

**THE PLANNING ACT 2008**

**M4 (JUNCTIONS 3 TO 12) (SMART MOTORWAY) DEVELOPMENT  
CONSENT ORDER APPLICATION**

**TR010019**

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**Response to First Written Questions**

**Section 8: Appendix A - Draft DCO Revision 1  
(Clean Version)**

**Deadline II - 8 October 2015**

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STATUTORY INSTRUMENTS

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**201[\*] No. [\*\*\*\*]**

**INFRASTRUCTURE PLANNING**

**The M4 Motorway (Junctions 3 to 12) (Smart Motorway)  
Development Consent Order 201[\*]**

*Made* - - - - - [\*\*\*]  
*Laid before Parliament* [\*\*\*]  
*Coming into force* - - [\*\*\*]

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An application has been made to the Secretary of State, under section 37 of the Planning Act 2008(a) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) for an Order granting development consent.

The application is for development which constitutes a nationally significant infrastructure project within sections 14(1)(h) and 22 of the Planning Act 2008, being the alteration and improvement of a highway which is wholly within England, in relation to which the Secretary of State is the highway authority, and the area of development of which is greater than 15 hectares.

[The application was examined by a [single appointed person] [Panel] (appointed by the Secretary of State) under Chapter 3 of Part 6 of the Planning Act 2008, and the Infrastructure Planning (Examination Procedure) Rules 2010(c).]

[The [single appointed person] [Panel], having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83(1) of the Planning Act 2008, has submitted a report to the Secretary of State.]

[The Secretary of State, having considered the representations made and not withdrawn, and the report of the [single appointed person] [Panel], has decided to make an Order granting development consent for the development described in the application with modifications which in

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(a) 2008 c. 29.

(b) S.I. 2009/2264 as amended by S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522 and S.I. 2013/755.

(c) 2010 c.

the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.]

[The Secretary of State has considered the effect of the following Order upon land which is open space in accordance with section 131 of the Act and is satisfied that subsection (4B) of that section applies to such land.]

[The Secretary of State has considered the effect of the following Order upon land which is common land in plot 20-03 identified in the book of reference and on the land plans in accordance with section 131 of the Act and is satisfied that subsection (5) of that section applies to such land.]

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120 and 122 of, and paragraphs 1 to 3, 10 to 17, 24, 26, 36 and 37 of Part 1 of Schedule 5 to, the Planning Act 2008, makes the following Order:

## PART 1

### PRELIMINARY

#### **Citation and commencement**

1. This Order may be cited as The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 201[\*] and comes into force on [\*\*\*\*] 201[\*].

#### **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 1980 Act” means the Highways Act 1980(c);

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- (a) 1961 c. 33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government Planning and Land Act 1990 (c. 65). There are other amendments to the 1961 Act which are not relevant to this Order.
- (b) 1965 c. 56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c. 34). Subsection (1) of section 11 and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c. 23). Section 13 was amended by section 139 of the Tribunals Courts and Enforcement Act 2007 (c. 15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c. 39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1). There are other amendments to the 1965 Act which are not relevant to this Order.
- (c) 1980 c. 66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c. 22); sections 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1984 (c. 51); section 1(2A) was inserted, and section 1(3) was amended, by section 259(1), (2) and (3) of the Greater London Authority Act 1999 (c. 29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11), by section 64(1), (2) and (3) of the Transport and Works Act (c. 42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c. 37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c. 51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15). There are other amendments to the 1980 Act which are not relevant to this Order.

- “the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(a);
- “the 1984 Act” means the Road Traffic Regulation Act 1984(b);
- “the 1990 Act” means the Town and Country Planning Act 1990(c);
- “the 1991 Act” means the New Roads and Street Works Act 1991(d);
- “the 2008 Act” means the Planning Act 2008(e);
- “address” includes any number or address for the purposes of electronic transmission;
- “apparatus” has the same meaning as in Part 3 of the 1991 Act;
- “authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;
- “the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;
- “building” includes any structure or erection or any part of a building, structure or erection;
- “bridleway” has the same meaning as in the 1980 Act;
- “carriageway” has the same meaning as in the 1980 Act;
- “commence”, unless otherwise provided, means beginning to carry out any material operation (as defined in section 155(2) (when development begins) of the 2008 Act) forming part of the authorised development other than operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, habitat creation and species translocation, establishment of site offices and the laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “commencement” is to be construed accordingly;
- “cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act(f);
- “electronic transmission” means a communication transmitted—
- (a) by means of an electronic communications network; or
  - (b) by other means but while in electronic form;
- “the engineering drawings and sections” means the documents certified as the engineering drawings and sections by the Secretary of State for the purposes of this Order;
- “environmental statement” means the environmental statement submitted with the application for the Order, and certified as the environmental statement by the Secretary of State for the purposes of this Order;
- “footpath” and “footway” have the same meaning as in the 1980 Act;

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- (a) 1981 c. 66.
  - (b) 1984 c. 27.
  - (c) 1990 c. 8. Section 56(4) was amended by section 32 of, and paragraph 10(2) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34). Section 106 was substituted, and section 106A inserted, by section 12(1) of the Planning and Compensation Act 1991. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the 2008 Act. Sections 272 to 274 and section 279 were amended by section 406(1) of, and paragraph 103 of Schedule 17 to, the Communications Act (c. 21), and section 280 was amended by section 406(1) of, and paragraph 104 of Schedule 17 to, that Act. Sections 272 to 274 were also amended by S.I. 2011/741 and S.I. 2012/2590. Section 282 was amended by S.I. 2009/1307. There are other amendments to the 1990 Act which are not relevant to this Order.
  - (d) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Part 3 of the 1991 Act was amended by Part 4 of the Traffic Management Act 2004 (c. 18). Section 74 was amended, and sections 74A and 74B inserted, by sections 255 and 256 of the Transport Act 2000 (c. 38). There are other amendments to the 1991 Act but they are not relevant to this Order.
  - (e) 2008 c. 29.
  - (f) The definition of “cycle track” was amended by section 1 of the cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act;

“land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

“linear work” means those works shown on the works plans as “linear work item centreline”;

“maintain” in relation to the authorised development includes to inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, decommission, replace and improve and any derivative of “maintain” is to be construed accordingly;

“non-linear work” means those scheduled works to be carried out in the locations shown on the works plans as “Non-linear Work Boundary”;

“Order land” means the land shown on the land plans within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

“the Order limits” means the limit line shown on the works plans and the land plans, within which the authorised development may be carried out;

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

“relevant planning authority” means the local planning authority for the land in question;

“scheduled works” means the numbered works specified in Schedule 1 (authorised development) to this Order and shown on the works plans, or any part of them as the same may be varied pursuant to article 3 (development consent etc. granted by the Order);

“Secretary of State” means the Secretary of State for Transport;

“slip road” means any of the slip roads leading to or from the eastbound carriageway or the westbound carriageway of the M4 between junctions 3 and 12;

“special road” means a highway which is a special road in accordance with section 16 (streets, street works and undertakers) of the 1980 Act or by virtue of an order granting development consent;

“statutory undertaker” means any statutory undertaker for the purposes of 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) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

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

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

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10 (general provision as to trunk roads) or 19(1) (certain special roads and other highways to become trunk roads) of the 1980 Act ;
- (b) an order or direction under section 10 of that Act; or
- (c) an order granting development consent; or
- (d) any other enactment;

“undertaker” means Highways England Company Limited, company number 09346363, whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ, which is the named undertaker, any statutory successor to Highways England, or any other person who has the benefit of the this Order in accordance with article 7 (benefit of Order);

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(a) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

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

“the works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

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

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

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

(5) References in this Order to plots of land are to plots identified on the land plans and in the book of reference.

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

## PART 2

### PRINCIPAL POWERS

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

**3.**—(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 and operated within the Order limits.

(2) Subject to article 6 (power to deviate) the development authorised by this Order is to be constructed in the lines or situations shown on the works plans and, subject to the provisions of the requirements, in accordance with the drawings specified in the requirements.

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

**4.** Without prejudice to section 41 (duty to maintain highways maintainable at the public expense) of the 1980 Act and section 1 (appointment of strategic highways companies) of the Infrastructure Act 2015<sup>(a)</sup> the undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order or the 1980 Act, provides otherwise.

#### **Planning permission**

**5.** If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or
- (b) required to complete or enable the use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.

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(a) 2015 c. 7.



### **Power to deviate**

6. In carrying out the scheduled works the undertaker may—
- (a) deviate laterally from the lines or situations shown on the works plans within the Order limits in respect of any linear work and in respect of any non-linear work within the Non-Linear Work Boundary for that work; and
  - (b) deviate vertically from the levels shown or noted on the engineering drawings and sections, to a maximum of 0.5 metres upwards or downwards; and
  - (c) deviate vertically from the parapet heights stated on the engineering drawings and sections, to a maximum of 0.5 metres upwards

except that these maximum limits do not apply where it is demonstrated to the Secretary of State's satisfaction that a deviation in excess of these limits would not give rise to any materially new or materially worse adverse environmental effects from those assessed in the environmental statement.

### **Benefit of the Order**

7.—(1) Subject to article 8 (consent to transfer benefit of the Order) and article 12 (construction and maintenance of new, altered or diverted streets) and paragraph (2), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

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

### **Consent to transfer benefit of the Order**

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

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

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) 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.

## **PART 3 STREETS**

### **Application of the 1991 Act**

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

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

roundabouts) of the 1980 Act or section 184 (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned are, in relation to works which are major highway works by virtue of paragraph (1), to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do or will not apply in relation to any works executed under the powers of this Order—

- section 56 (directions as to timing);
- section 56A (power to give directions as to placing of apparatus);
- section 58 (restrictions following substantial road works);
- section 58A (restriction on works following substantial street works);
- section 73A (power to require undertaker to re-surface street);
- section 73B (power to specify timing etc. of re-surfacing);
- section 73C (materials, workmanship and standard of re-surfacing);
- section 78A (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the promoter under the powers conferred by article 14 (temporary stopping up of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act **(a)** referred to in paragraph (4) are—

- section 54 **(b)** (advance notice of certain works), subject to paragraph (6);
- section 55 **(c)** (notice of starting date of works), subject to paragraph (6);
- section 57 **(d)** (notice of emergency works);
- section 59 **(e)** (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);
- section 75 (inspection fees);
- section 76 (liability for cost of temporary traffic regulation); and
- section 77 (liability for cost of use of alternative route),

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

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**(a)** Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to the Traffic Management Act 2004 c. 18.

**(b)** As also amended by section 49(1) of the Traffic Management Act 2004.

**(c)** As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.

**(d)** As also amended by section 52(3) of the Traffic Management Act 2004.

**(e)** As amended by section 42 of the Traffic Management Act 2004.

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

(7) Nothing in article 12 (construction and maintenance of new, altered or diverted streets)—

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

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

**10.**—(1) Subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain passing places.

(2) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(3) The powers conferred by paragraph (1)—

- (a) are exercisable on the giving of not less than 42 days' notice to the street authority; and
- (b) are not to be exercised without the consent of the street authority where that authority is a public authority.

(4) If a street authority which receives an application for consent under paragraph (3) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(5) Paragraphs (2), (3) and (4) do 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 as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (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) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

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

### **Construction and maintenance of new, altered or diverted streets**

**12.—**(1) Subject to paragraphs (3) and (4), any street (other than a trunk road or special road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the street lies and, unless otherwise agreed with the local highway authority, must be maintained by and at the expense of the local highway authority from its completion.

(2) Subject to paragraphs (3) and (4), where a street (other than a trunk road or special road) is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed with the street authority, be maintained by and at the expense of the street authority from its completion.

(3) In the case of a bridge constructed under this Order to carry a public right of way, the highway surface must be completed to the reasonable satisfaction of the street authority and maintained by and at the expense of the local highway authority and the structure of the bridge must be maintained by and at the expense of the undertaker.

(4) In the case of a bridge constructed under this Order to carry a private right of way, the surface and the structure of the bridge must be maintained by and at the expense of the undertaker.

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

(6) For the purposes of a defence under paragraph (5), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to 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 to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

### **Permanent stopping up of streets**

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

(2) No street specified in columns (1) and (2) of Schedule 3 (permanent stopping up of streets) is to be wholly or partly stopped up under this article unless—

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

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

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

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

(5) This article is subject to article 32 (apparatus and rights of statutory undertakers in stopped-up streets).

### **Temporary stopping up of streets**

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

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

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street temporarily stopped up under the powers conferred by this article and within the Order limits as a temporary working site.

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

(4) Without limitation on the scope of paragraph (1), the undertaker may temporarily stop up, alter or divert the streets specified in columns (1) and (2) of Schedule 4 (temporary stopping up of streets) to the extent specified in column (3) of that Schedule.

(5) The undertaker must not temporarily stop up, alter or divert any street for which the undertaker is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent.

(6) If a street authority which receives an application for consent under paragraph 14(5) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(7) 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.

### **Access to works**

**15.** The undertaker may for the purposes of the authorised development form and lay out means of access, or improve existing means of access at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

**Powers in relation to relevant navigations or watercourses**

**16.**—(1) Subject to Schedule 10 (protective provisions), the undertaker may, for the purpose of or in connection with the carrying out and maintenance of the authorised development, regardless of any interference with any public or private rights—

- (a) temporarily alter, interfere with, occupy and use the banks, bed, foreshores, waters and walls of a relevant navigation or watercourse;
- (b) remove or relocate any moorings so far as may be reasonably necessary for the purposes of carrying out and of maintaining the authorised development;
- (c) temporarily moor or anchor vessels and structures;
- (d) construct, place, maintain and remove temporary works and structures within the banks, bed, foreshores, waters and walls of a relevant navigation or watercourse; and
- (e) interfere with the navigation of any relevant navigation or watercourse in such manner and to such extent as may appear to it to be necessary or convenient.

(2) Except in the case of urgency, the undertaker must use reasonable endeavours to notify the owner of any mooring affected by the proposal to exercise the powers conferred by sub-paragraph (1)(b) before the exercise of those powers.

(3) The undertaker must pay compensation to any person entitled to compensation under the 1961 Act who suffers any loss or damage from the exercise of the powers conferred by sub-paragraph (1)(b).

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

(5) In this article, “relevant navigation” means so much of—

- (a) The Kennet and Holy River;
- (b) The Kennet and Avon Canal;
- (c) The River Thames;
- (d) The River Crane;
- (e) The Jubilee River;
- (f) The Cut; and
- (g) River Colne,

as the context requires.

## PART 4

### SUPPLEMENTAL POWERS

**Discharge of water**

**17.**—(1) Subject to paragraphs (3) and (4), 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 under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(a).

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(a) Section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29)

(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.

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

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works under the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

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

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010 (requirement for environmental permit)(a).

(8) In this article—

“public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation; and

other expressions, excluding watercourse, except as otherwise defined in this Order, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2010 have the same meaning as in those Regulations.

(9) If a person under paragraph (3) receives an application for consent and fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, the person is deemed to have granted consent.

### **Protective work to buildings**

**18.—**(1) Subject to the following provisions of this article, the undertaker may at the undertaker’s own expense carry out such protective works to any building lying within the Order limits or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may, subject to paragraph (5), 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—

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(a) S.I. 2010/675, to which there are amendments not relevant to this Order

- (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 of intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), 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 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 47 (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 day on which the part of the authorised development carried out in the vicinity of the building is first opened for use 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) 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**

**19.**—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

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

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

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



- (a) must, if so required, before or after entering the land, produce written evidence of 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) If a highway authority under paragraph (4)(a) or a street authority under (4)(b) receives an application for consent and fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, the highway authority or street authority, as relevant, is deemed to have granted consent.

## PART 5

### POWERS OF ACQUISITION

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

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

(2) This article is subject to paragraph (2) of article 22 (compulsory acquisition of rights) and paragraph (8) of article 29 (temporary use of land for carrying out the authorised development).

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

**21.**—(1) After the end of the period of 5 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 25 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 29 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

#### **Compulsory acquisition of rights**

**22.**—(1) Subject to paragraph (2), the undertaker may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 20 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of restrictive covenants, as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act, as substituted by paragraph 5 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires a right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 4 (temporary stopping up of streets) 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.

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

**23.—**(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker, by its successor pursuant to a transfer or lease under article 8 (consent to transfer benefit of Order) of this Order, by any person deriving title under them or by any of their servants or agents) is authorised by this Order for the purposes of this article if it is authorised by the Order apart from this article and done in accordance with the terms of this Order, notwithstanding that it involves—

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

(2) In this article “authorised activity” means—

- (a) the erection, construction or carrying out, or maintenance of any building or work on land;
- (b) the erection, construction, or maintenance or anything in, on, over or under land; or
- (c) the use of any land.

(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 user of land arising by the virtue of a contract having that effect).

(4) Where any interest or right to which this article applies is interfered with or any restriction breached by any authorised activity in accordance with the terms of this article the interest or right is to be extinguished, abrogated or discharged at the time that the interference or breach in respect of the authorised activity in question commences but only to the extent required for or necessary or incidental to the authorised development

(5) In respect of any interference, breach, extinguishment, abrogation or discharge in pursuance of this article, compensation—

- (a) is to be payable under section 63 or 68 of the Lands Clauses Consolidation Act 1845 or under section 7 (measure of compensation in case of severance) or 10 (further provisions as to compensation for injurious affection) of the Compulsory Purchase Act 1965; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
  - (i) the compensation is to be estimated in connection with a purchase under those Acts; or
  - (ii) the injury arises from the execution of works on or use of land acquired under those Acts.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

(7) This article is not to apply in respect of any agreement, restriction, obligation or other provision contained in a deed made pursuant to section 106 (planning obligations) of the 1990 Act, or section 278 (agreements as to execution of works) of the 1980 Act.

**Private rights over land**

**24.**—(1) Subject to the provisions of this article, all private rights 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) (power of entry) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

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

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the undertaker which, being within the limits of land which may be acquired or used shown on the land plans, are required for the purposes of this Order are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights 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.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 (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 31 (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 acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
  - (ii) the undertaker's appropriation of it;
  - (iii) the undertaker's entry onto it; or
  - (iv) the undertaker's taking temporary possession of it,that any or all of those paragraphs do not 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 in question is vested or belongs.

