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# H2Teesside Project

Planning Inspectorate Reference: EN070009/APP/4.1

Land within the boroughs of Redcar and Cleveland and Stockton-on-Tees, Teesside and within the borough of Hartlepool, County Durham

Document Reference: 4.1: Draft Development Consent Order

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 – Regulation 5(2)(b)



**Applicant: H2 Teesside Limited**

Date: ~~May~~October 2024

Rev. ~~1~~2 (tracked)

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~~May~~October 2024

**202\* No.**

**INFRASTRUCTURE PLANNING**

**The H2Teesside Order 202\***

*Made* - - - - - \*\*\*

*Coming into force* - - - - - \*\*\*

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An application has been made to the Secretary of State under section 37 (applications for ~~Orders~~~~orders~~ granting development consent) of the Planning Act 2008<sup>(a)</sup> (the “2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009<sup>(b)</sup> for an Order granting development consent.

The application was examined by ~~[a single appointed person / a panel]~~ appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010<sup>(c)</sup>. The panel having considered the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with section 83<sup>(d)</sup> of the 2008 Act, submitted a report and recommendation to the Secretary of State.

The Secretary of State having considered the representations made and not withdrawn, the report and recommendation of the appointed panel and having taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017<sup>(e)</sup> and having had regard to the documents and matters referred to in section 104(2) (decisions in cases where national policy statement has effect) of the 2008 Act has determined to make an Order granting development consent for the development comprised in the application on terms that, in the opinion of the Secretary of State, are not materially different from those comprised in the application.

The Secretary of State is satisfied that replacement special category land has been or will be given in exchange for the cowpen bewley special category land (as defined in article 2 (interpretation) of this Order), and the replacement special category land (as defined in that article) has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the cowpen bewley special category land, and that, accordingly sections 131(4) and 132(4) of the 2008 Act applies. In accordance with section 132(3)<sup>(f)</sup> of the 2008 Act, the Secretary of State is satisfied, having considered the report and recommendation of the Panel, that the parcels of land comprised in the coatham marsh special category land (as defined in article 2 of this Order) when burdened with a new right created under this Order, will be no less advantageous than they were before the making of this Order to the following person: (a) the persons in whom they are vested; (b) other persons, if any, entitled to rights of common or other rights; and (c) the public.

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 114, 115, ~~and 120(g) and 149A~~ of the 2008 Act, makes the following Order—

- 
- (a) 2008 c.29. Section 37 was amended by section 137(5) of, and Schedule 13 to, the Localism Act 2011 (c.20).
  - (b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378, and S.I. 2019/734.
  - (c) S.I. 2010/103, amended by S.I. 2012/635.
  - (d) Section 83 was amended by the Localism Act 2011 (c.20) section 128(2) and 237, Schedule 13 paragraphs 1, 35(1) to (4) and Schedule 25, Part 20.
  - (e) S.I. 2017/572.
  - (f) Section 132 was amended by section 24(3) of the Growth and Infrastructure Act 2013 (c.27).
  - (g) Sections 114, 115 and 120 were amended by sections 128(2) and 140 and Schedule 13, paragraphs 1, 55(1), (2) and 60(1) and (3) of the Localism Act 2011. Relevant amendments were made to section 115 by section 160(1) to (6) of the Housing and Planning Act 2016 (c.22).

# PART 1

## PRELIMINARY

### Citation and commencement

1. This Order may be cited as the H2Teesside Order 202\* and comes into force on \*\*\*\*.

### Interpretation

- 2.—(1) In this Order—

- “the 1961 Act” means the Land Compensation Act 1961(a);
- “the 1965 Act” means the Compulsory Purchase Act 1965(b);
- “the 1966 Act” means the Tees and Hartlepoons Port Authority Act 1966(c);
- “the 1974 Order” means the Tees and Hartlepool Port Authority Revision Order 1974(d);
- “the 1980 Act” means the Highways Act 1980(e);
- “the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(f);
- “the 1984 Act” means the Road Traffic Regulation Act 1984(g);
- “the 1986 Act” means the Gas Act 1986(h);
- “the 1989 Act” means the Electricity Act 1989(i);
- “the 1990 Act” means the Town and Country Planning Act 1990(j);
- “the 1991 Act” means the New Roads and Street Works Act 1991(k);
- “the 1994 Order” means the Tees and Hartlepool Harbour Revision Order 1994(l);
- “the 2004 Act” means the Traffic Management Act 2004(m);
- “the 2008 Act” means the Planning Act 2008(n);
- “access and rights of way plans” means the plans which are certified as the access and rights of way plans by the Secretary of State under article 44 (certification of plans etc.) for the purposes of this Order;
- “address” includes any number or address used for the purposes of electronic transmission;
- “apparatus” has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act and further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity and fiberoptic cables, pipe and cable protection telecommunications equipment and electricity cabinets;
- “authorised development” means the development described in Schedule 1 (authorised development) and any other development authorised by this Order within the meaning of section 32 (meaning of “development”) of the 2008 Act;

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- (a) 1961 c.33.
  - (b) 1965 c.56.
  - (c) 1966 c.xxv.
  - (d) S.I. 1975/693.
  - (e) 1980 c.66.
  - (f) 1981 c.66.
  - (g) 1984 c.27.
  - (h) 1986 c.44.
  - (i) 1989 c.29.
  - (j) 1990 c.8.
  - (k) 1991 c.22.
  - (l) S.I. 1994/2064.
  - (m) 2004 c.18.
  - (n) 2008 c.29.

“book of reference” means the document of that description which is certified by the Secretary of State as the book of reference under article 44 for the purposes of this Order;

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

“carbon dioxide storage licence” means a licence for the activities under section 17 of the Energy Act 2008 for a carbon dioxide storage site;

“carbon dioxide storage site” means a site for the storage of carbon dioxide captured by the authorised development;

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

“coatham marsh special category land” means the land identified as comprising open space and shown hatched blue on sheets 5 and 6 of the special category land and crown land plans;

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

“commissioning” means the process of testing systems and components of the authorised development (which are installed or in relation to which installation is nearly complete) in order to ensure that they, and the authorised development as a whole, function in accordance with the plant design specifications and the undertaker’s operational and safety requirements;

“consenting authority” means the relevant planning authority, highway authority, traffic authority, street authority, the owner of a watercourse, sewer or drain or the beneficiary of any of the protective provisions contained in ~~Schedule 12~~[Schedules 16 to \[22\]](#) (protective provisions);

“council replacement special category land” means the land shown as plot 4/95 and hatched yellow on the special category land and crown land plans;

“cowpen bewley special category land” means the land identified as comprising open space and shown hatched blue on sheets 1 and 1A of the special category land and crown land plans;

“date of final commissioning” means the date on which commissioning of the authorised development is completed and it commences operation on a commercial basis or where specified in this Order, the date on which a specified Work No. commences operation on a commercial basis;

“electronic communication” has the meaning given in section 15(1) (general interpretation) of the Electronic Communications Act 2000;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means provided it is in electronic form;

“emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that, in the reasonable opinion of the undertaker, would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action;

“the environmental statement” means the statement certified as the environmental statement by the Secretary of State under article 44 for the purposes of this Order;

“figure 2.15 – important hedgerows to be removed” means the document of that description which is certified as figure 2.15 – important hedgerows to be removed by the Secretary of State under article 44 for the purposes of this Order;

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

“flood risk assessment” means the document of that description which is certified as ~~the flood risk assessment~~[part of the environmental statement](#) by the Secretary of the State under article 44 for the purposes of this Order;

“framework construction environmental management plan” means the document of that description which is certified as the framework construction environmental management plan by the Secretary of State under article 44 for the purposes of this Order;

“framework construction traffic management plan” means the document of that description which is certified as the framework construction traffic management plan by the Secretary of State under article 44 for the purposes of this Order;

“framework construction workers travel plan” means the document of that description which is certified as the framework construction workers travel plan by the Secretary of State under article 44 for the purposes of this Order;

“highway” and “highway authority” have the same meanings as in the 1980 Act;

“HyGreen Teesside” means a proposed project for a green hydrogen production facility in the administrative boundary of Redcar and Cleveland Borough Council;

“H2 Teesside Limited” means H2 Teesside Limited (company number 14523230) whose registered office is at Chertsey Road, Sunbury on Thames, Middlesex, England, TW16 7BP;

“indicative lighting strategy (construction)” means the document appended at appendix C of the framework construction environmental management plan;

“indicative lighting strategy (operation)” means the document of that description which is certified as the indicative lighting strategy (operation) by the Secretary of State under article 44 for the purposes of this Order;

“indicative surface water drainage plan” means the document of that description which is certified as the indicative surface water drainage plan by the Secretary of State under article 44 for the purposes of this Order;

“land plans” means the plans which are certified as the land plans by the Secretary of State under article 44 for the purposes of this Order;

“legible in all material respects” means the information contained in an electronic communication is available to the recipient to no lesser extent than it would be if transmitted by means of a document in printed form;

“maintain” includes, inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised development provided that such activities are do not likely to give rise to any significant materially new or materially different adverse effects that have not been assessed in the environmental statement and “maintenance” and “maintaining” are to be construed accordingly;

“The Net Zero Teesside Order 2024” means the development consent order as made by the Secretary of State on 16 February 2024;

“NGET” means National Grid Electricity Transmission plc (company number 2366977) whose registered office is at 1-3 Strand, London WC2N 5EH;

“NGN” means Northern Gas Networks Limited (company number 05167070) whose registered office is at 1100 Century Way, Thorpe Park Business Park, Colton, Leeds, LS15 8TU;

“NGN replacement special category land” means the land shown as plot 4/94 and hatched yellow on the special category land and crown land plans;

“nutrient neutrality assessment” means the document of that description which is certified as the nutrient neutrality assessment by the Secretary of State under article 44 for the purposes of this Order;

“Order land” means the land shown coloured pink and the land shown coloured blue on the land plans, which is described in the book of reference;

“Order limits” means the limits of land to be acquired permanently or used temporarily as shown on the land plans, and the limits of land within which the authorised development, as shown on the works plans may be carried out;



“outline landscape and biodiversity management plan” means the document of that description which is certified as the outline ~~water~~landscape and biodiversity management plan by the Secretary of State under article 44 for the purposes of this Order;

“outline site waste management plan” means the document appended at appendix A of the framework construction environmental management plan;

“outline water management plan” means the document appended at appendix B of the framework construction environmental management plan;

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

“permit scheme” means any schemes made under Part 3 of the 2004 Act in force at the date on which this Order is made;

“permitted preliminary works” means works consisting of environmental surveys; (including archaeological investigations), geotechnical surveys, surveys and protection of existing infrastructure, and other investigations for the purpose of assessing ground conditions, the preparation of facilities for the use of contractors, the provision of temporary means of enclosure and site security for construction, temporary access roads, paving, diversion of existing services and laying of services (but not including the laying of any of Work Nos. 2, 3, 4, 5, 6, 7 and 8), the temporary display of site notices or advertisements and any other works agreed by the relevant planning authority, provided that these will not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement;

“relevant highway authority” means the highway authority responsible for the relevant highway pursuant to section 1(1A)(2) of the 1980 Act;

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

“replacement special category land” means the land identified as replacement special category land and shown hatched yellow on the special category land and crown land plans;

“replacement special category land access rights” means the rights in plots 4/91, 4/92 and 4/93 for each of the undertaker, STBC and NGN, and all persons authorised on their behalf, to create, improve and maintain an access route and associated fencing and security facilities, and to pass and repass at all times over the same, with or without vehicles, plant, machinery and equipment, for all purposes in connection with access to and egress from the replacement special category land as open space, such rights to benefit the replacement special category land;

“replacement special category land rights” means the right for each of the undertaker and STBC, and all persons authorised on their behalf, to lay out, create, maintain, manage, enhance and use (including allowing public use of) the NGN replacement special category land as open space, such rights to benefit the council replacement special category land;

“requirements” means those matters set out in Schedule 2 (requirements) to this Order;

“special category land” means the cowpen bewley special category land and coatham marsh special category land shown hatched blue on the special category land and crown land plans;

“special category land and crown land plans” means the document of that description which is certified as the special category land and crown land plans by the Secretary of State under article 44 for the purposes of this Order;

“STBC” means Stockton-on-Tees Borough Council, whose headquarters are at Municipal Buildings, Church Road, Stockton-on-Tees, TS18 1LD;

“STDC” means South Tees Development Corporation, whose headquarters are at Teesside Airport Business Suite, Teesside International Airport, Darlington, DL2 1NJ;

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(a) 1981 c.67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c.34). There are other amendments to section 7 which are not relevant to the Order.

“STDC area” means the administrative area of STDC;

“statutory undertaker” means any person falling within section 127(8) (statutory undertakers’ land) of the 2008 Act;

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

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act(b);

“temporary traffic regulation measures plan” means the plans which are certified as the temporary traffic regulation measures plan by the Secretary of State under article 44 for the purposes of this Order;

“traffic authority” has the same meaning as in section 121A (traffic authorities) of the 1984 Act;

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

“undertaker” means, subject to articles 7 (benefit of this Order) and 8 (consent to transfer benefit of this Order), H2 Teesside Limited;

“water framework directive assessment” means the document of that description which is certified as the water framework directive assessment by the Secretary of State under article 44 for the purposes of this Order;

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

“working day” means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(c); ~~and~~

“works plans” means the plans which are certified as the works plans by the Secretary of State under article 44 for the purposes of this Order; ~~and~~

[“The York Potash Harbour Facilities Order 2016” means the development consent order as made by the Secretary of State on 20 July 2016.](#)

(2) All distances, directions and lengths referred to in this Order, except for the parameters referred to in Schedule ~~16~~15 (design parameters), are approximate and distances between lines and/or points on a numbered work comprised in the authorised development and shown on the works plans and access and rights of way plans are to be taken to be measured along that work.

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

(4) References in this Order to “numbered work” and “Work No.” are references to the works comprising the authorised development as set out in Schedule 1 (authorised development) and shown on the works plans.

(5) The expression “includes” is to be construed without limitation.

(6) References in this Order to plots are references to the plots shown on the land plans and described in the book of reference.

### **Electronic communications**

3.—(1) In this Order—

(a) references to documents, maps, plans, drawings, certificates or other documents, or to copies, include references to them in electronic form; and

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(a) Section 48 was amended by section 124 (1) and (2) of the Local Transport Act 2008 (c.26).

(b) “Street authority” is defined in section 49, which was amended by section 1(6) and paragraphs 113 and 117 of Schedule 1 to the Infrastructure Act 2015.

(c) 1971 c.80.

- (b) references to a form of communication being “in writing” include references to an electronic communication that satisfies the conditions in paragraph (2) and “written” and other cognate expressions are to be construed accordingly.

(2) The conditions are that—

- (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; and
- (b) the communication is—
  - (i) capable of being assessed by the recipient;
  - (ii) legible in all material respects; and
  - (iii) sufficiently permanent to be used for subsequent reference.

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

(4) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (5).

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

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date may not be less than seven days after the date on which the notice is given.

## PART 2

### PRINCIPAL POWERS

#### **Development consent etc. granted by this Order**

4.—(1) Subject to the provisions of this Order and to the requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Each numbered work must be situated within the corresponding numbered area shown on the works plans.

#### **Maintenance of authorised development**

5.—(1) 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.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

#### **Operation of authorised development**

6.—(1) The undertaker is hereby authorised to use and to operate the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence or any obligation under any legislation that may be required from time to time to authorise the operation of the authorised development.

#### **Benefit of this Order**

7. Subject to ~~sub-paragraph (2) of~~ article 8 (consent to transfer benefit of this Order), the provisions of this Order have effect solely for the benefit of the undertaker.

## Consent to transfer benefit of this Order

8.—(1) Subject to paragraph ~~(4)~~(2), the undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (including any of the numbered works) and such related statutory rights as may be agreed in writing 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 (including any of the numbered works) and such related statutory rights as may be so agreed.

(2) ~~Where paragraph (6) applies no~~The consent of the Secretary of State is required for a transfer or lease pursuant to this article, except where paragraph (6) applies.

(3) Where a transfer or grant has been made in accordance with paragraph (1) references in this Order to the undertaker, except in this paragraph ~~(6)~~(3), include references to the transferee or the lessee.

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

(5) Where an agreement has been made in accordance with paragraph (1)—

- (a) the benefit transferred or granted (“the transferred benefit”) includes any rights that are conferred, and any obligations that are imposed by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit resides exclusively with the transferee or, as the case may be, the lessee and the transferred benefit will not be enforceable against the undertaker;
- (c) the transferee or lessee is a holding company, associated company or subsidiary of the undertaker; and
- (d) the transferee or lessee holds a licence under section 7 of the Energy Act 2023.

(6) This paragraph applies where—

- (a) the transferee or lessee is—
  - (i) a person who holds a licence under section 6 (licences authorising supply, etc.) of the 1989 Act<sup>(a)</sup> or section 7 (licensing of public gas transporters)<sup>(b)</sup> of the 1986 Act;
  - (ii) in relation to a transfer or a lease of any works within a highway, a highway authority responsible for the highways within the Order limits; or
  - (iii) in relation to any works to provide a connection between any part of Work Nos. 6A.1, 6A.2 or 6A.3 and a person to whom a supply of hydrogen is to be provided (and including Work Nos. 6B.1, 6B.2 and 6B.3), that person; or
- (b) the time limits for all claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
  - (i) no such claims have been made;
  - (ii) any such claims that have been made have all been compromised or withdrawn;
  - (iii) compensation has been paid in final settlement of all such claims;
  - (iv) payment of compensation into court in lieu of settlement of all such claims has taken place; or
  - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of all claims that no compensation is payable.

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(a) 1989 c.29. Section 6 was amended by section 30 of the Utilities Act 2000 (c.27), and by section 89(3) of the Energy Act 2004 (c.20). There are other amendments to this section that are not relevant to this Order.

(b) Section 7 was amended by section 5 of the Gas Act 1995 (c.45) and section 76(2) of the Utilities Act 2000 (c.27). There are other amendments to the section that are not relevant to this Order.

(7) Where the consent of the Secretary of State is not required under paragraph (2), the undertaker must notify the Secretary of State in writing before transferring or granting a benefit referred to in paragraph (1).

(8) The notification referred to in paragraph (7) must state—

- (a) the name and contact details of the person to whom the benefit of the powers are to be transferred or granted;
- (b) subject to paragraph (7), the date on which the transfer is expected to take effect;
- (c) the powers to be transferred or granted;
- (d) pursuant to paragraph (4), the restrictions, liabilities and obligations that are to apply to the person exercising the powers transferred or granted; and
- (e) where relevant, a plan showing the works or areas to which the transfer or grant relates.

(9) The date specified under paragraph (8)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notice.

(10) The notice given under paragraph (7) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

### **Application and modification of statutory provisions**

9.—(1) The York Potash Harbour Facilities Order 2016 is amended for the purposes of this Order only as set out in Schedule 3 (modifications to and amendments of the York Potash Harbour Facilities Order 2016).

(2) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation or maintenance of any part of the authorised development—

- (a) byelaws and directions made under the 1966 Act, the 1974 Order or the 1994 Order which prevent, restrict, condition or require the consent of the Tees Port and Hartlepool Authority or the harbour master to any such works;
- (b) requirements of section 22 (licensing of works) of the 1966 Act;
- (c) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991;
- (d) section 32 (variation of awards) of the Land Drainage Act 1991;
- (e) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991;
- (f) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of authority) to the Water Resources Act 1991; and
- (g) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 in respect of a flood risk activity only.

(3) Regulation 6 of the Hedgerows Regulations 1997 is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following—

“or (k) for carrying out development which has been authorised by an order granting development consent pursuant to the Planning Act 2008.”.

## PART 3 STREETS

### **Power to alter layout etc. of streets**

**10.**—(1) The undertaker may for the purposes of the authorised development alter the layout of, or carry out any works in, a street specified in column (2) of Table 1 in Schedule 4 (streets subject to street works) in the manner specified in relation to that street in column (3) of that Table 1.

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraph (3), the undertaker may, for the purposes of constructing, operating and maintaining the authorised development alter the layout of any street within the Order limits and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, cycle track or verge; and
- (b) make and maintain passing places.

(3) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority.

(4) Paragraph (3) does not apply where the undertaker is the street authority for a street in which the works are being carried out.

### **Street works**

**11.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) and may—

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

(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) Where the undertaker is not the street authority, the provisions of sections 54 (notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any street works carried out under paragraph (1).

### **Construction and maintenance of new or altered means of access**

**12.**—(1) Those parts of each means of access specified in Part 1 of Schedule 5 (those parts of the accesses to be maintained by the highway authority) to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and, unless otherwise agreed by the highway authority, must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the highway authority.

(2) Those parts of each means of access specified in Part 2 of Schedule 5 (those parts of the accesses to be maintained by the street authority) to be constructed under this Order and which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the 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 is a defence (without prejudice to any other defence

or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

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

- (a) the character of the street including the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

### **Temporary closure of streets and public rights of way**

**13.—**(1) The undertaker, during and for the purposes of carrying out and maintaining the authorised development, may temporarily close, prohibit the use of, restrict the use of, alter or divert any street or public right of way and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street or public right of way; and
- (b) subject to paragraph (2), prevent all persons from passing along the street or public right of way.

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary closure, prohibition, restriction, alteration or diversion of a street or public right of way under this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily close, prohibit the use of, restrict the use of or, for the purposes of sub-paragraph (a) or (b) of this paragraph (3), alter or divert—

- (a) the streets specified in column (2) of Table 4 in Part 1 of Schedule 6 (those parts of the street to be temporarily closed) to the extent specified in column (3) of that Table 4; and
- (b) the public rights of way specified in column (2) of Table 5 in Part 2 of Schedule 6 (those public rights of way to be temporarily closed) to the extent specified in column (3) of that Table 5.

(4) The undertaker must not temporarily close, prohibit the use of, restrict the use of, alter or divert—

- (a) any street or public right of way specified in paragraph (3) without first consulting the street authority; or
- (b) any other street or public right of way without the consent of the street authority, and the street authority may attach reasonable conditions to any such consent.

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

(6) Without prejudice to the scope of paragraph (1), the undertaker may use any street or public right of way which has been temporarily closed under the powers conferred by this article and within the Order limits as a temporary working site.

(7) Without prejudice to the requirements of paragraph (4), the undertaker must not exercise the powers in paragraphs (1) and (3) in relation to a road unless it has—

- (a) given not less than four weeks' notice in writing of its intention to do so 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 seven days of its receipt of notice of the undertaker's intention under sub-paragraph (a).

(8) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (3) of this article in relation to a road has effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act, and the instrument by which it is effected is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the 2004 Act.

(9) In this article—

- (a) subject to sub-paragraph (b) expressions used in this article and in the 1984 Act have the same meaning; and
- (b) a "road" means a road that is a public highway maintained by and at the expense of the traffic authority.

#### **Access to works**

14. The undertaker may, for the purposes of the authorised development—

- (a) form and lay out the means of access, or improve existing means of access, in the locations specified in Schedule 4 (streets subject to street works); and
- (b) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve the existing means of access as the undertaker reasonably requires for the purposes of the authorised development.

#### **Agreements with ~~streets~~street authorities**

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

- (a) construction of any new street including any structure carrying the street;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (c) the maintenance of any street or of the structure of any bridge or tunnel carrying a street over or under the authorised development;
- (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order;
- (e) the execution in the street of any of the authorised development;
- (f) the adoption by a street authority, which is the highway authority, of works—
  - (i) undertaken on a street which is existing publicly maintainable highway; and/or
  - (ii) which the undertaker and highway authority agree are to be adopted as publicly maintainable highway; and
- (g) any such works as the parties may agree.

(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 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.

### Traffic regulation measures

16.—(1) Subject to the provisions of this article, the undertaker may at any time, in the interests of safety and for the purposes of, or in connection with the construction of the authorised development, temporarily make provision for traffic regulation measures as specified in columns 3 and 4 of Table 6 of Schedule 7 (traffic regulation measures) including, as relevant, temporarily placing traffic signs and signals and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016.

(2) Subject to the provisions of this article and without limitation to the exercise of powers conferred by paragraph (1), the undertaker may make temporary provision for the purposes of the authorised development—

- (a) as to the speed at which vehicles may proceed along any road;
- (b) permitting, prohibiting or restricting the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) as to the prescribed routes for vehicular traffic or the direction of priority of vehicular traffic on any road;
- (d) permitting, prohibiting or restricting the use of vehicular traffic or non-vehicular traffic of any road; and
- (e) suspending or amending in whole or in part any order made, or having effect as if made, under the 1984 Act.

(3) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011 when in accordance with regulation 3(5) of those regulations.

(4) Before exercising the power conferred by paragraph (2) the undertaker must—

- (a) consult with the chief officer of police in whose area the road is situated; and
- (b) obtain the written consent of the traffic authority.

