welfare block for operations welfare and installation of a new foul cess pit to facilitate the new welfare block;
- (e) construction of an equipment garage;

- (f) construction of up to four landing gantries to a maximum height of 15m for terminal overhead electric line connections into the substation;
- (g) installation of electrical air insulated switchgear between termination points of substation building and overhead electric line connections to landing gantries;
- (h) installation of troughing and below ground services;
- (i) installation of lamp posts for street lighting and other site furniture;
- (j) part demolition of the existing 275kV substation associated with the 275kV circuits being uprated and removal of two decommissioned cable sealing end compounds;
- (k) dismantling and removal of two existing 275–400kV transformers;
- (l) disconnection of two 400–275kV transformers and relocation of the transformers to an on-site storage location;
- (m) construction of perimeter and internal fencing, signage, secured entrance, CCTV poles, gates, barriers and bollards; and
- (n) construction of a permanent access road up to 4m wide connecting the existing substation to the new gas insulated switchgear building.

Work No. 5 — Establishment of a material holding facility and laydown area with construction related buildings and welfare facilities off Stubbins Hall Lane.

In the London Borough of Enfield

BRIMSDOWN SUBSTATION

Work No. 6 — Works to extend the existing 275–132kV substation at Brimsdown to facilitate the uprating of the 275–400kV overhead electric line including the following—

- (a) earthworks including site levelling, trenches, below ground services and drainage system;
- (b) construction of two 400–132kV transformer bays including foundations;
- (c) installation of air insulated switchgear to facilitate termination of overhead electric line into substation;
- (d) installation of a new diesel generator and concrete foundation as a backup low voltage electricity supply to the substation;
- (e) demolition of two existing 275–132kV transformers, foundations and ancillary equipment; and
- (f) diversion of existing 132kV cable to facilitate new works.

Work No. 7A — Construction of a new bridge over the Small River Lee (Turkey Brook) to accommodate a new access and cable route from the existing Brimsdown substation to the new cable sealing end compounds at pylon ZBC19.

Work No. 7B — Installation of two new cable sealing end compounds at pylon ZBC19, installation of up to six 400kV cables underground from the new compounds to Brimsdown substation over the new bridge constructed as part of Work No. 7A, establishment of laydown area, remodelling of bund and removal of two cable sealing end compounds at pylon ZBC20 and removal of cables between pylon ZBC20 and Brimsdown substation.

Work No. 7C — Remodelling existing bund and works to temporarily divert footpath.

Work No. 7D — Creation of new permanent footpath linking footpath at dismantled railway to Footpath No. 103.

Work No. 7E — Creation of new permanent diversion to Footpath No. 103.

LEE PARK WAY

Work No. 8 — Establishment of a material holding facility and laydown area with construction related buildings and welfare facilities in the car park off Lee Park Way.

In the London Borough of Haringey

TOTTENHAM SUBSTATION

Work No. 9 — Modifications to existing protection and control equipment to facilitate the bypass of Tottenham substation by the newly updated 400kV overhead electricity line.

Work No. 10 — Works to facilitate bypassing of Tottenham substation including the following works—

- (a) removal of existing phase and earthwire conductors from pylon ZBC43 to existing anchor blocks;
- (b) installation of new phase and earthwire conductors to gantries within new northern cable sealing end compound and removal of existing cables connecting ZBC43 to Tottenham substation;
- (c) installation of new cable sealing end compounds at pylons ZBC43 and VC1R;
- (d) the installation of up to twelve 400kV cables predominantly underground from the northern cable sealing end compound at pylon ZBC43 to the southern cable sealing end compound at pylon VC1R; and
- (e) installation of two cable bridges across Pymmes Brook.

Work No. 11 — Installation of a new transmission pylon VC1R, new phase and earthwire conductors, insulators and fittings between VC1R and VC2 and new connections from pylon VC1R to the gantries in the new southern cable sealing end compound.

Work No. 12 — Removal of existing transmission pylon VC1 and phase and earthwire conductors between pylon VC1 and pylon VC2 and removal of connections from between pylon VC1 and the existing Tottenham substation.

Work No. 13 — Establishment of material holding facility and laydown area with construction related buildings and welfare facilities, and in connection with such works further associated development within the Order limits consisting of—

- (a) ramps, means of access, footpaths, bridleways, trackways and pontoons;
- (b) embankment, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, wing walls, fencing and culverts;
- (c) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (d) works to alter the course of, or otherwise interfere with a watercourse;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (f) works for the benefit or protection of land affected by the authorised development;
- (g) works required for the strengthening, improvement, maintenance, or reconstruction of any streets;
- (h) works to alter or remove road furniture;
- (i) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling);
- (j) establishment of site construction compounds, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction lighting and haulage roads;
- (k) installation of wires, cables, ducts, pipes and conductors; and

- (l) such other works, including working sites storage areas, and works of demolition, as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development.

SCHEDULE 2 REQUIREMENTS

Article 45

Interpretation

1. In this Schedule—

“approved details” means the design drawings and sections certified under article 43 by the Secretary of State for the purposes of this Order;

“commence” means begin to carry out a material operation, and any derivative of “commence” shall be construed accordingly;

“material operation” means a material operation as defined in section 155 of the 2008 Act (when development begins) which is comprised in or carried out for the purposes of the authorised development, or any part of the authorised development, but does not include any remediation, environmental (including archaeological) investigation, site or soil survey, erection of contractors’ work compound, erection of site office, erection of fencing to site boundaries or marking out of site boundaries; and

“stage” means a defined section or part of the authorised development, the extent of which is shown in a scheme submitted to and approved by the relevant planning authority pursuant to requirement 3.

Time Limits

2. The authorised development must be commenced within 5 years of the date of this Order.

Stages of authorised development

3. The authorised development shall not commence until a written scheme setting out all the stages of the authorised development has, after consultation with the relevant highway authority and Lee Valley Regional Park Authority, been submitted to and approved by the relevant planning authority.