(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 trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including

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

**Application of the Compulsory Purchase (Vesting Declarations) Act 1981**

- 25.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as so applied, has effect with the following modifications.
- (3) In section 1 (application of Act) for subsection (2) substitute—
- “(2) This section applies to any Minister, any local or other public authority or any other person authorised to acquire land by means of a compulsory purchase order.”.
- (4) In section 3 (preliminary notices) for subsection (1) substitute—
- “(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority must include the particulars specified in subsection (3) in a notice which is—
- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”.
- (5) In that section, in subsection (2), for “(1)(b)” substitute “(1)” and after “given” insert “and published”.
- (6) In that section, for subsections (5) and (6) substitute—
- “(5) For the purposes of this section, a person has a relevant interest in land if—
- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.
- (7) In section 5 (earliest date for execution of declaration)—
- (a) in subsection (1), after “publication” insert “in a local newspaper circulating in the area in which the land is situated”; and
- (b) omit subsection (2).
- (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) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the compulsory acquisition of land under this Order.

**Acquisition of subsoil or air–space only**

- 26.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or the air–space over the land referred to in paragraph (1) of article 20 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.
- (2) Where the undertaker acquires any part of, or rights in, the subsoil of or the air–space over land referred to in paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.
- (3) Paragraph (2) does not prevent article 27 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

**Acquisition of part of certain properties**

27.—(1) This article applies instead of section 8(1) (other provisions as to divided land) of the 1965 Act (as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act) where—

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

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

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

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

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

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

the owner must sell the land subject to the notice to treat.

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

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

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

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

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

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

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

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

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

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

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

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

**28.**—(1) The undertaker may enter on and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

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

(3) Paragraph (2) 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 as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 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**

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

- (a) enter on and take temporary possession of—
  - (i) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
  - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on that land.

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

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

- (a) in the case of any land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7; or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building 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.

(5) 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.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), 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.

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

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

- (a) acquiring new rights over any part of that land under article 22 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil (or rights in the subsoil of or air-space over) that land under article 26 (acquisition of subsoil or air-space only).

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

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

(11) Paragraph (1)(a)(ii) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 20 (compulsory acquisition of land) or any land specified in Schedule 5 (land in which only new rights etc. may be acquired).

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

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

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

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

- (a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

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

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

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

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

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of compensation, 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 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land 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.

(11) In this article "the maintenance period", in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

### **Statutory undertakers**

**31.**—(1) Subject to the provisions of article 22(3) (compulsory acquisition of rights), Schedule 9 (protective provisions) and paragraph (2), the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over any Order land belonging to statutory undertakers;
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 (street works in England and Wales) of the 1991 Act; and
- (b) article 32 (apparatus and rights of statutory undertakers in stopped up streets).

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

**32.**—(1) Where a street is stopped up under article 13 (permanent stopping up of streets), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 14 (temporary stopping up of streets) any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—



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

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

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

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a 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.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

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

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

(8) In this article—

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

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

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(a) 2003 c. 21.

### **Recovery of costs of new connections**

**33.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 31, any person who is—

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

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

(3) This article does not have effect in relation to apparatus to which article 32 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this paragraph—

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

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

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

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

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

### **Special category land**

**35.**—(1) Subject to paragraph (2), so much of the special category land as shall be required for the purposes of the exercise by the undertaker of the Order rights is discharged from all rights, trusts and incidents to which it was previously subject.

(2) Plots 10-01a and 10-01b identified in the book of reference and on the land plans are not to be discharged from the rights, trusts and incidents to which they were previously subject until the Secretary of State has certified that a scheme for the provision of replacement land as common has been implemented to the Secretary of State's satisfaction.

(3) In this article—

“the Order rights” means rights exercisable over special category land by the undertaker under articles 19 (authority to survey and investigate land), 20 (compulsory acquisition of land) 22 (compulsory acquisition of rights), or 29 (temporary use of land for carrying out the authorised development);

“the special category land” means the land identified as forming open space and registered common land and numbered 10-01a, 10-01b, 18-19, 20-03, 20-27, 20-28, 20-32, 20-33, 20-34,

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(a) 1981 c.67. Sub-paragraph (5) of paragraph 1 of Part 1 of Schedule 2 was amended by section 67 of, and paragraph 27(3) of Schedule 9 to, the Coal Industry Act 1994 (c. 21) and paragraph 8 of Part 3 of Schedule 2 was amended by section 46 of the Criminal Justice Act 1982 (c. 48). There are other amendments to the 1981 Act which are not relevant to this Order.

20-35, 20-36, 20-37a, 20-37c, 20-41a, 20-41c, 21-01, 21-02a, 21-02c, 21-02d, 21-12a, 21-13, 21-15, 21-16, 21-17, 22-12, 22-26, 23-04, 23-32, 23-33, 23-34, 23-35 in the book of reference and on the land plans; and

“the replacement land” means the land identified on the plan entitled “replacement land plan”.

## PART 6 OPERATION

### **Power to operate and maintain the authorised works**

**36.** The undertaker may operate and maintain the authorised works.

### **Restriction on executing works**

**37.**—(1) Regardless of anything contained in the 1980 Act or in any other enactment no person is to enter upon, break up or interfere with Work No. 1a and 1b, or any slip road for the purpose of installing any main, pipe or wire or executing any work in, on or under Work No. 1a and 1b or any slip road.

(2) Subject to paragraph (1) and paragraph (3), regardless of anything contained in the 1980 Act or in any other enactment no person is to enter upon, break up or interfere with any scheduled work, including the carriageways, footways, verges and embankments of such works, authorised by this Order, except with the consent of the undertaker and in accordance with such terms or conditions and subject to such charges as the undertaker may determine.

(3) The consent of the undertaker to the breaking up of and interference with any of the works or the carriageways and footways of any work, or any of the Order land for the purposes of installing water mains, water pipes or electric lines in them is not to be withheld unreasonably and any question which may arise as to whether such consent is so withheld or as to whether the terms and conditions subject to which any such consent is given are reasonable is to be resolved by an arbitrator under article 47 (arbitration).

### **Existing powers and duties of the undertaker**

**38.** Except as expressly provided, nothing in this Order is to prejudice the operation of, and the powers and duties of the undertaker under, the 1980 Act, the 1991 Act and the Town and Country Planning (General Permitted Development) (England) Order 2015(a)

## PART 7 MISCELLANEOUS AND GENERAL

### **Felling or lopping of trees**

**39.**—(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 it reasonably believes it to be necessary to do so to prevent the tree or shrub—

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

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(a) 2015/596.

(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.

### **Trees subject to tree preservation orders**

**40.**—(1) The undertaker may fell or lop any tree described in Schedule 8 (trees subject to tree preservation orders), cut back its roots or undertake such other works described in column (2) of that Schedule 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 using the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker is to do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss of damage arising from such activity; and
- (b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act is not to apply.

(3) The authority given in paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

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

### **Operational land for purposes of the 1990 Act**

**41.** 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 operational land for the purposes of that Act) of the 1990 Act.

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

**42.**—(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 paragraphs (c), (d), (e), (fb), (g), (ga) and (h) of 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) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974(b); or

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

(b) 1974 c. 40. Section 61(2) was amended by section 133(2) of, and Schedule 7 to, the Building Act 1984 (c. 55). Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 (c. 25).

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

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) (corresponding provision in relation to consent for registered noise level to be exceeded) of that Act, do 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**

43. Schedule 9 (protective provisions) has effect.

### **Temporary Prohibition of Traffic**

44. Schedule 10 (temporary prohibition of traffic) has effect.

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

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

- (a) the land plans (Document Reference No. 2.2, dated March 2015) which are listed in full in Schedule 11;
- (b) the works plans (Document Reference No. 2.3, dated March 2015) which are listed in full in Schedule 11;
- (c) the engineering drawings and sections (Document Reference Nos. 2.5 - 2.9, dated March 2015)
- (d) the book of reference (Document Reference No. 4.3, dated March 2015);
- (e) the environmental statement (Document Reference No. 6.1, dated March 2015);
- (f) the outline environmental management plan (Document Reference No. 6.3/4.2, dated March 2015);
- (g) the outline construction environmental management plan (Document Reference No. 6.3/4.2, dated March 2015);
- (h) the engineering and design report (Document Reference No. 7.3, dated March 2015);
- (i) the environmental masterplan, being Annex A to the engineering and design report (Document Reference No. 7.4, dated March 2015);
- (j) the drainage strategy report (Document Reference No. 7.5, dated March 2015); and
- (k) the replacement land plan (Document Reference 514451-MUH-ML-22-SK-LR-301458),

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

(2) 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**

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

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

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

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at the time of service.

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

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

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

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

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

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

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

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

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

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

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

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(a) 1978 c. 30.

### **Arbitration**

47. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

### **Traffic regulation**

48.—(1) This article applies to roads in respect of which the undertaker is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development—

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

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

(3) Subject to paragraph (7), the power conferred by paragraph (2) cannot be exercised after the expiry of 12 months from the opening of the authorised development for public use, but any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The undertaker must not exercise the powers conferred by paragraph (2) unless the undertaker has—

- (a) given not less than—
  - (i) 12 weeks' notice in writing of the undertaker's intention to do so in the case of a prohibition, restriction or other provision intended to have effect permanently; or
  - (ii) 4 weeks' notice in writing of the undertaker's intention to do so in the case of a prohibition, restriction or other provision intended to have effect temporarily,to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised the undertaker's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

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

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

(ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking places) of the 1984 Act<sup>(a)</sup>,

and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and

(b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004<sup>(b)</sup>.

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (2) within a period of 24 months from the opening of the authorised development.

(8) Before exercising the powers conferred by paragraph (2) the undertaker must consult such persons as the undertaker considers necessary and appropriate and must take into consideration any representations made to the undertaker by any such person.

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

(10) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

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

#### **Procedure in relation to certain approvals etc.**

**49.**—(1) Where an application is made to or a request is made of a relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain (“discharging authority”) for any consent, agreement or approval required or contemplated by any of the provisions of the Order such consent, agreement or approval must, if given, be given in writing and must not be unreasonably withheld.

(2) Schedule 11 (procedure for discharge of requirements) shall have effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements.

#### **Application of sections 91(3A) and (3B) of the 1990 Act**

**50.** For the purposes of this Order, sections 91(3A) and (3B) (general condition limiting duration of planning permission) of the 1990 Act shall apply in the circumstances set out in those provisions to extend the time limit specified in paragraph 2 of Schedule 2 (requirements) as if this Order was a planning permission granted pursuant to that Act.

Signed by authority of the Secretary of State for Transport

*[Claire Perry]*

[Parliamentary Under Secretary of State]  
Department for Transport

*[Martin Woods]*

[Address]

[Head of the Transport and Works Act Orders Unit]

Date: 201[\*]

Department for Transport

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(a) Section 32 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(b) 2004 c. 18.



## SCHEDULES

### SCHEDULE 1

Article 2

#### AUTHORISED DEVELOPMENT

**In the administrative areas of West Berkshire Council, Wokingham Borough Council, Reading Borough Council, the Royal Borough of Windsor and Maidenhead, Bracknell Forest Council, Buckinghamshire County Council, South Bucks District Council, Slough Borough Council, the London Borough of Hillingdon, the London Borough of Hounslow and the Greater London Authority**

A nationally significant infrastructure project as defined in sections 14 (nationally significant infrastructure projects: general) and 22 (highways) of the 2008 Act<sup>(a)</sup>, comprising:

*Work No. 1a* – The improvement of the eastbound carriageway of the M4 Motorway (51.3 kilometres in length) commencing at grid reference 465337E; 171339N and terminating at grid reference 510045E; 178287N; and

*Work No. 1b* – The improvement of the westbound carriageway of the M4 Motorway (51.3 kilometres in length) commencing at grid reference 510079E; 178265N and terminating at grid reference 465313E; 171333N;

such works including—

- (a) conversion of the existing hard shoulder to a running lane;
- (b) the provision of a hardened central reserve with a rigid concrete barrier dividing Works No. 1a and 1b;
- (c) the construction of 18 no. super-span portal gantries above the M4 motorway each spanning both Works No. 1a and 1b, as shown on drawing 514451-MUH-ST-ZZ-DR-GN-301411 of the engineering drawings and sections, within the gantry siting locations shown as “Gantry Type 1” on the works plans, including gantry foundations, gantry structure, signs, signals, sign illumination, control cabinets, power and communication cable connections;
- (d) the construction of 5 no. single carriageway portal gantries above the M4 motorway each spanning either Works No. 1a or 1b, as shown on drawing 514451-MUH-ST-ZZ-DR-GN-301412 of the engineering drawings and sections, within the gantry siting locations shown as “Gantry Type 2” on the works plans, including gantry foundations, gantry structure, signs, signals, sign illumination, control cabinets, power and communication cable connections;
- (e) the construction of 24 no. super-span cantilever gantries above the M4 over either Works No. 1a or 1b, as shown on drawing 514451-MUH-ST-ZZ-DR-GN-301413 of the engineering drawings and sections, within the gantry siting locations shown as “Gantry Type 3” on the works plans, including gantry foundations, gantry structure, signs, signals, sign illumination, control cabinets, power and communication cable connections;
- (f) the construction of 25 no. sign-only cantilever gantries above the M4 over either Works No. 1a or 1b, as shown on drawing 514451-MUH-ST-ZZ-DR-GN-301414 of the engineering drawings and sections, within the gantry siting locations shown as “Gantry Type 4” on the works plans, including gantry foundations, gantry structure, signs, sign illumination, control cabinets, power cable connections;
- (g) the construction of 51 no. MS4 signal cantilever gantries above the M4 over either Works No. 1a or 1b, as shown on drawing 514451-MUH-ST-ZZ-DR-GN-301415 and 514451-MUH-ST-ZZ-DR-GN-301416 of the engineering drawings and sections, within the

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<sup>(a)</sup> Section 22 was substituted by article 3 of S.I. 2013/1883.

- gantry siting locations shown as “Gantry Type 5” on the works plans, including gantry foundations, gantry structure, signals, control cabinets, power and communication cable connections;
- (h) the construction of 7 no. MS3 signal cantilever gantries above the M4 over either Works No. 1a or 1b, as shown on drawing 514451-MUH-ST-ZZ-DR-GN-301417 of the engineering drawings and sections, within the gantry siting locations shown as “Gantry Type 6” on the works plans, including gantry foundations, gantry structure, signals, control cabinets, power and communication cable connections;
  - (i) the construction of new signs and signals on 7 no. re-used portal gantries above the M4 over either Works No. 1a or 1b, within the gantry siting locations shown as “Re-used Gantry Type 7” on the works plans, including removal of existing signs and signals, refurbishment of gantry structure, signs, signals, sign illumination, control cabinets and power and communication cable connections;
  - (j) the provision of new signals on 20 no. re-used cantilever gantries above the M4 over either Works No. 1a or 1b, within the gantry siting locations shown as “Re-used Gantry Type 8” on the works plans, including removal of existing signs and signals, refurbishment of gantry structure, signals, control cabinets and power and communication cable connections;
  - (k) the demolition of 41 no. existing gantries above the M4 within the gantry siting locations shown as “Demolish Gantry” on the works plans, including decommissioning, demolition to ground level and removal from site;
  - (l) the construction 17 no. emergency refuge areas on the eastbound carriageway of the M4 motorway at the locations shown by “ERA” on the works plans, including the installation of emergency telephones;
  - (m) the construction 16 no. emergency refuge areas on the westbound carriageway of the M4 motorway at the locations shown by “ERA” on the works plans, including the installation of emergency telephones;
  - (n) the construction 5 no. police observation platforms on the eastbound carriageway of the M4 motorway at the locations shown by “POP” on the works plans;
  - (o) the construction 4 no. police observation platforms on the westbound carriageway of the M4 motorway at the locations shown by “POP” on the works plans; and
  - (p) the construction and installation of 124 no. closed circuit television camera supports on the M4 motorway at the locations shown by a camera icon on the works plans.

**In the administrative area of West Berkshire Council**

*Work No. 2a* – The realignment of the M4 Junction 12 (Theale) eastbound on-slip commencing at grid reference 465236E; 171427N and terminating at grid reference 465627E; 171163N.

*Work No. 2b* – The realignment of the M4 Junction 12 (Theale) westbound off-slip commencing at grid reference 465643E; 171122N and terminating at grid reference 465192E; 171383N.

*Work No. 3a* – The realignment of the Reading Motorway Service Area eastbound off-slip commencing at grid reference 467119E; 170000N and terminating at grid reference 467427E; 169953N.

*Work No. 3b* – The realignment of the Reading Motorway Service Area eastbound on-slip commencing at grid reference 467443E; 169947N and terminating at grid reference 467762E; 169738N.

*Work No. 3c* – The realignment of the Reading Motorway Service Area westbound off-slip commencing at grid reference 467783E; 169699N and terminating at grid reference 467432E; 469710N.

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*Work No. 3d* – The realignment of the Reading Motorway Service Area westbound on-slip commencing at grid reference 467424E; 169713N and terminating at grid reference 467118E; 169965N.

### **In the administrative area of Wokingham Borough Council and Reading Borough Council**

*Work No. 4a* – The realignment of the M4 Junction 11 (Three Mile Cross) eastbound off-slip commencing at grid reference 470765E; 169102N and terminating at grid reference 471343E; 168783N.

*Work No. 4b* – The realignment of the M4 Junction 11 (Three Mile Cross) eastbound on-slip commencing at grid reference 471807E; 168641N and terminating at grid reference 472477E; 168653N.

*Work No. 4c* – The realignment of the M4 Junction 11 (Three Mile Cross) westbound off-slip commencing at grid reference 472539E; 168637N and terminating at grid reference 471850E; 168576N.

*Work No. 4d* – The realignment of the M4 Junction 11 (Three Mile Cross) westbound on-slip commencing at grid reference 471298E; 168737N and terminating at grid reference 470873E; 169006N.

### **In the administrative area of Wokingham Borough Council**

*Work No. 5a* – The realignment of the M4 Junction 10 (Winnersh) eastbound off-slip commencing at grid reference 478879E; 170222N and terminating at grid reference 479314E; 170512N.

*Work No. 5b* – The improvement of the M4 Junction 10 (Winnersh) eastbound on-slip (1) commencing at grid reference 479492E; 170769N and terminating at grid reference 479658E; 170850N.

*Work No. 5c* – The realignment of the M4 Junction 10 (Winnersh) eastbound on-slip (2) commencing at grid reference 479797E; 171075N and terminating at grid reference 480403E; 171420N.