~~(4)~~(5) The undertaker must not exercise the powers under paragraph (1) or (2) of this article unless it has—

- (a) given not less than four weeks' notice in writing of its intention so to do 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 seven days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a).

~~(5)~~(6) Any prohibition, restriction or other provision made by the undertaker under article 13 (temporary closure of streets and public rights of way) or paragraph (1) or (2) of this article has effect as if duly made by, as the case may be—

- (a) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
- (b) the local authority in whose area the road is situated as an order under section 32 (power of local authorities to provide parking places)(a) of the 1984 Act, and the instrument by which it is effected is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the 2004 Act.

~~(6)~~(7) In this article—

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(a) Relevant amendments to section 32 were made by the 1991 Act section 168(1) and Schedule 8, paragraph 39.

- (a) subject to sub-paragraph (b), expressions used in it and in the 1984 Act have the same meaning; and
- (b) a “road” means a road that is a public highway maintained by and at the expense of the traffic authority.

## 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) must be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(a).

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

(4) The undertaker must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(6) This article does not authorise any water discharge activities or groundwater activities for which an environmental permit would be required pursuant to regulation 12(1) (requirement for an environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(b).

(7) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, a harbour authority within the meaning of section 57 (interpretation) 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
- (b) other terms and expressions, with the exception of the term “watercourse”, used both in this article and in the Water Resources Act 1991(d) have the same meaning as in that Act.

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(a) 1991 c.56. Section 106 was amended by sections 35(8)(a) and 43(2) and paragraph 1 of Schedule 2 to the Competition and Service (Utilities) Act 1992 (c.43) and sections 36(2) and 99(2), (4), and (5) of the Water Act 2003 (c.37).

(b) S.I. 2016/1154.

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

(d) 1991 c.57.

## Felling or lopping of trees and removal of hedgerows

18.—(1) The undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits or cut back its roots, if the undertaker 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 constructing, maintaining or operating the authorised development.

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

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of constructing, maintaining or operating the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.

(5) The undertaker may, for the purposes of the authorised development remove the important hedgerows as are within the Order limits and specified in ~~Table 9~~ Table 7 of Schedule ~~11 (removal of 8~~ 8 (important hedgerows to be removed).

~~(6)~~ In this article—

“hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997; ~~and~~

~~(7)(6) “authorised development” is development for which planning permission has been granted for the purposes of regulation 6(e) of the Hedgerows Regulations 1997.~~

## Protective works to buildings

19.—(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 five years beginning with the date that those works are completed.

(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.

(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 must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice in writing of its intention to exercise that right and, in a case falling within sub-paragraph (a), specifying 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 in writing 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 must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the date of final commissioning 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 must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance)(a) of the 2008 Act.

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

(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**

**20.—**(1) The undertaker may for the purposes of this Order enter on any land within the Order limits or on any land 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 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 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—

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(a) As amended by S.I. 2009/1307.

- (a) must, if so required on 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 are to be made under this article—
- (a) in land located within the highway boundary without the consent of the highway authority; or
  - (b) in a private street without the consent of the street authority.
- (5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

**Removal of human remains**

- 21.—(1) In this article “specified land” means any land within the Order limits.
- (2) Before the undertaker constructs any part of the authorised development or carries out works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.
- (3) Before any such remains are removed from the specified land the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—
- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the specified land; and
  - (b) displaying a notice in a conspicuous place on or near the specified land.
- (4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to the relevant planning authority.
- (5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.
- (6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—
- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
  - (b) removed to, and cremated in, any crematorium,
- and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).
- (7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.
- (8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.
- (9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice, but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the Order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified, subject to paragraph (10),

the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

(12) No notice is required under paragraph (3) before the removal of any human remains where the undertaker is satisfied that—

- (a) that the remains were interred more than 100 years ago; and
- (b) that no relative or personal representative of the deceased is likely to object to the remains being removed in accordance with this article.

(13) In the case of remains in relation to which paragraph (12) applies, the undertaker—

- (a) may remove the remains;
- (b) must apply for direction from the Secretary of State under paragraph (15) as to their subsequent treatment; and
- (c) must deal with the remains in such manner, and subject to such conditions, as the Secretary of State directs.

(14) In this article references to personal representative of the deceased are to a person or persons who—

- (a) is the lawful executor of the estate of the deceased; or
- (b) is the lawful administrator of the estate of the deceased.

(15) The removal and subsequent treatment of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(16) Any jurisdiction or function conferred on the county court by this article may be carried out in accordance with any directions which may be given by the Secretary of State.

(17) Section 25 (offence of removal of body from burial ground) of the Burial Act 1857<sup>(a)</sup> is not to apply to a removal carried out in accordance with this article.

## PART 5

### POWERS OF ACQUISITION

#### **Compulsory acquisition of land**

**22.**—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or as is incidental to it.

(2) This article is subject to article 25 (compulsory acquisition of rights etc.), article 32 (temporary use of land for carrying out the authorised development) and article 42 (Crown rights).

#### **Power to override easements and other rights**

**23.**—(1) The carrying out or use of the authorised development and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) (nuisance: statutory authority) of the 2008 Act, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to use of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to use of land arising by virtue of contract,

caused by the carrying out or use of the authorised development and the operation of section ~~158~~156 (benefit of ~~Order~~order granting development consent) of the 2008 Act.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the use of land arising by virtue of a contract.

(4) Section 10(2) (further provision as to compensation for injurious affection) of the 1965 Act applies to paragraph (2) by virtue of section 152(5) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(5) Any rule or principle applied to the construction of section 10 of the 1965 Act must be applied to the construction of paragraph (2) (with any necessary modifications).

#### **Time limit for exercise of authority to acquire land compulsorily**

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

- (a) no notice to treat is to be served under Part 1 (compulsory purchase under acquisition of Land Act of 1946) of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act (as applied by article 27 (application of the 1981 Act)).

(2) The authority conferred by article 32 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), save that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

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(a) 1857 c.81. Substituted by Church of England (Miscellaneous Provisions) Measure 2014 No. 1 section 2 (1 January 2015: substitution has effect subject to transitional and saving provisions specified in S.I. 2014/2077 Schedule 1 paragraphs 1 and 2).

## Compulsory acquisition of rights etc.

25.—(1) Subject to the following paragraphs of this article, the undertaker may acquire such rights over the Order land as may be required for any purpose for which that land may be acquired under article 22 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) The powers of paragraph (1) may also be exercised by a statutory undertaker in any case where the undertaker, with the consent of the Secretary of State, transfers the power to a statutory undertaker.

(3) The Secretary of State's consent is not required for ~~those~~any statutory undertakers ~~refereneed~~ in to whom the benefit of the Order has been transferred pursuant to article ~~7~~8(6) (consent to transfer benefit of this Order).

(4) Where in consequence of paragraph (2) or (3), a statutory undertaker exercises the powers in paragraph (1) in place of the undertaker, except in relation to the payment of compensation the liability for which must remain with the undertaker, the statutory undertaker is to be treated for the purposes of this Order, and by any person with an interest in the land affected, as being the undertaker in relation to the acquisition of the rights in question.

(5) In the case of the Order land specified in column (1) of Table 8 in Schedule ~~89~~ (land in which new rights etc. may be acquired) and which is shaded blue ~~on the~~ on the land plans the undertaker's powers of compulsory acquisition under paragraph (1) are limited to the acquisition of such wayleaves, easements, new rights over the land or the imposition of such restrictive covenants as the undertaker may require for or in connection with the authorised development for the purposes specified in column (2) of that Table 8 in relation to that land.

(6) The power under paragraphs (1) and (2) to acquire the rights and to impose the restrictive covenants for the benefit of statutory undertakers—

- (a) does not preclude the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land as may be required for the benefit of any other statutory undertaker; and
- (b) must not be exercised by the undertaker in a way that precludes the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land as are required for the benefit of any other statutory undertaker.

(7) Subject to section 8 (provisions as to divided land) and Schedule 2A (counter-notice requiring purchase of land) of the 1965 Act (as substituted by paragraph 5(8) of Schedule ~~910~~ (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictive covenants)), where the undertaker creates or acquires a right over land or imposes a restrictive covenant under paragraph (1), the undertaker is not to be required to acquire a greater interest in that land.

(8) Schedule ~~910~~ has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(9) For the purposes of this article and Schedule ~~89~~ “statutory undertaker” includes any person who has apparatus within the Order limits.

(10) References in this article to rights over land include references to rights to do or to place and maintain anything in, on or under land or in the airspace above its surface and to any trusts or incidents (including restrictive covenants) to which the land is subject.

(11) Nothing in this article permits the undertaker to acquire or create rights or impose restrictive covenants in land specified in Schedule ~~1011~~ (land of which temporary possession may be taken).

(12) This article is subject to article 42 (Crown rights).



## Private rights

26.—(1) Subject to the provisions of this article, all private rights and restrictions over land subject to compulsory acquisition under this Order are 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) (powers of entry) of the 1965 Act,

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights and restrictions over land subject to the compulsory acquisition of rights or imposition of restrictions under this Order are suspended and unenforceable or, where so notified by the undertaker, extinguished in so far as in either case their continuance would be inconsistent with the exercise of the right—

- (a) as from the date of acquisition of the right 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) (powers of entry) of the 1965 Act in pursuance of the right,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights over any part of the Order land that is owned by, vested in or acquired by the undertaker are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights and where the undertaker gives notice of such extinguishment.

(4) Subject to the provisions of this article, all private rights or restrictions over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land and so far as their continuance would be inconsistent with the exercise of the temporary possession of that land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restriction under this Order is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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

(7) Paragraphs (1) to (4) have effect subject to—

- (a) any notice given by the undertaker before—
  - (i) the completion of the acquisition of the land or the creation and acquisition of rights or the imposition of restrictions over 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 are not to apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right or restriction 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 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 is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any right of way, trust, incident, easement, liberty, privilege, restrictions, right or advantage annexed to land and adversely

affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

### **Application of the 1981 Act**

- 27.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.
- (3) In section 1 (application of Act) for subsection (2) there is substituted—
- “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.
- (4) In section 5(2) (earliest date for execution of declaration), omit the words from “, and this subsection” to the end.
- (5) Omit section 5A (time limit for general vesting declaration).
- (6) In section 5B(1) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily)”.
- (7) In section 6 (notices after execution of declaration), in subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.
- (8) In section 7 (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—
- “(2) But see article 28 (acquisition of subsoil or airspace only), which excludes the acquisition of subsoil or airspace only from this Schedule.”.
- (10) References to the 1965 Act in the 1981 Act must be construed as references to that Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (as modified by article 30 (modification of Part 1 of the 1965 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 and the airspace over the land referred to in paragraph (1) of article 22 (compulsory acquisition of land) and paragraph (1) of article 25 (compulsory acquisition of rights etc.) as may be required for any purpose for which that land or rights or restrictions over that land may be created and acquired or imposed 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 is not to be required to acquire an interest in any other part of the land.
- (3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—
- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A) (reference of objection to Upper Tribunal: general) of the 1990 Act.
- (4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

## Special category land and replacement special category land

29.—(1) The undertaker must not exercise the relevant Order powers in respect of the cowpen bewley special category land until the [undertaker has exercised a relevant Order power over the replacement special category land and the](#) relevant planning authority has approved a scheme for the layout of the replacement special category land.

(2) On the requirements of paragraph (1) being satisfied, the cowpen bewley special category land vests in the undertaker and is discharged from all rights, trusts and incidents to which it was previously subject.

(3) ~~On~~ [The undertaker must lay out and provide the replacement special category land in accordance with the scheme approved under paragraph \(1\) and on](#) the date on which the replacement special category land is laid out and provided in accordance with the scheme requirements at paragraph (1), the council replacement special category land vests in STBC and the NGN replacement special category land vests in NGN, and in each case the replacement special category land is to be subject to the same rights, trusts and incidents as attached to the cowpen bewley special category land.

(4) On the date on which the replacement special category land vests in accordance with paragraph (3), the undertaker, STBC and NGN are granted the replacement special category land access rights.

(5) On the date on which the replacement special category land vests in accordance with paragraph (3), STBC is granted the replacement special category land rights in the NGN replacement special category land, unless otherwise agreed between STBC and NGN.

(6) STBC and NGN may make an agreement referred to in paragraph (5) before or after the date on which the replacement special category land vests in accordance with paragraph (3).

(7) The date on which the replacement special category land is laid out and provided in accordance with the scheme requirements ~~at paragraph~~ [pursuant to paragraphs \(1\) and \(3\)](#) must be no later than 24 months from the undertaker taking possession of the cowpen bewley special category land, unless otherwise agreed with the relevant planning authority.

(8) On the exercise of the relevant Order powers, the rights to be acquired over the coatham marsh special category land are to vest in the undertaker and is discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of those rights.

(9) So much of the special category land as is required for the purposes of exercising the powers pursuant to article 32 ([temporary use of land for carrying out the authorised development](#)) or article 33 ([temporary use of land for maintaining the authorised development](#)) is temporarily discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of those powers, and only for such time as any special category land is being used under article 32 or article 33.

(10) In this article, “relevant Order powers” means articles 22 (compulsory acquisition of land), 25 (compulsory acquisition of rights etc.) and 32 (temporary use of land for carrying out the authorised development).

## Modification of Part 1 of the 1965 Act

30.—(1) Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 24 (time limit for exercise of authority to acquire land compulsorily)”.

(3) In section 11A (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after “land” insert “under that provision”; and

(b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “article 24 (time limit for exercise of authority to acquire land compulsorily) of the H2Teesside Order 202\*”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 28(3) (acquisition of subsoil or airspace only) of the H2Teesside Order 202\*, which excludes the acquisition of subsoil or airspace only from this Schedule.”  
; and

(b) after paragraph 29, insert—

## “PART 4

### INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 32 (temporary use of land for carrying out the authorised development) or article 33 (temporary use of land for maintaining the authorised development) of the H2Teesside Order 202\*.”.

#### **Rights under or over streets**

**31.**—(1) The undertaker may enter upon and appropriate so much of the subsoil of, or airspace over, any street within the Order land as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

(a) any subway or underground building; or

(b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5) any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss by the exercise of that power, is to be entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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

#### **Temporary use of land for carrying out the authorised development**

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

(a) enter on and take possession of—

(i) so much of the land specified in column (1) of Table 9 in Schedule ~~10~~11 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Table 9;

- (ii) any other part of the Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
  - (b) remove any buildings, structures, fences, debris and vegetation from that land;
  - (c) construct temporary works (including the provision of means of access) and buildings on that land;
  - (d) construct any works specified in relation to that land in column (2) of Table 9 in Schedule ~~4011~~; and
  - (e) carry out or construct any mitigation works.
- (2) Before taking temporary possession of land for a period of time by virtue of paragraph (1) the undertaker must give a notice of intended entry to each of the owners and occupiers of the land, so far as known to the undertaker after making diligent inquiry.
- (3) The notice in paragraph (2) must specify—
- (a) the period after the end of which the undertaker may take temporary possession of the land provided that such period must not end earlier than the end of the period of 28 days beginning with the day on which the notice is given;
  - (b) subject to paragraph (4) the period for which the undertaker is to take temporary possession of the land, provided that such periods may be varied from time to time by agreement between the undertaker and the owner or occupier.
- (4) 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 earlier of—
    - (i) where Schedule ~~4011~~ specifies a purpose for which possession may be taken relating to particular Work Nos., the end of the period of one year beginning with the date of final commissioning of those Work Nos.; or
    - (ii) the end of the period of one year beginning with the date of final commissioning of the authorised development; or
  - (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of final commissioning of the authorised development unless the undertaker has, before the end of that period, served notice of entry under section 11 of the 1965 Act, made a declaration under section 4 of the 1981 Act or has otherwise acquired or leased the land.
- (5) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or has otherwise acquired the land subject to temporary possession, the undertaker must, before giving up possession of land of which temporary possession has been taken under this article, remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not to be required to—
- (a) replace a building or any debris removed under this article; or
  - (b) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development.
- (6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.
- (7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (8) Nothing in this article affects any liability to pay compensation under section 152 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 (6).

(9) The undertaker must not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i).

(10) Nothing in this article precludes the undertaker from—

- (a) creating and acquiring new rights or imposing restrictions over any part of the Order land identified in Schedule ~~89~~ (land in which new rights etc. may be acquired); or
- (b) acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 28 (acquisition of subsoil or airspace only) or article 31 (rights under or over streets).

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

(12) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies 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 (application of compulsory acquisition provisions) of the 2008 Act.

(13) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in Schedule ~~10~~11.

(14) The provisions of the Neighbourhood Planning Act 2017<sup>(a)</sup> do not apply insofar as they relate to temporary possession of land under this article in connection with the carrying out of the authorised development and other development.

### **Temporary use of land for maintaining the authorised development**

**33.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

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

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The notice in paragraph (3) must specify—

- (a) the period after the end of which the undertaker may take temporary possession of the land provided that such period must not end earlier than the end of the period of 28 days beginning with the day on which the notice is given; and
- (b) subject to paragraph (5) the period for which the undertaker is to take temporary possession of the land, provided that such periods may be varied from time to time by agreement between the undertaker and the owner or occupier.

(5) 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.

(6) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable

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(a) 2017 c.20.

satisfaction of the owners of the land, but the undertaker is not to be required to replace a building or any debris removed under this article.

(7) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 (further provisions as to compensation for injurious affection) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (7).

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

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies 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 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article "the maintenance period" means the period of one year beginning with the date of final commissioning.

(13) The provisions of the Neighbourhood Planning Act 2017 do not apply insofar as they relate to temporary possession of land under this article in connection with the maintenance of the authorised development and other development necessary for the authorised development within the Order land.

### **Statutory undertakers**

34. Subject to the provisions of ~~Schedule 12~~[Schedules 16 to \[22\]](#) (protective provisions), the undertaker may—

- (a) acquire compulsorily the land belonging to statutory undertakers within the Order land;
- (b) extinguish or suspend the rights of or restrictions for the benefit of, and remove or reposition the apparatus belonging to, statutory undertakers on, under, over or within the Order land; and
- (c) create and acquire compulsorily rights or impose restrictions over any Order land belonging to statutory undertakers.

### **Apparatus and rights of statutory undertakers in streets**

35. Where a street is altered or diverted or its use is temporarily prohibited or restricted under article 10 (power to alter layout etc. of streets), article 11 (street works) or article 13 (temporary closure of streets and public rights of way) any statutory undertaker whose apparatus is under, in, on, along or across the street is to have the same powers and rights in respect of that apparatus, subject to ~~Schedule 12~~[Schedules 16 to \[22\]](#) (protective provisions), as if this Order had not been made.

### **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 is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.



(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 34 any person who is—

- (a) the owner or occupier of premises the drains of which communicated with the sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 35 (apparatus and rights of statutory undertakers in streets) or Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

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

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

### **Compulsory acquisition of land – incorporation of the mineral code**

37. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 are incorporated in this Order subject to the following modifications—

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

## **PART 6**

### **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 prejudices the operation of any agreement to which this article applies.

(3) No enactment or rule of law to which paragraph (2) applies is to 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;

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(a) 2003 c.21. Section 151(1) was amended by paragraphs 90(a)(i), (ii), (iii), 90(b), 90(c) and 90(d) of Schedule 1 to the Electronic Communications and Wireless Telegraphy Regulations (S.I. 2011/1210).



- (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.

**Planning permission, etc.**

**39.—**(1) It does not constitute a breach of the terms of this Order, if, following the coming into force of this Order, any development is carried out or used within the Order limits in accordance with any planning permission granted (either prior to or after the Order has come into force) under the powers conferred by the 1990 Act or other equivalent consent.

(2) Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land) of the 1990 Act.

(3) To the extent any development carried out or used pursuant to a planning permission granted under section 57 (requirement of planning permission) of the 1990 Act or other equivalent consent, or compliance with any conditions of that permission or consent is inconsistent with the exercise of any power or right under this Order or the authorised development—

- (a) that inconsistency is to be disregarded for the purposes of establishing whether any development which is the subject matter of that permission or consent is capable of physical implementation; and
- (b) in respect of that inconsistency, no enforcement action under the 1990 Act may be taken in relation to development carried out or used pursuant to that permission or consent whether inside or outside the Order limits.

(4) Any development or any part of a development within the Order limits which is constructed or used under the authority of a permission granted under section 57 of the 1990 Act including permissions falling under paragraph (1) or (3) or otherwise, is deemed not to be a breach of, or inconsistent with, this Order and does not prevent the authorised development being carried out or used or any other power or right under this Order being exercised.

(5) Any works carried out under this Order are deemed to be work requiring development consent under section 31 ([when development consent is required](#)) of the 2008 Act for the purpose of paragraph 7(3) of Schedule 3 to the Flood and Water Management Act 2010.

**Defence to proceedings in respect of statutory nuisance**

**40.—**(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990(a) in relation to a nuisance falling within section 79(1) (statutory nuisances and inspections therefor.) of that Act no order is to be made, and no fine may be imposed, under section 82(2) (summary proceedings by persons aggrieved by statutory nuisances) 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 sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(b); or

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(a) 1990 c.43. Section 82 was amended by section 103 of the Clean Neighbourhoods and Environment Act 2005 (c.16); Section 79 was amended by sections 101 and 102 of the same Act.

(b) 1974 c.40. Section 60 was amended by section 7(3)(a)(4)(g) of the Public Health (Control of Disease) Act 1984 (c.22) and section 112(1)(3), paragraphs 33 and 35(1) of Schedule 17, and paragraph 1(1)(xxvii) of Schedule 16 to the Electricity Act 1989 (c.29); Section 61 was amended by section 133(2) and Schedule 7 to the Building Act 1984 (c.55), paragraph 1 of

- (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 does 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.

### Protection of interests

41. ~~Schedule 12~~[Schedules 16 to \[22\]](#) (protective provisions) ~~has~~[have](#) effect.

### Crown rights

42.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions and is deemed to have been given in writing where it is sent electronically.

### Procedure in relation to certain approvals

43.—(1) Where an application is made to, or a request is made of, a consenting authority for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements), such consent, agreement or approval to be validly given, must be given in writing.

(2) Where paragraph (1) applies to any consent, agreement or approval, such consent, agreement or approval must not be unreasonably withheld or delayed.

(3) ~~Schedule 15~~[12](#) (appeals to the Secretary of State) has effect.

(4) Schedule 13 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals required, granted, refused or withheld in relation to the requirements.

(5) Save for applications made pursuant to Schedule 13 and where stated to the contrary, ~~if~~[if](#) within six weeks (or such longer period as may be agreed between the undertaker and the relevant consenting authority in writing) after the application or request has been submitted to a consenting authority it has not notified the undertaker of its disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

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Schedule 24 to the Environment Act 1995 (c.25), and section 162(1) of and paragraph 15(3) of Schedule 15 to the Environmental Protection Act 1990 (c.43).

(6) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (5).

### **Certification of plans etc.**

44.—(1) The undertaker, as soon as practicable after the making of this Order, must submit to the Secretary of State copies of all documents and plans listed in Table 10 in Schedule 14 (documents and plans to be certified) to this Order for certification that they are true copies of the documents referred to in this Order.

(2) Where the amendment of any plan or document referred to in paragraph (1) is required to reflect the terms of the Secretary of State's decision to make this Order, that plan or document, in the form amended to the Secretary of State's satisfaction, is the version of the plan or document to be certified under paragraph (1).

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

### **Service of notices**

45.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post; and
- (b) subject to article 3 (electronic communications) by electronic transmission.

(2) If an electronic communication is received outside the recipient's business hours, it is to be taken to have been received on the next working day.

(3) 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.

(4) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(5) 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 that 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.

(6) This article does not exclude the employment of any method of service not expressly provided for by it.

### **Arbitration**

46.—(1) Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing

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(a) 1978 c.30. Section 7 was amended by section 144 and paragraph 19 of Schedule 10 to the Road Traffic Regulation Act 1984 (c.27). There are other amendments not relevant to this Order.

agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

(2) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

### **Funding for compulsory acquisition compensation**

47.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to the relevant Order land unless it has first put in place, following approval by the Secretary of State, either—

- (a) a guarantee (and the amount of that guarantee) in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) in respect of the exercise of the relevant power in relation to the relevant Order land in respect of which a power is to be exercised; or
- (b) an alternative form of security (and the amount of that security) in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2).

(2) The provisions are—

- (a) article 22 (compulsory acquisition of land);
- (b) article 25 (compulsory acquisition of rights etc.);
- (c) article 26 (private rights);
- (d) article 28 (acquisition of subsoil or airspace only);
- (e) article 31 (rights under or over streets);
- (f) article 32 (temporary use of land for carrying out the authorised development);
- (g) article 33 (temporary use of land for maintaining the authorised development); and
- (h) article 34 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

(5) In this article “the relevant Order land” means the part of the Order land in relation to which the undertaker proposes to exercise the powers referred to in paragraph (2).