In accordance with approved details

4. The authorised development shall be carried out in accordance with the approved details unless otherwise agreed by the relevant planning authority.

Landscaping

5.—(1) No stage of the authorised development shall commence until a written landscaping scheme for that stage has, after consultation with the Lee Valley Regional Park Authority where the scheme refers to any land within the boundary of the Lee Valley Regional Park, been submitted to and approved by the relevant planning authority.

(2) Each landscaping scheme submitted under requirement 5(1) shall reflect the environmental measures set out in the environmental measures document.

(3) Where submitted for land in the designated Enfield Lock Conservation Area, a landscaping scheme submitted under requirement 5(1) shall include measures that preserve the character and appearance of the Enfield Lock Conservation Area, to the satisfaction of the relevant planning authority.

(4) Each landscaping scheme submitted under requirement 5(1) shall include details of—

(a) retained landscape features;

(b) location, number, species, size and planting density of any proposed planting;

- (c) cultivation, importing of materials and other operations to ensure plant establishment;
- (d) implementation timetables for all landscaping;
- (e) temporary fencing that complies with current best practice to protect trees and hedgerows adjacent to the works;
- (f) the dimensions and materials for new sections of pedestrian or cycle paths where applicable; and
- (g) the colour of permanent security fencing around infrastructure.

Implementation and maintenance of landscaping

6.—(1) All landscaping work shall be carried out in general accordance with the relevant landscaping scheme and implementation timetable approved under requirement 5.

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

Highway accesses

7.—(1) No stage of the authorised development shall commence until for that stage written details of the siting, design and layout of any new permanent or temporary means of access to a highway to be used by vehicular traffic, or any alteration to an existing means of access to a highway used by vehicular traffic, has, after consultation with the relevant highway authority, been submitted to and approved by the relevant planning authority.

(2) The highway accesses must be constructed in accordance with the approved details unless otherwise agreed with the relevant planning authority.

(3) No stage of the authorised development shall commence until for that stage, a written access management scheme for the arrangements for the use and maintenance of highway accesses during construction of that stage has been submitted to and approved by the relevant highway authority.

(4) The access management scheme must be carried out in accordance with the approved details unless otherwise agreed with the relevant highway authority.

Public rights of way

8.—(1) No authorised development that would affect footpath V at Angel Road North Circular Road, London N18 3SB shall commence until a written implementation plan and specification for the making up of an alternative right of way has been submitted to and approved by the relevant highway authority.

(2) The alternative footpath between FP74 and FP76 via FP75 as shown on Sheet 8 of the access/rights of way plans shall be implemented in accordance with the approved plan and specification unless otherwise agreed with the relevant highway authority.

Construction traffic management plan

9.—(1) No stage of the authorised development shall commence until a construction traffic management plan for that stage has been submitted to and approved by the relevant highway authority. The construction traffic management plan for that stage shall include—

- (a) construction vehicle routing plans;
- (b) site access plans;
- (c) means of managing shared use routes, including pedestrian and cycling safety measures where applicable;

- (d) proposals for the scheduling and timing of movements of delivery vehicles;
- (e) proposals for assessing the existing condition of affected highways;
- (f) proposals for the making good of any incidental damage to highways by construction traffic associated with that stage of the authorised development including street furniture, structures, drainage features, highway verge and carriageway surfaces; and
- (g) construction laydown area details affecting highways.

(2) Each construction traffic management plan shall be implemented as approved unless otherwise agreed with the relevant highway authority.

Surface water drainage

10.—(1) No stage of the authorised development shall commence until for that stage, written details of the surface and foul water drainage system (including means of pollution control) have, after consultation with the sewerage and drainage authority, been submitted to and approved by the relevant planning authority.

(2) The surface and foul water drainage system must be constructed in general accordance with the details approved in accordance with requirement 10(1) unless otherwise agreed with the relevant planning authority.

Contaminated land and groundwater

11.—(1) No stage of the authorised development shall commence until a written scheme applicable to that stage, to deal with the contamination of any land, including groundwater, within the Order limits which is likely to cause significant harm to persons or pollution of controlled waters or the environment has, after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) Each scheme submitted under requirement 11(1) shall include an investigation and assessment plan and relevant reports, prepared by a specialist consultant approved by the relevant planning authority in consultation with the Environment Agency, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a management plan which sets out immediate and long-term remedial measures with respect to any contaminants found to be remaining on the site. The plan shall include a scheme of post-remedial monitoring, as necessary to demonstrate that the remediation works have been carried out appropriately and site remediation criteria have been met.

(3) Remedial measures must be carried out in general accordance with the scheme approved in accordance with requirement 11(1) unless otherwise agreed with the relevant planning authority. Where provided for in the scheme, post-remedial monitoring must be carried out to demonstrate that the remediation works have been carried out appropriately and the site remediation criteria have been met.

Ecological Management Strategy

12.—(1) No stage of the authorised development shall commence until a written ecological management strategy applicable to that stage, reflecting the ecological measures included in the environmental measures document, has after consultation with the Environment Agency, Natural England and, where it refers to any land within the boundary of the Lee Valley Regional Park, Lee Valley Regional Park Authority, been submitted to and approved by the relevant planning authority.

(2) Each ecological management strategy prepared in accordance with requirement 12(1) shall include an implementation timetable and must be carried out as approved unless otherwise agreed with the relevant planning authority.

Construction environmental management plan

13.—(1) No stage of the authorised development shall commence until a construction environmental management plan for that stage specifying measures to be used to minimise the impacts of construction works, such as means of minimising pollution from dust, noise, vibration and lighting, wheel cleansing facilities, routes for construction traffic and working hours and reflecting the measures included in the environmental measures document has, after consultation with the Lee Valley Regional Park Authority where it refers to any land within the boundary of the Lee Valley Regional Park, been approved by the relevant planning authority.

(2) All construction works shall be undertaken in accordance with the construction environmental management plan prepared in accordance with requirement 13(1), unless otherwise agreed by the relevant planning authority.