*Work No. 5d* – The realignment of the M4 Junction 10 (Winnersh) westbound off-slip commencing at grid reference 480708E; 171550N and terminating at grid reference 480159E; 171151N.

*Work No. 5e* – The improvement of the M4 Junction 10 (Winnersh) westbound on-slip (1) commencing at grid reference 479941E; 170955N and terminating at grid reference 479741E; 170888N.

*Work No. 5f* – The realignment of the M4 Junction 10 (Winnersh) westbound on-slip (2) commencing at grid reference 479576E; 170692N and terminating at grid reference 479056E; 170283N.

### **In the administrative area of the Royal Borough of Windsor and Maidenhead**

*Work No. 6a* – The realignment of the M4 Junction 8/9 (Holyport) eastbound off-slip commencing at grid reference 487916E; 178093N and terminating at grid reference 488542E; 178548N.

*Work No. 6b* – The realignment of the M4 Junction 8/9 (Holyport) eastbound on-slip commencing at grid reference 488854E; 178630N and terminating at grid reference 489729E; 178617N and widening of the eastbound carriageway of the M4 motorway at the location of Ascot Road overbridge.

*Work No. 6c* – The realignment of the M4 Junction 8/9 (Holyport) westbound off-slip commencing at grid reference 489576E; 178580N and terminating at grid reference 488851E;

178561N and widening of the westbound carriageway of the M4 motorway at the location of the existing Ascot Road overbridge.

*Work No. 6d* – The realignment of the M4 Junction 8/9 (Holyport) westbound on-slip commencing at grid reference 488563E; 178475N and terminating at grid reference 487980E; 178112N.

*Work No. 7a* – Construction of a new bridge over the M4 to the east of the existing Ascot Road overbridge, demolition of the existing bridge and the realignment of Ascot Road commencing at grid reference 489273E; 178303N and terminating at grid reference 489488E; 178831N.

*Work No. 7b* – The construction of a new retaining wall below grade at the eastern side of Ascot Road in the realigned section north of the M4 motorway at the location shown on the works plans.

*Work No. 8a* – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Monkey Island Lane overbridge commencing at grid reference 490874E; 179161N and terminating at grid reference 491117E; 179361N.

*Work No. 8b* – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Monkey Island Lane overbridge commencing at grid reference 491076E; 179284N and terminating at grid reference 490958E; 179189N.

*Work No. 8c* – The construction of a new bridge over the M4 to the west of the existing Monkey Island Lane overbridge, demolition of the existing Monkey Island Lane overbridge, the realignment of Monkey Island Lane commencing at grid reference 490815E; 179422N and terminating at grid reference 491158E; 179115N and the extension of 2 no. flood channel culverts under Monkey Island Lane at the locations shown on the works plans.

**In the administrative areas of the Royal Borough of Windsor and Maidenhead and Buckinghamshire County Council, South Bucks District Council**

*Work No. 9a* – The widening of the M4 motorway at the location of the existing Thames Bray underbridge commencing at grid reference 491117E; 179361N and terminating at grid reference 491608E; 179713N, including realignment of the M4 central reserve and realignment of the footway and cycle way along the motorway.

*Work No. 9b* – The widening of Thames Bray underbridge over the River Thames to the north of the existing bridge at the location shown on the works plans including widening of foundations, substructure and bridge deck to accommodate Work 9a.

**In the administrative area of Buckinghamshire County Council, South Bucks District Council**

*Work No. 10a* – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Marsh Lane overbridge commencing at grid reference 491720E; 179753N and terminating at grid reference 491879E; 179796N.

*Work No. 10b* – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Marsh Lane overbridge commencing at grid reference 491890E; 179765N and terminating at grid reference 491599E; 179670N.

*Work No. 10c* – The realignment of Marsh Lane commencing at grid reference 491645E; 179930N and terminating at grid reference 491950E; 179567N, including construction of retaining walls, raising of earthworks, demolition of the existing Marsh Lane overbridge over the M4 and construction of a new bridge over the M4.

*Work No. 11a* – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Lake End Road overbridge commencing at grid reference 492816E; 180033N and terminating at grid reference 492943E; 180064N.

*Work No. 11b* – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Lake End Road overbridge commencing at grid reference 492932E; 180018N and terminating at grid reference 492820E; 179994N.

*Work No. 11c* – The construction of a new bridge over the M4 to the west of the existing Lake End Road overbridge, the demolition of the existing Lake End Road overbridge, the realignment of Lake End Road commencing at grid reference 492866E; 179741N and terminating at grid reference 492948E; 180346N, and the provision of a new junction between Lake End Road and Huntercombe Lane.

**In the administrative area of Buckinghamshire County Council, South Bucks District Council and Slough Borough Council**

*Work No. 12a* – The realignment of the M4 Junction 7 (Huntercombe) eastbound off-slip commencing at grid reference 493056E; 180075N and terminating at grid reference 493372E; 180147N.

*Work No. 12b* – The realignment of the M4 Junction 7 (Huntercombe) eastbound on-slip commencing at grid reference 493451E; 180142N and terminating at grid reference 493784E; 179933N.

*Work No. 12c* – The realignment of the M4 Junction 7 (Huntercombe) westbound off-slip commencing at grid reference 493474E; 180003N and terminating at grid reference 493210E; 179964N.

*Work No. 12d* – The realignment of the M4 Junction 7 (Huntercombe) westbound on-slip commencing at grid reference 493194E; 179963N and terminating at grid reference 492823E; 180002N.

*Work No. 12e* – The construction of a new bridge for the south bound carriageway of the Junction 7 Link Road (Huntercombe Spur) over the M4 to the west of the existing Huntercombe Spur overbridge, demolition of the existing Huntercombe Spur overbridge, construction of a new bridge for the north bound carriageway of the Junction 7 Link Road (Huntercombe Spur) over the M4 and the realignment of the Junction 7 Link Road (Huntercombe Spur) commencing at grid reference 493202E; 179964N and terminating at grid reference 493446E; 180749N together with the construction of a new super-span cantilever gantry above the south bound carriageway of the Junction 7 Link Road (Huntercombe Spur) within the gantry siting location shown as “Gantry Type 3” on the works plans, including gantry foundations, gantry structure, signs, signals, sign illumination, control cabinets, and power cable connections.

*Work No. 12f* – The construction of a new retaining wall between the Junction 7 Link Road (Huntercombe Spur) and the Junction 7 eastbound on-slip at the location shown on the works plans.

**In the administrative area of Slough Borough Council**

*Work No. 13a* – The realignment of the M4 Junction 7 (Huntercombe) eastbound off-slip commencing at grid reference 493056E; 180075N and terminating at grid reference 493372E; 180147N.

*Work No. 13b* – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Oldway Lane overbridge commencing at grid reference 493986E; 179828N and terminating at grid reference 493883E; 179860N.

*Work No. 13c* – The realignment of Oldway Lane commencing at grid reference 493877E; 179650N and terminating at grid reference 494017E; 180130N, including construction of retaining walls, raising of earthworks, demolition of the existing Oldway Lane overbridge over the M4 and construction of a new bridge over the M4.

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*Work No. 14a* – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Wood Lane overbridge commencing at grid reference 494937E; 179555N and terminating at grid reference 495073E; 179510N.

*Work No. 14b* – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Wood Lane overbridge commencing at grid reference 495079E; 179477N and terminating at grid reference 494941E; 179522N.

*Work No. 14c* – The construction of a new bridge over the M4 to the east of the existing Wood Lane overbridge, the demolition of the existing Wood Lane overbridge and the realignment of Wood Lane commencing at grid reference 494859E; 179384N and terminating at grid reference 495124E; 179765N.

*Work No. 15* – The extension of Chalvey Culvert to both north and south at the location shown on the works plans to accommodate Works 16a and 16d.

*Work No. 16a* – The realignment of the M4 Junction 6 (Chalvey) eastbound off-slip commencing at grid reference 495259E; 179448N and terminating at grid reference 495873E; 179259N.

*Work No. 16b* – The realignment of the M4 Junction 6 (Chalvey) eastbound on-slip commencing at grid reference 496277E; 179133N and terminating at grid reference 497074E; 179076N.

*Work No. 16c* – The realignment of the M4 Junction 6 (Chalvey) westbound off-slip commencing at grid reference 496856E; 179034N and terminating at grid reference 496258E; 179070N, including widening of the M4 motorway to the south side at the location of the existing Windsor Branch Railway overbridge, realignment of the M4 central reserve to the south and widening the M4 earthworks embankment to the south using strengthened or retained earthworks.

*Work No. 16d* – The realignment of the M4 Junction 6 (Chalvey) westbound on-slip commencing at grid reference 495221E; 179428N and terminating at grid reference 495864E; 179204N.

*Work No. 17* – The widening of Windsor Branch Railway underbridge to the south side of the existing bridge, at the location shown on the works plans, including widening of foundations, substructure and bridge deck to accommodate Works 16b and 16c.

*Work No. 18* – The extension of the water and gas main subway under the M4 carriageway west of Datchet Road to both north and south at the location shown on the works plans including diversion of the utilities passing through the subway and closure of the existing access manholes in the hard shoulders of the M4 motorway.

### **In the administrative area of Slough Borough Council and the Royal Borough of Windsor and Maidenhead**

*Work No. 19a* – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Datchet Road overbridge commencing at grid reference 497855E; 178907N and terminating at grid reference 497983E; 178805N.

*Work No. 19b* – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Datchet Road overbridge commencing at grid reference 497983E; 178764N and terminating at grid reference 497844E; 178877N.

*Work No. 19c* – The construction of a new bridge over the M4 to the east of the existing Datchet Road overbridge, utility diversion works, the demolition of the existing Datchet Road overbridge and the realignment of Datchet Road commencing at grid reference 497997E; 179140N and terminating at grid reference 498157E; 178357N.

### **In the administrative area of the Royal Borough of Windsor and Maidenhead**

*Work No. 20a* – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Recreation Ground overbridge commencing at grid reference 498117E; 178655N and terminating at grid reference 498210E; 178520N.

*Work No. 20b* – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Recreation Ground overbridge commencing at grid reference 498182E; 178500N and terminating at grid reference 498089E; 178636N.

*Work No. 20c* – The demolition of the existing Recreation Ground overbridge over the M4 and construction of a new bridge over the M4, and the realignment of Recreation Ground Road commencing at grid reference 498022E; 178486N and terminating at grid reference 498268E; 178648N.

*Work No. 21* – The extension of the water main subway under the M4 carriageway east of Recreation Ground Road to both north and south at the location shown on the works plans including diversion of the utilities passing through the subway and closure of the existing access manholes in the hard shoulders of the M4 motorway.

*Work No. 22a* – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Riding Court Road overbridge commencing at grid reference 499018E; 177547N and terminating at grid reference 499168E; 177475N.

*Work No. 22b* – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Riding Court Road overbridge commencing at grid reference 499178E; 177434N and terminating at grid reference 499022E; 177505N.

*Work No. 22c* – The construction of a new bridge over the M4 to the west of the existing Riding Court Road overbridge, demolition of the existing Riding Court Road overbridge, the realignment of Riding Court Road commencing at grid reference 499071E; 177252N and terminating at grid reference 499250E; 177481N, modification of a private means of access to Riding Court at its junction with Riding Court Road.

*Work No. 23a* – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Ashley's Arch Culvert commencing at grid reference 499916E; 177412N and terminating at grid reference 500069E; 177455N.

*Work No. 23b* – The extension of Ashley's Arch culvert to the north at the location shown on the works plans to accommodate Work No. 23a.

### **In the administrative areas of the Royal Borough of Windsor and Maidenhead and Slough Borough Council**

*Work No. 24a* – The realignment of the M4 Junction 5 (Langley) eastbound off-slip commencing at grid reference 500685E; 177740N and terminating at grid reference 501031E; 177926N.

*Work No. 24b* – The realignment of the M4 Junction 5 (Langley) eastbound on-slip commencing at grid reference 501461E; 178086N and terminating at grid reference 501971E; 178168N.

*Work No. 24c* – The realignment of the M4 Junction 5 (Langley) westbound off-slip commencing at grid reference 501906E; 178130N and terminating at grid reference 501560E; 178047N.

*Work No. 24d* – The realignment of the M4 Junction 5 (Langley) westbound on-slip commencing at grid reference 501147E; 177901N and terminating at grid reference 500662E; 177696N.

*Work No. 24e* – The widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing M4 Junction 5 (Langley) commencing at grid reference 501091E; 177937N and terminating at grid reference 501448E; 178064N.

*Work No. 24f* – The widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing M4 Junction 5 (Langley) commencing at grid reference 501462E; 178027N and terminating at grid reference 501111E; 177903N.

*Work No. 24g* – The widening of Langley underbridge (West) to the north and south side of the existing Langley underbridge (West), at the location shown on the works plans, including widening of foundations, substructure and bridge deck to accommodate Work Nos. 24e and 24f.

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*Work No. 24h* – The extension of Langley subway to both north and south at the location shown on the works plans to accommodate Work Nos. 24e and 24f.

*Work No. 24i* – The widening of Langley underbridge (East) to the north and south side of the existing Langley underbridge (East), at the location shown on the works plans, including widening of foundations, substructure and bridge deck to accommodate Work Nos. 24e and 24f.

### **In the administrative areas of Buckinghamshire County Council, South Bucks District Council and Slough Borough Council**

*Work No. 25* – The demolition of the existing Old Slade Lane overbridge over the M4 and construction of a new bridge over the M4 and the realignment of Old Slade Lane commencing at grid reference 503720E; 178176N and terminating at grid reference 503729E; 178491N, including construction of retaining walls.

### **In the administrative area of Slough Borough Council**

*Work No. 26a* – The realignment of the M4 Junction 4b (M25) eastbound off-slip and widening of the eastbound carriageway of the M4 motorway on the north side at the location of the existing Old Slade Lane overbridge commencing at grid reference 503425E; 178213N and terminating at grid reference 504178E; 178422N.

*Work No. 26b* – The realignment of the M4 Junction 4b (M25) westbound on-slip and widening of the westbound carriageway of the M4 motorway on the south side at the location of the existing Old Slade Lane overbridge commencing at grid reference 504295E; 178295N and terminating at grid reference 503420E; 178181N.

### **In the administrative area of the London Borough of Hillingdon**

*Work No. 27a* – The realignment of the M4 Junction 4b (M25) eastbound on-slip commencing at grid reference 505255E; 178385N and terminating at grid reference 505643E; 178384N and the construction of a sign-only cantilever gantry above the on-slip within the gantry siting locations shown as “Gantry Type 4” on the works plans, including gantry foundations gantry structure, signs, sign illumination, control cabinets and power cable connections.

*Work No. 27b* – The realignment of the M4 Junction 4b (M25) westbound off-slip commencing at grid reference 505816E; 178360N and terminating at grid reference 505270E; 178321N.

*Work No. 28* – The widening of Sipson Road Subway to the south at the location shown on the works plans to accommodate Work No. 29d.

*Work No. 29a* – The realignment of the M4 Junction 4 (Heathrow) eastbound off-slip commencing at grid reference 506647E; 178535N and terminating at grid reference 507266E; 178591N.

*Work No. 29b* – The realignment of the M4 Junction 4 (Heathrow) eastbound on-slip commencing at grid reference 507862E; 178539N and terminating at grid reference 508509E; 178440N.

*Work No. 29c* – The realignment of the M4 Junction 4 (Heathrow) westbound off-slip commencing at grid reference 508250E; 178441N and terminating at grid reference 507651E; 178502N.

*Work No. 29d* – The realignment of the M4 Junction 4 (Heathrow) westbound on-slip commencing at grid reference 507455E; 177820N and terminating at grid reference 506556E; 178467N and such works including:

- (a) The construction of one no. MS3 signal cantilever gantry above the M4 over the M4 Heathrow spur northbound carriageway within the gantry siting location shown as “Gantry Type 6” on the works plans including gantry foundations, gantry structure, signals, control cabinets, power and communication cable connections; and



- (b) The construction of new signs and signals on 2 no. re-used portal gantries over the M4 Heathrow spur northbound carriageway within the gantry siting locations shown as “Re-used Gantry Type 7” on the works plans, including removal of existing signs and signals, refurbishment of gantry structure, signs, signals, sign illumination, control cabinets and power and communication cable connections.

*Work No. 30a* – The realignment of the M4 Junction 3 (Hayes) eastbound off-slip commencing at grid reference 509823E; 178312N and terminating at grid reference 510070E; 178294N.

*Work No. 30b* – The realignment of the M4 Junction 3 (Hayes) westbound on-slip commencing at grid reference 510126E; 178245N and terminating at grid reference 509520E; 178311N.

and in connection with such works and to the extent that they do not otherwise form part of any such work, and whether or not shown on the plans referred to in the requirements including—

- (a) the provision of up to 9 no. construction compounds in the areas shown on the works plans;
- (b) alteration of the layout of any street permanently or temporarily, including but not limited to increasing the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street; altering the level or increasing the width of any such kerb, footway, cycle track or verge; and reducing the width of the carriageway of the street;
- (c) ramps, means of access, footpaths, bridleways, cycle tracks, embankments, aprons, abutments, shafts, foundations, retaining walls, wing walls, bunds, embankments, swales, fencing, boundary treatments and highway lighting;
- (d) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street; works to place or maintain apparatus in a street; works to alter the position of apparatus, including mains, sewers, drains and cables;
- (e) the provision of thin surface course and carriageway markings;
- (f) diversion of utilities apparatus, including gas and water pipelines and electric cables;
- (g) earthworks, including the extension of earthworks;
- (h) retaining structures;
- (i) barriers;
- (j) refurbishment works to any existing bridge or gantry;
- (k) works to alter or remove road furniture;
- (l) works to alter the course of, or otherwise interfere with a watercourse;
- (m) water supply works, foul drainage provision, surface water management systems, and culverting;
- (n) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (o) the provision of environmental mitigation;
- (p) works for the benefit or protection of land affected by the authorised development;
- (q) the demolition of buildings and structures within the Order limits;
- (r) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling);
- (s) works required for the strengthening, improvement, maintenance or reconstruction of any streets; and
- (t) such other works, including contractors’ compounds, working sites, storage areas and works of demolition, as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development.