### **Interface with anglo american permit**

48.—(1) The carrying out of an authorised activity by the undertaker shall not constitute a breach of, or non-compliance with, the anglo american permit.

(2) In this article—

“anglo american permit” means environmental permit number FB3601GS; and

“authorised activity” means any works or activities authorised by this Order, works carried out in connection with the authorised development, or the exercise by the undertaker of functions conferred by this Order.

Signed by authority of the Secretary of State for Energy Security and Net Zero

Address  
Date

*Name*  
Title  
Department for Energy Security and Net Zero

# SCHEDULES

## SCHEDULE 1

Article 2

### AUTHORISED DEVELOPMENT

In the Borough of Redcar and Cleveland, the Borough of Stockton ~~and-on-~~Tees and the Borough of Hartlepool a development which is to be treated as development for which development consent is required by direction under sections 35(1) and 35ZA of the 2008 Act, and associated development under section 115(1)(b) of that Act, comprising—

**Work No. 1** – a carbon capture enabled hydrogen production facility of up to ~~approximately~~ 1.2 Gigawatt Thermal (GWth) lower heating value, comprising—

(a) **Work No. 1A.1** – one carbon capture enabled hydrogen unit of 600 MW comprising—

- (i) compressors;
- (ii) pre-treatment facilities including heaters and saturators;
- (iii) start-up fired heater;
- (iv) reformers;
- (v) shift reactors;
- (vi) ~~CO<sub>2</sub>~~ carbon dioxide absorber;
- (vii) amine regeneration system;
- (viii) methanator;
- (ix) ~~H<sub>2</sub>~~ hydrogen drying unit;
- (x) pressure swing adsorber;
- (xi) air separation units
- (xii) cooling water circulation system;
- (xiii) steam system;
- (xiv) auxiliary boiler;
- (xv) steam turbine generator;
- (xvi) flare;
- (xvii) fire water system; and
- (xviii) emergency diesel generator.

(b) **Work No. 1A.2** – a second carbon capture enabled hydrogen unit of 600 MW comprising—

- (i) compressors;
- (ii) pre-treatment facilities including heaters and saturators;
- (iii) start-up fired heater;
- (iv) reformers;
- (v) shift reactors;
- (vi) ~~CO<sub>2</sub>~~ carbon dioxide absorber;
- (vii) amine regeneration system;
- (viii) methanator;
- (ix) ~~H<sub>2</sub>~~ hydrogen drying unit;
- (x) pressure swing adsorber;

- (xi) air separation units;
  - (xii) cooling water circulation system;
  - (xiii) steam system;
  - (xiv) auxiliary boiler;
  - (xv) steam turbine generator;
  - (xvi) fire water system; and
  - (xvii) emergency diesel generator.
- (c) **Work No. 1B.1** – water connections and water and effluent treatment plant for Work Nos. 1A.1 and 1A.2, comprising—
- (i) process water treatment plant;
  - (ii) demineralisation plant;
  - (iii) bio-treatment plant;
  - (iv) effluent treatment plant; and
  - (v) water networks, pipework, cables, racks, infrastructure, instrumentation and utilities including connections between Work Nos. 1A.1 and 1A.2 and parts of Work Nos. 4 and 5.
- (d) **Work No. 1B.2** – water connections and water and effluent treatment plant for Work No. 1A.2, comprising—
- (i) process water treatment plant;
  - (ii) demineralisation plant;
  - (iii) bio-treatment plant;
  - (iv) effluent treatment plant; and
  - (v) water networks, pipework, cables, racks, infrastructure, instrumentation and utilities including connections between Work No. 1A.2 and parts of Work Nos. 4 and 5.
- (e) **Work No. 1C** – above ground pressurised hydrogen storage including high pressure compression and let down facilities.
- (f) **Work No. 1D** – administration, control room, gatehouse and stores, comprising—
- (i) administration and control buildings and gatehouse; and
  - (ii) workshop and stores buildings;
- (g) **Work No. 1E.1** – connections and ancillary works in connection with Work Nos. 1A.1, 1A.2, 1B.1, 1B.2, 1C and 1D—
- (i) above ground installations;
  - (ii) ancillary plant, buildings, enclosures, structures and substations;
  - (iii) pipework, pipe runs and pipe racks;
  - (iv) firefighting equipment, buildings and distribution pipework;
  - (v) lubrication oils storage facilities;
  - (vi) permanent plant laydown area for operation and maintenance activities;
  - (vii) chemical storage including tanks;
  - (viii) nitrogen storage facilities; ~~and~~
  - (ix) carbon dioxide vents; and
  - ~~(ix)~~(x) mechanical, electrical, gas, telecommunications and water networks, pipework, cables, racks, infrastructure, instrumentation and utilities including connections between Work Nos. 1A.1, 1A.2 and 1C and parts of Work Nos. 2, 3, 6, 7 and 8; and
- (h) **Work No. 1E.2** – connections and ancillary works in connection with Work Nos. 1A.2 and 1B.2—
- (i) above ground installations;

- (ii) ancillary plant, buildings, enclosures, structures and substations;
- (iii) pipework, pipe runs and pipe racks;
- (iv) firefighting equipment, buildings and distribution pipework;
- (v) lubrication oils storage facilities;
- (vi) permanent plant laydown area for operation and maintenance activities;
- (vii) chemical storage including tanks;
- (viii) nitrogen storage facilities; and
- (ix) mechanical, electrical, gas, telecommunications and water networks, pipework, cables, racks, infrastructure, instrumentation and utilities including connections between Work Nos. 1A.2 and 1B.2 and parts of Work Nos. 2, 3, 6, 7 and 8.

**Work No. 2** – a gas connection, being works for the transport of natural gas to Work Nos. 1E.1 and 1E.2, comprising—

- (a) **Work No. 2A** – high pressure gas pipelines, connecting Work No. 2B to the above ground installation at Work Nos. 1E.1 and 1E.2, comprising—
  - (i) high-pressure gas supply pipelines of up to 600 millimetres nominal bore diameter;
  - (ii) cathodic protection posts;
  - (iii) marker posts; and
  - (iv) electrical supply cables, transformers and control systems cables; and
- (b) **Work No. 2B** – above ground installations relating to Work No. 2A, comprising—
  - (i) a compound for National ~~Grid~~-Gas Transmission plc's apparatus, comprising—
    - (aa) an offtake connection from the National Transmission System;
    - (bb) above and below ground valves, flanges and pipework;
    - (cc) remotely operated valve and valve bypass;
    - (dd) an above or below ground pressurisation bridle;
    - (ee) instrumentation and electrical kiosks; and
    - (ff) telemetry and communications equipment;
  - (ii) compounds for the undertaker's apparatus, comprising—
    - (aa) above and below ground valves, flanges and pipework;
    - (bb) isolation valves;
    - (cc) pipeline inline gauge launching facility;
    - (dd) instrumentation and electrical kiosks; and
    - (ee) telemetry and communications equipment; and
  - (iii) in connection with Work No. 2B, access works, vehicle parking, electrical and telecommunications connections, surface water drainage, security fencing and gates, closed circuit television cameras and columns.

**Work No. 3** – electrical connection works for the import of electricity from electricity transmission networks to Work Nos. 1E.1 and 1E.2, comprising—

- (a) **Work No. 3A** – electrical connection works comprising underground electrical cables running from Work Nos. 1E.1 and 1E.2 to Work Nos. 3B.1, 3B.2 and 3B.3.
- (b) **Work No. 3B.1** – above ground installation connecting Work No. 3A to Pellet-Sinter substation, including above ground works within the substation;
- (c) **Work No. 3B.2** – above ground installation connecting Work No. 3A to Tod Point substation, including above ground works within the substation; and
- (d) **Work No. 3B.3** – above ground installation connecting Work No. 3A to a new substation.

**Work No. 4** – water supply connection works to provide cooling and make-up water to Work Nos. 1B.1 and 1B.2, comprising up to two water pipelines of up to 1100 millimetres nominal bore diameter from the existing raw water main.

**Work No. 5** – wastewater disposal works in connection with Work Nos. 1B.1 and 1B.2 comprising pipelines connecting to existing wastewater infrastructure.

**Work No. 6** – a hydrogen distribution network, being works for the transport of hydrogen gas from Work Nos. 1A.1 and 1A.2, comprising—

- (a) **Work No. 6A.1** – underground and overground pipelines of up to 600mm nominal bore diameter for the transport of hydrogen gas connecting to Work No. 6B.1;
- (b) **Work No. 6A.2** – underground and overground pipelines of up to 600mm nominal bore diameter for the transport of hydrogen gas connecting to Work No. 6B.2;
- (c) **Work No. 6A.3** – underground and overground pipelines of up to 600mm nominal bore diameter for the transport of hydrogen gas connecting to Work No. 6B.3;
- (d) **Work No. 6B.1** – above ground installations connecting Work No. 6A.1 to existing gas transmission system and gas distribution networks including tunnel head;
- (e) **Work No. 6B.2** – above ground installation connecting Work No. 6A.2 to Cowpen Bewley Natural Gas AGI; and
- (f) **Work No. 6B.3** – above ground installation connecting Work No. 6A.3 to Northern Gas Networks AGI at Saltholme Brinefields.

**Work No. 7** – a carbon dioxide export pipeline, comprising—

- (a) **Work No. 7A** – an overground or underground pipeline of up to 600 millimetres nominal bore diameter and associated power and fibre-optic cables connecting the above ground installation at Work Nos. 1E.1 and 1E.2 to Work No. 7B; and
- (b) **Work No. 7B** – above ground installation connection between Work No. 7A and a carbon dioxide pipeline network.

**Work No. 8** – gas connections, being works for the transport of oxygen and nitrogen to Work Nos. 1E.1 and 1E.2, comprising an oxygen gas connection comprising of underground and or overground pipelines and a nitrogen gas connection comprising of underground and or overground pipelines.

**Work No. 9** – temporary construction compounds comprising laydown and open storage areas, contractor offices and staff welfare facilities, gatehouse and weighbridge, vehicle parking and cycle storage facilities, internal roads and pedestrian and cycle routes, security fencing and gates, external lighting including lighting columns, and closed circuit television cameras and columns.

**Work No. 10** – access and highway improvements and use, comprising works to create, improve, repair or maintain streets, roads, haul roads and access points comprising—

- (a) **Work No. 10A.1** – access and highway improvements and use relating to Work Nos. 1, 2, 3, 4, 5, 6A.1, 6B.1, 6A.3, 6B.3, 7, 8 and 10; and
- (b) **Work No. 10A.2** – access and highway improvements and use relating to Work Nos. 6A.2 and 6B.2.

**Work No. 11** – replacement land relating to Work Nos. 6A.2 and 6B.2, comprising works for habitat creation, reinstatement, enhancement and management including landscaping, provision for vehicle parking and access, planting, and means of enclosure.

In connection with and in addition to Work Nos. 1 to 11, further ~~associated~~ ancillary development comprising such other works or operations ~~as may be necessary or expedient~~ for the purposes of or in connection with the construction, operation and maintenance of the authorised development; ~~and which are~~ but only within the Order limits and ~~fall within the scope of the work~~ insofar as they are unlikely to give rise to any materially new or materially different environmental effects which are worse than those assessed by ~~in~~ the environmental statement, including—



- (a) surface water drainage systems, storm water attenuation systems including storage basins, oil water separators, including works to existing drainage systems;
- (b) electrical, gas, potable water supply, carbon dioxide, foul water drainage and telecommunications infrastructure connections and works, and works to alter the position of services and utilities connections;
- (c) hardstanding and hard landscaping;
- (d) soft landscaping, including embankments and planting;
- (e) biodiversity enhancement measures;
- (f) security fencing, gates, boundary treatment and other means of enclosure;
- (g) external lighting, including lighting columns;
- (h) gatehouses;
- (i) closed circuit television cameras and columns and other security measures;
- (j) site establishment and preparation works, including—
  - (i) site clearance (including vegetation removal, demolition of existing buildings and structures);
  - (ii) earthworks (including soil stripping and storage and site levelling) and excavations;
  - (iii) remediation works;
  - (iv) the creation of temporary construction access points;
  - (v) the alteration of the position of services and utilities; and
  - (vi) works for the protection of buildings and land;
- (k) temporary construction compounds, including—
  - (i) materials and plant storage and laydown areas;
  - (ii) contractor facilities;
  - (iii) generators;
  - (iv) concrete batching facilities;
  - (v) vehicle and cycle parking facilities;
  - (vi) pedestrian and cycle routes and facilities;
  - (vii) offices and staff welfare facilities;
  - (viii) security fencing and gates;
  - (ix) external lighting;
  - (x) roadways and haul routes;
  - (xi) wheel wash facilities; and
  - (xii) signage;
- (l) vehicle parking and cycle storage facilities;
- (m) accesses, roads and pedestrian and cycle routes; and
- (n) tunnelling, boring, piling and drilling works and management of arisings.

## SCHEDULE 2 REQUIREMENTS

~~Article 2~~ [Articles 2 and 4](#)

### **Commencement of the authorised development**

1.—(1) The authorised development must not be commenced after the expiration of five years from the date this Order comes into force.

(2) The authorised development must not commence unless the undertaker has given the relevant planning authority fourteen days' notice of its intention to commence the authorised development.

### **Notice of start and completion of commissioning**

2.—(1) Notice of the intended start of commissioning of Work No. 1A.1 must be given to the relevant planning authority no later than fourteen days prior to the date that commissioning is started.

(2) Notice of the intended start of commissioning of Work No. 1A.2 must be given to the relevant planning authority no later than fourteen days prior to the date that commissioning is started.

(3) Notice of the intended date of final commissioning of Work No. 1A.1 must be given to the relevant planning authority no later than fourteen days prior to the date of final commissioning.

(4) Notice of the intended date of final commissioning of Work No. 1A.2 must be given to the relevant planning authority no later than fourteen days prior to the date of final commissioning.

### **Detailed design**

3.—(1) No part of the authorised development comprised in Work No. 1 may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority—

- (a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures;
- (b) finished floor levels;
- (c) hard standings; and
- (d) the internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities, cycle parking and routes, and pedestrian routes.

(2) No part of the authorised development comprised in Work No. 2A may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority—

- (a) the route and method of installation of the high-pressure gas supply pipeline and any electrical supply, telemetry and other apparatus; and
- (b) the number and location of cathodic protection posts and marker posts.

(3) No part of the authorised development comprised in Work No. 2B may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority—

- (a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures, and all of which must be no higher than 4 metres above ground level;
- (b) hard standings; and

- (c) the internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities.

(4) No part of the authorised development comprised in Work No. 3 may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority—

- (a) the route and method of installation of the electrical cables and control system cables;
- (b) works to create new or improve any existing substation including electrical cables, connections to the existing busbars and new, upgraded or replacement equipment; and
- (c) works involving trenchless technologies including their location.

(5) No part of the authorised development comprised in Work No. 4 may commence, save for the permitted preliminary works, until details of the route and method of construction of the water supply pipelines for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority.

(6) No part of the authorised development comprised in Work No. 5 may commence, save for the permitted preliminary works, until details of the route and method of construction of any new wastewater pipelines for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority.

(7) No part of the authorised development comprised in Work Nos. 6A.1, 6A.2 and 6A.3 may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority—

- (a) the route and method of installation of the hydrogen distribution network and any electrical supply, telemetry and other apparatus;
- (b) the number and location of cathodic protection posts and marker posts; and
- (c) works involving trenchless technologies including their location.

(8) No part of the authorised development comprised in Work Nos. 6B.1, 6B.2 and 6B.3 may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority—

- (a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures, and all of which must be no higher than 4 metres above ground level;
- (b) hard standings; and
- (c) internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities.

(9) No part of the authorised development comprised in Work No. 7A may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority—

- (a) the route and method of installation of the carbon dioxide export pipeline and any electrical supply, telemetry and other apparatus; and
- (b) the number and location of cathodic protection posts and marker posts.

(10) No part of the authorised development comprised in Work No. 7B may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority—

- (a) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings and structures;
- (b) hard standings; and
- (c) internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities.

(11) No part of the authorised development comprised in Work No. 8 may commence, save for the permitted preliminary works, until details of the following for that part have been submitted to and, after consultation with STDC, approved by the relevant planning authority—

- (a) the route and method of installation of the oxygen and nitrogen pipelines and any electrical supply, telemetry and other apparatus; and
- (b) the number and location of cathodic protection posts and marker posts.

(12) Work Nos. 1, 2, 3, 4, 5, 6, 7 and 8 must be carried out in accordance with the design parameters in Schedule 1615 (design parameters) and carried out in accordance with the approved details, unless otherwise agreed with the relevant planning authority.

### **Landscape and biodiversity management plan**

4.—(1) No part of the authorised development may commence until a landscape and biodiversity management plan for the construction of that part has been submitted to and, after consultation with STDC, approved by the relevant planning authority.

(2) The plan submitted and approved pursuant to sub-paragraph (1) must include details of—

- (a) measures to protect existing shrub and tree planting that is to be retained;
- (b) details of any trees and hedgerows to be removed; and
- (c) biodiversity and habitat mitigation and impact avoidance.

(3) The plan submitted and approved pursuant to sub-paragraph (1) must be implemented as approved throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

(4) No part of the authorised development may be commissioned until a landscape and biodiversity management plan for that part has been submitted to and, after consultation with STDC, approved by the relevant planning authority.

(5) The plan submitted and approved pursuant to sub-paragraph (4) must include details of—

- (a) implementation and management of any shrub and tree planting;
- (b) measures to enhance and maintain existing shrub and tree planting that is to be retained;
- (c) measures to enhance biodiversity and habitats;
- (d) an implementation timetable; and
- (e) landscape and biodiversity management, maintenance and monitoring.

(6) Any shrub or tree planted as part of the approved plan 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 agreed with the relevant planning authority.

(7) The plans submitted and approved pursuant to sub-paragraphs (1) and (4) must be—

- (a) in substantial accordance with the outline landscape and biodiversity management plan; and
- (b) implemented and maintained as approved during the construction or operation (as relevant) of the relevant part of the authorised development unless otherwise agreed with the relevant planning authority.

### **Public rights of way**

5.—(1) No public rights of way may be temporarily diverted or closed until a management plan for the relevant section of the public rights ~~right~~ of way has been submitted to and approved by the relevant planning authority.

(2) The plan must include details of—

- (a) measures to minimise the length of any sections of public rights of way to be temporarily closed; and
  - (b) advance publicity and signage in respect of any sections of public rights of way to be temporarily closed or diverted.
- (3) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **External lighting**

6.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a scheme for all external lighting to be installed during construction for that part (with the exception of the aviation warning lighting required by virtue of requirement 23) has been submitted to and approved by the relevant planning authority.

(2) No part of the authorised development may be commissioned until a scheme for all permanent external lighting to be installed in that part (with the exception of the aviation warning lighting required by virtue of requirement 23) ~~in that part~~ has been submitted to and approved by the relevant planning authority.

(3) The schemes submitted and approved pursuant to sub-~~paragraphs~~paragraph (1) of this requirement must be in accordance with the indicative lighting strategy (construction) and include measures to minimise and otherwise mitigate any artificial light emissions.

(4) The ~~schemes~~schemes submitted and approved pursuant to sub-paragraph (2) of this requirement must be in accordance with the indicative lighting strategy (operation) and include measures to minimise and otherwise mitigate any artificial light emissions.

(5) The schemes submitted and approved pursuant to sub-paragraphs (1) and (2) must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Means of enclosure**

7.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until details of a programme for the removal of all temporary means of enclosure for any construction areas or sites associated with the authorised development have, for that part, been submitted to and, after consultation with STDC, approved by the relevant planning authority.

(2) Any construction areas or sites associated with the authorised development must remain securely fenced at all times during construction and commissioning of the authorised development and the temporary means of enclosure must then be removed in accordance with the programme approved pursuant to sub-paragraph (1).

(3) Prior to the date of final commissioning of each relevant Work No., details of any proposed permanent means of enclosure, must, for each part of the authorised development, be submitted to and approved by the relevant planning authority.

(4) Prior to the date of final commissioning of each relevant Work No., any approved permanent means of enclosure must be completed.

(5) The authorised development must be carried out in accordance with the approved details unless otherwise agreed with the relevant planning authority.

(6) In this requirement, “means of enclosure” means fencing, walls or other means of boundary treatment and enclosure.

### **Site security**

8.—(1) No part of Work No. 1 may be ~~brought into use~~commissioned until a written scheme detailing security measures to minimise the risk of crime has, for that part, been submitted to and approved by the relevant planning authority.

(2) The [scheme must be implemented as approved scheme](#) and must be maintained and operated throughout the operation of the relevant part of the authorised development.

### **Fire prevention**

9.—(1) No part of Work No. 1 may commence, save for the permitted preliminary works, until a fire prevention method statement providing details of fire detection measures, fire suppression measures [including measures to contain and treat water used to suppress any fire](#) and the location of accesses to all fire appliances in all of the major building structures and storage areas within the relevant part of the authorised development, ~~including measures to contain and treat water used to suppress any fire~~ has, for that part, been submitted to and, after consultation with the Health and Safety Executive and the Cleveland Fire Authority, approved by the relevant planning authority.

(2) The authorised development must be implemented in accordance with the approved details and all relevant fire suppression measures and fire appliances must be maintained to the reasonable satisfaction of the relevant planning authority at all times throughout the operation of the relevant part of the authorised development.

### **Surface and foul water drainage**

10.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until details of the temporary surface and foul water drainage systems, including means of pollution control in substantial accordance with the construction environmental management plan and the surface water drainage strategy to ensure that the systems remain fully operational throughout the construction of the relevant parts of the authorised development have, for that part, been submitted to, and after consultation with the Environment Agency, the lead local flood authority and STDC, approved by the relevant planning authority.

(2) The scheme approved pursuant to sub-paragraph (1) must be implemented as approved and maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

(3) Details of the permanent surface and foul water drainage systems, including a water quality risk assessment and programme for their implementation and a surface water maintenance and monitoring plan, must be submitted to and, after consultation with the Environment Agency ~~and~~, [the lead local flood authority and STDC](#), approved by the relevant planning authority prior to the start of construction of any part of those systems.

(4) The details submitted and approved pursuant to sub-paragraphs (1) and (3) of this requirement must be in substantial accordance with the mitigation measures set out in chapter 9 of the environmental statement, flood risk assessment, indicative surface water drainage plan, nutrient neutrality assessment and water framework directive assessment.

(5) The scheme approved pursuant to sub-paragraph (3) must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development unless otherwise agreed with the relevant planning authority.

(6) When submitting schemes pursuant to sub-paragraphs (1) and (3) the undertaker may submit separate schemes for the ~~foul and~~ surface [and foul](#) water drainage systems.

### **Flood risk mitigation**

11.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a scheme for the mitigation of flood risk during construction, has, for that part, been submitted to, and after consultation with the Environment Agency, [the lead local flood authority](#) and STDC, approved by the relevant planning authority.

(2) The scheme approved pursuant to sub-paragraph (1) must be implemented as approved and maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

(3) No part of the authorised development may be commissioned until a scheme for the mitigation of flood risk during operation has, for that part, been submitted to and, after

consultation with the Environment Agency, [the lead local flood authority](#) and STDC, approved by the relevant planning authority.

(4) The schemes submitted and approved pursuant to sub-paragraphs (1) and (3) of this requirement must be in accordance with the principles set out in the flood risk assessment.

(5) The scheme approved pursuant to sub-paragraph (3) must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development unless otherwise agreed with the relevant planning authority.

(6) The authorised development must not be commissioned until the scheme for the mitigation of flood risk approved under sub-paragraph (3) has been implemented and a flood management plan has been submitted to, and after consultation with the Environment Agency, [the lead local flood authority](#) and STDC, approved by the relevant planning authority.

(7) The flood management plan approved pursuant to sub-paragraph (6) must be implemented [and maintained](#) throughout the commissioning and operation of the relevant part of the authorised development unless otherwise agreed with the relevant planning authority.

### **Contaminated land and groundwater**

12.—(1) Subject to sub-paragraph (8), no part of the authorised development may commence, save for geotechnical surveys and other investigations for the purpose of assessing ground conditions, [the preparation of facilities for the use of contractors and the provision of temporary means of enclosure and site security for construction \(where no foundations are required\)](#), until a scheme to deal with the contamination of land, including groundwater, which is likely to cause significant harm to persons or pollution of controlled waters or the environment, has, for that part, been submitted to and, after consultation with the Environment Agency and STDC, approved by the relevant planning authority.