Archaeology

14.—(1) No stage of the authorised development shall commence until for that stage, a written scheme for the investigation of areas of archaeological interest (as identified in the environmental measures document) has, after consultation with the Historic Buildings and Monuments Commission for England, been approved by the relevant planning authority.

(2) Each scheme submitted under requirement 14(1) shall identify areas where one or more of—

- (a) field work; and
- (b) a watching brief

are required, and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.

(3) Any archaeological works or watching brief carried out under the scheme submitted under requirement 14(1) must be by a suitably qualified person or body.

(4) Any archaeological works or watching brief must be carried out in general accordance with the scheme approved under requirement 14(1) unless otherwise agreed with the relevant planning authority.

Flood Storage

15.—(1) Work No. 7A and 7B shall not commence until a written scheme for compensatory flood storage has been submitted to and has, after consultation with the Environment Agency, been approved by the Enfield London Borough Council.

(2) The compensatory flood storage shall be constructed in accordance with the approved scheme.

(3) The written scheme of flood compensation shall include—

- (a) a schedule of staging and timing relating to the construction of Work No. 7A, 7B and the compensatory flood storage;
- (b) flood storage up to and including the modelled 1 to 100 chance in any year including a 20% allowance for climate change flood level; and
- (c) no increase in flood risk off site.

Works within the Lee Valley Regional Park

16. Where an application for consent or agreement is required under requirements 12, 13 or 14 and the application relates to land within the boundary of the Lee Valley Regional Park, the undertaker must give written notice to the Lee Valley Regional Park Authority that an application has been submitted.

Approvals given

17.—(1) Any approval or agreement which is given by the relevant planning authority or relevant highway authority under these requirements must be given in writing.

(2) Where the words “unless otherwise approved by the relevant planning authority” or “unless otherwise agreed with the relevant planning authority” or “unless otherwise agreed with the relevant highway authority” are used in these requirements such approval or agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority or relevant highway authority that the subject matter of the approval or agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Amendments to approved details

18.—(1) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the relevant planning authority or relevant highway authority, the approved details shall be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority or relevant highway authority.

(2) Where any amendments are proposed to approved details in relation to any requirement in this Schedule and that requirement requires prior consultation with a third party the undertaker shall consult with that third party prior to submitting an application to amend the approved details.

(3) Where amendments are proposed to approved details in relation to any requirement in this Schedule they must be submitted in writing to the relevant planning authority or relevant highway authority.

DISCHARGE OF REQUIREMENTS

Applications made under requirements

1.—(1) Where an application has been made to a relevant authority for any consent, agreement or approval required by a requirement included in Schedule 2, the relevant authority must give notice to the undertaker of its decision on the application within a period of 28 days beginning with—

- (a) the first business day immediately following that on which the application is received by the relevant authority; or
- (b) such longer period as may be agreed by the undertaker and the relevant authority.

(2) Where an application has been made under sub-paragraph (1) the relevant authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(3) If the relevant authority considers further information is necessary the relevant authority must, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(4) If notification is given under sub-paragraph (3) the undertaker must, within 7 business days of receipt of the notification either—

- (a) supply the further information requested, or
- (b) provide an explanation as to why such a request for further information is unreasonable or cannot be provided.

(5) If the relevant authority does not give the notification mentioned in sub-paragraph (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

Fees

2.—(1) Where an application is made to a relevant planning authority for any consent, agreement or approval in respect of one or more requirements included in Schedule 2 to this Order, a fee of £97 or such other fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission) shall be paid to the relevant planning authority.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 28 days of—

- (a) the application being rejected as invalidly made; or
- (b) the relevant planning authority failing to determine the application within 28 days from the date on which it is received,

unless within that period the undertaker agrees in writing that the fee may be retained by the relevant planning authority and credited in respect of a future application.

Appeals

3.—(1) The undertaker may appeal if—

- (a) the relevant authority refuses an application for any consent, agreement or approval required by articles 11, 14, 15 or 17 or required by a requirement included in Schedule 2 or grants it subject to conditions; or
- (b) the relevant authority does not give notice of its decision to the undertaker within the time period specified in paragraph 1;

- (c) having received a request for further information under paragraph 1(3) the undertaker considers that either the whole or part of the specified information requested by the relevant authority is not necessary for consideration of the application; or
- (d) having received any further information requested, the relevant 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 procedure for appeals is as follows—

- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
- (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
- (c) as soon as is practicable after receiving the appeals documents the Secretary of State (or persons appointed by the Secretary of State for this purpose) must appoint a person to determine the appeal (“the appointed person”) and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person should be sent;
- (d) the relevant authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within a period of 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties may make any counter-submissions to the appointed person within a period of 10 business days beginning with the first day immediately following the date of receipt by them of written representations pursuant to sub-paragraph (2)(d) above; and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to enable them to consider the appeal the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information may be submitted to the appointed person within a period of 10 business days beginning with the first day immediately following that date and any person submitting any such written representation must ensure that a copy of it is sent to all other appeal parties on the day on which it is submitted to the appointed person.

Outcome of appeals

4.—(1) On an appeal under paragraph 3, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person when deciding an appeal may disregard such written representations as have been sent after the deadline prescribed or set by the appointed person under paragraph 3.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the decision.

(5) Any consent, agreement or approval referred to in paragraph 1(1) given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of this Order as if it had been given by the relevant authority.

(6) Except where a direction is given pursuant to sub-paragraph (7) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.

(7) On application by the relevant 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 made, the appointed person must have regard to such guidance (if any) as issued by the Secretary of State as guidance to decision-makers on applications for costs in appeals made under the 1990 Act.

Interpretation of Schedule 3

5. In this Schedule—

“the appeal parties” means the relevant authority, requirement consultee and the undertaker;

“business day” means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971(a) is a bank holiday in England and Wales;

“relevant authority” means the relevant planning authority, relevant highway authority, relevant street authority, Environment Agency or relevant owner of a watercourse, sewer or drain as may be appropriate to the consent or approval sought; and

“requirement consultee” means any body named in a requirement included in Schedule 2 or required by articles 11, 14, 15 or 17 which is the subject of an appeal as a body to be consulted in discharging that requirement.