## SCHEDULE 2 REQUIREMENTS

Article 3

### Interpretation

**1.** In this Schedule—

“CEMP” means the construction environmental management plan to be submitted and approved pursuant to requirement 8 below;

“EMP” means the environmental management plan to be submitted and approved pursuant to requirement 7 below;

“European protected species” has the same meaning as in regulations 40 (European protected species of animals) and 44 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2010(a); and

“HEMP” means the handover environmental management plan, being the CEMP to be developed towards the end of the construction of the authorised development to contain—

- (a) the environmental information needed for the future maintenance and operation of the authorised development;
- (b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the scheme; and
- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies including Natural England.

### Time limits

**2.** The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

### Detailed design

**3.** Except where the authorised development is carried out in accordance with the plans listed in requirement 4, no authorised development may commence until details of the layout, scale, siting, design, dimensions and external appearance of Works No. 7a, 8c, 9b, 10c, 11c, 12e, 13c, 14c, 17, 19c, 20c, 22c, 24g, 24j and 25, earthworks and retaining structures comprised in the authorised development so far as they do not accord with the development shown in the plans listed in requirement 6 have been submitted to and approved by the relevant planning authority. The authorised development must be carried out in accordance with the details shown in the plans listed in requirement 6 or approved under this requirement.

### Gantry design

**4.** The gantries to be constructed described as Gantry Type 5 in Schedule 1 of the Order are to be designed in accordance with drawing 514451-MUH-ST-ZZ-DR-GN-301415 or drawing 514451-MUH-ST-ZZ-DR-GN-301416 of the engineering drawings and sections, in accordance with details to be submitted and approved by the relevant planning authority, unless otherwise approved by the relevant planning authority.

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(a) S.I. 2010/490, to which there are amendments not relevant to this Order.

**Carriageway surfacing**

5. Where any carriageway comprised in Work No. 1a and 1b, or any slip road is to be resurfaced as part of the authorised works, a thin surface course system (Manual of Contract Documents for Highway Works, Volume 1 Specification for Highway Works clause 942) is to be provided unless otherwise approved by the relevant planning authority. Any material approved by the relevant planning authority as low noise surfacing shall have similar noise reduction properties as TSCS.

**Engineering drawings, sections and other information**

6.—(1) The authorised development must be carried out in accordance with the approved plans submitted with the application (unless otherwise approved by the relevant planning authority and provided that the altered development accords with the principles of the engineering and design report and falls within the Order limits) as follows:

(1) Application Document	(2) Drawing No.	(3) Rev	(4) Drawing Description
Volume 2 Plans, drawings and sections 2.5 Engineering sections	TR010019 – 2.5	2F	Engineering Sections Regulation 5(2)(o) & (p) & 6(2) Sheets 1 to 7
Volume 2 Plans, drawings and sections 2.6 Side road plan and profile	TR010019 – 2.6	4F	Side Road Plan & Profile Regulations 5 (2) (o) 5 (2) (p) & 6 (2) Keyplan + Sheets 1 to 13
Volume 2 Plans, drawings and sections 2.7 Earthworks standard details	TR010019 – 2.7	2F	Earthworks Standard Details Regulation 5(2)(o) & 5(2)(p) & 6(2) Sheets 1 to 2
Volume 2 Plans, drawings and sections 2.8 Gantry general arrangements	TR010019 – 2.8	3F	Generic Gantry Details Regulation 5 (2) (o) & 5 (2) (p) & 6 (2) Gantry Type 1 Superspan Portal Gantry
	TR010019 – 2.8	3F	Generic Gantry Details Regulation 5 (2) (o) & 5 (2) (p) & 6 (2) Gantry Type 2 Single Span Portal Gantry
	TR010019 – 2.8	3F	Generic Gantry Details Regulation 5 (2) (o) & 5 (2) (p) & 6 (2) Gantry Type 3 Superspan Cantilever Gantry

	TR010019 – 2.8	3F	Generic Gantry Details Regulation 5 (2) (o) & 5 (2) (p) & 6 (2) Gantry Type 4 Sign Only Cantilever Gantry
	TR010019 – 2.8	3F	Generic Gantry Details Regulation 5 (2) (o) & 5 (2) (p) & 6 (2) Gantry Type 5a Ms4 Signal Gantry (Option A)
	TR010019 – 2.8	3F	Generic Gantry Details Regulation 5 (2) (o) & 5 (2) (p) & 6 (2) Gantry Type 5b Ms4 Signal Gantry (Option B)
	TR010019 – 2.8	3F	Generic Gantry Details Regulation 5 (2) (o) & 5 (2) (p) & 6 (2) Gantry Type 6 Ms3 Signal Gantry
Volume 7 Other documents 7.4 Engineering and Design Report Annexes Annex A1 Environmental Masterplan	514451-MUH-ML- ZZ-DR-EM-300735	7F	Environmental Masterplan Keyplan + Sheets 1 to 31
Volume 7 Other documents 7.4 Engineering and Design Report Annexes Annex A2 Vegetation Clearance	514451-MUH-ML- ZZ-DR-SC-301225	4F	Vegetation Clearance Keyplan + Sheets 1 to 31
Volume 7 Other documents 7.4 Engineering and Design Report Annexes Annex F1 General arrangement drawings	514451-MUH-ML- ZZ-DR-GA-300767	2F	Engineering and Design Report Mainline General Arrangement Keyplan + Sheets 1 to 61
Volume 7 Other documents	514451-MUH-00-ZZ- RP-EN-300374	2F	Engineering and Design Report

7.4 Engineering and Design Report Annexes Annex F2 Underbridge arrangement drawings	514451-MUH-ST-S2-DR-UB-301337	2F	Underbridge General Arrangement Keyplan
			Thames Bray Underbridge Widening General Arrangement
	514451-MUH-ST-S2-DR-UB-301336	2F	Chalvey Culvert Widening General Arrangement
	514451-MUH-ST-S2-DR-UB-301335	2F	Windsor Branch Railway Underbridge Widening General Arrangement
	514451-MUH-ST-S2-DR-UB-301334	2F	Water and Gas Main Subway General Arrangement
	514451-MUH-ST-S2-DR-UB-301333	2F	Water Main Subway General Arrangement
	514451-MUH-ST-S2-DR-UB-301332	2F	Ashley's Arch Widening General Arrangement
	514451-MUH-ST-S2-DR-UB-301331	2F	Langley Interchange Subway Widening General Arrangement
	514451-MUH-ST-S2-DR-UB-301330	2F	Langley Interchange Underbridges Widening
	514451-MUH-ST-S1-DR-UB-301329	2F	Sipson Road Subway Widening General Arrangement
Volume 7 Other documents 7.4 Engineering and Design Report Annexes Annex F3 Overbridge arrangement drawings	514451-MUH-00-ZZ-RP-EN-300374	2F	Engineering and Design Report Overbridge General Arrangement Keyplan
	514451-MUH-ST-S2-DR-OB-301418	2F	Ascot Road Overbridge General

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514451-MUH-ST-S2- DR-OB-301419	2F	Ascot Road Overbridge General Arrangement Sheet 2 of 2
514451-MUH-ST-S2- DR-OB-301420	3F	Monkey Island Lane Overbridge General Arrangement Sheet 1 of 2
514451-MUH-ST-S2- DR-OB-301421	3F	Monkey Island Lane Overbridge General Arrangement Sheet 2 of 2
514451-MUH-ST-S2- DR-OB-301422	3F	Marsh Lane Overbridge General Arrangement Sheet 1 of 2
514451-MUH-ST-S2- DR-OB-301423	2F	Marsh Lane Overbridge General Arrangement Sheet 2 of 2
514451-MUH-ST-S2- DR-OB-301424	3F	Lake End Road Overbridge General Arrangement Sheet 1 of 2
514451-MUH-ST-S2- DR-OB-301425	2F	Lake End Road Overbridge General Arrangement Sheet 2 of 2
514451-MUH-ST-S2- DR-OB-301426	2F	Huntercombe Spur Overbridge General Arrangement Sheet 1 of 2
514451-MUH-ST-S2- DR-OB-301427	2F	Huntercombe Spur Overbridge General Arrangement Sheet 2 of 2
514451-MUH-ST-S2- DR-OB-301428	3F	Oldway Lane Overbridge General Arrangement Sheet 1 of 2
514451-MUH-ST-S2- DR-OB-301429	2F	Oldway Lane Overbridge General

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514451-MUH-ST-S2- DR-OB-301430	3F	Wood Lane Overbridge General Arrangement Sheet 1 of 2
514451-MUH-ST-S2- DR-OB-301431	3F	Wood Lane Overbridge General Arrangement Sheet 2 of 2
514451-MUH-ST-S2- DR-OB-301432	3F	Datchet Road Overbridge General Arrangement Sheet 1 of 3
514451-MUH-ST-S2- DR-OB-301433	3F	Datchet Road Overbridge General Arrangement Sheet 2 of 3
514451-MUH-ST-S2- DR-OB-301434	3F	Datchet Road Overbridge General Arrangement Sheet 3 of 3
514451-MUH-ST-S2- DR-OB-301435	2F	Recreation Ground Overbridge General Arrangement Sheet 1 of 2
514451-MUH-ST-S2- DR-OB-301436	2F	Recreation Ground Overbridge General Arrangement Sheet 2 of 2
514451-MUH-ST-S2- DR-OB-301437	3F	Riding Court Road Overbridge General Arrangement Sheet 1 of 2
514451-MUH-ST-S2- DR-OB-301438	3F	Riding Court Road Overbridge General Arrangement Sheet 2 of 2
514451-MUH-ST-S2- DR-OB-301439	3F	Old Slade Lane Overbridge General Arrangement Sheet 1 of 2
514451-MUH-ST-S2- DR-OB-301440	2F	Old Slade Lane Overbridge General

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Volume 7 Other documents 7.4 Engineering and Design Report Annexes Annex F5 CCTV typical detail	WCCTV-15M-SSL-GA	1	15m CCTV Winch SSL GA
Volume 7 Other documents 7.5 Drainage strategy report Annex C J12-J8 Verge drainage drawings	514451-MUH-ML-ZZ-DR-DR-300945	2R	Proposed Drainage J12 - J8/9 Key and Index of Drawings
	514451-MUH-ML-ZZ-DR-DR-300946	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 1 of 32 Ch 62300 – 62900
	514451-MUH-ML-ZZ-DR-DR-300947	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 2 of 32 Ch 61400 – 62300
	514451-MUH-ML-ZZ-DR-DR-300948	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 3 of 32 Ch 60500 – 61400
	514451-MUH-ML-ZZ-DR-DR-300949	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 4 of 32 Ch 59600 – 60500
	514451-MUH-ML-ZZ-DR-DR-300950	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 5 of 32 Ch 57800 – 59600
	514451-MUH-ML-ZZ-DR-DR-300951	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 6 of 32 Ch 57800 – 57800
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514451-MUH-ML- ZZ-DR-DR-300953	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 8 of 32 Ch 56000 – 56900	
514451-MUH-ML- ZZ-DR-DR-300954	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 9 of 32 Ch 55100 – 56000	
514451-MUH-ML- ZZ-DR-DR-300955	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 10 of 32 Ch 54200 – 55100	
514451-MUH-ML- ZZ-DR-DR-300956	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 11 of 32 Ch 53300 – 54200	
514451-MUH-ML- ZZ-DR-DR-300957	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 12 of 32 Ch 52400 – 53300	
514451-MUH-ML- ZZ-DR-DR-300958	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 13 of 32 Ch 51500- 52400	
514451-MUH-ML- ZZ-DR-DR-300959	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 14 of 32 Ch 50600 – 51500	
514451-MUH-ML- ZZ-DR-DR-300960	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 15 of 32 Ch 49700 – 50600	
514451-MUH-ML- ZZ-DR-DR-300961	2R	Proposed Drainage J12 - J8/9 Surface Water Collection	

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514451-MUH-ML- ZZ-DR-DR-300963	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 18 of 32 Ch 47000 – 47900	
514451-MUH-ML- ZZ-DR-DR-300964	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 19 of 32 Ch 46100 – 47000	
514451-MUH-ML- ZZ-DR-DR-300965	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 20 of 32 Ch 45200 – 46100	
514451-MUH-ML- ZZ-DR-DR-300966	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 21 of 32 Ch 44300 – 45200	
514451-MUH-ML- ZZ-DR-DR-300967	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 22 of 32 Ch 43400 – 44300	
514451-MUH-ML- ZZ-DR-DR-300968	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 23 of 32 Ch 42500- 43400	
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	514451-MUH-ML- ZZ-DR-DR-300973	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 28 of 32 Ch 38000 – 38900
	514451-MUH-ML- ZZ-DR-DR-300974	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 29 of 32 Ch 37100 – 38000
	514451-MUH-ML- ZZ-DR-DR-300975	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 30 of 32 Ch 36200 – 37100
	514451-MUH-ML- ZZ-DR-DR-300976	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 31 of 32 Ch 35300 – 36200
	514451-MUH-ML- ZZ-DR-DR-300977	2R	Proposed Drainage J12 - J8/9 Surface Water Collection Verge Sheet 32 of 32 Ch 34400 – 35300
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514451-MUH-ML- ZZ-DR-DR-300890		
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514451-MUH-ML- ZZ-DR-DR-300896	3R	Proposed Drainage J12 – J8/9 Surface Water Collection Central Reserve Sheet 12 of 32 Ch 52400 – 53300
514451-MUH-ML- ZZ-DR-DR-300897	3R	Proposed Drainage J12 – J8/9 Surface Water Collection Central Reserve Sheet 13 of 32 Ch 51500- 52400
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		1D	Proposed Drainage Surface Water Collection Emergency Refuge Areas Sheet 1 of 19 Ch36078 – 35878 Era E7 – A1
	537806-MUH-VR-S3- DR-DR-500101		
	537806-MUH-VR-S3-	1D	Proposed Drainage



DR-DR-500102		Surface Water Collection Emergency Refuge Areas Sheet 2 of 19 Ch36817 – 36425 Era E7 – B1
	1D	Proposed Drainage Surface Water Collection Emergency Refuge Areas Sheet 3 of 19 Ch38392 – 38191 Era E7 – A2
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	1D	Proposed Drainage Surface Water Collection Emergency Refuge Areas Sheet 5 of 19 Ch 40791 – 40591 Era E7 – A3
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	1D	Proposed Drainage Surface Water Collection Emergency Refuge Areas Sheet 6 of 19 Ch41340 – 41140 Era E7 – B3
537806-MUH-VR-S3- DR-DR-500106		
	1D	Proposed Drainage Surface Water Collection Emergency Refuge Areas Sheet 7 of 19 Ch43184 – 42984 Era E7 – A4
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	1D	Proposed Drainage Surface Water Collection Emergency Refuge Areas Sheet 8 of 19 Ch 43401 – 43201 Era E7 – B4
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	1D	Proposed Drainage Surface Water Collection Emergency Refuge Areas Sheet 14 of 19 Ch 52901 – 52701 Era E8 – B3
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	1D	Proposed Drainage Surface Water Collection Emergency Refuge Areas Sheet 15 of 19 Ch 156329 – 56129 Era E9 – A1
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	1D	Proposed Drainage Surface Water Collection Emergency Refuge Areas Sheet 17 of 19 Ch 58099 – 57899 Era E9 – A2
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	514451-MUH-00-ZZ- DR-DR-300153	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 4 of 27
	514451-MUH-00-ZZ- DR-DR-300154	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 5 of 27
	514451-MUH-00-ZZ- DR-DR-300155	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 6 of 27
	514451-MUH-00-ZZ- DR-DR-300156	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 7 of 27

**DLA Piper Draft:** as at 8 October 2015

514451-MUH-00-ZZ- DR-DR-300157	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 8 of 27
514451-MUH-00-ZZ- DR-DR-300158	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 9 of 27
514451-MUH-00-ZZ- DR-DR-300159	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 10 of 27
514451-MUH-00-ZZ- DR-DR-300160	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 11 of 27
514451-MUH-00-ZZ- DR-DR-300161	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 12 of 27
514451-MUH-00-ZZ- DR-DR-300162	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 13 of 27
514451-MUH-00-ZZ- DR-DR-300163	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 14 of 27
514451-MUH-00-ZZ- DR-DR-300164	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 15 of 27
514451-MUH-00-ZZ- DR-DR-300165	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 16 of 27
514451-MUH-00-ZZ- DR-DR-300166	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 17 of 27
514451-MUH-00-ZZ- DR-DR-300167	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 18 of 27

514451-MUH-00-ZZ- DR-DR-300168	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 19 of 27
514451-MUH-00-ZZ- DR-DR-300169	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 20 of 27
514451-MUH-00-ZZ- DR-DR-300170	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 21 of 27
514451-MUH-00-ZZ- DR-DR-300171	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 22 of 27
514451-MUH-00-ZZ- DR-DR-300172	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 23 of 27
514451-MUH-00-ZZ- DR-DR-300173	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 24 of 27
514451-MUH-00-ZZ- DR-DR-300174	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 25 of 27
514451-MUH-00-ZZ- DR-DR-300175	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 26 of 27
514451-MUH-00-ZZ- DR-DR-300176	3R	Indicative Drainage J8/9 – J3 Surface Water Collection Sheet 27 of 27

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(2) Where any alternative details are approved pursuant to this requirement or requirements 3 or 20, those details are to be deemed to be substituted for the corresponding approved details set out above.

**EMP**

7.—(1) No part of the authorised development is to be carried out until an EMP, substantially in accordance with the outline environmental management plan (dated March 2015), has been submitted to and approved by the relevant planning authority.

(2) All construction work must be carried out in accordance with the approved EMP unless otherwise approved by the relevant planning authority.

### **CEMP**

**8.**—(1) No part of the authorised development is to be carried out until a CEMP, substantially in accordance with the outline Construction Environmental Management Plan, annexed to the outline EMP (dated March 2015), has been submitted to and approved by the relevant planning authority.

(2) The construction of the authorised development must be carried out in accordance with the CEMP.

(3) Upon completion of construction of the authorised development the CEMP must be converted into the HEMP.

(4) The authorised development must be operated and maintained in accordance with the HEMP.

### **Implementation and maintenance of landscaping**

**9.**—(1) The authorised development must be landscaped in accordance with a landscaping scheme that has been submitted to and approved by the relevant planning authority.

(2) The landscaping scheme must reflect the mitigation measures included in the environmental masterplan annexed to the engineering and design report and set out details of all proposed hard and soft landscaping works, including—

- (a) location, number, species (which must be native species), size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment; and
- (c) details of existing trees to be retained, with measures for their protection during the construction period.