(2) The scheme submitted and approved under sub-paragraph (1) must include—

- (a) a preliminary risk assessment (desk top study) and risk assessment that—
  - (i) is supported by a site investigation scheme; and
  - (ii) identifies the extent of any contamination;
- (b) an appraisal of remediation options and a proposal of the preferred option where the risk assessment indicates that remediation is required in order for the relevant area of land not to meet the definition of “contaminated land” under Part 2A (contaminated land) of the Environmental Protection Act 1990;
- (c) where the risk assessment carried out under sub-paragraph (a) identifies the need for remediation, a remediation strategy which must include—
  - (i) the preferred option for remediation to ensure that the site will not meet the definition of “contaminated land” under Part 2A (contaminated land) of the Environmental Protection Act 1990; and
  - (ii) a verification plan, providing details of the data to be collected in order to demonstrate that the works set out in the remediation scheme submitted for approval under this sub-paragraph are complete;
- (d) a materials management plan that is in accordance with the prevailing code of practice relevant to such plans, which sets out long-term measures with respect to any contaminants remaining on the site during and after the authorised development is carried out;
- (e) details of how any unexpected contamination will be dealt with;
- (f) an update to the ~~hydrogeological impact~~[environmental risk](#) assessment including ~~hydrogeological~~[a contaminated land](#) conceptual [site](#) model that is informed by any further ground investigation reports and groundwater monitoring in addition to the information in chapter 10 of the environmental statement;
- (g) a long term monitoring and maintenance plan in respect of contamination, including details of (but not limited to) monitoring of groundwater and surface water, appropriate



screening criteria, and a time-table of monitoring and submission of monitoring reports, and which must include any necessary contingency action or mitigation measures arising from the matters reported; and

- (h) a plan for managing or otherwise decommissioning any boreholes installed for the investigation of soils, groundwater or geotechnical purposes, including details of how redundant boreholes are to be decommissioned in order to prevent risk of groundwater pollution, how any boreholes that need to be retained for monitoring purposes will be secured, protected and inspected, and including a requirement for appropriate validation records within a report to be submitted to demonstrate that all boreholes which are no longer required have been decommissioned in accordance with best practice.

(3) The authorised development, including any remediation and monitoring, must be carried out in accordance with the approved scheme unless otherwise agreed with the relevant planning authority following consultation with the Environment Agency.

(4) ~~Following the implementation of the~~ Where a remediation strategy is required and approved under sub-paragraph ~~(1);~~(2)(c), following its implementation, a verification report; based on the data collected as part of the remediation strategy and demonstrating the completion of the remediation measures must be produced and supplied to the relevant planning authority and the Environment Agency.

(5) Where the verification report produced under sub-paragraph (4) does not demonstrate the completion of the remediation measures, a statement as to how any outstanding remediation measures will be addressed must be supplied to the relevant planning authority and the Environment Agency at the same time as the verification report.

(6) The outstanding remediation measures must be completed to the reasonable satisfaction of the relevant planning authority, after consultation with the Environment Agency and STDC, by the date agreed with that authority.

(7) As an alternative to seeking an approval under sub-paragraph (1), the undertaker may instead submit for approval by the relevant planning authority, following consultation with the Environment Agency and STDC, a notification that the undertaker instead intends to rely on any scheme to deal with the contamination of land (including groundwater) which relates to any part of the authorised development that has been previously approved by the relevant planning authority pursuant to an application for planning permission or an application to approve details under a condition attached to a planning permission.

(8) If a notification under sub-paragraph (7) is—

- (a) approved by the relevant planning authority following consultation with the Environment Agency then the undertaker must implement the previously approved scheme and an approval under sub-paragraph (1) is not required; or
- (b) not approved by the relevant planning authority following consultation with the Environment Agency then an approval under sub-paragraph (1) is required.

(9) Sub-paragraphs (1) to (8) do not apply to any part of the Order limits where the undertaker demonstrates to the relevant planning authority following consultation with the Environment Agency that the relevant part of the Order limits is fit for the authorised development through the provision of a remedial validation report (which must include a risk assessment, details of any planning permission under which remediation works were carried out and any ongoing monitoring requirements) and the relevant planning authority notifies the undertaker that it is satisfied that the relevant part of the Order limits is fit for the authorised development on the basis of that report.

(10) The undertaker must comply with any ongoing monitoring requirements and any activities identified as necessary by the monitoring contained within the documents submitted to and approved by the relevant planning authority pursuant to sub-paragraph (9).

## Archaeology

**13.—**(1) No part of the authorised development may commence until a written scheme of investigation for that part has been submitted to and approved by the relevant planning authority.



(2) The scheme submitted and approved must be in accordance with chapter 17 of the environmental statement.

(3) The scheme must identify any areas where further archaeological investigations are required and the nature and extent of the investigation required in order to preserve by knowledge or in-situ any archaeological features that are identified.

(4) The scheme must provide details of the measures to be taken to protect record or preserve any significant archaeological features that may be found and must set out a process for how unexpected finds will be dealt with.

(5) Any archaeological investigations implemented and measures taken to protect record or preserve any identified significant archaeological features that may be found must be carried out—

- (a) in accordance with the approved scheme; and
- (b) by a suitably qualified person or organisation approved by the relevant planning authority unless otherwise agreed with the relevant planning authority.

### **Protected species**

14.—(1) No part of the authorised development may commence until further survey work for that part has been carried out to establish whether any protected species are present on any of the land affected, or likely to be affected, by that part of the authorised development.

(2) Where a protected species is shown to be present, no authorised development of that part must commence until a scheme of protection and mitigation measures has been submitted to and, following consultation with Natural England, approved by the relevant planning authority.

(3) The authorised development must be carried out in accordance with the approved scheme unless otherwise agreed with the relevant planning authority.

(4) In this requirement, “protected species” has the same meaning as in regulations 42 and 46 of the Conservation of Habitats and Species Regulations(a).

### **Construction environmental management plan**

15.—(1) No part of the permitted preliminary works may be carried out until a permitted preliminary works construction environmental management plan for that part has been submitted to and approved by the relevant planning authority.

(2) The permitted preliminary works construction environmental management plan submitted must be in substantial accordance with the framework construction environmental management plan, to the extent that it is relevant to the permitted preliminary works.

(3) No part of the authorised development may commence, save for the permitted preliminary works, until a construction environmental management plan for that part has been submitted to and, after consultation with the Environment Agency and STDC, approved by the relevant planning authority.

(4) The plan submitted and approved in sub-paragraph (3) must be in substantial accordance with the framework construction environmental management plan.

(5) All construction works associated with the authorised development must be carried out in accordance with the relevant approved construction environmental management plan, unless otherwise agreed with the relevant planning authority.

(6) The relevant planning authority must not withhold its approval of a plan under sub-paragraph (3) on the basis that the proposed activities in the plan include 24-hour working, if the activities proposed to be subject to 24-hour working are consistent with those listed in the framework construction environmental management plan.

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(a) S.I. 2017/1012.

(7) No part of the authorised development may commence, save for the permitted preliminary works, unless the following plans for that part have been submitted to and, after consultation with the Environment Agency and STDC, approved by the relevant planning authority—

- (a) site waste management plan (produced in substantial accordance with the outline site waste management plan);
- (b) water management plan (produced in substantial accordance with the outline water management plan);
- (c) lighting strategy (construction) (produced in substantial accordance with the indicative lighting strategy (construction));
- (d) pollution prevention plan;
- (e) flood emergency response plan;
- (f) construction dewatering strategy;
- (g) materials management plan;
- (h) hazardous materials management plan, including an asbestos management plan;
- (i) invasive plant species management plan;
- (j) groundwater risk assessment;
- (k) UXO emergency response plan;
- (l) foundation works risk assessment;
- (m) hydraulic fracture risk assessment; and
- (n) a scheme for the notification of any significant construction impacts on local residents and for handling of any complaints received from local residents relating to construction impacts.

(8) The plans may be submitted under sub-paragraph (7) using a combination of any of the following methods—

- (a) appended to the construction environmental management plan submitted and approved under sub-paragraph (3);
- (b) submitted as separate, individual plans; or
- (c) where a number of the related sub-sets of plans listed in sub-paragraph (7) have been merged into fewer documents as required and reasonably practicable to achieve the desired effect as set out in the framework construction environmental management plan.

(9) All construction works associated with the authorised development must be carried out in accordance with the plans approved under sub-paragraph (7) unless otherwise agreed with the relevant planning authority.

### **Protection of highway surfaces**

**16.—**(1) No part of the authorised development may commence, save for the permitted preliminary works, until details for undertaking condition surveys of the relevant highways which are maintainable at the public expense and which are to be used during construction have been submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(2) The condition surveys must be undertaken in accordance with the approved details and a schedule of repairs, including a programme for undertaking any such repairs and their inspection, must, following the completion of the post-construction condition surveys, be submitted to, and after consultation with the highway authority, approved by the relevant planning authority.

(3) The schedule of repairs must be carried out as approved unless otherwise agreed with the relevant planning authority.

### **Extended planned shutdown maintenance period**

17.—(1) Prior to the authorised development's first extended planned shutdown maintenance period, an environmental and traffic management plan for that period must be submitted and approved by the relevant planning authority.

(2) The plan in sub-paragraph (1) must be implemented as approved unless otherwise agreed with the relevant planning authority.

(3) Prior to each subsequent extended planned shutdown maintenance period, a statement must be submitted to the relevant planning authority to either confirm no changes or notify changes to environmental and traffic management plan submitted in sub-paragraph (1).

(4) If the statement in sub-paragraph (3) is a notification of changes to the plan, then these changes must be approved by the relevant planning authority before that extended planned shutdown maintenance period can begin.

### **Construction traffic management plan**

18.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a construction traffic management plan for that part has been submitted to and, after consultation with National Highways, the relevant highway authority and STDC, approved by the relevant planning authority.

(2) The plan submitted and approved must be in substantial accordance with the framework construction traffic management plan.

(3) The plan submitted and approved must include—

- (a) details of the routes to be used for the delivery of construction materials and any temporary signage to identify routes and promote their safe use, including details of the access points to the construction site to be used by light goods vehicles and heavy goods vehicles;
- (b) details of the routing strategy and procedures for the notification and conveyance of abnormal indivisible loads, including agreed routes, the numbers of abnormal loads to be delivered by road and measures to mitigate traffic impact;
- (c) details of the activities to be undertaken to inform major users of highways in the area of the local highways authority about the impact of works to be undertaken to highways as part of the authorised development;
- (d) the construction programme, including the profile of activity across the day;
- (e) any necessary measures for the temporary protection of carriageway surfaces, the protection of statutory undertakers' plant and equipment, and any temporary removal of street furniture;
- (f) details of how the undertaker will seek to engage with the undertaker as defined in the Net Zero Teesside Order 2024 and the developer of HyGreen Teesside to manage cumulative construction transport impacts;
- (g) details of the monitoring to be undertaken; and
- (h) a construction workers travel plan (which must be substantially in accordance with the framework construction workers travel plan).

(4) Notices must be erected and maintained throughout the period of construction at every entrance to and exit from the construction site, indicating to drivers the approved routes for traffic entering and leaving the construction site.

(5) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

## Construction hours

19.—(1) Construction work and the delivery or removal of materials, plant and machinery relating to the authorised development must not take place on bank holidays nor otherwise outside the hours of—

- (a) 0700 to 1900 hours on Monday to Friday; and
- (b) 0700 to ~~1600~~1300 hours on a Saturday.

(2) The restrictions in sub-paragraph (1) do not apply to construction work or the delivery or removal of materials, plant and machinery, where these—

- (a) do not exceed a noise limit measured at the Order limits and which must be first agreed with the relevant planning authority in accordance with requirement 20;
- (b) are carried out with the prior approval of the relevant planning authority, including as part of a construction environmental management plan approved under requirement 15; or
- (c) are associated with an emergency.

(3) The restrictions in sub-paragraph (1) do not apply to the delivery of abnormal indivisible loads, where this is—

- (a) associated with an emergency; or
- (b) carried out with the prior approval of the relevant planning authority, including as part of a construction traffic management plan approved under requirement 18.

(4) Sub-paragraph (1) does not preclude—

- ~~(a) a start-up period~~mobilisation and de-mobilisation periods from 0600 to 0700 and ~~a shut-down period~~ from 1900 to 2000 Monday to Friday ~~and a start-up period;~~
- ~~(a)~~(b) mobilisation and de-mobilisation periods from 0600 to 0700 and ~~a shut-down period~~ from ~~1600~~1300 to ~~1700~~1400 on a Saturday; or
- ~~(b)~~(c) maintenance at any time of plant and machinery engaged in the construction of the authorised development; where such activities do not exceed a noise limit measured at the Order limits agreed with the relevant planning authority in accordance with Requirement 20.

## Control of noise - construction

20.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a scheme for the monitoring and control of noise during the construction of that part of the authorised development has been submitted to and approved by the relevant planning authority.

(2) The scheme submitted and approved must specify—

- (a) each location from which noise is to be monitored;
- (b) the method of noise measurement;
- (c) the maximum permitted levels of noise at each monitoring location to be determined with reference to the ABC Assessment Method for the different working time periods, as set out in BS 5228-1:2009+A1:2014, unless otherwise agreed in writing with the relevant planning authority for specific construction activities;
- (d) provision as to the circumstances in which construction activities must cease as a result of a failure to comply with a maximum permitted level of noise; and
- (e) the noise control measures to be employed.

(3) The scheme must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Piling and penetrative foundation design**

21.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a written piling and penetrative foundation design method statement, informed by a risk assessment for that part, has been submitted to and, after consultation with the Environment Agency, Natural England and STDC, approved by the relevant planning authority.

(2) All piling and penetrative foundation works must be carried out in accordance with the approved method statement unless otherwise agreed with the relevant planning authority.

### **Restoration of land used temporarily for construction**

22.—(1) Prior to the date of final commissioning of each relevant Work No., a scheme for the restoration (including remediation of contamination caused by the undertaker's activities) of any land within the Order limits which has been used temporarily only for construction must, for each ~~part~~ relevant Work No. of the authorised development, be submitted to and, after consultation with STDC, approved by the relevant planning authority.

(2) The land must be restored within one year of the date of final commissioning of each relevant Work No. (or such longer period as the relevant planning authority may approve) in accordance with the restoration scheme approved pursuant to sub-paragraph (1).

(3) The scheme submitted pursuant to sub-paragraph (1) must take into account the updated hydrogeological impact assessment and any further ground investigation reports and groundwater monitoring required by requirement 12(2)(f).

### **Aviation warning lighting**

23.—(1) No part of the authorised development comprised within Work No. 1 may commence, save for the permitted preliminary works, until details of the aviation warning lighting to be installed for that part during construction and operation have been submitted to, and after consultation with the Civil Aviation Authority, approved by the relevant planning authority.

(2) The aviation warning lighting approved pursuant to sub-paragraph (1) must be installed and operated in accordance with the approved details.

### **Air safety**

24. No part of Work No. 1 may commence, save for the permitted preliminary works, until details of the information that is required by the Defence Geographic Centre of the Ministry of Defence to chart the site for aviation purposes for that part have been submitted to and approved by the relevant planning authority.

### **Local liaison group**

25.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until the undertaker has established, or has convened jointly with either both or one of the undertaker as defined in The Net Zero Teesside Order 2024 and the promoter of HyGreen Teesside to establish, a group to liaise with local residents and organisations about matters relating to the authorised development (a 'local liaison group').

(2) The undertaker must invite the relevant planning authority, STDC and other relevant interest groups, as may be agreed with the relevant planning authority, to nominate representatives to join the local liaison group.

(3) The undertaker must provide a secretariat service and provide either an appropriate venue for the local liaison group meetings to take place or means by which the local liaison group meetings can take place electronically.

(4) The local liaison group must—

- (a) include representatives of the undertaker and its ~~contactor~~ contractor; and

- (b) meet every other month, starting in the month prior to commencement of the authorised development, until the completion of commissioning unless otherwise agreed by the majority of the members of the local liaison group.

### **Employment, skills and training plan**

26.—(1) No part of the authorised development may commence, save for the permitted preliminary works, until a plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction of the authorised development has been submitted to and approved by the relevant planning authority.

(2) The plan approved pursuant to sub-paragraph (1) must be implemented and maintained during the construction of the authorised development unless otherwise agreed by the relevant planning authority.

(3) No part of Work No. 1 may be commissioned until a plan detailing arrangements to promote employment opportunities during operation of the authorised development has been submitted to and approved by the relevant planning [authority](#).

(4) The plan approved pursuant to sub-paragraph (3) must be implemented and maintained during the operation of the authorised development unless otherwise agreed by the relevant planning authority.

(5) The plans submitted pursuant to sub-paragraphs (1) and (3) may be submitted jointly with either both or one of the undertaker as defined in The Net Zero Teesside Order 2024 and the promoter of HyGreen Teesside.

### **Carbon dioxide transport and storage**

27.—(1) No part of the authorised development other than the permitted preliminary works may commence until evidence of the following (or such licence or consent as may replace those listed) has been submitted to and approved by the relevant planning authority—

- (a) that the carbon dioxide storage licence has been granted; and
- (b) that an environmental permit has been granted for Work No. 1A.1.

### **Decommissioning**

28.—(1) Within 12 months of the date that a Work No. permanently ceases operation (or such longer period as may be agreed in writing with the relevant planning authority), the undertaker must submit to the relevant planning authority for its approval (following consultation with the Environment Agency)—

- (a) a decommissioning environmental management plan for that part; and
- (b) evidence that any necessary planning consents have been granted for decommissioning in relation to that part.

(2) Prior to the start of decommissioning works for any part of the authorised development, the undertaker must carry out surveys to determine the presence or absence of protected species, notable species and invasive non-native species in that part of the authorised development to inform the plan submitted pursuant to sub-paragraph (1)(a).

(3) No decommissioning works must be undertaken until the relevant planning authority has—

- (a) approved the plan ~~submitted~~ for that part submitted pursuant to sub-paragraph (1)(a); and
- (b) confirmed in writing that it is satisfied as to the evidence submitted for that part pursuant to sub-paragraph (1)(b).

(4) Where the relevant planning authority notifies the undertaker that the information submitted pursuant to sub-paragraph (1) is not approved, the undertaker must within a period of 2 months from the notice (or such other period as may be agreed with the relevant planning authority) make a further submission pursuant to sub-paragraph (1) to the relevant planning authority, unless it has

submitted an appeal to the Secretary of State against the decision of the relevant planning authority pursuant to paragraph 5(1) of Schedule 13 (procedure for discharge of requirements).

(5) Where the undertaker has submitted an appeal pursuant to paragraph 5(1) of Schedule 13 against the decision of the relevant planning authority to not approve the information submitted pursuant to sub-paragraph (1), and the Secretary of State notifies the undertaker that the appeal has been dismissed, the undertaker must within a period of 2 months from [receiving](#) the notice from the Secretary of State (or such other period as may be agreed with the relevant planning authority) make a further submission pursuant to sub-paragraph (1) to the relevant planning authority.

(6) The plan submitted pursuant to sub-paragraph (1)(a) must include details of—

- (a) the buildings to be demolished and the apparatus to be removed;
- (b) where apparatus is proposed to be left in-situ and not removed, the steps to be taken to decommission such apparatus and ensure it remains safe;
- (c) the means of removal of the materials resulting from the decommissioning works;
- (d) the phasing of the demolition and removal works;
- (e) any restoration works to restore the land to a condition agreed with the relevant planning authority;
- (f) the phasing of any restoration works;
- (g) a timetable for the implementation of the [scheme plan](#);
- (h) traffic management arrangements during any demolition, removal and remediation works; ~~and~~
- [\(i\) the monitoring and control of noise;](#)
- [\(j\) waste management measures required; and](#)
- ~~(k)~~ [how the undertaker has applied the waste hierarchy.](#)

(7) The plan submitted pursuant to sub-paragraph (1)(a) must be implemented as approved unless otherwise agreed with the relevant planning authority.

### **Requirement for written approval**

29. Where under any of the above requirements the approval or agreement of the relevant planning authority or another person is required, that approval or agreement must be provided in writing.

### **Approved details and amendments to them**

30.—(1) All details submitted for the approval of the relevant planning authority under these requirements must reflect the principles set out in the documents certified under article 44 (certification of plans etc.).

(2) 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, the approved details are to be taken to include any amendments that may subsequently be approved by the relevant planning authority.

### **Amendments agreed by the relevant planning authority**

31.—(1) Where the words “unless otherwise agreed by the relevant planning authority” appear in the above requirements, any such approval or agreement may only be given in relation to non-material amendments and where it has been demonstrated to the satisfaction of that authority that the subject matter of the approval or agreement sought will not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(2) In cases where the requirement or the relevant sub-paragraph requires consultation with specified persons, any such approval or agreement must not be given without the relevant planning authority having first consulted with those persons.

## Consultation with South Tees Development Corporation

32. Where a requirement specifies that the relevant planning authority must consult STDC that only applies to the extent that the matters submitted for approval relate to any part of the authorised development which is within the STDC area or in the relevant planning authority's opinion could affect the STDC area.

## Disapplication of requirements discharged under The Net Zero Teesside Order 2024

33. Subject to the relevant planning authority's approval, ~~any requirement in this Schedule may be disappplied where the requirement has already been discharged pursuant to The Net Zero Teesside Order 2024.~~

- (a) requirements 25 and 26 in this Schedule may be disappplied where the requirements 29 and 30 have already been discharged pursuant to The Net Zero Teesside Order 2024;
- (b) requirement 3 in this Schedule may be disappplied where requirement 3 has been discharged pursuant to The Net Zero Teesside Order 2024 in respect of any infrastructure that is to be utilised for the purposes of the authorised development and the authorised development as defined in The Net Zero Teesside Order 2024; and
- (c) requirement 10 in this Schedule may be disappplied where requirement 11 has been discharged pursuant to The Net Zero Teesside Order 2024 in respect of any surface and foul water drainage systems that are to be utilised for the purposes of the authorised development and the authorised development as defined in The Net Zero Teesside Order 2024.



SCHEDULE 3

Article 9

MODIFICATIONS TO AND AMENDMENTS OF THE YORK  
POTASH HARBOUR FACILITIES ORDER 2016

[This Schedule has been left intentionally blank].