(a) 1971 c. 80. There are amendments to this Act not relevant to this Order.

SCHEDULE 4

Article 11

STREETS SUBJECT TO ALTERATION OF LAYOUT

PART 1

STREETS SUBJECT TO PERMANENT ALTERATION OF LAYOUT

<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
<p>District of Epping Forest</p> <p>Beaulieu Drive</p>	<p>At AC16 (shown on Sheet 2 of the Access/Rights of Way Plans) the creation of a bellmouth access to the pylon with sufficient size to accommodate a rigid HGV. Comprising an alteration of the level of the kerb line and verge on the westward side approximately 60 metres from the junction with Highbridge Street and Meridian Way.</p>
<p>London Borough of Enfield</p> <p>A1055 Mollison Avenue</p> <p>A406 Angel Road Exit Slip/Advent Way</p>	<p>Between AC32 and AC33 (shown on Sheet 5 of the Access/Rights of Way Plans) the replacement of the existing dropped kerb with a new bellmouth access to the Prince of Wales playing field with sufficient size to accommodate a rigid HGV. Comprising the realignment of the existing kerb line and reduction of the pedestrian footway and the installation of a new road surface between the road and gated access to the Prince of Wales playing field approximately 515 metres south of the Smeaton Road/A1055 Mollison Avenue/Ordnance Road signal controlled crossroads.</p> <p>Between AC51 and AC52 (shown on Sheet 8 of the Access/Rights of Way Plans) the creation of a new drop kerb to allow access to the pylon with sufficient size to accommodate a rigid HGV. Comprising an alteration of the level of the kerb line and pedestrian footway approximately 50 metres before the Cooks Ferry roundabout.</p>

PART 2

STREETS SUBJECT TO TEMPORARY ALTERATION OF LAYOUT

<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
London Borough of Haringey A1055 Watermead Way	Between AC71 and AC72 (shown on Sheet 10 of the Access/Rights of Way Plans) the realignment of the kerb line and part of the pedestrian footway to create a wider access to accommodate a rigid HGV. Comprising the realignment of the existing kerb line and reduction of the pedestrian footway and the installation of a new road surface between the road and access track at the junction of Marigold Way and Watermead Way into Tottenham Marshes.

SCHEDULE 5

Article 12

STREETS TO BE PERMANENTLY STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be permanently stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
London Borough of Enfield	Part of Footpath T on the dismantled railway at Brimsdown	From FP50 to FP51 shown on Sheet 5 of the Access/Rights of Way Plans	<p>A footpath between FP50 and FP51 via FP54 and FP56 shown on Sheet 5 of the Access/Rights of Way Plans.</p> <p>On completion of Work No. 7D new Footpath U will be created across the Prince of Wales Playing Field linking Footpath T to Footpath No. 103 between FP44 and FP50 via FP55 and FP54 and between FP44 and FP51 via FP55 and FP56 shown on Sheet 5 of the Access/Rights of Way Plans.</p>
	Section of Footpath No. 103 at Brimsdown between Small River Lee and Brancroft Way	From FP45 to FP46 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP45 and FP46 via FP48 shown on Sheet 5 of the Access/Rights of Way Plans.

SCHEDULE 6

Article 14

STREETS TO BE TEMPORARILY STOPPED UP

PART 1

STREETS TO BE TEMPORARILY STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> Area	<i>(2)</i> Street to be temporarily stopped up	<i>(3)</i> Extent of stopping up	<i>(4)</i> Temporary diversion
District of Epping Forest	Footpath A east and south of Waltham Cross substation in Lee Valley Regional Park, between the Fisherman's car park and the bridge over the River Lee	From FP1 to FP2 as shown on Sheet 1 of the Access/Rights of Way Plan	A footpath from FP1 to FP2 via FP3, FP6 and FP5 shown on Sheet 1 of the Access/Rights of Way Plans
	Footpath B south of Waltham Cross substation along the banks of the River Lee within the Lee Valley Regional Park	From FP3 to FP4 as shown on Sheet 1 the Access/Rights of Way Plan	A footpath between FP3 and FP4 via FP6 and FP5 shown on Sheet 1 of the Access/Rights of Way Plans
District of Epping Forest and Borough of Broxbourne	Footpath C in Lee Valley Regional Park, alongside Horsemill Stream, known as Walton's Walk, National Cycle Route 1 and the Lee Valley Pathway part of which is Footpath No. 16	From FP7 as shown on Sheet 1 to FP26 as shown on Sheet 2 of the Access/Rights of Way Plans	A footpath between FP5 and FP21 via FP6, FP10, FP11, FP12, FP13, FP18, FP19 and FP20 shown on Sheets 1 and 2 of the Access/Rights of Way Plans
London Borough of Enfield	Footpath M across Open Space at Enfield Island to Fogerty Close	From FP29 to FP30 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP29 and FP30 via FP31 and FP33 shown on Sheet 5 of the Access/Rights of Way Plans
	Footpath N from Fogerty Close to Manton Road	From FP30 to FP32 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP30 and FP32 via FP33 shown on Sheet 5 of the Access/Rights of Way Plans