(3) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(4) Any tree or shrub planted as part of the landscaping scheme that, within a period of five years after planting, dies or becomes, in the opinion of the relevant planning authority, seriously diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the relevant planning authority gives consent to any variation.

### **Fencing**

**10.** Any permanent and temporary fencing and other means of enclosure or attenuation fencing for the authorised development must be constructed and installed in accordance with Highways England's Manual of Contract Documents for Highway Works, Volume 1 – Specification for Highway Works (consolidated edition, November 2005, as amended as at May 2014), except where any departures from that manual are agreed by the relevant planning authority.

### **Ecological mitigation**

**11.** Ecological mitigation of the authorised development with respect to protected species, including the provision of any mammal underpasses or tunnels, set out in the environmental masterplan and the CEMP, must be provided in accordance with the principles of guidance from Highways England's Design Manual for Roads and Bridges, Volume 10, Section 4 (Volume 10, October 1994, as amended as at May 2014), as supported by additional guidance from the Institute of Ecology and Environmental Management, published ecological literature, and consultation with statutory and non-statutory nature conservation bodies, except where any departures from that

guidance are agreed by the relevant planning authority, following consultation with Natural England.

### **Contaminated land and groundwater**

**12.**—(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, the undertaker must cease construction of the authorised development in the vicinity of that contaminated land and must report it immediately to the Environment Agency and the relevant planning authority, and the undertaker must complete a risk assessment of the contamination.

(2) Where the relevant planning authority determines that remediation is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose, must be submitted to and approved by the relevant planning authority, following consultation with the Environment Agency.

(3) No remedial work constituting a material operation (as defined in section 155 (when development begins) of the 2008 Act) in respect of contamination of any land, including groundwater, within the Order limits is to be carried out until the scheme for remediation has been approved under sub-paragraph (2).

(4) Remediation must be carried out in accordance with the approved scheme.

### **Protected species**

**13.**—(1) No authorised development is to be carried out until final pre-construction survey work has been undertaken to establish whether European or nationally protected species are present on any of the land affected, or likely to be affected, by any part of the relevant works or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Where a protected species is shown to be, or where there is a reasonable likelihood of it being, present, the relevant parts of the relevant works must not begin until a scheme of protection and mitigation measures or translocation of the relevant species has been submitted to and approved by the relevant planning authority after consultation with Natural England.

(3) The relevant works must be carried out in accordance with the approved scheme, and under licence where necessary, unless otherwise agreed by the relevant planning authority, after consultation with Natural England.

(4) Monitoring of impacts on protected species and habitats prior to, during and after construction, together with the monitoring and management of mitigation measures, must be carried out as far as required to meet the licence requirements.

(5) In the event that any protected species are found at any time when carrying out the authorised development which were not previously identified in the environmental statement—

- (a) the finding must be reported immediately to Natural England; and
- (b) no activities requiring a protected species licence are to continue until a scheme of protection and mitigation measures for the protected species has been submitted to, and approved by, Natural England and the relevant planning authority.

### **Surface water drainage**

**14.**—(1) No authorised development is to commence until written details of the surface and foul water drainage system, reflecting the mitigation measures in the drainage strategy report (dated [\*\*\*]), and including means of pollution control, have been submitted to and approved by the relevant planning authority.

(2) The surface and foul water drainage system must be constructed in accordance with the approved details.

### **Archaeological remains**

**15.**—(1) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be investigated and recorded and reported to the relevant planning authority by means of a technical report identifying the location for the housing of any finds.

(2) No construction operations are to take place within 10 metres of such remains for a period of 14 days from the date of such notification unless otherwise agreed by the relevant planning authority.

(3) If the relevant planning authority is of the view that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains until provision has been made for the further investigation and recording of the remains in accordance with details first submitted to, and approved by, the relevant planning authority.

### **Written scheme of investigation**

**16.**—(1) No part of construction compound 5 is to be constructed or used, unless approved by the relevant planning authority, until a programme of archaeological work including a written scheme of investigation has been submitted to and approved by the relevant planning authority. The written scheme of investigation must include—

- (a) a programme and methodology of site investigation and recording;
- (b) a programme for post investigation assessment;
- (c) provision for analysis of the site investigation recording;
- (d) provision for publication and dissemination of the analysis and records of the site investigation;
- (e) provision to be made for archive deposition of the analysis and records of the site investigation; and
- (f) nomination of a competent person or persons/organisation to undertake the work set out within the written scheme of investigation.

(2) Construction compound 5 is not to be constructed or used other than in accordance with the written scheme of investigation approved under paragraph (1) of this requirement.

(3) The site investigation and post investigation assessment is to be completed in accordance with the programme set out in the written scheme of investigation approved under paragraph (1) of this requirement.

### **Buildings at risk**

**17.** No authorised development is to commence in the vicinity of any buildings assessed to be at risk in the environmental statement or in the opinion of the relevant planning authority without first notifying the relevant planning authority.

### **Traffic management**

**18.**—(1) No authorised development is to commence until a construction traffic management plan, detailing traffic management measures during construction of the authorised development and substantially in accordance with the outline construction traffic management plan annexed to the CEMP, has been submitted to and approved by the relevant planning authority.

(2) The authorised development must be constructed in accordance with the approved details.

### **Permanent lighting**

**19.**—(1) No permanent lighting forming part of the authorised development is to be installed until a written lighting scheme has been submitted to and approved by the relevant planning authority.



(2) The authorised development must be constructed in accordance with the approved scheme, unless otherwise agreed in writing by the relevant planning authority.

**Amendments to approved details**

20. With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved.

**SCHEDULE 3**

Article 13

**PERMANENT STOPPING UP OF STREETS**

**STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED**

(1) <i>Area</i>	(2) <i>Street to be stopped up</i>	(3) <i>Extent of stopping up</i>	(4) <i>New street to be substituted</i>
<b><i>Rights of Way and Access Plans – Sheet 1</i></b>			
In the parish of Bray; in the unitary authority of Royal Borough of Windsor and Maidenhead	A330 Ascot Road	From a point starting 132 metres to the north east of (A330) Ascot Road’s junction with the access road to Moor Farm, continuing in a general northerly direction for a distance of 410 metres	Reference 1–A To be substituted by a length of new highway from a point 180 metres south of Willow Drive and extending generally in a southerly direction for a distance of 420 metres
	Reference 1–a Access to properties known as Ashley and Brambles from the A330 Ascot Road, located 185 metres north east of the junction with the access road to Moor Farm	The whole access	Reference 1–1 Replacement of access to premises known as Ashley & Brambles from the A330 Ascot Road, located 185 metres north east of the junction with the access road to Moor Farm
	Reference 1–b Access to Philberds Lodge from the A330 Ascot Road, located 185 metres north east of the junction with the access road to Moor Farm	The whole access	Reference 1–2 Replacement of access to Philberds Lodge from the A330 Ascot Road, located 185 metres north east of the junction with the access road to Moor Farm
	Reference 1–c Access to existing hardstanding area from the A330 Ascot Road, located 120 metres south of the junction	The whole access	Reference 1–3 Replacement of access to existing hardstanding area from the A330 Ascot Road, located 120 metres south of the

with Willow Drive

junction with Willow Drive

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***Rights of Way and Access Plans – Sheet 2***

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<p>In the parish of Bray; in the unitary authority of the Royal Borough of Windsor and Maidenhead</p>	<p>Monkey Island Lane</p>	<p>From a point starting 105 metres to the south east of Monkey Island Lane’s junction with Old Mill Lane continuing in a general south easterly direction for a distance of 260 metres</p>	<p>Reference 2–A To be substituted by a length of new highway from a point 120 metres to the south east of the junction with Old Mill Lane extending generally in a south westerly direction for a distance of 275 metres</p>
	<p>Reference 2–a Access to field and development plot from Monkey Island Lane, located 93 metres south east of the junction with Old Mill Lane</p>	<p>The whole access</p>	<p>Reference 2–1 Replacement of access to field and development plot from Monkey Island Lane, located 93 metres south east of the junction with Old Mill Lane</p>
	<p>Public right of way; Bray 74/1 Monkey Island Lane and Thames Bray Bridge</p>	<p>From a point starting at its intersection with Monkey Island Lane and continuing in a south easterly direction for a distance of 160 metres and continuing in a generally easterly direction for a distance of 360 metres</p>	<p>To be substituted by a new public right of way starting at a point from its intersection with Monkey Island Lane and continuing in a south easterly direction for a distance of 160 metres and continuing within the highway boundary of the motorway realignment and bridge works in a generally easterly direction for a distance of 360 metres</p>
<p>In the parishes of Dorney and Taplow; in the district of South Bucks in the County of Buckinghamshire</p>	<p>Local cycle route (Thames Bray Bridge – northern side)</p>	<p>From a point at the eastern end of public right of way Bray 74/1 (eastern edge of the Thames Bray Bridge) and continuing in generally an easterly direction for a distance of 390 metres</p>	<p>To be substituted by a new local cycle route within the highway boundary of the motorway realignment and bridge works, commencing from the eastern end of public right of way Bray 74/1 (eastern edge of the Thames Bray Bridge) and continuing in generally an easterly direction for a distance of 390 metres</p>
<p>In the parish of</p>	<p>Marsh Lane</p>	<p>The whole access</p>	<p>Reference 2–2</p>

Dorney and Taplow; in the district of South Bucks in the County of Buckinghamshire	Reference 2–b Access to field from Marsh Lane, located 25 metres to the north west of the junction with Oak Stubbs Lane		Replacement of access to field from Marsh Lane, located 25 metres to the north west of the junction with Oak Stubbs Lane
	Public right of way: DOR 22/1	A length commencing 115 metres from the northern end of Old Stubbs Lane and extending for a distance of 105 metres in generally a south easterly direction initially before ‘zig-zagging’ up the embankment to its intersection with Marsh Lane	To be substituted by a new public right of way commencing 115 metres from the northern end of Old Stubbs Lane and extending for a distance of 105 metres in generally a south easterly direction initially before ‘zig-zagging’ up the embankment to its intersection with Marsh Lane; on an alignment compatible with the overbridge replacement and the alteration works
	Public right of way: DOR 23/1 – (West and East of Marsh Lane)	A length commencing 134 metres from its connection with Old Marsh Lane and extending for a distance of 90 metres measured along the existing path up to its intersection with Marsh Lane, and continuing for a further 100 metres across Marsh Lane carriageway and along the path leading to and also within Glebe Close	To be substituted by a new public right of way commencing 134 metres from its connection with Old Marsh Lane and extending for a distance of 90 metres in a northerly and then southerly direction up to its intersection with Marsh Lane; continuing for a further 100 metres across Marsh Lane carriageway and along the path leading to and also within Glebe Close; all on an alignment compatible with Marsh Lane overbridge replacement and alteration works

***Rights of Way and Access Plans – Sheet 3***

In the parishes of Cippenham St Andrew and Dorney; in the district of South Bucks in the County of Buckinghamshire	Lake End Road	From a point starting 217 metres to the north of Lake End Road’s junction with Ashford Lane continuing in a generally northerly direction for a distance of 285	Reference 3–A To be substituted by a length of new highway from a point 217 metres to the north of Lake End Road’s junction with Ashford Lane extending generally in a northerly
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	metres	direction for a distance of 295 metres
Reference 3–a Access to business premises (materials recycling centre) and donkey sanctuary from Lake End Road, located 160 metres north of the junction with Ashford Lane	The whole access	Reference 3–1 Replacement of access to business premises (materials recycling centre) and donkey sanctuary from Lake End Road, located 160 metres north of the junction with Ashford Lane
Reference 3–b Access to premises known as Four Elms and The Tithe Barn from Lake End Road, located 148 metres north of the junction with Huntercombe Lane South	The whole access	Reference 3–2 Replacement of access to premises known as Four Elms and The Tithe Barn from Lake End Road, located 148 metres north of the junction with Huntercombe Lane South
Reference 3–c Access to field from Lake End Road, located 178 metres north of the junction with Huntercombe Lane South	The whole access	Reference 3–3 Replacement access to field from Lake End Road, located 178 metres north of the junction with Huntercombe Lane South

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***Rights of Way and Access Plans – Sheet 4***

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In the parish of Cippenham St Andrew; in the unitary authority of Slough Borough Council	Public right of way; Slough 49 (Part of Oldway Lane)	A length commencing 80 metres to the south of its junction with Moor Furlong and extending along the existing track, in generally a southerly direction for a distance of 265 metres	To be substituted by a new public right of way within the highway boundaries of the overbridge replacement and alteration works, commencing 80 metres to the south of its junction with Moor Furlong and extending generally in a southerly direction for a distance of 265 metres
	Public right of way; Slough 14/5	A length commencing at its intersection with Slough 49 and extending for a distance of 80 metres in a northerly	To be substituted by a new public right of way commencing at its intersection with Slough 49 and extending for a distance of 80 metres in a northerly direction

	direction initially before returning southwards	initially before returning southwards; on an alignment compatible with the overbridge replacement and alteration works
Public right of way; Slough 9	A length commencing at its intersection with Slough 49 and extending for a distance of 43 metres in a northerly direction	To be substituted by a new public right of way commencing at its intersection with Slough 49 and extending for a distance of 43 metres in a northerly direction; on an alignment compatible with the overbridge replacement and alteration works

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***Rights of Way and Access Plans – Sheet 5***

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In the parish of Cippenham St Andrew; in the unitary authority of Slough Borough Council	Wood Lane	From a point commencing 30 metres from the southern side of Wood Lane’s junction with the access road (also known as Wood Lane) to Thames Water’s treatment plant and extending in a generally north easterly direction for a distance of 230 metres	Reference 5–A To be substituted by a length of new highway from a point 32 metres from the southern side of Wood Lane’s junction with the access road (also known as Wood Lane) to Thames Water’s treatment plant extending in a generally north easterly direction for a distance of 305 metres
	Reference 5–a Access to premises numbered 26 to 32 in the Wood Lane cul-de-sac located 170 metres to the south west of the entrance to Thames Water’s Sewage Treatment Plant	The whole access	Reference 5–1 Replacement access to premises numbered 26 to 32 in the Wood Lane cul-de-sac located 170 metres to the south west of the entrance to Thames Water’s Sewage Treatment Plant
	Reference 5–b Access serving the Pipeline Station, other premises and public right of way, Slough 17 located 7 metres south of the Wood Lane cul-de-sac serving properties numbered 26 to 32	The whole access	Reference 5–2 Replacement access serving the Pipeline Station, other premises and public right of way, Slough 17 located 7 metres south of the Wood Lane cul-de-sac serving properties numbered 26 to 32

Reference 5–c Access forming part of Wood Lane directly adjacent to the Wood Lane cul–de–sac serving properties numbered 26 to 32	The whole access	Reference 5–3 Replacement access forming part of Wood Lane directly adjacent to the Wood Lane cul–de–sac serving properties numbered 26 to 32
Reference 5–d Access forming part of Wood Lane adjacent to properties numbered 18 and 16 located 25 metres north east of the Wood Lane cul–de–sac serving properties numbered 26 to 32	The whole access	Reference 5–4 Replacement access forming part of Wood Lane adjacent to properties numbered 18 and 16 located 25 metres north east of the Wood Lane cul–de–sac serving properties numbered 26 to 32
Public right of way; Slough 14/1	A length commencing at its intersection with Wood Lane and extending for a distance of 103 metres in a generally westerly direction	To be substituted by a new public right of way for a length commencing at its intersection with Wood Lane and extending for a distance of 103 metres in a generally westerly direction; on an alignment compatible with the overbridge replacement and alteration works
Public right of way; Slough 17	A length commencing from the southern side of Wood Lane’s junction with the access road (also known as Wood Lane) to Thames Water Sewage Treatment Plant and extending in a generally north easterly direction for a distance of 515 metres	To be substituted by a new public right of way within the highway boundaries of the realigned Wood Lane, commencing from the southern side of Wood Lane’s junction with the access road (also known as Wood Lane) to Thames Water Sewage Treatment Plant and extending in a generally north easterly direction for a distance of 515 metres

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***Rights of Way and Access Plans – Sheet 6***

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None

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***Rights of Way and Access Plans – Sheet 7***

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<p>In the parishes of Datchet and Upton-cum-Chalvey; in the unitary authorities of the Royal Borough of Windsor and Maidenhead Council and also Slough Borough Council</p>	<p>Datchet Road</p>	<p>From a point commencing 94 metres south of the entrance to The Mere off Datchet Road and extending in generally a southerly direction for a distance of 358 metres</p>	<p>Reference 7–A To be substituted by a length of new highway from a point commencing 90 metres south of the entrance to The Mere off Datchet Road and extending in generally a southerly direction for a distance of 358 metres and in addition a bus bay extending over a length of 60 metres commencing at a distance of 490 metres from the entrance to The Mere</p>
	<p>Reference 7–a Access to premises known as Upton Court Park from the eastern side of Datchet Road, located 46 metres south of the entrance to The Mere</p> <p>Public right of way; Slough 78</p>	<p>The whole access</p>	<p>Reference 7–1 Replacement of access to premises known as Upton Court Park from the eastern side of Datchet Road, located 46 metres south of the entrance to The Mere</p> <p>New public right of way commencing at the eastern end of existing path forming Slough 78 at Datchet Road and extending for a distance of 18 metres in an easterly direction to connect with the realigned Datchet Road</p>
<p>In the parishes of Datchet and Upton-cum-Chalvey; in the unitary authorities of the Royal Borough of Windsor and Maidenhead Council</p>	<p>Public right of way; DATC 1/1 (includes part of National Cycle Route 61) (Recreation Ground Bridge)</p>	<p>A length commencing from Datchet Road (B376) and extending for a distance of 265 metres in a generally north easterly direction</p>	<p>New public right of way within the highway boundary of the overbridge replacement and alteration works, commencing from Datchet Road (B376) and extending for a distance of 265 metres in a generally north easterly direction</p>

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***Rights of Way and Access Plans – Sheet 8***

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<p>In the parish of Datchet; in the unitary authorities</p>	<p>Riding Court Road</p>	<p>From a point commencing 143 metres north of</p>	<p>Reference 8–A To be substituted by a length of new highway</p>
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of the Royal Borough of Windsor and Maidenhead Council	Riding Court Road's junction with London Road (B470) and extending, generally in a north easterly direction for a distance of 183 metres	commencing 180 metres north of Riding Court Road's junction with London Road (B470) and extending, generally in a north easterly/easterly direction for a distance of 176 metres and in addition a length of new highway 20 metres in length to the east of the improved junction (at northern kerb line)
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***Rights of Way and Access Plans – Sheet 9***