## SCHEDULE 4

Articles 10, 11 and 14

### STREETS SUBJECT TO STREET WORKS

**Table 1**

| <i>(1)</i><br><i>Area</i>  | <i>(2)</i><br><i>Street subject to street works</i>  | <i>(3)</i><br><i>Description of the street works</i>  |
|--|--|---|
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Unnamed road extending from Wolviston Back Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew | Works for the improvement of the access at the point marked A1 and A1a on sheets 1 and 2 of the access and rights of way plans    |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Unnamed road extending from Wolviston Back Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew | Works for the installation of a new access at the point marked A2 and A2a on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Unnamed road extending from Wolviston Back Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew | Works for the installation of a new access at the point marked A3 and A3a on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185  | Works for the improvement of the access at the point marked B1 and B1a on sheets 1 and 2 of the access and rights of way plans    |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185  | Works for the improvement of the access at the point marked B2 and B2a on sheets 2 and 4 of the access and rights of way plans    |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185  | Works for the improvement of the access at the point marked B3 and B3a on sheets 2 and 4 of the access and rights of way plans    |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185  | Works for the improvement of the access at the point marked B4 and B4a on sheets 2 and 4 of the access and rights of way plans    |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Tees Road (A178)   | Works for the improvement of the access at the point marked C1 and C1a on sheet 5 of the access and rights of way plans           |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Seaton Carew Road (A178)   | Works for the improvement of the access at the point marked D1 and D1a on sheet 4 of the access and rights of way plans           |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Seaton Carew Road (A178)   | Works for the improvement of the access at the point marked D2 and D2a on sheet 4 of the  |

|   |                          |  |
|---|--------------------------|--|
|   |                          | access and right of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seaton Carew Road (A178) | Works for the improvement of the access at the point marked D3 and D3a on sheet 4 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seaton Carew Road (A178) | Works for the improvement of the access at the point marked D4 and D4a on sheet 4 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seaton Carew Road (A178) | Works for the improvement of the access at the point marked D5 on sheet 4 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Pipeline works beneath the width of the highways for the proposed pipeline crossing between the points X and X1 on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Works for the improvement of the access at the point marked E2 and E2a on sheet 4 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Works for the improvement of the access at the point marked E3 and E3a on sheet 4 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Works for the improvement of the access at the point marked E4 on sheet 6 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Works for the installation of a new access at the point marked E5 on sheet 6 of the access and rights of way plans   |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Works for the improvement of the access at the point marked E6 on sheet 7 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Works for the installation of a new access at the point marked E7 on sheet 6 of the access and rights of way plans   |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Huntsman Drive           | Works for the improvement of the access at the point marked F1 on sheet 6 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Cowpen Bewley Road       | Works for the improvement of the access at the point marked G1 and G1a on sheet 3 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Cowpen Bewley Road       | Works for the improvement of the access at the point marked G2 on sheet 3 of the access and rights of way plans  |

|   |                        |  |
|---|------------------------|--|
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Nelson Avenue          | Works for the improvement of the access at the point marked H1 and H1a on sheet 3 of the access and rights of way plans                                  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Nelson Avenue          | Works for the improvement of the access at the point marked H2 on sheet 3 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Belasis Avenue (B1275) | Works for the installation of a new access at the point marked I1 and I1a on sheet 3 of the access and rights of way plans                               |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Belasis Avenue (B1275) | Works for the improvement of the access at the point marked I2 on sheet 3 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Redcar and Cleveland | Unnamed road / track   | Works for the improvement of the access at the point marked J1 and J1a on sheet 9 of the access and rights of way plans                                  |
| In the <del>District</del> <u>Borough</u> of Redcar and Cleveland | Trunk Road (A1085)     | Works for the improvement of the access at the point marked K1 on sheet 9 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | New Road               | Pipeline works above the width of the highway for the proposed pipeline crossing at the point marked L1 on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Tees Road (A178)       | Works for the improvement of the access at the point marked M1 and M1a on sheet 5 of the access and rights of way plans                                  |

## SCHEDULE 5

Article 12

### ACCESS

#### PART 1

#### THOSE PARTS OF THE ACCESSES TO BE MAINTAINED BY THE HIGHWAY AUTHORITY

**Table 2**

| <i>(1)</i><br>Area  | <i>(2)</i><br>Street   | <i>(3)</i><br>Description of relevant part of<br>access   |
|---|--|---|
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Unnamed road extending from Wolviston Back Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew / unnamed private track | That part of the access cross-hatched in blue at the point marked A1a on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Unnamed road extending from Wolviston Back Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew / unnamed private track | That part of the access cross-hatched in blue at the point marked A2a on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Unnamed road extending from Wolviston Back Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew / unnamed private track | That part of the access cross-hatched in blue at the point marked A3a on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | A1185 / Cowpen Lane  | That part of the access cross-hatched in blue at the point marked B1a on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | A1185 / Saltholme Power Station private access track   | That part of the access cross-hatched in blue at the point marked B2a on sheets 2 and 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | A1185 / Saltholme Substation private access track  | That part of the access cross-hatched in blue at the point marked B3a on sheets 2 and 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | A1185 / unnamed private track  | That part of the access cross-hatched in blue at the point marked B4a on sheets 2 and 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Tees Road (A178) / PD Teesport Ltd private access  | That part of the access cross-hatched in blue at the point  |

|   |   |  |
|---|---|--|
|   | track   | marked C1a on sheet 5 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Seaton Carew Road (A178) / unnamed private track                            | That part of the access cross-hatched in blue at the point marked D1a on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Seaton Carew Road (A178) / unnamed private track                            | That part of the access cross-hatched in blue at the point marked D2a on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Seaton Carew Road (A178) / Sembcorp Linkline Corridors private access track | That part of the access cross-hatched in blue at the point marked D3a on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Seaton Carew Road (A178) / unnamed private track                            | That part of the access cross-hatched in blue at the point marked D4a on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Seal Sands Road / new private track   | That part of the access cross-hatched in blue at the point marked E2 on sheet 4 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Seal Sands Road / new private track   | That part of the access cross-hatched in blue at the point marked E3a on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Cowpen Bewley Road / unnamed private track                                  | That part of the access cross-hatched in blue at the point marked G1a on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Nelson Avenue / unnamed private track                                       | That part of the access cross-hatched in blue at the point marked H1a on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Belasis Avenue (B1275) / unnamed private track                              | That part of the access cross-hatched in blue at the point marked I1a on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Redcar and Cleveland | Unnamed road / track  | That part of the access cross-hatched in blue at the point marked J1a on sheet 9 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Tees Road (A178) / PD Teesport Ltd private access track                     | That part of the access cross-hatched in blue at the point marked M1a on sheet 5 of the access and rights of way plans |

## PART 2

### THOSE PARTS OF THE ACCESSES TO BE MAINTAINED BY THE STREET AUTHORITY

**Table 3**

| (1) | (2) | (3) |
|-----|-----|-----|
|-----|-----|-----|

| <i>Area</i>  | <i>Street</i>  | <i>Description of relevant part of access</i>   |
|--|--|---|
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Unnamed road extending from Wolviston Back Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew / unnamed private track | That part of the access cross-hatched in red at the point marked A1 on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Unnamed road extending from Wolviston Back Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew / unnamed private track | That part of the access cross-hatched in red at the point marked A2 on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Unnamed road extending from Wolviston Back Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew / unnamed private track | That part of the access cross-hatched in red at the point marked A3 on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185 / Cowpen Lane  | That part of the access cross-hatched in red at the point marked B1 on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185 / Saltholme Power Station private access track   | That part of the access cross-hatched in red at the point marked B2 on sheets 2 and 4 of the access and rights of way plans |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185 / Saltholme Substation private access track  | That part of the access cross-hatched in red at the point marked B3 on sheets 2 and 4 of the access and rights of way plans |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185 / unnamed private track  | That part of the access cross-hatched in red at the point marked B4 on sheets 2 and 4 of the access and rights of way plans |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Tees Road (A178) / PD Teesport Ltd private access track  | That part of the access cross-hatched in red at the point marked C1 on sheet 5 of the access and rights of way plans        |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Seaton Carew Road (A178) / unnamed private track   | That part of the access cross-hatched in red at the point marked D1 on sheet 4 of the access and rights of way plans        |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Seaton Carew Road (A178) / unnamed private track   | That part of the access cross-hatched in red at the point marked D2 on sheet 4 of the access and rights of way plans        |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Seaton Carew Road (A178) / Sembcorp Linkline Corridors private access track  | That part of the access cross-hatched in red at the point marked D3 on sheet 4 of the access and rights of way plans        |

|   |   |  |
|---|---|--|
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seaton Carew Road (A178) / unnamed private track                | That part of the access cross-hatched in red at the point marked D4 on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seaton Carew Road (A178) / unnamed private track                | That part of the access cross-hatched in red at the point marked D5 on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road / unnamed private track                         | That part of the access cross-hatched in red at the point marked E2 on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road / Sabic Brine Fields Site private access track  | That part of the access cross-hatched in red at the point marked E3 on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road / Seal Sands Power Station private access track | That part of the access cross-hatched in red at the point marked E4 on sheet 6 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road / new private track                             | That part of the access cross-hatched in red at the point marked E5 on sheet 6 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road / unnamed private track                         | That part of the access cross-hatched in red at the point marked E6 on sheet 7 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road / new private track                             | That part of the access cross-hatched in red at the point marked E7 on sheet 6 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Huntsman Drive / unnamed private track                          | That part of the access cross-hatched in red at the point marked F1 on sheet 6 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Cowpen Bewley Road / unnamed private track                      | That part of the access cross-hatched in red at the point marked G1 on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Cowpen Bewley Road / unnamed private track                      | That part of the access cross-hatched in red at the point marked G2 on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Nelson Avenue / unnamed private track                           | That part of the access cross-hatched in red at the point marked H1 on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Nelson Avenue / unnamed private track                           | That part of the access cross-hatched in red at the point marked H2 on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Belasis Avenue (B1275) / unnamed private track                  | That part of the access cross-hatched in red at the point marked I1 on sheet 3 of the access and rights of way plans |



|   |   |  |
|---|---|--|
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Belasis Avenue (B1275) / unnamed private track                                      | That part of the access cross-hatched in red at the point marked I2 on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Redcar and Cleveland | Unnamed road / track / Trunk Road (A1085) and Teesworks Steel House Gate roundabout | That part of the access cross-hatched in red at the point marked J1 on sheet 9 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Redcar and Cleveland | Trunk Road (A1085) / unnamed private track  | That part of the access cross-hatched in red at the point marked K1 on sheet 9 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Tees Road (A178) / PD Teesport Ltd private access track                             | That part of the access cross-hatched in red at the point marked M1 on sheet 5 of the access and rights of way plans |

SCHEDULE 6

Article 13

TEMPORARY CLOSURE OF STREETS AND PUBLIC RIGHTS OF WAY

PART 1

THOSE PARTS OF THE STREET TO BE TEMPORARILY CLOSED

Table 4

| <i>(1)</i><br><i>Area</i>                                     | <i>(2)</i><br><i>Street subject to temporary closure of use</i>  | <i>(3)</i><br><i>Extent of temporary closure of use of street</i>  |
|---|--|--|
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Unnamed road extending from Wolviston Back Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked AA and AB on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | A1185  | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked BA and BB on sheets 1 and 2 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | A1185  | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked BC and BD on sheets 2 and 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | A1185  | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked BE and BF on sheets 2 and 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | A1185  | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked BG and BH on sheets 2 and 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Tees Road (A178)   | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked CA and CB on sheet 5  |

|   |                          |   |
|---|--------------------------|---|
|   |                          | of the access and rights of way plans   |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seaton Carew Road (A178) | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked DA and DB on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seaton Carew Road (A178) | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked DC and DD on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked EA and EB on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked EC and ED on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked EE and EF on sheet 6 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked EG and EH on sheet 6 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Seal Sands Road          | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked EI and EJ on sheet 7 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Huntsman Drive           | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked FA and FB on sheet 6                                       |

|   |                              |   |
|---|------------------------------|---|
|   |                              | of the access and rights of way plans   |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Cowpen Bewley Road           | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked GA and GB on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Nelson Avenue                | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked HA and HB on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Belasis Avenue (B1275)       | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked IA and IB on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Redcar and Cleveland | Unnamed private road / track | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked JA and JB on sheet 9 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Redcar and Cleveland | Trunk Road (A1085)           | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points JC and JD on sheet 9 of the access and rights of way plans        |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | New Road                     | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked LA and LB on sheet 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Tees Road (A178)             | Temporarily close, prohibit the use of, restrict the use of, alter or divert of the part of the street between the points marked MA and MB on sheet 5 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees     | Unnamed private track        | Temporarily close, prohibit the use of, restrict the use of, alter or divert the private access between the points marked Z1 and Z2 on sheet 2 of the access and rights of way plans        |

|   |  |   |
|---|--|---|
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Cowpen Lane                                  | Temporarily close, prohibit the use of, restrict the use of, alter or divert the private access between the points marked Z3 and Z4 on sheet 2 of the access and rights of way plans          |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Saltholme Power Station private access track | Temporarily close, prohibit the use of, restrict the use of, alter or divert the private access between the points marked Z7 and Z8 on sheets 2 and 3 of the access and rights of way plans   |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Saltholme Substation private access track    | Temporarily close, prohibit the use of, restrict the use of, alter or divert the private access between the points marked Z9 and Z10 on sheets 2 and 3 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Unnamed private track                        | Temporarily close, prohibit the use of, restrict the use of, alter or divert the private access between the points marked Z11 and Z12 on sheets 2 and 3 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Unnamed private track                        | Temporarily close, prohibit the use of, restrict the use of, alter or divert the private access between the points marked Z13 and Z14 on sheets 2 and 3 of the access and rights of way plans |

## PART 2

### THOSE PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED

**Table 5**

| <i>(1)</i><br><i>Area</i>   | <i>(2)</i><br><i>Public right of way subject to temporary prohibition or restriction of use</i> | <i>(3)</i><br><i>Extent of temporary prohibition or restriction of use of the public right of way</i>   |
|---|---|---|
| In the <del>District</del> <u>Borough</u> of Redcar and Cleveland | Public footpath – England Coast Path / Teesdale Way LDR   | Temporarily close, prohibit the use of, restrict the use of, alter or divert the footpath between the points marked W1 and W2 on sheet 9 of the access and rights of way plans  |
| In the <del>District</del> <u>Borough</u> of Redcar and Cleveland | Public bridleway – England Coast Path / Teesdale Way LDR  | Temporarily close, prohibit the use of, restrict the use of, alter or divert the bridleway between the points marked W3 and W4 on sheet 9 of the access and rights of way plans |

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|---|---|--|
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Public footpath – England Coast Path          | Temporarily close, prohibit the use of, restrict the use of, alter or divert the footpath between the points marked W7 and W8 on sheet 4 of the access and rights of way plans |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Public footpath – Cowpen Bewley Woodland Park | Temporarily close, prohibit the use of, restrict the use of, alter or divert the footpath between W9 and W10 on sheets 1 and 2 of the access and rights of way plans           |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Public footpath – Cowpen Bewley Woodland Park | Temporarily close, prohibit the use of, restrict the use of, alter or divert the footpath between W11 and W12 on sheets 1 and 2 of the access and rights of way plans          |
| In the <del>District</del> <u>Borough</u> of Stockton-on-Tees | Public footpath – Cowpen Bewley Woodland Park | Temporarily close, prohibit the use of, restrict the use of, alter or divert the footpath between W13 and W14 on sheets 1 and 2 of the access and rights of way plans          |

SCHEDULE 7

Article 16

TRAFFIC REGULATION MEASURES

Table 6

| <i>(1)</i><br><i>Area</i>  | <i>(2)</i><br><i>Street</i>  | <i>(3)</i><br><i>Description of traffic regulation measures</i>  | <i>(4)</i><br><i>Traffic regulation measure reference as shown on the temporary traffic regulation measures plan</i> |
|--|--|--|--|
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Unnamed road extending from Wolviston Bank Lane to A1185 between Billingham Cemetery and Railway linking Billingham and Seaton Carew | Road closure between points AA and AB  | TM01   |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185  | Contraflow between points BA and BB, and temporary 30mph speed limit and parking restrictions between points BA1 and BB1 | TM02   |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185  | Contraflow between points BC and BD, and temporary 30mph speed limit and parking restrictions between points BC1 and BD1 | TM03   |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185  | Contraflow between points BE and BF, and temporary 30mph speed limit and parking restrictions between points BE1 and BF1 | TM04   |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | A1185  | Contraflow between points BG and BH, and temporary 30mph speed limit and parking restrictions between points BG1 and BH1 | TM05   |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees | Tees Road (A178)   | Contraflow between points CA and CB, and temporary 30mph speed limit and parking restrictions                            | TM06   |

|  |                          |   |      |
|--|--------------------------|---|------|
|  |                          | between points CA1 and CB1  |      |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees     | Seaton Carew Road (A178) | Contraflow between points DA and DB, and temporary 30mph speed limit and parking restrictions between points DA1 and DB1  | TM07 |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees     | Seaton Carew Road (A178) | Contraflow between points DC and DD, and temporary 30mph speed limit and parking restrictions between points DC1 and DD1  | TM08 |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees     | Seal Sands Road          | Contraflow between points EA and EB, and temporary 30mph speed limit and parking restrictions between points EA1 and EB1  | TM09 |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees     | Seal Sands Road          | Contraflow between points EC and ED, and temporary 30mph speed limit and parking restrictions between points EC1 and ED1  | TM10 |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees     | Cowpen Bewley Road       | Contraflow between points GA and GB, and temporary 30mph speed limit and parking restrictions between points GA1 and GB1  | TM11 |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees     | Nelson Avenue            | Contraflow between points HA and HB, and parking restrictions between points HA1 and HB1                                  | TM12 |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees     | Belasis Avenue (B1275)   | Contraflow between points IA and IB, and temporary 30mph speed limit and parking restrictions between points IA1 and IB1  | TM13 |
| In the <del>District</del> <a href="#">Borough</a> of Redcar and Cleveland | Trunk Road (A1085)       | Lane closure between points JC and JD, and temporary 30mph speed limit and parking restrictions between points JC1 and JD | TM14 |



|  |                    |  |      |
|--|--------------------|--|------|
| In the <del>District</del> <a href="#">Borough</a> of Redcar and Cleveland | Trunk Road (A1085) | Lane closure between points KA and KB and temporary 30mph speed limit and parking restrictions between points KA1 and KB | TM15 |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees     | New Road           | Road closure between points LA and LB  | TM16 |
| In the <del>District</del> <a href="#">Borough</a> of Stockton-on-Tees     | New Road           | Contraflow between points LA and LB, and temporary 30mph speed limit and parking restrictions between points LA1 and LB1 | TM17 |

SCHEDULE 118

Article 18

IMPORTANT HEDGEROWS TO BE REMOVED

Table 7

| <i>(1)</i><br><i>Area</i>  | <i>(2)</i><br><i>Number of hedgerow and extent of removal</i>   |
|--|---|
| <u>In the Borough of</u> Stockton-on-Tees <del>Borough</del><br><del>Council</del> | Removal of that part of the <del>25</del> x hedgerows shown within the Order limits as identified by the green lines on figure 2.15 – important hedgerows to be removed |

## LAND IN WHICH NEW RIGHTS ETC. MAY BE ACQUIRED

**Interpretation**

In this Schedule—

“Work No. 1A.1 infrastructure” means any works or development comprised within Work No. 1A.1, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 1A.1 on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 1A.2 infrastructure” means any works or development comprised within Work No. 1A.2, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 1A.2 on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 1B.1 infrastructure” means any works or development comprised within Work No. 1B.1, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 1B.1 on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 1B.2 infrastructure” means any works or development comprised within Work No. 1B.1, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 1B.2 on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 1C infrastructure” means any works or development comprised within Work No. 1C, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 1C on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 1D infrastructure” means any works or development comprised within Work No. 1D, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 1D on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 1E.1 infrastructure” means any works or development comprised within Work No. 1E.1, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 1E.1 on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 1E.2 infrastructure” means any works or development comprised within Work No. 1E.2, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 1E.2 on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 2A infrastructure” means any works or development comprised within Work No. 2A, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 2A on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 2B infrastructure” means any works or development comprised within Work No. 2B, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 2B on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;



“Work No. 7A infrastructure” means any works or development comprised within Work No. 7A, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 7A on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 7B infrastructure” means any works or development comprised within Work No. 7B, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 7B on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 8 infrastructure” means any works or development comprised within Work No. 8, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 8 on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 10A.1 access and highway improvements” means any works or development comprised within Work No. 10A.1, including any other necessary works or development permitted within the area delineated as Work No. 10A.1 on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 10A.2 access and highway improvements” means any works or development comprised within Work No. 10A.2, including any other necessary works or development permitted within the area delineated as Work No. 10A.2 on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

“Work No. 11 infrastructure” means any works or development comprised within Work No. 11, ancillary apparatus and any other necessary works or development permitted within the area delineated as Work No. 11 on the works plans including the alteration, diversion or construction of statutory undertakers’ apparatus;

**Table 8**

| (1)<br><i>Plot numbers shown on Land Plans</i>  | (2)<br><i>Purposes for which rights over land may be acquired or restrictive covenants may be imposed</i>   |
|---|---|
| <p>The following plots shown coloured pink on the land plans— 13/16, 13/19, 13/20, 13/21, 13/23, 14/1, 14/2, 14/3, 14/4, 14/5</p> | <p>For and in connection with the Work No. 1A.1 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 1A.1 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 1A.1 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 1A.1 infrastructure, or interfere with or obstruct access from and to the Work No. 1A.1 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |

|   |   |
|---|---|
| <p>The following plots shown coloured pink on the land plans— 13/15, 13/16, 13/19, 13/21, 13/23, 14/1, 14/2, 14/9</p>           | <p>For and in connection with the Work No. 1A.2 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 1A.2 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 1A.2 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 1A.2 infrastructure, or interfere with or obstruct access from and to the Work No. 1A.2 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |
| <p>The following plots shown coloured pink on the land plans— 13/16, 13/20, 14/4, 14/5</p>                                      | <p>For and in connection with the Work No. 1B.1 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 1B.1 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 1B.1 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 1B.1 infrastructure, or interfere with or obstruct access from and to the Work No. 1B.1 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |
| <p>The following plots shown coloured pink on the land plans— 13/6, <del>13/15</del>, 13/19, 13/21, 13/23, 14/1, 14/2, 14/9</p> | <p>For and in connection with the Work No. 1B.2 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 1B.2 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 1B.2</p>   |

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|  | <p>infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 1B.2 infrastructure, or interfere with or obstruct access from and to the Work No. 1B.2 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p>  |
| <p>The following plots shown coloured pink on the land plans— 13/15, 13/16, 13/19, 13/21, 13/23, 14/1, 14/2, 14/3, 14/4</p>                    | <p>For and in connection with the Work No. 1C infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 1C infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 1C infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 1C infrastructure, or interfere with or obstruct access from and to the Work No. 1C infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |
| <p>The following plots shown coloured pink on the land plans— 13/15, 13/16, 13/19, 13/20, 13/21, 13/23, 14/1, 14/2, 14/3, 14/4, 14/5, 14/9</p> | <p>For and in connection with the Work No. 1D infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 1D infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 1D infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 1D infrastructure, or interfere with or obstruct access from and to the Work No. 1D infrastructure, including the right to prevent or remove the whole of any building, or any fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of</p>       |

|  |  |
|--|--|
|  | the land.  |
| The following plots shown coloured pink on the land plans— 13/16, 13/20, 14/1, 14/2, 14/3, 14/4, 14/5, 14/9  | For and in connection with the Work No. 1E.1 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 1E.1 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 1E.1 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 1E.1 infrastructure, or interfere with or obstruct access from and to the Work No. 1E.1 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land. |
| The following plots shown coloured pink on the land plans— 13/15, 13/16, 13/20, 14/1, 14/2, 14/9   | For and in connection with the Work No. 1E.2 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 1E.2 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 1E.2 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 1E.2 infrastructure, or interfere with or obstruct access from and to the Work No. 1E.2 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land. |
| The following plots shown coloured blue on the land plans— 9/5, 9/7, 9/9, 9/10, 13/17, 13/18, 13/22, 14/6, 14/7, 14/8, 14/14, 14/22, 14/23, 14/25, 14/26, 14/27, 14/28, 14/29, 15/3, 15/4, 15/5, 15/6, 15/7, 15/8, 15/9, 15/17, 15/25, 15/26, 15/27, 15/28, 15/29, 15/30, 15/43, 15/47, 15/48, 15/49, 15/50, 15/51, 15/52, 15/53, 15/54, 15/55, 15/56, 15/70, 15/71, 15/72, 15/87, 15/88, 15/90, 15/93, 15/94, 15/97, 15/98, 15/103, 15/104, 15/105, 15/106, 15/107, 15/110, | For and in connection with the Work No. 2A infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 2A infrastructure, together with the right to install, retain, use, maintain, alter,  |



|   |   |
|---|---|
| <p>15/111, 15/113</p> <p>The following plots shown coloured pink on the land plans— 13/20, 14/5, 15/69</p>  | <p>replace and remove the Work No. 2A infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 2A infrastructure, or interfere with or obstruct access from and to the Work No. 2A infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p>   |
| <p>The following plots shown coloured pink on the land plans— 9/8, 14/16, 14/17, 14/18, 14/19, 14/20, 14/21, 15/69</p>  | <p>For and in connection with the Work No. 2B infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 2B infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 2B infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 2B infrastructure, or interfere with or obstruct access from and to the Work No. 2B infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |
| <p>The following plots shown coloured blue on the land plans— 13/17, 13/18, 13/22, 14/10, 14/11, 14/12, 14/13, 14/14, 14/23, 14/24, 14/25, 14/26, 14/27, 14/28, 14/29, 14/38, 14/39, 14/6, 14/7, 14/8, 15/1, 15/10, 15/103, 15/104, 15/105, 15/106, 15/107, 15/11, 15/110, 15/111, 15/113, 15/12, 15/13, 15/139, 15/14, 15/140, 15/141, 15/15, 15/16, 15/160, 15/161, 15/162, 15/163, 15/164, 15/165, 15/166, 15/17, 15/18, 15/19, 15/196, 15/20, 15/21, 15/22, 15/23, 15/24, 15/25, 15/26, 15/27, 15/28, 15/29, 15/3, 15/30, 15/31, 15/32, 15/33, 15/34, 15/35, 15/36, 15/37, 15/38, 15/39, 15/4, 15/40, 15/41, 15/42, 15/43, 15/44, 15/45, 15/46, 15/47, 15/48, 15/49, 15/5, 15/50, 15/51, 15/52, 15/53, 15/54, 15/55, 15/56, 15/57, 15/58, 15/59, 15/60, 15/61, 15/62, 15/63, 15/64, 15/65, 15/66, 15/67, 15/68, 15/7, 15/70, 15/71, 15/8, 15/87, 15/88, 15/9, 15/90, 15/93, 15/94, 15/97, 15/98</p> | <p>For and in connection with the Work No. 3A infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 3A infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 3A infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 3A infrastructure, or interfere with or obstruct access from and to the Work No. 3A infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or thing, and the right to prevent or remove any works or uses which alter the</p>   |
| <p>The following plots shown coloured pink on the land plans— 13/20, 14/16, 14/17, 14/18, 14/19,</p>  | <p>remove any works or uses which alter the</p>   |