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Temporary diversion</i>
	Footpath P across Open Space at Enfield Island from Manton Road to McClintock Place	From FP34 to FP35 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP34 and FP35 via FP36 shown on Sheet 5 of the Access/Rights of Way Plans
	Footpath Q across Open Space at Enfield Island to Haldane Close	From FP38 to FP39 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP38 and FP39 via FP37 and FP36 shown on Sheet 5 of the Access/Rights of Way Plans
	Part of Footpath T on the dismantled railway at Brimsdown	From FP49 to FP50 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP49 and FP53 shown on Sheet 5 of the Access/Rights of Way Plans
	Section of Footpath No. 103 at Brimsdown between Small River Lee and Brancroft Way	From FP44 to FP45 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP44, FP57, FP58, FP59 and FP47 shown on Sheet 5 of the Access/Rights of Way Plans
	Section of Footpath No. 103 at Brimsdown between Small River Lee and Brancroft Way	From FP46 to FP47 shown on Sheet 5 of the Access/Rights of Way Plans	A footpath between FP44, FP57, FP58, FP59 and FP47 shown on Sheet 5 of the Access/Rights of Way Plans
	Section of Footpath No. 109 known as part of the Lee Valley Walk, Lee Valley Pathway and National Cycle Route 1	From FP60 to FP61 shown on Sheet 5 of the Access/Rights of Way Plans	A pontoon walkway for pedestrians and dismounted cyclists between FP60 and FP61 via FP62 shown on Sheet 5 of the Access/Rights of Way Plans
	Part of Ostell Crescent between Numbers 1 and 17 (uneven numbers only)	Between points TS1 and TS2 shown on Sheet 5 of the Access/Rights of Way Plans	From TS1 to TS2 via TS3

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Temporary diversion</i>
	<p>Section of Footpath No. 109 known as part of the Lee Valley Walk, Lee Valley Pathway and National Cycle Route 1</p> <p>Section of Footpath No. 109 known as part of the Lee Valley Walk, Lee Valley Pathway and National Cycle Route 1</p>	<p>From FP63 to FP64 shown on Sheet 7 of the Access/Rights of Way Plans</p> <p>From FP64 shown on Sheet 7 to FP67 shown on Sheet 8 of the Access/Rights of Way Plans</p>	<p>A water taxi between FP65 and FP66 shown on Sheet 7 of the Access/Rights of Way Plans</p> <p>A footpath between FP64 and FP67 via FP68 and FP69 shown on Sheets 7 and 8 of the Access/Rights of Way Plans</p>
London Borough of Enfield and London Borough of Waltham Forest	Section of Footpath No. 274	From FP70 to FP71 shown on Sheet 8 of the Access/Rights of Way Plans	To travel northwards, a footpath between FP71, FP72, FP73, FP69, FP68 and FP64 shown on Sheets 8 and 7 of the Access/Rights of Way Plans and to travel southwards a footpath between FP71, FP72, FP73, FP69 and FP67 shown on Sheet 8 of the Access/Rights of Way Plans
London Borough of Enfield	Footpath V at Angel Road	From FP74 to FP77 shown on Sheet 8 of the Access/Rights of Way Plans	A footpath between FP74 and FP76 via FP75 shown on Sheet 8 of the Access/Rights of Way Plans
London Borough of Haringey	<p>Footpath X known as part of the Lee Valley Walk, Lee Valley Pathway and National Cycle Route 1</p> <p>Footpath Y on the west of Watermead Way</p>	<p>From FP80 to FP81 shown on Sheet 10 of the Access/Rights of Way Plans</p> <p>From FP86 to FP87 shown on Sheet 10 of the Access/Rights of Way Plans</p>	<p>A footpath between FP80 and FP81 via FP82, FP83, FP93, FP84 and FP85 shown on Sheet 10 of the Access/ Rights of Way Plans</p> <p>A footpath between FP86 and FP87 via FP88 and FP89 shown on Sheet 10 of the Access/Rights of Way Plans</p>

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Temporary diversion</i>
	Footpath Z on the Tottenham Marshes	From FP90 to FP91 shown on Sheet 10 of the Access/Rights of Way Plans	A footpath between FP92 and FP94 via FP83 and FP93 shown on Sheet 10 of the Access/Rights of Way Plans

PART 2

STREETS TO BE TEMPORARILY STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> Area	<i>(2)</i> Street to be temporarily stopped up	<i>(3)</i> Extent of stopping up
District of Epping Forest	Footpath D in the Lee Valley Regional Park known as Powdermill Cut	From FP9 to FP10 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath E in the Lee Valley Regional Park known as Powdermill Cut	From FP8 to FP11 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath F in the Lee Valley Regional Park off the footpath known as Walton's Walk	From FP15 to FP17 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath G in the Lee Valley Regional Park off the footpath known as Walton's Walk	From FP16 to FP13 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath H in the Lee Valley Regional Park between Hall Marsh and Waltham Marsh	From FP14 to FP18 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath J in the Lee Valley Regional Park off the footpath known as Walton's Walk to Waltham Marsh	From FP22 to FP23 shown on Sheet 2 of the Access/Rights of Way Plans
	Footpath K within the Highbridge Street Anglers with Disabilities Site	From FP24 to FP25 shown on Sheet 2 of the Access/Rights of Way Plans
London Borough of Enfield	Footpath L across Open Space at Enfield Island	From FP27 to FP28 shown on Sheet 4 of the Access/Rights of Way Plans
	Footpath R across Open Space at Enfield Island	From FP40 to FP41 shown on Sheet 5 of the Access/Rights of Way Plans
	Footpath S across Open Space at Enfield Island	From FP42 to FP43 shown on Sheet 5 of the Access/Rights of Way Plans
	Part of Footpath T on the dismantled railway at Brimsdown	From FP51 to FP52 shown on Sheet 5 of the Access/Rights of Way Plans

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
London Borough of Waltham Forest	Footpath W between Harbet Road and ending prior to, but not connecting to, the A406 Angel Road (North Circular)	From FP78 to FP79 shown on Sheet 9 of the Access/Rights of Way Plans