In the parish of Iver; in the unitary authority of Slough Borough Council and the district of South Bucks in the County of Buckinghamshire	Reference 9–a Access to business interests at Old Slade Lake, operated by Boyer Fishing; commencing at the connection with public right of way IVE 20/3 and extending for a length of 305 metres in generally a southerly/south westerly direction	The extent of access described and shown on the Rights of Way and Access Plans	Reference 9–1 Replacement of access to business interests at Old Slade Lake, operated by Boyer Fishing; commencing at the connection with public right of way IVE 20/3 and extending for a length of 305 metres in generally a southerly/south westerly direction: on an alignment compatible with the overbridge replacement and alteration works
	Public right of way; Colnbrook with Poyle 2 (Old Slade Lane)	A length commencing at its junction with public right of way Colnbrook with Poyle 6 and extending in an east to northerly direction for a distance of 305 metres	New public right of way commencing at its junction with existing public right of way Colnbrook with Poyle 6 and extending in an east to northerly direction for a distance of 305 metres; on an alignment compatible with the overbridge replacement and alteration works

***Rights of Way and Access Plans – Sheet 10***

None



## SCHEDULE 4

Article 14

## TEMPORARY STOPPING UP OF STREETS

<i>(1)</i> Area	<i>(2)</i> Street to be temporarily stopped up	<i>(3)</i> Extent of temporary stopping up
<b><i>Rights of Way and Access Plans – Sheet 1</i></b>		
None		
<b><i>Rights of Way and Access Plans – Sheet 2</i></b>		
In the parish of Bray; in the unitary authority of the Royal Borough of Windsor and Maidenhead	Public right of way; Bray 75/1 Monkey Island Lane and Thames Bray Bridge	From a point starting at its intersection with Monkey Island Lane and continuing in a north westerly direction for a distance of 140 metres then continuing in a generally easterly direction for a distance of 355 metres
In the parishes of Dorney; in the district of South Bucks in the County of Buckinghamshire	Public right of way; DOR 18/5 Thames Bray Bridge	From a point in-line with the southern edge of the existing bridge carrying the M4 motorway and continuing generally north westwards for a distance of 50 metres
In the parishes of Taplow; in the district of South Bucks in the County of Buckinghamshire	Public right of way; TAP 16/4 Thames Bray Bridge	From a point 50 metres (generally north eastwards) from the southern edge of the existing bridge carrying the M4 motorway and continuing generally north westwards for a distance of 30 metres
In the parishes of Dorney and Taplow; in the district of South Bucks in the County of Buckinghamshire	Part of Marsh Lane.	A length commencing 33 metres to the north west of its junction with Oak Stubbs Lane and extending along the existing highway for a distance of 310 metres
<b><i>Rights of Way and Access Plans – Sheet 3</i></b>		
None		
<b><i>Rights of Way and Access Plans – Sheet 4</i></b>		
In the parishes of Cippenham St Andrew; in the unitary authority of Slough Borough Council	Public right of way; Slough 14/5	Existing path for a length of 15 metres commencing at a point measuring 80 metres from its intersection with Slough 49 along the existing path in an easterly/northerly direction

initially before returning southwards

Public right of way; Slough 9 Existing path for a length of 48 metres commencing at a point measuring 42 metres from its intersection with Slough 49 along the existing path in a north westerly direction

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***Rights of Way and Access Plans – Sheet 5***

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None

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***Rights of Way and Access Plans –Sheet 6***

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In the parish of Upton-cum-Chalvey; in the unitary authorities of Slough Borough Council and Royal Borough of Windsor and Maidenhead Council Public right of way: Slough 32 Windsor Rail From a point commencing 44 metres to the south west of the western side of the rail level crossing and extending along the existing path in a south westerly direction for a distance of 130m

Public right of way: Local cycle route – Chalvey High Street to Jubilee River (east) Windsor Rail From a point commencing 30 metres to the south west of the eastern side of the rail level crossing and extending along the existing path in generally a south westerly direction for a distance of 125 metres

Public right of way: Local cycle route – Chalvey High Street to Jubilee River (west) Windsor Rail From a point at its intersection with private right of way Slough 32 at Windsor Branch Railway Bridge and extending along the existing path in generally a western direction for a distance of 625 metres up to the connection with National Cycle Route 62

Public right of way: Slough 33A Windsor Rail From a point commencing 30 metres to the south west of the eastern side of the rail level crossing and extending along the existing path, initially in a south westerly direction before changing direction generally to the east for a distance, overall, of 215 metres

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***Rights of Way and Access Plans – Sheet 7***

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In the parishes of Datchet and Upton-cum-Chalvey; in the unitary authorities of Slough Borough Council and Royal Public rights of way; Slough 78 Datchet Road A length commencing at the eastern side of the turning area at the northern end of The Myrke and extending for 168

Borough of Windsor and Maidenhead Council	metres along the existing path, generally easterly on a zig-zag alignment to connect with Datchet Road
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***Rights of Way and Access Plans – Sheet 8***

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None

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***Rights of Way and Access Plans – Sheet 9***

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In the parish of Iver; in the unitary authority of Slough Borough Council and the district of South Bucks in the County of Buckinghamshire	Public right of way; IVE 20/3	A length commencing at its connection with Old Slade Lane and extending in a southerly and westerly direction for a distance of 190 metres
	Public right of way: IVE 31/2	A length commencing 9 metres from the eastern edge of the carriageway of Old Slade Lane at a distance of 105 metres north west of IVE 20/3 intersection with Old Slade Lane and continuing for a distance of 195 metres along the existing path in a south easterly/easterly direction

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***Rights of Way and Access Plans – Sheet 10***

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In the parish Colnbrook; in the unitary authority of Slough Borough Council	Public right of way; Slough 9 Langley Interchange	Total length of existing path carried by ramps, footbridge and subway commencing from the end (at ground level) of the spiral access ramp on the southern side of the roundabout forming part of Junction 5 of the M4 to the end (at ground level) of the spiral ramp on the northern side of the roundabout
In the parish of Colnbrook; in the unitary authority of Slough Borough Council	Public right of way; Slough 8 Site Compound	A length commencing at a point located 14 metres south of the access to Colnbrook Landfill Site at the eastern edge of the existing footway along the eastern side of Sutton Lane, for a distance of 190 metres along the existing path up to its intersection with the existing fence line along the northern side of London Road (A4) at a location 118 metres east of the junction with Sutton Lane

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## SCHEDULE 5

Article 22(2)

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

<i>(1)</i> <i>Plot reference number shown on Land Plans</i>	<i>(2)</i> <i>Purpose for which rights over land may be acquired</i>
<b><i>Land Plans – Sheet 2</i></b>	
02–20, 02–22, 02–23, 02–25	At river level: permanent access for inspection and maintenance of the bridge
<b><i>Land Plans – Sheet 19</i></b>	
19-19, 19-19b, 19-20, 19-20a, 19-25, 19-27, 19-28a, 19-30, 19-30a, 19-33, 19-33a, 19-35, 19-35a, 19-37, 19-37a, 19-38, 19-39	At river level: permanent access for inspection and maintenance of the bridge.
19–80	At river level and river bank level: permanent access for inspection and maintenance of the bridge.

## SCHEDULE 6

Article 22(3)

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

*Compensation enactments*

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

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraphs (2) and (3).

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

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

(a) 1973 c. 26.

(b) Section 58(1) was amended by section 16(3) of, and Schedule 5 to, the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66), section 4 of, and paragraph 29(1) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.

“(1) In determining under section 8(1) or 34(2) of the Compulsory Purchase Act 1965, or section 166(2) of the Town and Country Planning Act 1990 whether—

- (a) a right over or a restrictive covenant affecting land consisting of a house, building or manufactory can be taken or imposed without material detriment or damage to the house, building or manufactory; or
- (b) a right over or a restrictive covenant affecting land consisting of a park or garden belonging to a house can be taken or imposed without seriously affecting the amenity or convenience of the house,

the Upper Tribunal must take into account not only the effect of the acquisition of the right or imposition of the restrictive covenant but also the use to be made of the right or restrictive covenant proposed to be acquired or imposed, and, in a case where the right or restrictive 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 to be made of the other land.”.

#### *Application of the 1965 Act*

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

- (a) the right acquired or to be acquired, or 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.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 (compulsory purchase under the Acquisition of Land Act of 1946) of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restrictive covenant, with the modifications specified in the following provisions of this Schedule.

**4.** For section 7 (measure of compensation) of the 1965 Act substitute—

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

**5.** For section 8 (provisions as to divided land) of the 1965 Act substitute—

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

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—

- (i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or
- (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 201[\*](a) (“the Order”), in relation to that person, ceases to authorise the purchase of the right or imposition of the restrictive covenant and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

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

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

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

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) (owners under incapacity) of Schedule 1;
- (c) paragraph 2(3) (absent and untraced owners) of Schedule 2; and
- (d) paragraphs 2(3) and 7(2) (common land) of Schedule 4,

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

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

**8.** Section 20 (protection for interests of 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

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(a) S.I. 2014/2269.

(b) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(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.

(if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 (interests omitted from purchase) of the 1965 Act is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or to enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

## SCHEDULE 7

Article 29

## LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Plot reference number(s) shown on Land Plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
<b><i>Land Plans - Sheet 2</i></b>			
Section 1. District of West Berkshire	02-16, 02-17, 02-18	At railway level: temporary land required for access for inspection and possible refurbishment of bridge	1a, 1b, 2a, 2b
Section 1. District of West Berkshire	02-02a, 02-05	Land within existing highway boundary used for access to Scheme construction site and construction compound including traffic management	All works within Schedule 1
Section 1. District of West Berkshire	02-20, 02-20a, 02-20b, 02-22, 02-22a, 02-22b, 02-23, 02-23a, 02-23b, 02-25, 02-25a, 02-25b	At river and river bank level: temporary use for inspection and possible refurbishment of bridge	1a, 1b
Section 1. District of West Berkshire	02-08, 02-12	Temporary land required for use as construction compound	All works within Schedule 1
Section 1. District of West Berkshire	02-09, 02-10, 02-11	Temporary land required for use for access to construction compound	All works within Schedule 1
<b><i>Land Plans - Sheet 3</i></b>			
Section 1. District of West Berkshire	03-07, 03-12	Temporary use for improvement and realignment of	3a, 3b, 3c, 3d

sliproads including  
traffic management  
and cross carriageway  
ducting

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***Land Plans - Sheet 4***

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Section 1. District of West Berkshire	04-06, 04-08, 04-10	At railway level: temporary land required for access for inspection and possible refurbishment of bridge	1a, 1b
Section 1. District of West Berkshire	04-03, 04-04	Temporary use for inspection and possible refurbishment of culvert	1a, 1b

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***Land Plans - Sheet 5***

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Section 2. Borough of Wokingham	05-13	Temporary use as construction compound	All works within Schedule 1
Section 2. Borough of Wokingham	05-11, 05-12	Temporary use for access to construction compound	All works within Schedule 1

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***Land Plans - Sheet 6***

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Section 3. Borough of Reading	06-03, 06-04, 06-05, 06-08	Temporary traffic management and for access to Scheme construction site	All works within Schedule 1
Section 3. Borough of Reading	06-10, 06-10a, 06-12, 06-12a, 06-12b	Temporary traffic management, including lane restrictions, to create working space for construction of the Scheme including a gantry Type 1 and realignment of Junction 11 Eastbound on slip	1a, 4b
Section 2. Borough of Wokingham	06-09b, 06-10b, 06-13, 06-14, 06-14a, 06-14b, 06-20	Temporary traffic management, including lane restrictions, to create working space for construction of the Scheme including a gantry Type 1 and realignment of	1a, 4b



Junction 11 Eastbound  
on slip***Land Plans - Sheet 7***

Section 2. Borough of Wokingham	07-04, 07-05, 07-06, 07-08	Temporary use to create working space for construction of improved access to Cutbush Lane transmission station	1a
Section 2. Borough of Wokingham	07-11	Temporary use to create working space for removal of existing police observation platform	1a

***Land Plans - Sheet 10***

Section 2. Borough of Wokingham	10-07, 10-08, 10-09	At railway level: temporary use for inspection and possible refurbishment of bridge	1a, 1b, 5a
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***Land Plans - Sheet 17***

Section 4. Royal Borough of Windsor and Maidenhead	17-12	Temporary use as construction compound	All works within Schedule 1
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***Land Plans - Sheet 18***

Section 4. Royal Borough of Windsor and Maidenhead	18-02, 18-03	Temporary use as construction compound	All works within Schedule 1
Section 4. Royal Borough of Windsor and Maidenhead	18-07, 18-08	Temporary land required for access and working space to construct realigned Ascot Road and new Ascot Road overbridge including retaining wall to east side of Ascot Road	7a, 7b
Section 4. Royal Borough of Windsor and Maidenhead	18-09, 18-10, 18-17, 18-17a, 18-17b, 18-19	Temporary land required for access and working space to construct realigned Ascot Road and new Ascot Road overbridge	7a

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Section 4. Royal Borough of Windsor	19-19, 19-19b, 19-20, 19-20a, 19-25,	At river and river bank level: temporary	1a, 1b, 9a, 9b
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**DLA Piper Draft:** as at 8 October 2015

and Maidenhead	19-27, 19-28a, 19-30, 19-30a, 19-33, 19-33a	land required for widening Thames Bray underbridge	
Section 6. County of Buckinghamshire, District of South Bucks	19-35, 19-35a, 19-37, 19-37a, 19-38, 19-39	At river and river bank level: temporary land required for widening Thames Bray underbridge	1a, 1b, 9a, 9b
Section 4. Royal Borough of Windsor and Maidenhead	19-02, 19-02a, 19-02b, 19-06, 19-10	Temporary land required for access and working space for online reconstruction of Monkey Island Lane and Monkey Island Lane overbridge	8c
Section 4. Royal Borough of Windsor and Maidenhead	19-11, 19-14	Temporary land required for access and working space for online reconstruction of Monkey Island Lane and Monkey Island Lane overbridge and for widening of Thames Bray underbridge, including widening of the M4 and M4 embankment	8a, 8b, 8c, 9b
Section 6. County of Buckinghamshire, District of South Bucks	19-34, 19-36, 19-40, 19-41, 19-45, 19-46, 19-47, 19-49, 19-51, 19-53, 19-54, 19-55	Temporary land for access and working space for widening of Thames Bray underbridge to the North, including widening of the M4 and M4 embankment	9a, 9b
Section 4. Royal Borough of Windsor and Maidenhead	19-11a, 19-14a, 19-16, 19-18, 19-28, 19-29, 19-21, 19-22, 19-23, 19-24, 19-26, 19-31, 19-32	Temporary land for access and working space for widening of Thames Bray underbridge to the North, including widening of the M4 and M4 embankment	8a, 8b, 9a, 9b
Section 6. County of Buckinghamshire, District of South Bucks	19-56, 19-57, 19-57a	Temporary land for access and working space for widening the M4 and M4 embankment	10b

**DLA Piper Draft:** as at 8 October 2015

Section 6. County of Buckinghamshire, District of South Bucks	19-58, 19-59, 19-61, 19-62, 19-65, 19-73, 19-75, 19-76, 19-77, 19-79	Temporary land required for access and working space for online reconstruction of Marsh Lane and Marsh Lane overbridge	10c
Section 6. County of Buckinghamshire, District of South Bucks	19-80	At river level: temporary land required for access for inspection and possible refurbishment work to Jubilee River Bridge	1a, 1b

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***Land Plans - Sheet 20***

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Section 6. County of Buckinghamshire, District of South Bucks	20-02, 20-03, 20-03a, 20-07, 20-08, 20-09, 20-10, 20-12, 20-17, 20-20	Temporary land required for access and working space to construct realigned Lake End Road and new Lake End Road overbridge	11a, 11b, 11c
Section 7. Borough of Slough	20-26, 20-27, 20-28	Temporary land required for access and working space to construct realigned Huntercombe Spur and new Huntercombe Spur overbridge	12b, 12e, 12f
Section 6. County of Buckinghamshire, District of South Bucks	20-22, 20-25	Temporary land required for access and working space to construct realigned Huntercombe Spur and new Huntercombe Spur overbridge	12b, 12c, 12d, 12e
Section 7. Borough of Slough	20-30, 20-31, 20-32, 20-32a, 20-33, 20-34, 20-35, 20-36, 20-37, 20-37a, 20-37b, 20-37c, 20-38, 20-41b, 20-41c	Temporary land required for access and working space for online reconstruction of Oldway Lane and Oldway Lane overbridge	13, 13b, 13c
Section 7. Borough of Slough	20-41, 20-41a	Temporary land required to enable temporary diversion of Rights of Way between Oldway Lane and Wood Lane	13c, 14c

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Section 7. Borough of Slough	21-01, 21-02, 21-02a	Temporary land required to enable temporary diversion of Rights of Way between Oldway Lane and Wood Lane	13c, 14c
Section 7. Borough of Slough	21-02b, 21-02c	Temporary land required to enable temporary diversion of Rights of Way between Oldway Lane and Wood Lane and for access and working space to construct and realign Wood Lane and new Wood Lane overbridge	13a, 13c, 14a, 14c
Section 7. Borough of Slough	21-02d, 21-04, 21-05, 21-06, 21-07, 21-12a, 21-13, 21-14, 21-15, 21-16, 21-17, 21-18	Temporary land required for access and working space to construct realigned Wood Lane and new Wood Lane overbridge	14a, 14b, 14c
Section 7. Borough of Slough	21-20, 21-21	Temporary land required for access and working space for the extension of Chalvey Culvert	15

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**Land Plans - Sheet 22**

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Section 7. Borough of Slough	22-22, 22-23, 22-24, 22-25	At railway level: temporary land required for access and working space for widening Windsor Branch railway underbridge to the South, including realignment of M4 and Junction 6 Westbound off-slip and embankment strengthening and widening	1a, 1b, 16b, 16c, 17
Section 7. Borough of Slough	22-01	Temporary access for inspection and possible refurbishment of	1a, 1b

		culvert	
Section 4. Royal Borough of Windsor and Maidenhead	22-10	Temporary use for access to construction compound	All works within Schedule 1
Section 7. Borough of Slough	22-09	Temporary use for access to construction compound and to Scheme construction site	All works within Schedule 1
Section 4. Royal Borough of Windsor and Maidenhead	22-11	Temporary use as construction compound	All works within Schedule 1
Section 7. Borough of Slough	22-12, 22-26	Temporary land required for access and working space for widening Windsor Branch Railway underbridge to the South, including realignment of M4 and Junction 6 Westbound off-slip and embankment strengthening and widening	1b, 16c, 17
Section 7. Borough of Slough	22-18, 22-21	Temporary land required for access and working space for widening Windsor Branch Railway underbridge to the South, including realignment of M4 and Junction 6 Eastbound on-slip	1a, 16b, 17