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| 14/20, 14/21, 14/5, 15/157, 15/158, 15/159  | surface level, ground cover or composition of the land.   |
| The following plots shown coloured pink on the land plans— 14/49                              | For and in connection with the Work No. 3B.1 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 3B.1 infrastructure, together with the rights to install, retain, use, maintain, alter, replace and remove the Work No. 3B.1 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 3B.1 infrastructure, or interfere with or obstruct access from and to the Work No. 3B.1 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land. |
| The following plots shown coloured pink on the land plans— 15/157, 15/158, 15/159             | For and in connection with the Work No. 3B.2 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 3B.2 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 3B.2 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 3B.2 infrastructure, or interfere with or obstruct access from and to the Work No. 3B.2 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.  |
| The following plots coloured pink on the land plans— 14/16, 14/17, 14/18, 14/19, 14/20, 14/21 | For and in connection with the Work No. 3B.3 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 3B.3 infrastructure, together with   |

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|  | <p>the right to install, retain, use, maintain, alter, replace and remove the Work No. 3B.3 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 3B.3 infrastructure, or interfere with or obstruct access from and to the Work No. 3B.3 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p>  |
| <p>The following plots shown coloured blue on the land plans— 13/17, 13/18, 13/22, 14/10, 14/11, 14/12, 14/14, 14/23, 14/24, 14/25, 14/26, 14/27, 14/28, 14/29, 14/30, 14/31, 14/32, 14/33, 14/34, 14/35, 14.36, 14/37, 14/38, 14/39, 14/40, 14/41, 14/42, 14/43, 14/44, 14/45, 14/46, 14/47, 14/48, 14/6, 14/7, 14/8, 15/10, 15/11, 15/12, 15/13, 15/14, 15/15, 15/16, 15/17, 15/18, 15/19, 15/20, 15/235, 15/236, 15/237, 15/238, 15/239, 15/240, 15/241, 15/242, 15/243, 15/3, 15/4, 15/5, 15/7, 15/8, 15/9</p> | <p>For and in connection with the Work No. 4 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 4 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 4 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 4 infrastructure, or interfere with or obstruct access from and to the Work No. 4 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |
| <p>The following plots shown coloured pink on the land plans— 13/20, 14/16, 14/17, 14/18, 14/19, 14/20, 14/21, 14/5</p>  | <p>For and in connection with the Work No. 4 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 4 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 4 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 4 infrastructure, or interfere with or obstruct access from and to the Work No. 4 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |
| <p>The following plots shown coloured blue on the land plans— 13/17, 13/18, 13/22, 14/10, 14/11, 14/12, 14/14, 14/23, 14/24, 14/25, 14/26, 14/27, 14/28, 14/29, 14/30, 14/31, 14/32, 14/33, 14/34, 14/35, 14/37, 14/38, 14/39, 14/6, 14/7, 14/8, 15/10, 15/11, 15/12, 15/13, 15/14, 15/15, 15/16, 15/17, 15/18, 15/19, 15/20, 15/3, 15/4, 15/5, 15/7, 15/8, 15/9</p>   | <p>For and in connection with the Work No. 5 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 5 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 5 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 5 infrastructure, or interfere with or obstruct access from and to the Work No. 5 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or</p>  |
| <p>The following plots shown coloured pink on the land plans— 13/20, 14/16, 14/17, 14/18, 14/19, 14/20, 14/21, 14/5</p>  | <p>For and in connection with the Work No. 5 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 5 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 5 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 5 infrastructure, or interfere with or obstruct access from and to the Work No. 5 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or</p>  |

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|   | remove any works or uses which alter the surface level, ground cover or composition of the land.  |
| <p>The following plots shown coloured blue on the land plans— 1/12, 1/13, 1/19, 1/20, 1/22, 1/24, 1/26, 1/30, 1/33, 1/43, 1/44, 1/5, 1/6, 1/7, 10/1, 10/10, 10/14, 10/15, 10/16, 10/25, 10/26, 10/28, 10/38, 10/39, 10/43, 10/45, 11/10, 11/100, 11/101, 11/102, 11/103, 11/104, 11/105, 11/106, 11/107, 11/108, 11/109, 11/110, 11/111, 11/112, 11/113, 11/114, 11/115, 11/116, 11/117, 11/118, 11/119, 11/12, 11/120, 11/121, 11/122, 11/123, 11/124, 11/125, 11/127, 11/13, 11/130, 11/131, 11/132, 11/133, 11/135, 11/15, 11/16, 11/19, 11/23, 11/26, 11/27, 11/29, 11/31, 11/33, 11/36, 11/38, 11/43, 11/44, 11/47, 11/5, 11/52, 11/53, 11/54, 11/57, 11/59, 11/60, 11/61, 11/63, 11/64, 11/65, 11/67, 11/68, 11/69, 11/70, 11/71, 11/72, 11/73, 11/74, 11/75, 11/76, 11/77, 11/78, 11/79, 11/8, 11/80, 11/81, 11/82, 11/83, 11/84, 11/85, 11/86, 11/87, 11/88, 11/89, 11/90, 11/91, 11/92, 11/93, 11/94, 11/95, 11/96, 11/97, 11/98, 11/99, 12/2, 12/3, 12/4, 12/5, 13/12, 13/13, 13/14, 13/17, 13/18, 13/22, 13/9, 14/14, 14/6, 14/7, 14/8, 15/100, 15/101, 15/102, 15/103, 15/104, 15/105, 15/106, 15/107, 15/108, 15/109, 15/110, 15/111, 15/112, 15/113, 15/114, 15/115, 15/116, 15/127, 15/128, 15/129, 15/130, 15/131, 15/132, 15/133, 15/134, 15/135, 15/136, 15/137, 15/138, 15/139, 15/14, 15/140, 15/141, 15/142, 15/143, 15/144, 15/145, 15/147, 15/148, 15/15, 15/151, 15/153, 15/154, 15/155, 15/156, 15/16, 15/160, 15/161, 15/162, 15/163, 15/164, 15/165, 15/166, 15/167, 15/168, 15/169, 15/17, 15/173, 15/174, 15/175, 15/176, 15/177, 15/178, 15/179, 15/18, 15/180, 15/181, 15/182, 15/183, 15/184, 15/185, 15/186, 15/187, 15/188, 15/189, 15/19, 15/190, 15/191, 15/192, 15/193, 15/194, 15/195, 15/196, 15/197, 15/198, 15/199, 15/20, 15/200, 15/201, 15/202, 15/203, 15/204, 15/205, 15/206, 15/207, 15/208, 15/209, 15/21, 15/210, 15/211, 15/212, 15/213, 15/214, 15/215, 15/216, 15/217, 15/218, 15/219, 15/22, 15/220, 15/221, 15/222, 15/223, 15/224, 15/225, 15/226, 15/227, 15/228, 15/229, 15/23, 15/230, 15/231, 15/24, 15/25, 15/26, 15/27, 15/28, 15/29, 15/3, 15/30, 15/31, 15/32, 15/33, 15/34, 15/35, 15/36, 15/37, 15/38, 15/39, 15/4, 15/40, 15/41, 15/42, 15/43, 15/44, 15/45, 15/46, 15/47, 15/48, 15/49, 15/5, 15/50, 15/51, 15/52, 15/53, 15/54, 15/55, 15/56, 15/57, 15/58, 15/59, 15/60, 15/61, 15/62, 15/63, 15/64, 15/65, 15/66, 15/67, 15/68, 15/70, 15/71, 15/72, 15/73, 15/74, 15/75, 15/76, 15/77, 15/78, 15/79, 15/80, 15/81, 15/82, 15/85, 15/86, 15/97, 15/88, 15/89, 15/90, 15/91,</p> | <p>For and in connection with the Work No. 6A.1 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 6A.1 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 6A.1 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 6A.1 infrastructure, or interfere with or obstruct access from and to the Work No. 6A.1 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |

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| <p>15/92, 15/93, 15/94, 15/95, 15/96, 15/97, 15/98, 15/99, 18/1, 18/10, 18/2, 18/3, 18/4, 18/7, 19/19, 19/2, 19/22, 19/24, 19/26, 19/28, 19/3, 19/32, 19/36, 19/6, 2/1, 2/13, 2/14, 2/15, 2/17, 2/18, 2/2, 2/22, 2/23, 2/26, 2/27, 2/29, 2/32, 2/33, 2/38, 2/39, 2/42, 2/45, 2/47, 2/48, 2/5, 2/52, 2/53, 2/54, 2/55, 2/56, 2/57, 2/58, 2/59, 2/60, 2/61, 2/63, 2/8, 20/1, 20/10, 20/17, 20/6, 21/3, 3/1, 3/10, 3/11, 3/12, 3/2, 3/21, 3/28, 3/3, 3/31, 3/40, 3/41, 3/6, 3/7, 3/9, 5/1, 5/106, 5/12, 5/13, 5/16, 5/17, 5/18, 5/2, 5/23, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/35, 5/36, 5/37, 5/38, 5/39, 5/4, 5/40, 5/41, 5/42, 5/44, 5/45, 5/48, 5/49, 5/5, 5/50, 5/51, 5/54, 5/55, 5/56, 5/57, 5/58, 5/59, 5/62, 5/63, 5/64, 5/65, 5/70, 5/8, 5/90, 5/92, 6/10, 6/11, 6/12, 6/13, 6/2, 6/5, 6/8, 7/1, 7/10, 7/11, 7/12, 7/13, 7/14, 7/15, 7/16, 7/17, 7/18, 7/19, 7/2, 7/20, 7/21, 7/22, 7/23, 7/24, 7/25, 7/3, 7/38, 7/39, 7/4, 7/41, 7/5, 7/6, 7/7, 7/8, 7/9, 9/11, 9/12, 9/13, 9/15, 9/17, 9/18, 9/19, 9/21, 9/27, 9/30, 9/32, 9/33, 9/38, 9/40</p> |   |
| <p>The following plots shown coloured pink on the land plans— 13/15, 13/20, 14/5, 15/157, 15/158, 15/159, 15/69, 20/11</p>  |   |
| <p>The following plots shown coloured blue on the land plans— 3/100, 3/101, 3/46, 3/48, 3/51, 3/54, 3/56, 3/58, 3/61, 3/64, 3/68, 3/70, 3/73, 3/75, 3/77, 3/78, 3/81, 3/82, 3/87, 3/88, 3/91, 3/93, 3/96, 4/10, 4/13, 4/16, 4/17, 4/26, 4/27, 4/30, 4/31, 4/32, 4/33, 4/34, 4/38, 4/41, 4/46, 4/48, 4/49, 4/50, 4/52, 4/54, 4/57, 4/59, 4/63, 4/64, 4/65, 4/66, 4/67, 4/68, 4/69, 4/7, 4/70, 4/76, 4/79, 4/8, 4/81, 4/84, 4/86, 4/89, 4/9</p>   | <p>For and in connection with the Work No. 6A.2 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 6A.2 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 6A.2 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 6A.2 infrastructure, or interfere with or obstruct access from and to the Work No. 6A.2 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |
| <p>The following plots shown coloured blue on the land plans— 5/70, 5/76, 5/77, 5/79, 5/81, 5/83, 5/86, 5/88, 5/89, 5/90, 5/92, 5/96</p>  | <p>For and in connection with the Work No. 6A.3 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 6A.3 infrastructure, together with the right to install, retain, use, maintain, alter,</p>  |

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|  | <p>replace and remove the Work No. 6A.3 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 6A.3 infrastructure, or interfere with or obstruct access from and to the Work No. 6A.3 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p>   |
| <p>The following plots shown coloured pink on the land plans— 1/36, 10/9, 11/126, 11/128, 11/129, 11/134, 11/56, 11/58, 11/66, 15/146, 15/149, 15/150, 15/152, 19/4, 19/5, 2/35, 2/36, 2/37, 20/11, 3/19, 3/35, 3/36, 3/38, 3/39, 5/21, 9/16, 9/41</p> | <p>For and in connection with the Work No. 6B.1 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 6B.1 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 6B.1 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 6B.1 infrastructure, or interfere with or obstruct access from and to the Work No. 6B.1 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |
| <p>The following plots shown coloured pink on the land plans— 4/25, 4/28, 4/29, 4/5, 4/6</p>   | <p>For and in connection with the Work No. 6B.2 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 6B.2 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 6B.2 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 6B.2 infrastructure, or interfere with or obstruct access from and to the Work No. 6B.2 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which</p>   |

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|  | alter the surface level, ground cover or composition of the land.  |
| The following plots shown coloured pink on the land plans— 5/85, 5/94  | For and in connection with the Work No. 6B.3 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 6B.3 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 6B.3 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 6B.3 infrastructure, or interfere with or obstruct access from and to the Work No. 6B.3 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land. |
| The following plots shown coloured blue on the land plans— 13/17, 13/18, 13/22, 14/10, 14/11, 14/12, 14/14, 14/15, 14/22, 14/23, 14/24, 14/25, 14/26, 14/27, 14/28, 14/29, 14/6, 14/7, 14/8, 15/17, 15/2, 15/25, 15/26, 15/3, 15/4, 15/5, 15/6, 15/7, 15/8, 15/9 | For and in connection with the Work No. 7A infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 7A infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 7A infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 7A infrastructure, or interfere with or obstruct access from and to the Work No. 7A infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.           |
| The following plots shown coloured pink on the land plans— 13/20, 14/5   |  |
| The following plots shown coloured pink on the land plans— 14/16, 14/17, 14/18, 14/19, 14/20, 14/21  | For and in connection with the Work No. 7B infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 7B infrastructure, together with  |

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|   | <p>the right to install, retain, use, maintain, alter, replace and remove the Work No. 7B infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 7B infrastructure, or interfere with or obstruct access from and to the Work No. 7B infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p>  |
| <p>The following plots shown coloured blue on the land plans— 13/17, 13/18, 13/22, 14/14, 14/6, 14/7, 14/8, 15/100, 15/101, 15/102, 15/103, 15/104, 15/105, 15/106, 15/107, 15/108, 15/109, 15/110, 15/111, 15/112, 15/113, 15/114, 15/115, 15/116, 15/117, 15/119, 15/120, 15/121, 15/127, 15/131, 15/133, 15/134, 15/135, 15/136, 15/14, 15/15, 15/16, 15/17, 15/18, 15/19, 15/20, 15/21, 15/22, 15/23, 15/24, 15/25, 15/26, 15/27, 15/28, 15/29, 15/3, 15/30, 15/31, 15/32, 15/33, 15/34, 15/35, 15/37, 15/39, 15/4, 15/40, 15/41, 15/42, 15/43, 15/46, 15/47, 15/48, 15/49, 15/5, 15/50, 15/51, 15/52, 15/53, 15/54, 15/55, 15/56, 15/57, 15/58, 15/59, 15/62, 15/63, 15/64, 15/65, 15/66, 15/67, 15/68, 15/70, 15/71, 15/87, 15/88, 15/89, 15/90, 15/91, 15/92, 15/93, 15/94, 15/95, 15/96, 15/97, 15/98, 15/99, 16/10, 16/11, 16/12, 16/13, 16/14, 16/15, 16/18, 16/8, 16/9</p> | <p>For and in connection with the Work No. 8 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 8 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 8 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 8 infrastructure, or interfere with or obstruct access from and to the Work No. 8 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |
| <p>The following plots shown coloured pink on the land plans— 13/20, 14/5, 15/69</p>  |  |
| <p>The following plots shown coloured blue on the land plans— 1/1, 1/2, 1/29, 10/11, 10/12, 10/13, 10/17, 10/29, 10/30, 10/31, 10/32, 10/33, 10/34, 10/35, 10/36, 10/4, 10/40, 10/42, 10/7, 11/1, 11/18, 11/2, 11/20, 11/28, 11/3, 11/35, 11/36, 11/37, 11/38, 11/6, 11/7, 14/36, 15/170, 15/171, 15/172, 15/232, 15/83, 15/84, 16/1, 16/16, 16/2, 16/22, 16/23, 16/24, 16/25, 16/26, 16/27, 16/28, 16/29, 16/3, 16/5, 16/6, 16/7, 18/5, 19/1, 19/16, 19/18, 19/23, 19/30, 19/7, 19/8, 20/19, 20/2, 20/5, 20/8, 20/9, 21/1, 21/13, 3/15, 3/16, 3/17, 3/23, 3/24, 3/25, 3/42, 3/43, 3/44, 5/46, 5/52, 5/53, 5/60, 5/61, 5/66, 5/67, 5/72, 5/73, 5/74, 5/96, 7/26, 7/27, 7/28, 8/1, 8/10, 8/11, 8/12, 8/2, 8/3, 8/4, 8/5, 8/6, 8/7, 8/8, 8/9, 9/1, 9/2, 9/3, 9/36, 9/4, 9/46, 9/47, 9/6</p>   | <p>For and in connection with the Work No. 10A.1 access and highway improvements, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the authorised development, along with the right to prevent any works on or uses of the land which may interfere with or obstruct access from and to the authorised development, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p>  |
| <p>The following plots shown coloured blue on the land plans— 4/1, 4/11, 4/12, 4/14, 4/15, 4/18,</p>  | <p>For and in connection with the Work No. 10A.2 access and highway improvements, the right to</p>   |



|  |   |
|--|---|
| <p>4/19, 4/2, 4/20, 4/21, 4/22, 4/23, 4/24, 4/3, 4/4, 4/71, 4/72, 4/73, 4/74, 4/91, 4/92, 4/93</p> | <p>create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the authorised development, along with the right to prevent any works on or uses of the land which may interfere with or obstruct access from and to the authorised development, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p>   |
| <p>The following plots shown coloured pink on the land plans— 4/94, 4/95</p>                       | <p>For and in connection with the Work No. 11 infrastructure, the right to create, maintain or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant, machinery and equipment, at all times and for all purposes in connection with the laying, installation, use and maintenance of the Work No. 11 infrastructure, together with the right to install, retain, use, maintain, alter, replace and remove the Work No. 11 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 11 infrastructure, or interfere with or obstruct access from and to the Work No. 11 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</p> |

**MODIFICATION OF COMPENSATION AND COMPULSORY  
PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS  
AND IMPOSITION OF NEW RESTRICTIVE COVENANTS**

*Compensation enactments*

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land 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 limitation to the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

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

3.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) In section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule ~~8~~10 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictive covenants) to the H2Teesside Order 202\*; and
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule ~~8~~10 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictive covenants) to the H2Teesside Order 202\* to acquire an interest in the land, and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

*Application of Part 1 of the 1965 Act*

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 30 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the acquisition of land under article 22 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 25 (compulsory acquisition of rights etc.)—

- (a) with the modification specified in paragraph 5; and

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(a) 1973 c.26.

(b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

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

(3) For section 7 of the 1965 Act there is substituted the following section—

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

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

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (persons without powers to sell their interests);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are 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.

(5) Section 11 (powers of entry) of the 1965 Act is modified as to secure that, where the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 22 (compulsory acquisition of land), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A (powers of entry: further notices of entry)(a), 11B (counter-notice requiring possession to be taken on a specified date)(b), 12 (unauthorised entry)(c) and 13 (entry on warrant in the event of obstruction)(d) of the 1965 Act are modified correspondingly.

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

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 30(3) (modification of Part 1 of the 1965 Act) is also modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to

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(a) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).

(b) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016 (c.22).

(c) Section 12 was amended by section 56(2) of and part 1 of Schedule 9 to, the Courts Act 1971 (c.23).

(d) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c.15).

(e) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c.34) and S.I. 2009/1307.

exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act substitute—

## “SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

### *Introduction*

1.—(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act (execution of declaration) as applied by article 27 (application of the 1981 Act) of the H2Teesside Order 202\* in respect of the land to which the notice to treat relates.

(2) But see article 28(3) (acquisition of subsoil or airspace only) of the H2Teesside Order 202\* which excludes the acquisition of subsoil or airspace only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

### *Counter-notice requiring purchase of land*

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

### *Response to counter-notice*

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of three months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

### *Determination by Upper Tribunal*

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

- 11.** In making its determination, the Upper Tribunal must take into account—
- (a) the effect of the acquisition of the right or the imposition of the covenant,
  - (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
  - (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

**12.** If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

**13.** If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

**14.—(1)** If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

SCHEDULE 1011

Article 32

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

Table 9

| <i>(1)</i><br><i>Plot numbers shown on Land Plans</i>  | <i>(2)</i><br><i>Purpose for which temporary possession may be taken</i> |
|--|--|
| 1/10, 1/11, 1/14, 1/15, 1/16, 1/17, 1/18, 1/21, 1/23, 1/25, 1/27, 1/28, 1/3, 1/34, 1/35, 1/37, 1/38, 1/39, 1/4, 1/40, 1/41, 1/42, 1/45, 1/8, 1/9, 10/2, 10/24, 10/27, 10/37, 10/41, 10/44, 10/8, 11/11, 11/136, 11/14, 11/17, 11/21, 11/22, 11/24, 11/25, 11/30, 11/32, 11/34, 11/4, 11/41, 11/42, 11/45, 11/46, 11/48, 11/49, 11/50, 11/51, 11/55, 11/62, 11/9, 12/1, 15/233, 15/234, 18/11, 18/12, 18/13, 18/14, 18/15, 18/6, 18/8, 18/9, 19/17, 19/20, 19/21, 19/25, 19/27, 19/29, 19/31, 19/33, 19/34, 19/35, 19/37, 2/10, 2/11, 2/12, 2/16, 2/19, 2/20, 2/21, 2/24, 2/25, 2/28, 2/3, 2/30, 2/31, 2/34, 2/4, 2/40, 2/41, 2/43, 2/44, 2/46, 2/49, 2/50, 2/51, 2/6, 2/62, 2/7, 2/9, 20/12, 20/13, 20/14, 20/15, 20/16, 20/18, 20/4, 20/7, 21/10, 21/11, 21/12, 21/14, 21/2, 21/4, 21/5, 21/6, 21/7, 21/8, 3/13, 3/14, 3/18, 3/20, 3/22, 3/26, 3/27, 3/29, 3/30, 3/32, 3/33, 3/34, 3/37, 3/4, 3/5, 3/8, 3/45, 3/47, 3/49, 3/50, 3/52, 3/53, 3/55, 3/57, 3/59, 3/60, 3/62, 3/63, 3/65, 3/66, 3/67, 3/69, 3/71, 3/72, 3/74, 3/76, 3/79, 3/80, 3/83, 3/84, 3/85, 3/86, 3/89, 3/90, 3/92, 3/94, 3/95, 3/97, 3/98, 3/99, 3/102, 4/35, 4/36, 4/37, 4/39, 4/40, 4/42, 4/43, 4/44, 4/45, 4/47, 4/51, 4/53, 4/55, 4/56, 4/58, 4/60, 4/61, 4/62, 4/75, 4/77, 4/78, 4/80, 4/82, 4/83, 4/85, 4/87, 4/88, 4/90, 5/10, 5/102, 5/103, 5/104, 5/107, 5/108, 5/11, 5/14, 5/15, 5/19, 5/20, 5/22, 5/24, 5/26, 5/3, 5/31, 5/33, 5/34, 5/43, 5/47, 5/6, 5/68, 5/69, 5/7, 5/71, 5/75, 5/78, 5/80, 5/82, 5/84, 5/87, 5/91, 5/93, 5/95, 5/97, 5/99, 5/100, 5/101, 5/9, 6/1, 6/3, 6/6, 6/7, 6/9, 7/36, 7/37, 9/14, 9/22, 9/23, 9/24, 9/26, 9/28, 9/29, 9/31, 9/34, 9/35, 9/37, 9/39, 9/42 | Temporary use to facilitate carrying out of Work No. 6                   |
| 3/102, 3/45, 3/47, 3/49, 3/50, 3/52, 3/53, 3/55, 3/57, 3/59, 3/60, 3/62, 3/63, 3/65, 3/66, 3/67, 3/69, 3/71, 3/72, 3/74, 3/76, 3/79, 3/80, 3/83, 3/84, 3/85, 3/86, 3/89, 3/90, 3/92, 3/94, 3/95, 3/97, 3/98, 3/99, 4/35, 4/36, 4/37, 4/39, 4/40, 4/42, 4/43, 4/44, 4/45, 4/47, 4/51, 4/53, 4/55, 4/56, 4/58, 4/60, 4/61, 4/62, 4/75, 4/77, 4/78, 4/80, 4/82, 4/83, 4/85, 4/87, 4/88, 4/90  | Temporary use to facilitate carrying out of Work No. 6A.2                |
| 5/100, 5/75, 5/78, 5/80, 5/82, 5/84, 5/87, 5/91, 5/93, 5/95, 5/97, 5/99, 5/101   | Temporary use to facilitate carrying out of Work No. 6A.3                |
| 15/118, 15/122, 15/123, 16/17, 16/19, 16/20, 16/21   | Temporary use to facilitate carrying out of Work No. 8                   |

|  |  |
|--|--|
| 1/31, 10/21, 10/22, 10/23, 10/46, 10/47, 13/3, 13/8, 19/10, 19/13, 19/9, 3/33, 3/34, 3/37, 5/84  | Temporary use as construction compound, laydown, construction use and access required to facilitate construction of the authorised development |
| 1/32, 10/18, 10/19, 10/20, 10/3, 10/46, 10/47, 10/5, 10/6, 11/39, 11/40, 13/1, 13/10, 13/11, 13/2, 13/4, 13/5, 13/6, 13/7, 15/124, 15/125, 15/126, 16/4, 17/1, 17/10, 17/2, 17/3, 17/4, 17/5, 17/6, 17/7, 17/8, 17/9, 19/11, 19/12, 20/3, 21/9, 5/105, 5/98, 5/99, 6/4, 7/29, 7/30, 7/31, 7/32, 7/33, 7/34, 8/13, 9/20, 9/25, 9/43, 9/44, 9/45 | Temporary use to facilitate access to and highway improvements in relation to the authorised development                                       |

## APPEALS TO THE SECRETARY OF STATE

1. In this Schedule, “local authority” means the relevant planning authority, the relevant local highway authority, the relevant traffic authority or a street authority.