SCHEDULE 7

Article 15

ACCESS TO WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to works</i>
District of Epping Forest	<p>Improved access route from Holyfield Road beginning at AC1 and continuing to AC2, AC3 and AC4 shown on Sheet 1 of the Access/Rights of Way Plans</p> <p>Improved access route between AC5 and AC6 shown on Sheet 1 of the Access/Rights of Way Plans</p> <p>Improved access route between AC7 and AC8 on Sheet 1 of the Access/Rights of Way Plans</p> <p>Improved access between AC9 shown on Sheet 1 and AC17 shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access between AC17A and AC17B shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access at AC10 shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access at AC11 shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access route between AC12 and AC13 shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access route between AC14 and AC15 shown on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access and bellmouth off Beaulieu Drive at AC16 on Sheet 2 of the Access/Rights of Way Plans</p> <p>Improved access and roadway from Highbridge Street at AC18 shown on Sheet 2 to AC19 shown on Sheet 3 of the Access/Rights of Way Plans</p> <p>Improved access between AC19A shown on Sheet 3 to AC19B shown on Sheet 4 of the Access/Rights of Way Plans</p> <p>Improved access between AC19C and AC19D shown on Sheet 4 of the Access/Rights of Way Plans</p> <p>Improved access off Meridian Way at AC20 shown on Sheet 3 of the Access/Rights of Way Plans</p> <p>Improved access off Meridian Way at AC21 shown on Sheet 3 of the Access/Rights of Way Plans</p>

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to works</i>
London Borough of Enfield	<p>Improved access route between AC22 and AC23 shown on Sheet 4 of the Access/Rights of Way Plans</p> <p>Improved access off George Lovell Drive between AC24 and AC25 shown on Sheet 4 of the Access/Rights of Way Plans</p> <p>Improved access off Fisher Close at AC26 to AC27 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access off Ostell Crescent at AC28 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access off Ostell Crescent at AC29 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Access off Swan and Pike Road at AC30 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Access between AC30A and AC30B shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access between AC30C and AC30D shown on Sheet 6 of the Access/Rights of Way Plans</p> <p>Improved access between AC30E and AC31 shown on Sheet 6 of the Access/Rights of Way Plans</p> <p>Improved access and bellmouth off Mollison Avenue between AC32 and AC33 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Access off Mollison Avenue at AC34 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Access off Mollison Avenue at AC35 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access off Brancroft Way between AC36 and AC37 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access between AC38 and AC39 shown on Sheet 5 of the Access/Rights of Way Plans</p> <p>Improved access between AC40 and AC41 shown on Sheet 6 of the Access/Rights of Way Plans</p> <p>Improved access off Wharf Road at AC42 shown on Sheet 6 of the Access/Rights of Way Plans</p> <p>Improved access off Pickett's Lock Lane between AC43 and AC44 shown on Sheet 7 of the Access/Rights of Way Plans</p>

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to works</i>
	<p>Access points from Waterway for construction traffic at AC100, AC101, AC102, AC103, AC104, AC105 and AC106 shown on Sheet 7 and at AC107 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access off Lee Park Way at AC45 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access off Lower Hall Lane between AC46 and AC47 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access off Lower Hall Lane between AC46 and AC48 via AC49 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access off Lower Hall Lane between AC46 and AC50 via AC49 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access including a new drop kerb off Angel Road between AC51 and AC52 shown on Sheet 8 of the Access/Rights of Way Plans</p> <p>Improved access northwards off Harbet Road between AC53 and AC54 shown on Sheet 8 of the Access/Rights of Way Plans</p>
London Borough of Waltham Forest	<p>Improved access northwards off Harbet Road between AC55 and AC58 via AC56 shown on Sheet 9 of the Access/Rights of Way Plans</p> <p>Improved access northwards off Harbet Road between AC55 and AC57 via AC56 shown on Sheet 9 of the Access/Rights of Way Plans</p> <p>Improved access southwards off Harbet Road between AC59 and AC60 shown on Sheet 9 of the Access/Rights of Way Plans</p> <p>Improved access between AC61 and AC62 shown on Sheet 9 of the Access/Rights of Way Plans</p> <p>Segregation of pedestrians from traffic along access at Banbury Road between AC63 and AC64 shown on Sheet 9 of the Access/Rights of Way Plans</p> <p>Improved access between AC65 and AC66 shown on Sheet 9 of the Access/Rights of Way Plans</p>
London Borough of Haringey	<p>Access at AC67 shown on Sheet 10 of the Access/Rights of Way Plans</p> <p>Improved access between AC68 and AC69 shown on Sheet 10 of the Access/Rights of Way Plans</p>

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to works</i>
	<p>Access off Watermead Way at AC70 shown on Sheet 10 of the Access/Rights of Way Plans</p> <p>Improved access and bellmouth with segregation of pedestrians from traffic off Watermead Way between AC71 and AC72 shown on Sheet 10 of the Access/Rights of Way Plans</p> <p>Improved access from Watermead Way at AC73 shown on Sheet 10 of the Access/Rights of Way Plans</p>

SCHEDULE 8

Article 20

TEMPORARY CLOSURE OF, AND WORKS IN, THE CANAL

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Land to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
London Borough of Enfield	Restriction of width of River Lee Navigation	A canal lane closure between CC1 and CC2 shown on Sheet 5 of the Access/Rights of Way Plans
	Restriction of width of River Lee Navigation	A canal lane closure between CC3 and CC4 shown on Sheet 7 of the Access/Rights of Way Plans
	Part of River Lee Navigation south of Pickett's Lock (waiting area for the lock)	A canal lane closure between CC5 and CC6 shown on Sheet 7 of the Access/Rights of Way Plans

SCHEDULE 9

Article 22

LAND TO BE ACQUIRED COMPULSORILY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plans</i>
District of Epping Forest London Borough of Enfield	10 186 188 189 190 191 191A 206
London Borough of Haringey	378 379 380 381 384 388

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

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

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973(a) shall have effect subject to the modifications set out in sub-paragraphs (2) and (3).

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

- (a) for the words “land is acquired or taken from” there shall be substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable or the restrictive covenant enforceable”.

