

THE PLANNING ACT 2008

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

TR010019

**Response to Written Representation - Heathrow
Airport Limited**

**Appendix A - Proposed Protective Provisions for the
Protection of Heathrow Airport Limited**

Deadline IX - 3 March 2016

APPENDIX A

PROTECTIVE PROVISIONS

PART 3

For the protection of Heathrow Airport Limited

1. The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Heathrow Airport Limited.

2. In this Part of this Schedule—

“Heathrow Airport” means Heathrow Airport Limited (Company number: 01991017) whose registered office is at Compass Centre, Nelson Road, Hounslow, London TW6 2GW and Heathrow Airport Holdings Limited (Company number 05757208) whose registered office is at Compass Centre, Nelson Road, Hounslow, London TW6 2GW;

“the Heathrow Express railway” means the railway from Heathrow airport to the east of the tunnel portal, just west of the junction with the Railway at Airport Junction, authorised by the Heathrow Express Railway Act 1991, the Heathrow Express Railway (No. 2) Act 1991, and the Heathrow Express Railway Extension Order 2002, including the railway stations and all other works, apparatuses and conveniences constructed or provided by Heathrow Airport in connection with, or for the purposes of, that railway; and

“Heathrow Airport property” means any land belonging to Heathrow Airport and—

(a) any works, apparatus and equipment belonging to Heathrow Airport or connected with the operational of the Heathrow Express railway; and

(b) any easement or other property interest held or used by Heathrow Airport including those easements or property or interests for or connected with the purposes of the Heathrow Express railway or its works, apparatus or equipment.

3.—(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 tunnel comprised in Heathrow Airport property unless the exercise of such powers is with the consent of Heathrow Airport Limited.

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

(4) The undertaker must not under the powers of this Order acquire or use, or acquire new rights over, any tunnel comprised in Heathrow Airport property except with the consent of Heathrow Airport.

(5) Where Heathrow Airport 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 ~~which may include the requirement to give indemnities or undertake protective works~~ necessary to protect any tunnel comprised in Heathrow Airport property.

4. Any difference or dispute arising between the undertaker and Heathrow Airport under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Heathrow Airport, be determined by arbitration in accordance with article 45 (*arbitration*).