- 2.—(1) The undertaker may appeal to the Secretary of State in the event that a local authority—
- (a) refuses an application for any approval under this Order required by—
    - (i) article 10(3) (power to alter layout etc. of streets);
    - (ii) article 13(4) (temporary closure of streets and public rights of way);
    - (iii) article ~~14~~14 (access to works);
    - (iv) article 16 (traffic regulation measures);
    - (v) article 20(4) (authority to survey and investigate the land);
    - (vi) article 29(1) (special category land and replacement special category land); or
  - (b) grants an approval for any approval required by an article or paragraph mentioned in sub-sub-paragraph ~~(a)~~(a) subject to conditions;
  - (c) refuses an application for a permit under a permit scheme, or grants such a ~~permit~~permits subject to conditions; or
  - (d) issues a notice further to sections 60 or 61 of the Control of Pollution Act 1974.
- (2) The appeal process applicable under sub-paragraph ~~(1)~~(1) is as follows—
- (a) any appeal by the undertaker must be made within 30 working days of the date of the notice of the decision, or the date by which a decision was due to be made, as the case may be;
  - (b) the undertaker must submit the appeal documentation (comprising the relevant application to the local authority, a copy (where it has been provided to the undertaker) of the local authority’s reason for its decision and the undertaker’s reasons as to why the appeal should be granted) to the Secretary of State and must on the same day provide copies of the appeal documentation to the local authority;
  - (c) as soon as practicable after receiving the appeal documentation, the Secretary of State must appoint a person to consider the appeal (“the appointed person”) and must notify the appeal parties (the undertaker and the local authority whose decision is subject to the appeal) of the identity of the appointed person, a start date and the address to which all correspondence for their attention should be sent;
  - (d) the local authority must submit their written representations to the appointed person in respect of the appeal within 10 working days of the start date;
  - (e) the appeal parties must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other on the day on which they are submitted to the appointed person;
  - (f) the appeal parties must make any counter-submissions to the appointed person within 10 working days of receipt of written representations under sub-~~sub~~-paragraph (d); and
  - (g) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable but in any event no later than ~~10~~30 working days from the deadline for receipt of written representations under sub-~~sub~~-paragraph (f).
- (3) The appointment of the person under sub-paragraph ~~(2)~~(2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.
- (4) In the event that the appointed person considers that further information is necessary to enable the appointed person 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 is to be submitted.

(5) Any further information required under sub-paragraph ~~(4)~~(4) 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.

3.—(1) The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day.

(2) The revised timetable for the appeal must require submission of written representations to the appointed person within 10 working days of the agreed date but must otherwise be in accordance with the process and time limits set out in ~~paragraph~~[paragraphs 2\(2\)\(e\)](#)2(2)(c) to 2(2)(f).

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

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the local 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 may proceed to a decision of an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside the relevant time limits.

(3) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to 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.

(5) Except where a direction is given under sub-paragraph ~~(6)~~(6) requiring some or all of the costs of the appointed person to be paid by the local authority, the reasonable costs of the appointed person must be met by the undertaker.

(6) The appointed person may give directions as to the costs of the appeal and as to the parties by whom such costs are to be paid.

(7) In considering whether to make any such ~~decisions~~[direction](#) and the terms on which it is to be made, the appointed person must ~~act in accordance with~~[have regard to](#) the ~~relevant~~ Planning Practice Guidance [about planning appeals and award costs first](#) published [on 3 March 2024](#) by the Department for ~~Levelling Up, Housing and~~ Communities [and Local Government, as updated from time to time](#), or ~~such~~[any circular or](#) guidance ~~as~~[which](#) may from time to time replace it.

## PROCEDURE FOR DISCHARGE OF REQUIREMENTS

**1. In this Schedule—**

“requirement consultee” means any body named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement; and

“start date” means the date of the notification given by the Secretary of State under paragraph 5(2)(b).

**Applications made under requirement**

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

- (a) the day immediately following that on which the application is received by the authority;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 3; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant planning authority.

(2) Subject to paragraph 5, in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Any application made to the relevant planning authority pursuant to sub-paragraph (1) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement and if it will then it must be accompanied by information setting out what those effects are.

(4) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement included and the relevant planning authority does not determine the application within the period set out in sub-paragraph (1)—

- (a) and is accompanied by a report pursuant to sub-paragraph (3) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or
- (b) it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,

then the application is deemed to have been refused by the relevant planning authority at the end of that period.

**Further information and consultation**

3.—(1) In relation to any application to which this Schedule applies, the relevant planning authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the relevant planning authority considers such further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required, the relevant planning authority must, within

10 working days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant planning authority must issue the consultation to the requirement consultee within five working days of receipt of the application, and must notify the undertaker in writing specifying any further information requested by the requirement consultee within five working days of receipt of such a request and in any event within 15 working days of receipt of the application (or such other period as is agreed in writing between the undertaker and the relevant planning authority).

(4) In the event that the relevant planning authority does not give notification as specified in sub-paragraph (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

## **Fees**

4.—(1) Where an application is made to the relevant planning authority for written consent, agreement or approval in respect of a requirement, the fee prescribed under regulations 16(1)(b) and 18A of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (as may be amended or replaced from time to time) is to apply and must be paid to the relevant planning authority for each application.

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

- (a) the application being rejected as invalidly made; or
- (b) the relevant planning authority failing to determine the application within eight weeks from the relevant date in paragraph 1 unless—
  - (i) within that period the undertaker agrees, in writing, that the fee is to be retained by the relevant planning authority and credited in respect of a future application; or
  - (ii) a longer period of time for determining the application has been agreed pursuant to paragraph 2 of this Schedule.

## **Appeals**

5.—(1) The undertaker may appeal in the event that—

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions;
- (b) the relevant planning authority is deemed to have refused an application pursuant to paragraph 2(3);
- (c) on receipt of a request for further information pursuant to paragraph 3 the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the relevant planning authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The steps to be followed in the appeal process are as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any requirement consultee;

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(a) S.I. 2012/2920 was amended by Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023/1197.

- (b) the Secretary of State must appoint a person to determine the appeal as soon as reasonably practicable after receiving the appeal documentation 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's attention should be sent;
- (c) the relevant planning authority and any requirement consultee must submit written representations to the appointed person in respect of the appeal within 10 working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties must make any counter-submissions to the appointed person within 10 working days of receipt of written representations pursuant to sub-sub-paragraph (c);
- (e) the appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 working days of the deadline for the receipt of counter-submissions pursuant to sub-sub-paragraph (d); and
- (f) the appointment of the person pursuant to sub-sub-paragraph (b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(3) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal the appointed person must, within five working days of the appointed person's appointment, notify the appeal parties in writing specifying the further information required.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the relevant party to the appeal to the appointed person and the other appeal parties on the date specified by the appointed person (the "specified date"), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within 10 working days of the specified date, but otherwise the process and time limits set out in sub-paragraphs ~~(e) to (e) of sub-paragraph (2)~~(2)(c) to (2)(e) apply.

(5) The appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to ~~him~~the appointed person in the first instance.

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

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

(8) The decision of the appointed person on an appeal is to be final and binding on the parties, unless proceedings are brought by a claim for judicial review.

(9) If an approval is given by the appointed person pursuant to this Schedule, it is deemed to be an approval for the purpose of Schedule 2 (requirements) as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(10) Save where a direction is given pursuant to sub-paragraph (11) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(11) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on

which it is to be made, the appointed person must have regard to the ~~advice on~~ [Planning Practice Guidance about](#) planning appeals and award costs [first](#) published on 3 March 2014, by ~~what was then~~ the Department for Communities and Local Government [as updated from time to time](#) or any circular or guidance which may from time to time replace it.

SCHEDULE 14

Article 44

DOCUMENTS AND PLANS TO BE CERTIFIED

Table 10

| (1)<br><i>Document name</i>                          | (2)<br><i>Document reference</i>   | (3)<br><i>Revision number</i> | (4)<br><i>Date</i>                   |
|--|--|-------------------------------|--------------------------------------|
| access and rights of way plans                       | 2.5  | 1                             | May 2024                             |
| application guide                                    | 1.2  | <del>1</del> <u>5</u>         | <del>May</del> <u>October</u> 2024   |
| book of reference                                    | 3.1  | <del>1</del> <u>2</u>         | <del>May</del> <u>September</u> 2024 |
| design and access statement                          | 5.4  | 0                             | March 2024                           |
| environmental statement                              | Non-Technical Summary, 6.1<br>Volume I, 6.2<br>Volume II, 6.3<br>Volume III, 6.4 | -<br>-<br>-<br>-              | As listed in the application guide   |
| figure 2.15 – important hedgerows to be removed      | 2.15   | <del>1</del> <u>2</u>         | <del>May</del> <u>August</u> 2024    |
| <del>flood risk assessment</del>                     | <del>6.4.9</del>   | <del>0</del>                  | <del>March</del> <u>2024</u>         |
| framework construction environmental management plan | 5.12   | <del>0</del> <u>1</u>         | <del>March</del> <u>October</u> 2024 |
| framework construction traffic management plan       | 5.16   | <del>0</del> <u>1</u>         | <del>March</del> <u>October</u> 2024 |
| framework construction workers travel plan           | 5.15   | <del>0</del> <u>1</u>         | <del>March</del> <u>October</u> 2024 |
| indicative lighting strategy (construction)          | 5.12.3   | 0                             | March 2024                           |
| indicative lighting strategy (operation)             | 5.8  | 0                             | March 2024                           |
| indicative surface water drainage plan               | 2.12   | 0                             | March 2024                           |
| land plans   | 2.2  | 1                             | May 2024                             |
| nutrient neutrality assessment                       | 5.13   | 0                             | March 2024                           |
| outline landscape and biodiversity management plan   | 5.9  | 0                             | March 2024                           |
| outline site waste management plan                   | 5.12.1   | 0                             | March 2024                           |
| outline water management plan                        | 5.12.2   | 0                             | March 2024                           |
| special category land and crown land plans           | 2.3  | 1                             | May 2024                             |
| temporary traffic regulation measures plan           | 2.13   | 1                             | May 2024                             |

|   |      |   |               |
|---|------|---|---------------|
| water framework<br>directive assessment | 5.14 | 0 | March<br>2024 |
| works plans                             | 2.4  | 1 | May 2024      |

SCHEDULE 1615  
DESIGN PARAMETERS

Requirement 3

**Table 11**

| <i>Component</i>  | <i>Length<br/>(m)</i> | <i>Width / diameter<br/>(including<br/>platforms, ladders<br/>and walkways if<br/>present)<br/>(m)</i> | <i>Height<br/>(m)<br/>(Above Ordnance<br/>Datum (AOD))</i> |
|---|-----------------------|--|--|
| Flare Stack   | –                     | 4.0 diameter (flare<br>1.0 and platform<br>4.0)  | 108 (max)<br>73 (min)                                      |
| Auxiliary Boiler  | 35                    | 20   | 18   |
| Auxiliary Boiler Stack  | –                     | 2.0 diameter   | 78   |
| Start-Up Fired Heater Stack                                       | –                     | 2.0 diameter   | 53 (max)<br>43 (min)                                       |
| CO <sub>2</sub> Carbon Dioxide Absorber<br>Column                 | –                     | 5.5 diameter (top<br>section)<br>8.5 diameter<br>(bottom section)                                      | 56   |
| Other Production Plant  | –                     | –  | 36   |
| Flash Vessels   | –                     | –  | 58   |
| <u>Air Separation Unit (ASU)</u>                                  | 20                    | 8  | 60   |
| New electrical substation at<br>Tod Point                         | –                     | –  | 22   |
| National Grid Tod Point<br>substation extension (northern<br>bay) | –                     | –  | 22   |
| National Grid Tod Point<br>substation extension (southern<br>bay) | –                     | –  | 22   |



## PROTECTIVE PROVISIONS

~~PART 1~~FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in ~~this Part of~~ this Schedule, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertakers concerned.

2. In this ~~Part of this~~ Schedule—

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

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the 1989 Act), belonging to or maintained by that utility undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker—
  - (i) mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and
  - (ii) any water mains or service pipes (or part of a water main or service pipe) that is subject of an agreement to adopt made under section 51A of the Water Industry Act 1991; and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the utility undertaker under the Water Industry Act 1991; and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“utility undertaker” means—

- (e) any licence holder within the meaning of Part 1 of the 1989 Act;
- (f) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- (g) water undertaker within the meaning of the Water Industry Act 1991; and
- (h) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs and by whom it is maintained.

3. This ~~Part of this~~ Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

4. ~~Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 1213 (temporary closure of streets and public rights of way), a utility undertaker is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.~~

5. ~~Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.~~

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this ~~Part of this~~ Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs ~~(2) to (7)~~ (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph ~~(3)~~ (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph ~~(2)~~ (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this ~~Part of this~~ Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(5) The utility undertaker in question must, after alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 46 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph ~~(2) or (3)~~ (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this ~~Part of this~~ Schedule.

(6) Regardless of anything in sub-paragraph ~~(5)~~ (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph ~~(6)~~ (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute

any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

7.—(1) Where, in accordance with the provisions ~~of this Part~~ of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 46 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land ~~purchases~~purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph ~~6(2)~~6(2), the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph ~~(1)~~(1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph ~~(3)~~(3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph ~~(2)~~(2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph ~~(1)~~(1) are submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph ~~(3)~~(3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs ~~1 to 7~~1 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph ~~6(2)~~6(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph ~~(1)~~(1) in a case of emergency but in that case, it must give to the utility undertaker in question notice as soon as reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph ~~(2)~~(2) in so far as is reasonably practicable in the circumstances.

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are required.

(2) There is to be deducted from any sum payable under sub-paragraph ~~(1)~~(1) the value of any apparatus removed under the provisions ~~of this Part~~ of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this ~~Part of this~~ Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 46 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this ~~Part of this~~ Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph ~~(1)~~(1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph ~~6(2)~~6(2); and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph ~~(1)~~(1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**10.**—(1) Subject to sub-paragraphs ~~(2) and (3)~~(2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph ~~6(2)~~6(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker.

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph ~~(1)~~(1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

**11.** Nothing in ~~this Part of~~ this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaking in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 2

**PROTECTIVE PROVISIONS FOR THE PROTECTION OF  
OPERATORS OF ELECTRONIC COMMUNICATIONS CODE  
NETWORKS**

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

(2) In ~~this Part of~~ this Schedule—

“the 2003 Act” means the Communications Act 2003;

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

“electronic communications code” has the same meaning as in section 106 (application of the electronic communications code) of the 2003 Act;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system ~~provide~~provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

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

2. The exercise of the powers of article ~~34~~34 (statutory undertakers) is subject to Part 10 (undertakers’ works affecting electronic communications apparatus) of the electronic communications code.

3.—(1) Subject to sub-paragraphs ~~(2) to (4)~~(2) to (4), if as a result of the authorised development or its construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or
- (b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

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

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

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

4. This ~~Part of this~~ Schedule does not apply to—

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

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

### ~~PART 3~~

PROTECTIVE PROVISIONS FOR THE PROTECTION OF THIRD PARTY APPARATUS

1. For the protection of third parties with apparatus, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the third party, or unless any other provisions in this Schedule apply to the apparatus.

2. ~~In this Part of~~ this Schedule—

“third party” means a company with apparatus that is affected by the authorised development;

“affected apparatus” means the apparatus within the Order limits or apparatus which has the benefit of rights (including access) over the Order limits vested in the third party, including cables, mains, pipelines, plant and ancillary apparatus;

“restricted works” means any works forming any part of the authorised development that will or may affect the affected apparatus or access to them including—

- (a) all works within 6 metres of the affected apparatus;
- (b) the crossing of the affected apparatus by other utilities; and
- (c) the use of explosives with 400 metres of the affected apparatus,

whether carried out by the undertaker or any third party in connection with the authorised development; and

“works details” means—

- (d) plans and sections;
- (e) a method statement describing—
  - (i) the exact position of the works;
  - (ii) the level at which the works are proposed to be constructed or renewed;
  - (iii) the manner of the works’ construction or renewal including details of excavation, positioning of plant etc.;
  - (iv) the position of all affected apparatus;
  - (v) by way of detailed drawings, every alteration proposed to be made to or close to any such affected apparatus;
  - (vi) any intended maintenance regime;
  - (vii) details of the proposed method of working and timing of execution of works;
  - (viii) details of vehicle access routes for construction and operational traffic; and
  - (ix) any other information reasonably required by the third party to assess the works;
- (f) where the restricted works will or may be situated on, over, under or within 6 metres measured in any direction of the affected apparatus, or (wherever situated) impose any load directly upon the affected apparatus or involve embankment works within 6 metres of the affected apparatus, the method statement must also include—
  - (i) the position of the affected apparatus; and
  - (ii) by way of detailed drawings, every alteration proposed to be made to the affected apparatus; and
- (g) any further particulars provided in response to a request under paragraph 3.

**Consent of restricted works under this Part**

3.—(1) Unless a shorter period is otherwise agreed in writing between the undertaker and the third party, not less than 30 days before commencing the execution of any restricted works, the



undertaker must submit to the third party the works details for the restricted works and such further particulars as the third party may, within 28 days from the day on which the works details are submitted under this paragraph, reasonably require.

(2) No restricted works are to be commenced until the works details in respect of those works submitted under sub-paragraph ~~(1)~~(1) have been approved by the third party.

(3) Any approval of the third party required under this paragraph ~~193~~ must not be unreasonably withheld or delay but may be given subject to such reasonable requirements as the third party may require to be made for—

- (a) the continuing safety and operational viability of the affected apparatus; and
- (b) the requirement for the third party to have reasonable access with or without vehicles to inspect, repair, replace and maintain and ensure the continuing safety and operation or viability of the affected apparatus.

(4) Any approval of the third party required under this paragraph ~~193~~ including any reasonable requirements required by the third party under sub-paragraph ~~(3)~~(3), must be made in writing within a period of 21 days (unless a shorter period is otherwise agreed in writing between the undertaker and the third party) beginning with the date on which the works details were submitted to the third party under sub-paragraph ~~(1)~~(1) or the date on which any further particulars requested by the third party under sub-paragraph ~~(1)~~(1) were submitted to the third party (whichever is the later).

(5) The authorised development must be executed only in accordance with the works details approved by the third party under this paragraph ~~193~~ including ~~any~~ reasonable requirements notified to the undertaker in accordance with sub-paragraph ~~(3)~~(3) and the third party shall be entitled to watch and inspect the execution of those works.

(6) If the third party in accordance with sub-paragraph ~~(3)~~(3) and in consequence of the restricted works proposed by the undertaker, reasonably requires the removal of any of the affected apparatus and gives written notice to the undertaker of that requirement, this Order applies as if the removal of the affected apparatus had been required by the undertaker under sub-paragraph (1).

(7) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but (unless otherwise agreed in writing between the undertaker and the third party) in no case less than 28 days before commencing the execution of any restricted works, new works details, instead of the works details submitted, and having done so the provisions of this paragraph 3 apply to and in respect of the new works details.

#### **Prohibition of acquisition and interference**

4.- Where the undertaker takes temporary possession of any land or ~~carried~~carries out survey works on land in respect of which the third party has an easement, right, operations, assets or other interests (together “the third party’s rights”)—

- (a) where the third party’s rights do not provide or require access over, in or under the Order limits there is no restriction on the exercise of such rights; and
- (b) where the third party’s rights do provide or reasonably require access in, on or under the Order limits,

the third party may exercise those rights where reasonably necessary—

- (i) in an emergency without notice; and
- (ii) in non-emergency circumstances having first given the undertaker prior written notice in order to allow the parties to liaise over timing and coordination of their respective works during the period of temporary possession.



## Expenses

5.—(1) Subject to the following provisions of this paragraph ~~2~~5, the undertaker must pay to the third party the reasonable and properly incurred costs and expenses (including reasonable staffing costs if work is carried out in-house) incurred by the third party in, or in connection with—

- (a) undertaking its obligations under this Order including—
  - (i) the execution of any works under this Order including for the protection of the affected apparatus; and
  - (ii) the review and assessment of works details in accordance with paragraph 3;
- (b) the watching of and inspecting the execution of the restricted works; and
- (c) imposing reasonable requirements in accordance with paragraph 3(3).

(2) Prior to incurring any costs or expenses associated with the activities in sub-paragraph ~~(1)~~(1), the third party must give prior written notice to the undertaker of the activities to be undertaken and an estimate of the costs or expenses to be incurred.

## Indemnity

6.—(1) Subject to sub-paragraphs ~~(2) and (3)~~(2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph ~~4~~3, any damage is caused to the affected apparatus, or there is any interruption in any service provided, or in the supply of any goods, by the third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by the third party in making good such damage or restoring the supply; and
- (b) make reasonable compensation to the third party for any other expenses, loss, damages, penalty or costs incurred by the third party, by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph ~~(1)~~(1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of the third party, its officers, employees, servants, contractors or agents.

(3) The third party must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) The third party must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 6 applies.

(5) If requested to do so by the undertaker, the third party must provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph (1).

(6) The undertaker shall only be liable under this paragraph ~~2~~6 for claims reasonably incurred by the third party.

## Arbitration

7.—(1) The undertaker and the third party shall use their reasonable endeavours to secure the amicable resolution of any dispute or difference arising between them out of or in connection with this Order in accordance with the following provisions of this paragraph.

(2) Any difference or dispute arising between the undertaker and the third party under this ~~Part of this~~ Schedule must, unless otherwise agreed in writing between the undertaker and the third party, be referred to and settled by arbitration in accordance with article 46 (arbitration).

(3) Where there has been a reference to an arbitrator in accordance with sub-paragraph ~~(1)~~(1) and the arbitrator gives approval for the works details, the authorised development must be carried

out in accordance with the approval and conditions contained in the decision of the arbitrator under sub-paragraph (1).

## ~~PART 4~~

### SCHEDULE 19

Article 41

## PROTECTIVE PROVISIONS FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER

### Application

1. For the protection of National Grid as referred to in ~~this Part of~~ this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid.

### Interpretation

2. In this ~~Part of this~~ Schedule—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any electric lines or electrical plant as defined in the 1989 Act, belonging to or maintained by National Grid; together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) (interpretation) of this Order and includes any associated development authorised by the Order and for the purposes of this ~~Part of this~~ Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” has the same meaning as in article ~~2 (interpretation)~~2(1) of this Order except for the purposes of paragraph ~~30 of this Part~~7 of this Schedule where it shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this ~~Part of this~~ Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for National Grid’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“Incentive Deduction” means any incentive deduction National Grid Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid; construct, use, repair, alter, inspect, renew or remove the apparatus;

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

“NGESO” means as defined in the STC;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by National Grid acting reasonably;

“specified works” means any of the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph ~~30(2)~~7(2) or otherwise; and/or
- (c) includes any of the activities that are referred to in development near overhead lines EN43-8 and HSE’s guidance not 6 “Avoidance of Danger from Overhead Lines”;

“STC” means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NGESO as modified from time to time;

“STC Claims” means any claim made under the STC against National Grid Electricity Transmission plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector’s equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission plc’s transmission system which arises as a result of the authorised works;

“Transmission Owner” means as defined in the STC; and

“undertaker” means the undertaker as defined in article 2(1) of this Order.

### **On Street Apparatus**

3. Except for paragraphs ~~274~~ (apparatus of National Grid in affected streets), ~~318~~ (retained apparatus: protection), ~~3512~~ (expenses) and ~~3613~~ (indemnity) of this ~~Part of this~~ Schedule which will apply in respect of the exercise of all or any powers under this ~~Order~~ Order affecting the rights and apparatus of National Grid, the other provisions ~~of this Part~~ of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

### **Apparatus of National Grid in affected streets**

4.—(1) Where any street is stopped up under article 10 (power to alter layout etc. of streets), article 11 (street works), article 12 (construction and maintenance of new or altered means of access), if National Grid has any apparatus in the street or accessed via that street National Grid has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid, or procure the granting to National Grid of, legal easements reasonably satisfactory to National Grid in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph affects any right of the undertaker or National Grid to require the removal of that apparatus under paragraph ~~30~~7 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 9.