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

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

Application of the 1965 Act

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

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

(a) 1973 c. 26. Section 20 was amended by subsection (6) and (12) of section 146 of, and Schedule 13 to, the Road Traffic Regulation Act 1984. Subsection (10) of section 20 was repealed by section 343(3) of, and Schedule 25 to, the Highways Act 1980 and subsection (11) was repealed by section 155 of, and Schedule 25 to, the Rent Act 1977 (c. 42). Section 44 was amended by Schedule 24 to the Highways Act 1980, by section 67(1) and Schedule 7 to the Gas Act 1986 (c. 44), and Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c. 60). There are other amendments to this Act not relevant to this Order.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

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

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following section—

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

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

the National Grid (North London Reinforcement Project) Order 2014 (“the Order”) shall, in relation to that person, cease to authorise the purchase of the right or the imposition of the covenant and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the tribunal directs.

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

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

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

- (a) section 9(4) (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), shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.

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

9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be 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 to enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

SCHEDULE 11

Article 31

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> Area	<i>(2)</i> Plot number of land shown on land plan	<i>(3)</i> Purpose for which temporary possession may be taken	<i>(4)</i> Relevant part of the authorised development
District of Epping Forest	14	Access to work area	Work No. 4
	15	Construction of authorised development	Work No. 4
	22 & 24	Access to work area	Work No. 5
	23	Construction of authorised development	Work No. 5
	75	Temporary footpath	Work No. 1
London Borough of Enfield	207	Construction of authorised development	Work No. 7B
	209, 210 & 211	Access to work area	Work No. 7B
	220	Access to work area	Work No. 6 and Work No. 7B
	208	Temporary footpath	Work No. 7C
	235	Temporary footpath	Work No. 1
London Borough of Haringey	378	Construction of authorised development	Work No. 10
	391	Construction of authorised development	Work No. 13

SCHEDULE 12

Article 41

TRAFFIC REGULATION

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Lane to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>
District of Epping Forest	Meridian Way Westbound M25 Meridian Way	A single lane closure between TL1 and TL2 shown on Sheet 3 of the Access/Rights of Way Plans A closure of the hard shoulder and part of the inside lane between TL3 and TL4 shown on Sheet 3 of the Access/Rights of Way Plans A single lane closure between TL5 and TL6 shown on Sheet 3 of the Access/Rights of Way Plans
London Borough of Enfield	Advent Way to the Cooks Ferry roundabout	A single lane closure between TL7 and TL8 shown on Sheet 8 of the Access/Rights of Way Plans
London Borough of Haringey	Watermead Way	A single lane closure between TL9 and TL10 shown on Sheet 10 of the Access/Rights of Way Plans

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC
COMMUNICATIONS CODE NETWORKS

1. For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

2. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003;

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 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 or paragraph 17 of Schedule 18 to the 2003 Act; and

“operator” means the operator of an electronic communications code network.

3. The exercise of the powers in article 34 (statutory undertakers) is subject to paragraph 23 of Schedule 2 to the Telecommunications Act 1984(a).

4.—(1) Subject to sub-paragraphs (2) and (3), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works 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) the undertaker must bear and pay the cost reasonably and properly incurred by the operator in making good such damage.

(2) Nothing in sub-paragraph (1) shall impose any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) Any difference arising between the undertaker and the operator under this Part of this Schedule is to be referred to and settled by arbitration under article 46 (arbitration).

5. This Part of this Schedule shall not apply to—

(a) 1984 c. 12. There are amendments to this Act not relevant to this Order.

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damage caused by electro-magnetic interference arising from the construction or use of the authorised development.

6. Nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

PROTECTION FOR HIGHWAYS AND TRAFFIC

7.—(1) The provisions of this Part of this Schedule shall have effect subject to any changes agreed in writing between the undertaker and TfL which are immaterial to the purpose of protecting highways and traffic.

(2) In this Part of this Schedule—

“highway” means any highway of which TfL is the highway authority;

“plans” includes sections, designs, drawings, specifications, soil reports, staging proposals, programmes, calculations, methods of construction, risk assessments and details of the extent, timing and duration of any proposed occupation of any highway and “approved plans” means plans approved or deemed to be approved or settled by arbitration in accordance with the provisions of this Part of this Schedule;

“property of TfL” means any apparatus or street furniture of TfL affixed to or placed under any highway; and

“TfL” means Transport for London.

(3) Wherever in this Part of this Schedule provision is made with respect to the approval or consent of TfL, that approval or consent shall be in writing and subject to such reasonable terms and conditions as TfL may require, but shall not be unreasonably withheld.

(4) In exercising the powers conferred by this Order in relation to any highway the undertaker shall have regard to the potential disruption of traffic which may be caused and shall seek to minimise such disruption so far as is reasonably practicable.

(5) The undertaker shall not, without the consent of TfL, construct any part of the works authorised by this Order under and within 50 metres of the surface of any highway which comprises a carriageway except in accordance with plans submitted to, and approved by, TfL; and if within 28 days after such plans have been submitted TfL has not approved or disapproved them, it shall be deemed to have approved the plans as submitted.

(6) In the construction of any part of the said works under a highway no part of it shall, except with the consent of TfL, be so constructed as to interfere with the provision of proper means of drainage of the surface of the highway or be nearer than two metres to the surface of the highway.

(7) The undertaker shall not under the powers conferred by or under this Order without the consent of TfL, acquire or enter upon, take or use whether temporarily or permanently or acquire any new rights over any part of any highway, including subsoil beneath the surface of any highway.

8.—(1) The provisions of this paragraph have effect in relation to, and to the construction of, any new bridge, or any extension or alteration of an existing bridge, carrying any part of the works authorised by this Order over a highway or carrying a highway over any part of those works; and any such new bridge, or (as the case may be) any bridge so extended or altered, is in this paragraph referred to as “the bridge”.

(2) Before commencing the construction of, or the carrying out of any work in connection with, the bridge which involves interference with a highway, the undertaker shall submit to TfL for its

approval plans, drawings and particulars (in this paragraph referred to as “plans”) relating thereto, and the bridge shall not be constructed and the works shall not be carried out except in accordance with the plans submitted to, and approved by, TfL.