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***Land Plans - Sheet 23***

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Section 7. Borough of Slough	23-02, 23-03, 23-04	Temporary land for access and working space to extend Water Main and Gas Main subway	18
Section 4. Royal Borough of Windsor and Maidenhead	23-12	Temporary land required for access and working space to construct realigned Datchet Road and new Datchet Road overbridge	19a, 19c

**DLA Piper Draft:** as at 8 October 2015

Section 7. Borough of Slough	23–11	Temporary land required for access and working space to construct realigned Datchet Road and new Datchet Road overbridge	19a, 19c
Section 7. Borough of Slough	23–07, 23–08	Temporary land for possible realignment of private means of access to Datchet Road	19c
Section 4. Royal Borough of Windsor and Maidenhead	23–32	Temporary land required for access and working space for online reconstruction of Recreation Ground overbridge	20a, 20c
Section 7. Borough of Slough	23–33	Temporary land required for access to finishing works on Recreation Ground road and Recreation Ground overbridge	20c
Section 4. Royal Borough of Windsor and Maidenhead	23–34, 23–35	Temporary land required for access and working space to extend Water Main subway	21
Section 4. Royal Borough of Windsor and Maidenhead	23–29	Temporary use as construction compound and temporary land required for access and working space to construct realigned Datchet Road and new Datchet Road overbridge, and temporary land required for access and working space for online reconstruction of Recreation Ground overbridge	19c, 20c, All works within Schedule 1
Section 7. Borough of Slough	23–19	Temporary use as construction compound and temporary land required for access	19c, All works within Schedule 1

and working space to construct realigned Datchet Road and new Datchet Road overbridge

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Section 4. Royal Borough of Windsor and Maidenhead	24-02, 24-03, 24-04, 24-05, 24-06, 24-07, 24-08, 24-09, 24-10, 24-11, 24-12, 24-13, 24-14, 24-15, 24-16, 24-17, 24-18, 24-20, 24-21, 24-22, 24-23, 24-24, 24-25, 24-29, 24-30, 24-32, 24-33, 24-34a	Temporary land required for access and working space to construct realigned Riding Court Road and new Riding Court Road overbridge	22a, 22b, 22c
Section 4. Royal Borough of Windsor and Maidenhead	24-34, 24-36, 24-40	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 23a, 23b
Section 4. Royal Borough of Windsor and Maidenhead	24-37, 24-38	Temporary traffic management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	1b

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Section 4. Royal Borough of Windsor and Maidenhead	25-01, 25-02	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 24a
Section 7. Borough of Slough	25-03, 25-06, 25-09	Temporary traffic management, including lane restrictions on Riding Court Road, to create working space for construction of the Scheme	1a, 24a
Section 4. Royal	25-11	Temporary traffic	1b, 24d

**DLA Piper Draft: as at 8 October 2015**

Borough of Windsor and Maidenhead		management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	
Section 7. Borough of Slough	25-15, 25-19	Temporary traffic management, including lane restrictions on Majors Farm Road, to create working space for construction of the Scheme	1b, 24d
Section 7. Borough of Slough	25-20, 25-22	Temporary traffic management and access to Scheme construction site	All works within Schedule 1
Section 7. Borough of Slough	25-30, 25-31, 25-32, 25-33, 25-34	Temporary use as construction compound	All works within Schedule 1

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Section 7. Borough of Slough	26-03, 26-06, 26-07, 26-09, 26-10, 26-19	Temporary land required for access and working space for online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25, 26a, 26b
Section 6. County of Buckinghamshire, District of South Bucks	26-02, 26-18	Temporary land required for access and working space for online reconstruction of Old Slade Lane and Old Slade Lane overbridge	25, 26a
Section 7. Borough of Slough	26-09a, 26-10a, 26-11, 26-12, 26-13	Possible temporary access or diversion route for Old Slade Lane	25

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Section 8. London Borough of Hillingdon	28-04, 28-05, 28-06, 28-07, 28-09, 28-10, 28-11, 28-12	Temporary access and working space for extension of Sipson Road subway	28, 29a, 29d
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***Land Plans - Sheet 29***



**DLA Piper Draft:** as at 8 October 2015

Section 8. London Borough of Hillingdon	29-01, 29-02, 29-03	Temporary use as construction compound	All works within Schedule 1
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***Land Plans - Sheet 30***

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Section 8. London Borough of Hillingdon	30-03	For inspection and possible refurbishment to St Dunstans Subway	1a,1b
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## SCHEDULE 8

Article 40

## TREES SUBJECT TO TREE PRESERVATION ORDERS

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Work to be carried out</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
Area Order TPO 239/1983 (Wokingham District Council), contains a mixture of Oak ( <i>Quercus robur</i> ), Ash ( <i>Fraxinus excelsior</i> ) and other indigenous tree species together with a secondary storey of Hawthorn ( <i>Crataegus monogyna</i> )	Possibility of localised disturbance to tree roots where they extend into the adjacent Scheme order limits, leading to possible need for lopping or felling. However, damage / loss to these trees will be avoided through detailed design where possible.	Work No. 1a
Area Order TPO 576/1993 (Wokingham District Council), mixed woodland containing Oak ( <i>Quercus robur</i> ), Birch ( <i>Betula pendula</i> ), Beech ( <i>Fagus sylvatica</i> )	Possibility of localised disturbance to tree roots where they extend into the adjacent Scheme order limits, leading to possible need for lopping or felling. However, damage / loss to these trees will be avoided through detailed design where possible.	Work No. 5c
Area Order TPO 432 (Bracknell Forest Council), consists of mixed sapling and mature tree species including: Alder, Birch, Oak, Fir, Sweet Chestnut, Larch, Holly, Pine, Willow, Hemlock, Cypress, Hazel, Poplar, Aspen, Hawthorn, Sallow and Spruce	Possibility of localised disturbance to tree roots where they extend into the adjacent Scheme order limits, leading to possible need for lopping or felling. However, damage / loss to these trees will be avoided through detailed design where possible.	Work No. 1a
Individual Trees TPO 13/1979 (Royal Borough of Windsor and Maidenhead). Species data not available	Possible felling or lopping of individual trees along Ascot Road due to construction work in close proximity. However, subject to detail design it may be possible to retain and protect these trees during construction.	Work No. 7a
Area Order TPO 1962 (South Bucks District Council). Species data not available	Felling small part in the southern part of the TPO area where it overlaps with the Order limits.	Work No. 9a; Work No. 9b
Individual tree (Lime) TPO	Possible felling or lopping of	Work No. 1a

**DLA Piper Draft: as at 8 October 2015**

14/2000 (South Bucks District Council)	this tree due to construction work in close proximity. However, subject to detail design it may be possible to retain and protect this tree during construction.	
Area Order TPO 12 of 2006, Datchet Meadows (Slough Borough Council). Species data not available	Possibility of localised disturbance to tree roots where they extend into the adjacent Scheme order limits, leading to possible need for lopping or felling. However, damage / loss to these trees will be avoided through detailed design where possible.	Work No. 19c
Area Order TPO 7 of 1952 Old Wood (Slough Borough Council). Species data not available	Possibility of localised disturbance to tree roots where they extend into the adjacent Scheme order limits, leading to possible need for lopping or felling. However, damage / loss to these trees will be avoided through detailed design where possible.	Work No. 1b
Individual Trees TPO 3 of 1982 Old Slade Road (Slough Borough Council). Species data not available	Possible felling or lopping of three individual trees along Old Slade Lane due to construction work in close proximity. However, subject to detail design it may be possible to retain and protect these trees during construction.	Work No. 25
Area Order TPO 549 (London Borough of Hillingdon), consists mainly of London Plane, Wild Cherry and Sycamore	Possibility of localised disturbance to tree roots where they extend into the adjacent Scheme order limits, leading to possible need for lopping or felling. However, damage / loss to these trees will be avoided through detailed design where possible.	Work No. 29b

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## SCHEDULE 9

Article 43

### PROTECTIVE PROVISIONS

#### PART 1

For the protection of Electricity, Gas, Oil, Water and Sewerage Undertakers

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

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the protected person in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986(b) for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(c); and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreement to adopt sewers, drains or sewage disposal works at future date) of that Act(d),

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) 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

- (e) in the case of the Oil and Pipelines Agency, any oil apparatus, 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;

“oil apparatus” means any pipe-line, apparatus and works as described in section 65(2) (meaning of “pipe-line”) of the Pipe-lines Act 1962(e) and all protective wrappings, sleeves and slabs, together with ancillary cables and markers; and such legal interest, and benefit of

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- (a) 1989 c. 29. The definition of “electrical plant” (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c. 27).
  - (b) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Schedule 6, and Schedule 8, to, the Utilities Act 2000 (c. 27), sections 149(1) and (5) and 197(9) of, and part 1 of Schedule 23 to, the Energy Act 2004 (c. 20) and S.I. 2011/2704.
  - (c) 1991 c. 56.
  - (d) Section 102(4) was amended by section 96(1)(c) of the Water Act 2003. Section 104 was amended by sections 96(4) and 101(2) of, and part 3 of Schedule 9 to, the Water Act 2003 and section 42(3) of the Flood and Water Management Act 2010 (c. 29).
  - (e) 1962 c. 58. Section 65(2) was amended by paragraphs 1 and 6 of Schedule 2 to the Energy Act 2011 (c. 16), S.I. 2000/1937 and S.I. 2011/2305.

property rights and covenants as are vested in the Oil and Pipeline Agency in respect of such items;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“protected person” means—

- (f) any licence holder within the meaning of Part 1 (electricity supply) of the Electricity Act 1989;
- (g) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- (h) a water undertaker within the meaning of the Water Industry Act 1991;
- (i) a sewerage undertaker within the meaning of Part 1 (preliminary) of the Water Industry Act 1991; and
- (j) the Oil and Pipelines Agency and its successors in title and function,

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

#### On street apparatus

**3.** This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the protected person are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

#### Apparatus in stopped up streets

**4.—(1)** Where any street is stopped up under article 13 (permanent stopping up of streets), any protected person whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the protected person legal easements reasonably satisfactory to the protected person in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the protected person to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 14 (temporary stopping up of streets and restriction of use of streets), a protected person is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

#### Protective works to buildings

**5.** The undertaker, in the case of the powers conferred by article 18 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

#### Acquisition of land

**6.** 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.

#### Removal of apparatus

**7.—(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 protected person’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a protected person 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 protected person in question in accordance with subparagraphs (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 protected person in question 56 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the protected person the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

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

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the protected person in question and the undertaker or in default of agreement settled by arbitration in accordance with article 47 (arbitration).

(5) The protected person in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 47 (arbitration), and after the grant to the protected person of any such facilities and rights as are referred to in subparagraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

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

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within—

- (a) 300 millimetres of apparatus other than oil apparatus; and
- (b) 3000 millimetres of oil apparatus.

#### Facilities and rights for alternative apparatus

**8.—**(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a protected person facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the protected person in question or in default of agreement settled by arbitration in accordance with article 47 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus the arbitrator must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker or the traffic on the highway; and

- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus for which the alternative apparatus is to be substituted.

(3) 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 protected person 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 protected person as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

#### Retained apparatus

**9.—**(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to the protected person in question a plan of the works to be executed.

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

(3) Any requirements made by an protected person under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a protected person in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

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

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to the protected person in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

#### Expenses and costs

**10.—**(1) Subject to the following provisions of this paragraph, the undertaker must repay to a protected person all expenses reasonably incurred by that protected person in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2), including any costs reasonably incurred in connection with the acquisition of rights under paragraph 7(3), and in watching and inspecting the execution of works under paragraph 9(2) and in making reasonable requirements under paragraph 9(3).

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

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

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 47 (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 protected person in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

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

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a protected person in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the protected person 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.

**11.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of the authorised development or any such works referred to in paragraphs 5, 7(2), or 9(1), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a protected person, or there is any interruption in any service provided or of any access to any apparatus, or in the supply of any goods, by any protected person, the undertaker must—

(a) bear and pay the cost reasonably incurred by that protected person in making good such damage or restoring the supply; and

(b) make reasonable compensation to that protected person for any other expenses, loss, damages, penalty or costs incurred by the undertaker, by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by a protected person on behalf of the undertaker or in accordance with a plan approved by a protected person or in accordance with any requirement of a protected person or under its supervision does not, subject to subparagraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

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

(4) A protected person 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 who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

#### Co-operation

**12.** Where in consequence of the proposed construction of any of the authorised development, the undertaker or a protected person requires the removal of apparatus under paragraph 7(2) or a protected person makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the protected person's



undertaking and each protected person must use its best endeavours to co-operate with the undertaker for that purpose.

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

## PART 2

### For the protection of Operators of Electronic Communications Code Networks

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

**15.** In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003**(a)**

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

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

“the electronic communications code” has the same meaning as in Chapter 1 (electronic communications, networks and services) of Part 2 of the 2003 Act**(c)**;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and
- (b) an electronic communications network which the undertaker 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.

**16.** The exercise of the powers conferred by article 31 (statutory undertakers) is subject to paragraph 23 of Schedule 2 (undertaker’s works) to the Telecommunication Act 1984**(d)**.

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

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

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

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**(a)** 2003 c. 21.

**(b)** Paragraph 1(3A) was inserted by section 106(2) of, and paragraphs 1 and 4 of Schedule 3 to, the communications Act 2003.

**(c)** See section 106 of the 2003 Act.

**(d)** 1984 c. 12. Paragraph 23 was amended by section 190 of, and paragraph 68 of Schedule 25 and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15), section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and section 106(2) of, and paragraphs 1, 5(d) and 8 of Schedule 3 to, the Communications Act 2003.

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

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker who, if such consent is withheld, 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 47 (arbitration).

**18.** 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 damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

**19.** 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 already laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 3

### For the protection of Railway Interests

**20.** The following 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 34, any other person on whom rights or obligations are conferred by that paragraph.

**21.** 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 undertaker in exercise of powers under section 8 (licences) of the Railways Act 1993(a);

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes within the Order limits, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 (meaning of “subsidiary” etc) of the Companies Act 2006(b)) 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;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993(c)) or station lease;

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(a) 1993 c. 43.

(b) 2006 c. 46.

(c) 1993 c. 43.

“railway property” means any railway belonging to Network Rail Infrastructure Limited within the Order limits and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail Infrastructure Limited or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail Infrastructure Limited for the purposes of such railway or works, apparatus or equipment; and

“specified work” means so much of any of the authorised development as is to be situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

**22.—**(1) Where under this Part of this Schedule Network Rail is required to give its consent, agreement or approval in respect of any matter, that consent, agreement or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property or rights over railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use its reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development under this Order.

**23.—**(1) The undertaker must not exercise the powers conferred by articles 19 (authority to survey and investigate land), 20 (compulsory acquisition of land), 22 (compulsory acquisition of rights), 24 (private rights over land), 26 (acquisition of subsoil or air-space only), 28 (rights under or over streets), 29 (temporary use of land for carrying out the authorised development), 30 (temporary use of land for maintaining the authorised development), 31 (statutory undertakers) or the powers conferred by section 11(3) (powers of entry) of the 1965 Act in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 (extinguishment of rights of statutory undertakers: preliminary notices) or 272 (extinguishment of rights of telecommunications code system operators: preliminary notices) of the 1990 Act, or article 31 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use, or acquire new rights over, any railway property except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent or agreement under this paragraph, such consent or agreement must not be unreasonably withheld but may be given subject to reasonable conditions.

**24.—**(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 47 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated disapproval of those plans and the grounds of disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the

further 28 days the engineer has not intimated approval or disapproval, the engineer is 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 with all reasonable dispatch 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 approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case with all reasonable dispatch 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 the undertaker's reasonable satisfaction.

**25.—**(1) Any specified work and any protective works to be constructed by virtue of paragraph 24(4) must, when commenced, be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 24;
- (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 on it and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, regardless of 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 the undertaker's employees, contractors or agents.

**26.—**(1) The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work or protective work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or protective work or the method of constructing it.

**27.** Network Rail must at all reasonable times afford reasonable facilities to the undertaker and the undertaker's 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 the undertaker may reasonably require with regard to such works or the method of constructing them.

**28.**—(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 a protective 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 and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work or a protective work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work or protective work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work or protective work is to be constructed, Network Rail must assume construction of that part of the specified work or protective work and the undertaker must, regardless of any such approval of a specified work or protective work under paragraph 24(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work or protective work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 29(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 is to be set off against any sum payable by the undertaker to Network Rail under this paragraph.

**29.** 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 24(3) or in constructing any protective works under the provisions of paragraph 24(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, watchkeepers and other persons whom it is 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.

**30.**—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus;

“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 24(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 24(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified under sub-paragraph (a);
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified under 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 prevention and the method of their execution may be selected at the reasonable discretion of Network Rail, and in relation to such modifications paragraph 24(1) has effect subject to this sub-paragraph.

(6) If at any time prior to the completion of the authorised development and regardless of any measures adopted under sub-paragraph (3), the testing or commissioning 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) cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and
- (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.

(8) Where Network Rail approves modifications to Network Rail's apparatus under sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus; and
- (b) any modifications to Network Rail's apparatus approved under those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 25.

(9) To the extent that it would not otherwise do so, paragraph 34(1) is to apply to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of

the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 29(a) any modifications to Network Rail's apparatus under this paragraph are deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 47 (arbitration) to a single arbitrator to be agreed between the parties is to be read as a reference to an arbitrator being a member of the Institution of Electrical Engineers to be agreed.

**31.** If at any time after the completion of a specified work or a protective 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 or protective 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 or protective work in such state of maintenance as to not adversely affect railway property.

**32.** 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 the undertaker has first consulted Network Rail and the undertaker 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.

**33.** 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.

**34.—(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 or maintenance of a specified work or a protective work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in the undertaker's employ or of the undertaker's contractors or others whilst engaged upon a specified work or a protective work,

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 his supervision will not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand is to be made without the prior written consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) may include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator under sub-paragraph (4).