(2) Notwithstanding the temporary closure or diversion of any highway under the powers of article 13 (temporary closure of streets and public rights of way), National Grid is at liberty at all times to take all necessary access across any such closed highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the closure or diversion was in that highway.

### **Protective works to buildings**

5. The undertaker, in the case of the powers conferred by article 19 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid.

### **Removal of apparatus**

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this ~~Part of his~~ Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs ~~(2)~~(2) to (5).

(2) If, for the purpose of executing any works comprised in the authorised development in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph ~~(3)~~(3), secure any necessary consents for the alternative apparatus and afford to National Grid to its satisfaction (taking into account paragraph ~~30(1)~~7(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph ~~(2)~~(2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this ~~Part of this~~ Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph ~~(2) or (3)~~(2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this ~~Part of this~~ Schedule.

### **Facilities and rights for alternative apparatus**

7.—(1) Where, in accordance with the provisions of this ~~Part of this~~ Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph ~~37~~14 (arbitration) ~~of this Part~~ of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection**

8.—(1) Not less than 30 days before the commencement of any specified works the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity assets.

(2) In relation to works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph ~~(1)~~(1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;

- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;
- (f) written details of the operations and maintenance regime for any cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and
- (h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs ~~(2) or (3)~~(2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraph ~~(4)~~(4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs ~~(6) or (8)~~(6) or (8); and
- (b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs ~~(2)~~(2) or ~~(3)~~(3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs ~~(2) or (3)~~(2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph ~~(1)~~(1) or as relevant sub-paragraph ~~(6)~~(6), as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs ~~(6) or (8)~~(6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and National Grid shall give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs ~~(6) or (8)~~(6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 241, 252, 263, 296 and 307 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 30 days before commencing the execution of works for which a plan has been approved pursuant to sub-paragraph ~~(4)~~(4), a new plan for such works, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph ~~(1)~~(1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs ~~(6), (7) and (8)~~(6) and (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph ~~(12)~~(12) at all times.



(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

## Expenses

9.—(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any works referred to in paragraphs ~~29(2) and 29(3)~~6(2) and 6(3) including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid—
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 6(3); or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this ~~Part of this~~ Schedule.

(2) There will be deducted from any sum payable under sub-paragraph ~~(1)~~(1) the value of any apparatus removed under the provisions ~~of this Part~~ of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this ~~Part of this~~ Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph ~~37~~14 to be necessary, then, if such placing involves cost in the construction of works under ~~this Part of~~ this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph ~~(1)~~(1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

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

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph ~~(4)~~(1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where reasonably anticipated charges, costs or expenses have been paid by the undertaker pursuant to sub-paragraph ~~(4)~~(1), if the actual charges, costs or expenses incurred by National Grid are less than the amount already paid by the undertaker National Grid will repay the difference to the undertaker as soon as reasonably practicable.

### Indemnity

10.—(1) Subject to sub-paragraphs ~~(2)~~(2) and ~~(3)~~(3), if by reason or in consequence of the construction of any works authorised by ~~this Part of~~ this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this ~~Part of this~~ Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid as a consequence of the authorised development or under its supervision will not (unless sub-paragraph ~~(3)~~(3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph ~~(4)~~(1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph ~~(4)~~(1) shall impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the act, neglect or default of National Grid, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this ~~Part of this~~ Schedule carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of this Order pursuant to section 156 of the Planning Act 2008 or article 8 (consent to transfer benefit of the Order) subject to the provision that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section ~~(b)~~(b) will be subject to the full terms ~~of this Part~~ of this Schedule including this paragraph; and



- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability, compromise or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid's control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

### **Enactments and agreements**

11. Save to the extent provided for to the contrary elsewhere in this ~~Part of this~~ Schedule or by agreement in writing between National Grid and the undertaker, nothing in ~~this Part of~~ this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Cooperation**

12.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph ~~29(2)~~6(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph ~~31~~8, the undertaker shall use its best endeavours to coordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid shall use its best endeavours to cooperate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

### **Access**

13. If in consequence of the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

14. Save for differences or disputes arising under paragraphs ~~29(2)~~6(2), ~~29(4)~~6(4), ~~30(1)~~7(1) and ~~31~~8 any difference or dispute arising between the undertaker and National Grid under ~~this Part of~~ this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 46 (arbitration).

## Notices

15. Notwithstanding article 45 (service of notices), any plans submitted to National Grid by the undertaker pursuant to paragraph ~~3~~8 must be submitted using the LSBUD system (<https://lsbud.co.uk/>) or to such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

~~PART 5~~

PROTECTIVE PROVISIONS FOR THE PROTECTION OF  
NATIONAL ~~GRID~~ GAS TRANSMISSION PLC AS GAS  
UNDERTAKER

### Application

1. For the protection of National Gas as referred to in ~~this Part of~~ this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Gas.

### Interpretation

2. In this ~~Part of this~~ Schedule—

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Gas to enable National Gas to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by National Gas for the purposes of gas supply, together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Gas for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised development” has the same meaning as in article 22(1) (interpretation) of this Order and includes any associated development authorised by the Order and (unless otherwise specified) for the purposes of this ~~Part of this~~ Schedule includes the use and maintenance of the authorised development and construction of any works authorised by this Schedule;

“commence” and “commencement” has the same meaning as in article 2 (~~interpretation~~)2(1) of this Order and commencement is construed to have the same meaning save that for the purposes ~~of this Part~~ of this Schedule only the term commence and commencement includes any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment within 15 metres of any apparatus;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Gas (such approval not to be unreasonably withheld or delayed) setting out the necessary mitigation measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, will require the undertaker to submit for National Gas’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Gas including construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Gas” means National Gas Transmission plc (Company Number 02006000) whose registered office is at National Grid House, Warwick Technology Park, Gallows Hill,

Warwick, CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the 1986 Act;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary ~~property~~properly and sufficiently to describe and assess the works to be executed; and

“specified works” means any of the authorised development or activities undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph ~~44(2)~~6(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph ~~44(2)~~6(2) or otherwise; and/or
- (c) includes any of the activities that are referred to in section 8 of T/SP/SSW/22 (National Gas’s policies of safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Gas, High pressure Gas pipelines and associated installation requirements for third parties”).

### **On Street Apparatus**

3. Except for paragraphs ~~424~~ (apparatus of National Gas in streets subject to temporary closure), ~~468~~ (retained apparatus), ~~479~~ (expenses) and ~~4810~~ (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under this Order affecting the rights and apparatus of National Gas, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Gas are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

### **Apparatus of National Gas in streets subject to temporary closure**

4. Notwithstanding the temporary closure or diversion of any street under the powers of article 13 (temporary closure of streets and public rights of way), National Gas will be at liberty at all times to take all necessary access across any such closed street and/or to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street.

### **Protective works to buildings**

5. The undertaker, in the case of the powers conferred by article 19 (protective works to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Gas.

### **Removal of apparatus**

6.—(1) If, in the exercise of powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this ~~Part of this~~ Schedule and any right of National Gas to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Gas in accordance with sub-paragraphs ~~(2) to~~ ~~(5)~~(2) to (5).

(2) If, for the purpose of executing any works comprised in the authorised development in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Gas advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in

consequence of the exercise of any of the powers conferred by this Order National Gas reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph ~~(3)~~,(3)(3), secure any necessary consents for the alternative apparatus and afford to National Gas to its satisfaction (taking into account paragraph ~~45(1)~~7(1) below) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph ~~(2)~~(2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Gas must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation must not extend to the requirement for National Gas to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this ~~Part of this~~ Schedule must be constructed in such a manner and in such line or situation as may be agreed between National Gas and the undertaker.

(5) National Gas must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Gas of any such facilities and rights as are referred to in sub-paragraph ~~(2) or (3)~~(2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this ~~Part of this~~ Schedule.

### **Facilities and rights for alternative apparatus**

7.—(1) Where, in accordance with the provisions of this ~~Part of this~~ Schedule, the undertaker affords to or secures for National Gas facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Gas and must be no less favourable on the whole to National Gas than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Gas.

(2) If the facilities and rights to be afforded by the undertaker and agreed with National Gas under sub-paragraph ~~(1)~~(1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Gas than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter will be referred to arbitration in accordance with paragraph ~~52~~14 (arbitration) ~~of this Part~~ of this Schedule and the arbitrator may make such provision for the payment of compensation by the undertaker to National Gas as appears to the arbitrator to be reasonable having regard to all the circumstances of this particular case.

### **Retained apparatus**

8.—(1) Not less than 30 days before the commencement of any specified works the undertaker must submit to National Gas a plan and, if reasonably required by National Gas, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to National Gas under sub-paragraph ~~(1)~~(1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;

- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs ~~(1) and (2)~~(1) and (2) apply until National Gas has given written approval of the plan so submitted.

(4) Any approval of National Gas required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph ~~(5)~~(5) or (7); and
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs ~~(1) and/or (2)~~(1) and/or (2) apply, National Gas may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works ~~excluded~~executed under sub-paragraphs ~~(1)~~(1) and ~~(2)~~(2) must be executed in accordance with the plan, submitted under sub-paragraph ~~(2)~~(2) or as relevant sub-paragraph ~~(5)~~(5) as approved or as amended from time to time by agreement between the undertaker and National Gas and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph ~~(5) or (7)~~(5) or (7) by National Gas for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Gas will be entitled to watch and inspect the execution of those works.

(7) Where National Gas requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Gas's satisfaction prior to the commencement of any specified works for which protective works are required and National Gas must give notice of its requirement for such works within 24 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If National Gas in accordance with sub-paragraph ~~(4) or (6)~~(4) or (6) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs ~~39 to 41, 44 and 45~~ 1 to 3, 6 and 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 30 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph ~~(1)~~(1) where it needs to carry out emergency works as defined in Part 3 of the 1991 Act but in that case it must give to National Gas notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs ~~(5), (6) and (7)~~(5) and (6) and (7) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph ~~(11)~~(11) at all times;

(11) At all times when carrying out any works authorised under the Order, National Gas must comply with National Gas's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Gas, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(-G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme

save that National Gas retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 9.

## Expenses

9.—(1) Save where otherwise agreed in writing between National Gas and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Gas on demand all charges, costs and expenses reasonably and properly incurred by National Gas in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Gas in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Gas as a consequence of National Gas—
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 6(3); or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Gas;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this ~~Part of this~~ Schedule.

(2) There will be deducted from any sum payable under sub-paragraph ~~(1)~~(1) the value of any apparatus removed under the provisions ~~of this Part~~ of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this ~~Part of this~~ Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph ~~5214~~ (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this ~~Part of this~~ Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth as the case may be, the amount which apart from this sub-paragraph would be payable to National Gas by virtue of sub-paragraph ~~(1)~~(1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and



- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Gas in respect of works by virtue of sub-paragraph ~~(4)~~(1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Gas any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents the benefit.

## Indemnity

10.—(1) Subject to sub-paragraphs ~~(2)~~(2) and ~~(3)~~(3), if by reason or in consequence of the construction of any works authorised by ~~this Part of~~ this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised development by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this ~~Part of this~~ Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of National Gas, or there is any interruption in any service provided by National Gas, or National Gas becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost reasonably and properly incurred by National Gas in making good such damage or restoring the supply; and
- (b) indemnify National Gas for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Gas, by reason or in consequence of any such damage or interruption or National Gas becoming liable to any third party other than arising from any default of National Gas.

(2) The fact that any act or thing may have been done by National Gas on behalf of the undertaker or in accordance with a plan approved by National Gas or in accordance with any requirement of National Gas as a consequence of the authorised development or under its supervision will not (unless sub-paragraph ~~(3)~~(3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph ~~(2)~~(2) unless National Gas fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph ~~(4)~~(1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Gas, its officers, employees, servants, contractors or agents; and
- (b) any part of the authorised development and/or any other works authorised by this ~~Part of this~~ Schedule carried out by National Gas as an assignee, transferee or lessee of the undertaker with the benefit of this Order pursuant to section 156 of the 2008 Act or article 88 (consent to the transfer benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised development yet to be executed and not falling within this sub-sub-paragraph ~~(b)~~(b) will be subject to the full terms ~~of this Part~~ of this Schedule including this paragraph.

(4) National Gas must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability, compromise or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) National Gas must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under this paragraph applies where it is within National Gas’s reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Gas’s control. If requested to do so by the undertaker, National Gas must



provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph (1).

(6) National Gas must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

### **Enactments and agreements**

11. Save to the extent provided for to the contrary elsewhere in this ~~Part of this~~ Schedule or by agreement in writing between National Gas and the undertaker, nothing in ~~this Part of~~ this Schedule affects the provision of any enactment or agreement regulating the relations between the undertaker and National Gas in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Cooperation**

12.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or National Gas requires the removal of apparatus under paragraph ~~44(2)~~6(2) or National Gas makes requirements for the protection or alteration of apparatus under paragraph 468, the undertaker must use its best endeavours to coordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of National Gas's undertaking and National Gas must use its best endeavours to cooperate with the undertaker for that purpose.

(2) For the avoidance of doubt, whenever National Gas's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

### **Access**

13. If, in consequence of the powers granted under this Order, the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Gas to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

14. Save for the differences or disputes arising under paragraphs ~~44(2)~~6(2), ~~44(4)~~6(4), ~~45(1)~~7(1) and 468, any difference or dispute arising between the undertaker and National Gas under ~~this Part of~~ this Schedule must, unless otherwise agreed in writing between the undertaker and National Gas, be determined by arbitration in accordance with article 46 (arbitration).

### **Notices**

15. Notwithstanding article 45 (service of notices), any plans submitted to National Gas by the undertaker pursuant to paragraph 468 must be submitted using the LSBUD system or such other address as National Gas may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **PART 6**

## PROTECTIVE PROVISIONS FOR THE PROTECTION OF RAILWAY INTERESTS

1.-The provisions ~~of this Part~~ of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph ~~67 of this Part~~14 of this Schedule, any other person on whom rights or obligations are conferred by that paragraph.

2.—(1) In this ~~Part of this~~ Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587), whose registered office is at Waterloo General Office, London, United Kingdom, SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“protective works” means any works specified by the engineer under paragraph ~~58(4);5(4);~~

“railway operational procedures” means procedures specified under any access agreement (as defined in Part 1, section 83(1) of the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or related works, apparatus or equipment;

“regulatory consents” means any consent or approval required under—

- (c) the Railways Act 1993;
- (d) the network licence; and/or
- (e) any other relevant statutory or regulatory provisions,

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development; and

“specified work” means so much of any of the authorised development as is or is to be situated upon, across, under over or within 15 metres of, or may in any way adversely affect, railway property and for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (maintenance of authorised development); and

“undertaker” has the same meaning as in article 2 (interpretation) of this Order.

3.—(1) Where under ~~this Part of~~ this Schedule Network Rail is required to give its consent, or approval in respect of any matter, that consent, or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) Insofar as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) cooperate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

4. The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

5.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 46 (arbitration).

(2) The approval ~~if~~ of the engineer under sub-paragraph ~~(1)~~ must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not communicated their disapproval of those plans and the ground of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to communicate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not communicated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph ~~(2)~~, Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's reasonable opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation decommissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

6.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;

- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in ~~this Part of~~ this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

7. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

8. Network Rail must at all times afford reasonable facilities to the undertaker and its employees, contractors or agents for access to any works carried out by Network Rail under this ~~Part of this~~ Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

9.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations or additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations or additions as are to be permanent, a capitalised sum representing the increase of the costs which are expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network ~~ra~~il then, if the undertaker decides that part of the specified works is to be constructed, Network ~~ra~~il must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph ~~58, 5~~5, pay to Network Rail all reasonable expenses to which Network ~~ra~~il may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph ~~63(a)~~10(a), provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions, a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

**10.** The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph ~~58(3)~~5(3) or in constructing any protective works under the provisions of paragraph ~~58(4)~~5(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**11.**—(1) In this paragraph—

“EMI” means, subject to sub-paragraph ~~(2)~~(2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph ~~51~~5 for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph ~~(5)~~(5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph ~~58~~5) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of ~~prevent~~[prevention](#)

and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph ~~58~~5 has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph ~~(3)~~(3) the testing of the authorised development causes EMI, then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent specified in sub-paragraph ~~(5)~~(5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and
- (d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraph ~~(5)~~(5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph ~~68~~(1)15(1) applies to the costs and expenses reasonably incurred or losses reasonably suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph ~~63~~(a)10(a), any modifications to Network rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

**12.—**(1) If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

(2) Regardless of anything in sub-paragraph ~~(1)~~(1), on receipt of a notice given by Network Rail pursuant to sub-paragraph ~~(1)~~(1), the undertaker may respond in writing to Network Rail requesting Network Rail to take the steps as may be reasonably necessary to put the specified work the subject of the notice in such state of maintenance as not adversely to affect railway property. If Network Rail agrees to undertake the steps it must give to the undertaker reasonable notice of its intention to carry out such steps, and the undertaker must pay to Network Rail the reasonable cost of doing so.



13. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

14. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

15.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this ~~Part of this~~ Schedule which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof it;
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others within the control of the undertaker whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others with the control of the undertaker whilst accessing to or egressing from the authorised development;
- (d) in respect of any such damage caused to or additional maintenance required to railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others within the control of the undertaker; or
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedure or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such claims or demands;
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and
- (c) take all steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under this paragraph 68.15 applies. If requested to do so by the undertaker, Network Rail is to provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph ~~(2)~~(1). The undertaker is to only be liable under this paragraph 68.15 for claims reasonably incurred by Network Rail.

(3) If the undertaker withholds consent pursuant to sub-paragraph ~~(2)(b)~~(2)(b) it may have sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand, and the undertaker must give Network Rail notice of it having sole conduct at the same time as refusing consent.

(4) In no circumstances is the undertaker liable to Network Rail under sub-paragraph ~~(4)~~(1) for any indirect or consequential loss or loss of profits, save that the sums payable by the undertaker under sub-paragraph ~~(4)~~(1) shall if relevant include a sum equivalent to the relevant costs.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph ~~(4)~~(4) which relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph ~~(4)~~(4) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (5).

(7) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**16.** Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable pursuant to this ~~Part of this~~ Schedule (including the amount of the relevant costs mentioned in paragraph ~~68~~15) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this ~~Part of this~~ Schedule (including any claim relating to those relevant costs).

**17.** In the assessment of any sums payable to Network Rail under this ~~Part of this~~ Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this ~~Part of this~~ Schedule or increasing the sums so payable.

**18.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

**19.** Nothing in this Order, or in any enactment incorporated with or applied by this Order prejudices or affects the operation of Part 1 of the Railways Act 1993.

**20.** The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 44 (certification of plans etc.) are certified by the Secretary of State provide a set of those plans and documents to Network Rail in a format specified by Network Rail.

## ~~PART 7~~



**PROTECTIVE PROVISIONS FOR THE PROTECTION OF THE ENVIRONMENT AGENCY**

1.—The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

~~(2)~~(1) In this Part of this Schedule—

“Agency” means the Environment Agency;

“construction” includes execution, placing, altering, replacing, relaying and removal and excavation and “construct” and “constructed” is construed accordingly;

“drainage work” means any main river and includes any land which provides flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

“main river” has the same meaning given in section 113 of the Water Resources Act 1991;

“plans” includes sections, drawings, specifications, calculations and method statements;

“remote defence” means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within—

(a) 8 metres of the base of a remote defence which is likely to—

- (i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence; or
- (ii) interfere with the Agency’s access to or along that remote defence;

(b) 16 metres of a drainage work involving a tidal main river or 8 metres of a drainage work involving a non-tidal main river; or

(c) any distance of a drainage work and is otherwise likely to—

- (i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (ii) affect the flow, purity or quality of water in any main river or other surface waters;
- (iii) affect the conservation, distribution or use of water resources; or
- (iv) affect the conservation value of the main river and habitats in its immediate vicinity;

or which involves—

(d) an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and

(e) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work.

**Submission and approval of plans**

2.—(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 11.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been approved if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval; and
- (c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or for nature conservation or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph ~~(3)(b)~~3(b).

(5) In the case of a refusal, the Agency must at the same time provide reasons for the grounds of that refusal.

### Construction of protective works

3. Without limiting paragraph 752, the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage; or
- (b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

### Timing of works and service of notices

4.—(1) Subject to sub-paragraph ~~(2)~~(2), any specified work, and all protective works required by the Agency under paragraph 3 must be constructed—

- (a) without unreasonable delay in accordance with the plans approved under ~~this Part of~~ this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

and the Agency is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work to which the protective works relate.

### Works not in accordance with this Schedule

5.—(1) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this ~~Part of this~~ Schedule, the Agency may ~~be~~by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this ~~Part of this~~ Schedule or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(2) Subject to sub-paragraph ~~(3)~~(3) if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph ~~(1)~~(1) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and

has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(3) In the event of any dispute as to whether sub-paragraph ~~(1)~~(1) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph ~~(2)~~(2) until the dispute has been finally determined in accordance with paragraph 11.

### **Maintenance of works**

6.—(1) Subject to sub-paragraph ~~(6)~~(6), the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the Order limits and on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph ~~(5)~~(5) if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph ~~(2)~~(2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions, the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part thereof until it has obtained the consent or complied with the condition unless the cessation of the specified works or part thereof would cause greater damage than compliance with the written notice.

(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph ~~(2)~~(2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph ~~(3)~~(3) until the dispute has been finally determined in accordance with paragraph 11.

(6) This paragraph does not apply to—

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and
- (b) any obstruction of a drainage work expressly authorised in the approval of specified works plans and carried out in accordance with the provisions of this ~~Part of this~~ Schedule provided that any obstruction is removed as soon as reasonably practicable.

### **Remediating impaired drainage work**

7. If by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.

## Agency access

8. If by reason of construction of the specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction within 24 hours or of as soon as reasonably practicable after the undertaker becoming aware of such obstruction.

## Indemnity

9. The undertaker indemnifies the Agency in respect of all costs, charges and expenses which the Agency may reasonably incur—

- (a) in the examination or approval of plans under this ~~Part of this~~ Schedule;
- (b) in the inspection of the construction of the specified works or any protective works required by the Agency under this ~~Part of this~~ Schedule; and
- (c) in carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

10.—(1) The undertaker is responsible for and indemnifies the Agency against all costs and losses, liabilities, claims and demands not otherwise provided for in this Schedule which may be reasonably incurred or suffered by the Agency by reason of, or arising out of—

- (a) the construction, operation or maintenance of any specified works comprised within the authorised development or the failure of any such works comprised within them; or
- (b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.

(2) For the avoidance of doubt, in sub-paragraph (1)—

- (a) “costs” includes—
  - (i) expenses and charges;
  - (ii) staff costs and overheads; and
  - (iii) legal costs;
- (b) “losses” includes physical damage;
- (c) “claims” and “demands” includes as applicable—
  - (i) costs (within the meaning of sub-sub-paragraph ~~(a)~~(a) incurred in connection with any claim or demand; and
  - (ii) any interest element of sums claimed or demanded; and
- (d) “liabilities” includes—
  - (i) contractual liabilities;
  - (ii) tortious liabilities (including liabilities for negligence or nuisance);
  - (iii) liabilities to pay statutory compensation or for breach of statutory duty; and
  - (iv) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(3) The Agency must give to the undertaker reasonable notice of any such claim or demand and must not ~~settled~~settle or compromise a claim without the agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.

(4) If the undertaker withholds consent pursuant to sub-paragraph ~~(3)~~(3) it may have sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand, and the undertaker must give the Agency notice of it having sole conduct at the same time as refusing consent.

(5) The Agency must at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(6) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, must not relieve the undertaker from any liability under the provisions of this ~~Part of this~~ Schedule.

(7) Nothing in this paragraph imposes any liability on the undertaker with respect to any costs, charges, expenses, damages, claims, demands or losses to the extent that they are attributable to the neglect or default of the Agency, its officers, servants, contractors or agents.

### **Disputes**

**11.** Any dispute arising between the undertaker and the Agency under this ~~Part of this~~ Schedule must, if the parties agree, be determined by arbitration under article 46 (arbitration), but failing that agreement be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for ~~the department of~~ Energy Security and Net Zero or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises H2 Teesside Limited to construct, operate and maintain a hydrogen production facility and pipeline network. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the Order plans and book of reference mentioned in this Order and certified in accordance with article 44 (certification of plans etc.) of this Order may be inspected free of ~~charge~~[charge](#) during working hours at bp ICBT, Chertsey Road, Sunbury on Thames, Middlesex, TW16 7BP.