(3) If within 28 days after the plans have been submitted TfL has not approved or disapproved them, it shall be deemed to have approved the plans as submitted.

9. The undertaker shall secure that so much of the works authorised by this Order as is constructed under any highway shall be so designed, constructed and maintained as to carry the appropriate loading recommended for highway bridges by the Secretary of State at the time of construction of the works, and the undertaker shall indemnify TfL against, and make good to TfL, the expenses which TfL may reasonably incur in the maintenance or repair of any highway, or any tunnels, sewers, drains or apparatus therein, by reason of non-compliance with the provisions of this paragraph.

10. Any officer of TfL duly appointed for the purpose may at all reasonable times, on giving to the undertaker such notice as may in the circumstances be reasonable, enter upon and inspect any part of the works authorised by this Order which—

(a) is in, over or under any highway, or

(b) which may affect any highway or any property of TfL,

during the carrying out of the work, and the undertaker shall give to such officer all reasonable facilities for such inspection and, if the officer shall be of the opinion that the construction of the work is attended with danger to any highway or to any property of TfL on or under any highway, the undertaker shall adopt such measures and precautions as may be reasonably practicable for the purpose of preventing any damage or injury to the highway.

11.—(1) The undertaker shall not alter, disturb or in any way interfere with any property of TfL on or under any highway, or the access thereto, without the consent of TfL, and any alteration, diversion, replacement or reconstruction of any such property which may be necessary shall be made by TfL or the undertaker as TfL thinks fit, and the expense reasonably incurred by TfL in so doing shall be repaid to TfL by the undertaker.

(2) If within 28 days after a request for consent has been submitted TfL has not given or refused such consent, it shall be deemed to have consented to the request as submitted.

12. The undertaker shall not remove any soil or material from any highway except so much as must be excavated in the carrying out of the works authorised by this Order.

13.—(1) If TfL, after giving to the undertaker not less than 28 days’ notice (or, in case of emergency, such notice as is reasonably practicable) of its intention to do so, incurs any additional expense in the signposting of traffic diversions, in the diversion of footpaths, in the taking of other measures in relation thereto, or in the repair of any highway by reason of the diversion thereto of traffic from a road of a higher standard, in consequence of the construction of the works authorised by this Order, the undertaker shall repay to TfL the amount of any such expense reasonably so incurred.

(2) An amount which apart from this sub-paragraph would be payable to TfL by virtue of this paragraph in respect of the repair of any highway shall, if the highway fell or would have fallen due for repair as part of the maintenance programme of TfL at any time within ten years of the repair being carried out by the undertaker, so as to confer on TfL financial benefit (whether by securing the completion of overdue maintenance work for which TfL is liable or by deferment of the time for such work in the ordinary course), be reduced by the amount which represents that benefit.

14.—(1) The undertaker shall not, except with the consent of TfL, deposit any soil or materials, or stand any plant, on or over any highway so as to obstruct or render less safe the use of the highway by any person, or, except with the like consent, deposit any soil or materials on any highway outside a hoarding, but if within 28 days after request for it any such consent is neither given nor refused it shall be deemed to have been given.

(2) The expense reasonably incurred by TfL in removing any soil or materials deposited on any highway in contravention of this paragraph shall be repaid to TfL by the undertaker.

15. The undertaker shall not, except with the consent of TfL, erect or retain on or over a highway to which the public continues to have access any scaffolding or other structure which obstructs the highway.

16. The undertaker shall, if reasonably so required by TfL, provide and maintain to the reasonable satisfaction of TfL, during such time as the undertaker may occupy any part of a highway for the purpose of the construction of any part of the works authorised by this Order, temporary bridges and temporary ramps for vehicular or pedestrian traffic over any part of the works or in such other position as may be necessary to prevent undue interference with the flow of traffic in the highway.

17.—(1) Where any part of any highway has been broken up or disturbed by the undertaker and not permanently stopped up or diverted, the undertaker shall make good the subsoil, foundations and surface of that part of the highway to the reasonable satisfaction of TfL, and shall maintain the same to the reasonable satisfaction of TfL for such time as may reasonably be required for the permanent reinstatement of the highway.

(2) The reinstatement of that part of the highway shall be carried out by the undertaker to the reasonable satisfaction of TfL in accordance with such requirements as to specification of material and standards of workmanship as may be prescribed for equivalent reinstatement work by regulations made under section 71 of the 1991 Act.

18. If any damage to any highway or any property of TfL on or under any highway is caused by, or results from, the construction of any work authorised by this Order or any order or omission of the undertaker, its contractors, agents or employees whilst engaged upon such work, the undertaker may, in the case of damage to a highway, make good such damage to the reasonable satisfaction of TfL and, where the undertaker does not make good, or in the case of damage to property of TfL, the undertaker shall make compensation to TfL.

19. The fact that any act or thing may have been done in accordance with plans approved by TfL shall not (if it was not attributable to the act, neglect or default of TfL or of any person in its employ or its contractors or agents) exonerate the undertaker from any liability, or affect any claim for damages, under this Part or otherwise.

20. Any difference arising between the undertaker and TfL under this Part of this Schedule (other than in difference as to the meaning or construction of this Part of this Schedule) shall be resolved by arbitration under article 46 above.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises National Grid Electricity Transmission plc to uprate the overhead electricity line running from Waltham Cross substation to Tottenham substation from 275 kilovolts to 400 kilovolts including works to Waltham Cross substation, Brimsdown substation and Tottenham substation, and to carry out all associated works.

The Order permits National Grid Electricity Transmission plc to acquire compulsorily or by agreement, land and rights in land and to use land temporarily for this purpose.

The Order also makes provision in connection with the maintenance of the overhead electric line.

A copy of the plans, book of reference and other documents referred to in this Order and certified in accordance with article 43 of this Order may be inspected free of charge during working hours at the offices of National Grid Electricity Transmission PLC, 1-3 Strand, London WC2N 5EH.

© Crown copyright 2014

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.