(6) 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 restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or a protective 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 (licences) of the Railways Act 1993.

**35.** Network Rail must, on receipt of a request from the undertaker, at a frequency to be agreed between the undertaker and Network Rail, provide the undertaker free of charge with written estimates of the costs, charges, expenses, future cost forecasts and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 34) 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 under this Part of this Schedule (including any claim relating to those relevant costs).

**36.** 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.

**37.** 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/or 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.

**38.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 (the provision of railway services) of the Railways Act 1993.

**39.** The undertaker must give written notice to Network Rail where any application is required and is proposed to be made for the undertaker’s consent under article 8 (consent to transfer benefit of Order) and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the decision-maker to whom the application is to be made.

**40.** The undertaker must no later than 28 days from the date that the documents referred to in article 45(1) (certification of plans, etc.) are submitted to and certified by the Secretary of State in accordance with article 45, provide a set of those documents to Network Rail in the form of a computer disc with read only memory.

## SCHEDULE 10

Article 44

### TEMPORARY PROHIBITION OF TRAFFIC

**1.** In this Schedule:

“the eastbound carriageway” and “the westbound carriageway” means, respectively, the eastbound carriageway and the westbound carriageway of the first length of motorway;



“the first lengths of motorway” means the eastbound and westbound carriageways of the M4 from the centreline of Greathouse Walk Overbridge (Marker Post 80/9) to the western end of Boston Manor Viaduct (Marker Post 15/6);

“a hard shoulder” means the hard shoulder within the meaning of the regulation 3(1)(e) of the Regulations, which is adjacent to the first length of motorway, a first link / slip road or a second slip road;

“a link/slip road” means—

- (a) any slip road leading to or from the eastbound carriageway of the M4 at Junctions 12, 11, 8/9, 7, 6, 5, 4 and 3
- (b) any slip road leading to or from the westbound carriageway of the M4 at Junctions 12, 11, 8/9, 7, 6, 5, 4 and 3
- (c) any road leading from the clockwise carriageway of the M25 at Junction 15 to the eastbound and westbound carriageways of the M4 at Junction 4b;
- (d) any road leading from the anti-clockwise carriageway of the M25 at Junction 15 to the eastbound and westbound carriageways of the M4 at Junction 4b;
- (e) any road leading from the eastbound carriageway of the M4 at Junction 4b to the clockwise and anticlockwise carriageways of the M25 at Junction 15;
- (f) any road leading from the westbound carriageway of the M4 at Junction 4b to the clockwise and anticlockwise carriageways of the M25 at Junction 15;
- (g) any road leading from the eastbound carriageway of the A329(M) at the diverge to the eastbound and westbound carriageways of the M4 at Junction 10;
- (h) any road leading from the westbound carriageway of the A329(M) at the diverge to the eastbound and westbound carriageways of the M4 at Junction 10;
- (i) any road leading from the eastbound carriageway of the M4 at Junction 10 to the eastbound and westbound carriageways of the A329(M);
- (j) any road leading from the westbound carriageway of the M4 at Junction 10 to the eastbound and westbound carriageways of the A329(M); or
- (k) the slip roads to or from both carriageways of the M4 at Reading Services;

“overall width” has the same meaning given in regulation 3(2) (interpretation) of the Road Vehicles (Construction and Use) Regulations 1986(a);

“the Regulations” means the Motorways Traffic (England and Wales) Regulations 1982(b);

“recovery vehicle” has the meaning given in paragraph 5 of Schedule 1 (recovery vehicles) to the Vehicle Excise and Registration Act 1994(c);

“the second length of motorway” means—

- (a) both carriageways of the M4 between Junction 13 (A34) and Junction 12 (A4);
- (b) both carriageways of the M4 between the ‘off’ and ‘on’ slip roads at Junction 12 (A4);
- (c) both carriageways of the M4 between Junction 12 (A4) and Junction 11 (A33);
- (d) both carriageways of the M4 between the ‘off’ and ‘on’ slip roads at Junction 11 (A33);
- (e) both carriageways of the M4 between Junction 11 (A33) and Junction 10 (A329(M));
- (f) both carriageways of the M4 between the ‘off’ and ‘on’ link roads at Junction 10 (A329(M));
- (g) both carriageways of the M4 between Junction 10 (A404 (M)) and Junction 8/9 (A404(M));

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(a) S.I. 1986/1078; to which there are amendments not relevant to this Order.

(b) S.I. 1982/1163; amended by S.I. 1983/374, 1984/1479, 1992/1364, 1995/158, 1669/3053, 2004/3168, 2004/3258 and 2006/594.

(c) 1994 c.22.

- (h) both carriageways of the M4 between the ‘off’ and ‘on’ slip roads at Junction 8/9 (A404(M));
- (i) both carriageways of the M4 between Junction 8/9 (A404(M)) and Junction 7 (Huntercombe Spur);
- (j) both carriageways of the M4 between the ‘off’ and ‘on’ slip roads at Junction 7(Huntercombe Spur);
- (k) both carriageways of the M4 between Junction 7 (Huntercombe Spur) and Junction 6 (A355);
- (l) both carriageways of the M4 between the ‘off’ and ‘on’ slip roads at Junction 6 (A355);
- (m) both carriageways of the M4 between Junction 6 (A355) and Junction 5 (A4);
- (n) both carriageways of the M4 between the ‘off’ and ‘on’ slip roads at Junction 5 (A4);
- (o) both carriageways of the M4 between Junction 5 (A4) and Junction 4b (M25);
- (p) both carriageways of the M4 between the ‘off’ and ‘on’ link roads at Junction 4b (M25);
- (q) both carriageways of the M4 between Junction 4b (M25) and Junction 4 (M4 – Heathrow Spur);
- (r) both carriageways of the M4 between the ‘off’ and ‘on’ slip roads at Junction 4 (A408 – Heathrow Spur);
- (s) both carriageways of the M4 between Junction 4 (A408 - M4 Heathrow Spur) and Junction 3 (A312);
- (t) both carriageways of the M4 between the ‘off’ and ‘on’ link slip roads at Junction 3 (A312); or
- (u) both carriageways of the M4 between Junction 3 (A312) and Junction 2 (A406);

“a second slip road” means—

- (a) the road leading to or coming from the eastbound carriageway of the M4 at Reading Services; or
- (b) the road leading to or coming from the westbound carriageway of the M4 at Reading Services;

“specified signs” means—

- (a) signs of the type, colour and size shown in diagram 7103 in Part II of Schedule 12 (road works, delineators and barriers) of the Traffic Signs Regulations and General Directions (2002(a) which comply with the provision of regulation 56 (cones, delineators and cylinders) of those regulations, or
- (b) traffic signs, consisting of temporary vertical safety barriers of a character authorised by the Secretary of State under section 64 (general provisions as to traffic signs) of the Road Traffic Act 1984;

“works” means the authorised works described in Schedule 1 (authorised development) to this Order; and

“the works period” means a period starting at 00:01 hours on Monday 1st September 2016 and ending at 23:59 hours on 31 March 2022.

**2.** Subject as mentioned in paragraphs 5, 6 and 8, during the works period, no person is to cause or permit any vehicle to enter or proceed in the second length of motorway or a link / slip road

**3.** Subject as mentioned in paragraphs 5, 8 and 9(a) during the works period, no person is to cause or permit any vehicle to be driven at speed exceeding 50 miles per hours on a first length of motorway, a link /slip road or a hard shoulder.

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(a) S.I. 2002/3113.

4. Subject as mentioned in paragraphs 5, 8 and 9(a) during the works period, no person is to cause or permit any vehicle to be driven at speed exceeding 60 miles per hours on a first length of motorway, a link /slip road or a hard shoulder.

5. The provisions of paragraphs 2, 3, 4, 7 and 8 apply only during such times and to such extent as are indicated by traffic signs.

6.—(1) During the time as, pursuant to paragraph 5, movement of traffic is prohibited in one or more lanes of the westbound carriageway but is not prohibited in any lane of the eastbound carriageway, no person must cause or permit any—

- (a) vehicle to enter or proceed in the eastbound carriageway, other than in such direction that specified signs are at all times on the right hand side or offside of the vehicle or
- (b) vehicle having an overall width exceeding 6 feet 6 inches (2.0 metres) to enter or proceed in the offside lane of the eastbound carriageway.

(2) During such times as, pursuant to paragraph 5, movement of traffic is prohibited in one or more lanes of the eastbound carriageway but is not permitted in one or more lanes of the westbound carriageway, no person must cause or permit any—

- (a) Vehicle to enter or proceed in the westbound carriageway other than in such direction that specified signs are at all times on the right hand or offside of the vehicle; or
- (b) Vehicle having an overall width exceeding 6 feet 6 inches (2.0 metres) to enter or proceed in the offside lane of the westbound carriageway.

(3) When pursuant to paragraph 4, movement of traffic is prohibited in one or more lanes in a length of one carriageway but is not prohibited in any lane of the corresponding length of the other carriageway, the provisions of this paragraph with respect to the other carriageway apply to that length of that carriageway.

7. Subject as mentioned in paragraphs 5, 8 and 9(a), during the works period, no person is to cause or permit any vehicle with an overall width exceeding 6 feet 6 inches (2.0 metres) to enter or proceed in—

- (a) Any lane other than the nearside lane in a carriageway or length of carriageway, where one or more lanes in that carriageway or length and the hard shoulder adjacent to that carriageway or length are open for use by traffic proceeding in the same direction; or
- (b) Any lane other than the nearside lane or middle lane of two or more lanes in a carriageway or length of carriageway, where only those lanes are open for use by traffic proceeding in the same direction;

and in this paragraph a reference to a carriageway is a reference to the westbound carriageway or the eastbound carriageway.

8.—(1) Nothing in paragraphs 2, 6(1)(b), 6(2)(b) or 7 applies to—

- (a) a recovery vehicle or a vehicle being used in connection with the said works;
- (b) a vehicle being used for police, ambulance, fire and rescue authority or traffic officer purposes;
- (c) anything done at the direction of, or with the permission of, a constable or traffic officer in uniform;
- (d) any vehicle being used for winter maintenance purposes; or
- (e) any vehicle being used for the purpose of incident management.

(2) Nothing in paragraph 3 applies to a vehicle being used for police, ambulance or fire and rescue authority purposes and to vehicles falling within regulation 3(4) (regulations in relation to orders and notices under the 1984 Act) of the Road Traffic Exemption (Special Forces) (Variation and Amendment) Regulations 2011 when used in accordance with regulation 3(5) of those regulations.

9. During the works period, the following provisions of the Regulations are hereby suspended—

- (a) regulations 5 (vehicles to be driven on the carriageway only) and (insofar as it relates to a vehicle being driven) 9 (restriction on the use of hard shoulders), in respect of a hard shoulder, at such times and to such extent as may from time to time be indicated by traffic signs; and
- (b) regulation 6(3) (direction of driving), in respect of a vehicle being driven westwards in the eastbound carriageway by virtue of paragraph 6(1)(a), or eastwards in the westbound carriageway by virtue of paragraph 6(2)(a).

## SCHEDULE 11

Article 45

## Documents subject to certification

The land plans (Document Reference No. 2.2, dated March 2015—

<i>(1)</i> <i>Application Document</i>	<i>(2)</i> <i>Drawing No.</i>	<i>(3)</i> <i>Revision No.</i>	<i>(4)</i> <i>Document Reference</i>
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands, Key Plan	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301410
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 1 of 31, Theale	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301379
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 2 of 31, Calcot	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301380
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 3 of 31, Reading Motorway Service Area	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301381
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 4 of 31, Pingewood	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301382
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 5 of 31, Reading International Business Park	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301383
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 6 of 31, Whitley	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301384
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 7 of 31, Lower Earley	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301385
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 8 of 31, River Loddon	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301386

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Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 9 of 31, Winnersh	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301387
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 10 of 31, Wokingham	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301388
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 11 of 31, Bill Hill	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301389
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 12 of 31, The Straight Mile	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301390
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 13 of 31, Hammond's Wood	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301391
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 14 of 31, Beenham's Heath	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301392
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 15 of 31, Littlefield Green	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301393
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 16 of 31, Paley Street	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301394
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 17 of 31, Holyport	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301395
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 18 of 31, Bray	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301396
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 19 of 31, Dorney Reach	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301397
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 20 of 31, Cippenham	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301398
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 21 of 31, Slough South	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301399
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 22 of 31, Chalvey	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301400

**DLA Piper Draft:** as at 8 October 2015

Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 23 of 31, Myrke	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301401
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 24 of 31, Datchet	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301402
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 25 of 31, Brands Hill	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301403
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 26 of 31, Sutton	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301404
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 27 of 31, M4/M25	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301405
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 28 of 31, West Drayton	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301406
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 29 of 31, Harlington	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301407
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 30 of 31, Cranford	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301408
Volume 2.0: plans, drawing and sections - 2.2 Land Plans including Crown Lands Sheet 31 of 31, Heston	TR010019-2.2	3F	514451-MUH-ML- ZZ-SK-LR-301409

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the works plans (Document Reference No. 2.3, dated March 2015)

<i>(1)</i> <i>Application Document</i>	<i>(2)</i> <i>Drawing No.</i>	<i>(3)</i> <i>Revision</i> <i>No.</i>	<i>(4)</i> <i>Document Reference</i>
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Key Plan	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301287
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 1 of 31, Theale	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301288
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 2 of 31, Calcot	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301289
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 3 of 31, Reading Motorway Service Area	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301290

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Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 4 of 31, Pingewood	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301291
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 5 of 31, Reading International Business Park	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301292
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 6 of 31, Whitley	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301293
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 7 of 31, Lower Earley	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301294
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 8 of 31, River Loddon	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301295
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 9 of 31, Winnersh	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301296
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 10 of 31, Wokingham	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301297
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 11 of 31, Bill Hill	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301298
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 12 of 31, The Straight Mile	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301299
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 13 of 31, Hammond's Wood	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301300
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 14 of 31, Beenham's Heath	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301301
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 15 of 31, Littlefield Green	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301302
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 16 of 31, Paley Street	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301303
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 17 of 31, Holyport	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301304
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 18 of 31, Bray	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301305

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Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 19 of 31, Dorney Reach	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301306
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 20 of 31, Cippenham	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301307
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 21 of 31, Slough South	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301308
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 22 of 31, Chalvey	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301309
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 23 of 31, Myrke	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301310
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 24 of 31, Datchet	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301311
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 25 of 31, Brands Hill	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301312
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 26 of 31, Sutton	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301313
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 27 of 31, M4/M25	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301314
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 28 of 31, West Drayton	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301315
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 29 of 31, Harlington	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301316
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 30 of 31, Cranford	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301317
Volume 2.0: plans, drawings and sections - 2.3 Works Plans, Sheet 31 of 31, Heston	TR010019-2.3	2F	514451-MUH-ML- ZZ-DR-WP-301318

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## SCHEDULE 12

Article 49

### PROCEDURE FOR DISCHARGE OF REQUIREMENTS

#### Applications made under requirement

1.—(1) Where an application has been made to a discharging authority for any agreement or approval required by a requirement included in the Order the discharging authority must give notice to the undertaker of their decision on the application before the end of the decision period.

(2) For the purposes of sub-paragraph (1), the decision period is—

- (a) where no further information is requested under paragraph 2, 5 weeks from the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under paragraph 2, 5 weeks from the day immediately following that on which further information has been supplied by the undertaker under paragraph 2; or
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (a) or (b).

#### Further information

2.—(1) In relation to any application to which this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is necessary to enable it to consider the application.

(2) If the discharging authority considers such further information to be necessary and the requirement does not specify that consultation with a requirement consultee is required, it must, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement specifies that consultation with a requirement consultee is required, the discharging authority must issue the consultation to the requirement consultee within 1 business day of receipt of the application, and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 1 business day of receipt of such a request and in any event within 21 days of receipt of the application.

(4) If the discharging authority does not give such notification as specified in sub-paragraph (2) or (3) it is to be 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

3.—(1) Where an application is made to the discharging authority for agreement or approval in respect of a requirement, a fee of £97.00 is to be paid to that authority.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 8 weeks of—

- (a) the application being rejected as invalidly made; or
- (b) the discharging authority failing to determine the application within the decision period as determined under paragraph 1,

unless within that period the undertaker agrees, in writing, that the fee is to be retained by the discharging authority and credited in respect of a future application.

#### Appeals

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

- (a) the discharging authority refuses an application for any agreement or approval required by a requirement included in this Order or grants it subject to conditions;

- (b) the relevant planning authority does not give notice of its decision to the undertaker within the decision period as determined in paragraph 1;
- (c) on receipt of a request for further information pursuant to paragraph 2 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the discharging 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 appeal process is to be as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State, a copy of the application submitted to the discharging authority and any supporting documentation which the undertaker may wish to provide (“the appeal documentation”);
- (b) the undertaker must on the same day provide copies of the appeal documentation to the discharging authority and the requirement consultee (if applicable);
- (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
- (d) the discharging authority and the requirement consultee (if applicable) must submit written representations to the appointed person in respect of the appeal within 10 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and shall 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;
- (e) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations pursuant to sub-paragraph (d) above.

(3) The appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(4) If the appointed person considers that further information is necessary to enable him to consider the appeal he 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 pursuant to sub-paragraph (4) is to be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 10 business days of that date.

(6) 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 discharging 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.

(7) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person, under this paragraph.

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

(9) The decision of the appointed person on an appeal is to be 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.

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

(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person will be met by the undertaker.

(12) On application by the discharging 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 Communities and Local Government Circular 03/2009 or any circular or guidance which may from time to time replace it.

### **Interpretation of Schedule 11**

#### **5. In this Schedule—**

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

“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971; and

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the discharging authority in discharging that requirement.

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises the undertaker to construct a [\*\*\*] carriageway between Junctions 3 to 12 of the M4 and carry out all associated works.

The Order permits the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also makes provision in connection with the maintenance of the authorised development.

A copy of the plans, engineering drawings and sections and the book of reference and environmental statement mentioned in this Order and certified in accordance with article 45 of this Order (certification of plans, etc.) may be inspected free of charge during working hours at Highways England, [\*\*\*].

Highways England's Manual of Contract Documents and Design Manual for Roads and Bridges are available at [www.dft.gov.uk/ha/standards](http://www.dft.gov.uk/ha/standards).

[Highways England (registered office address Highways England Company Limited, Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ).]