

**20[] No.**

**INFRASTRUCTURE PLANNING**

**The A417 Missing Link Development Consent Order 20[]**

*Made*   -   -   -   -   -   \*\*\*

*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.

(a) 2008 c.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c.20).

(b) S.I. 2009/2264, amended by S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2015/377, S.I. 2017/572; modified by S.I. 2012/1659.

The application was examined by [a single appointed person] (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(a).

The [single appointed person], having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report and recommendation to the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The Secretary of State, having considered the representations made and not withdrawn, and the report of the [single appointed person], has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State is satisfied that replacement land has been or will be given in exchange for the common land (as defined in article 39 of this Order), and the replacement land (as defined in that article) has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attached to the common land, and that, accordingly, section 131(4) of the 2008 Act applies.

The Secretary of State is satisfied that the land plots identified in the special category land plans and the book of reference as open space authorised to be permanently compulsorily acquired under this Order are required for the widening or drainage of an existing highway or partly for the widening and partly for the drainage of such a highway, and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public and that, accordingly, section 131(5) of the 2008 Act applies.

The Secretary of State is satisfied that the land identified in the special category land plans and the book of reference as open space over which rights may be acquired compulsorily under this Order, when burdened with any new rights authorised to be compulsorily acquired under this Order, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, in exercise of the powers conferred by sections [•] of, and paragraphs [•] of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

## PART 1 PRELIMINARY

### **Citation and commencement**

1.—(1) This Order may be cited as the A417 Missing Link Development Consent Order 20[•] and comes into force on [•].

### **Interpretation**

2.—(1) In this Order except where provided otherwise—

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(a) S.I. 2010/103, amended by S.I. 2012/635.

“the 1949 Act” means the National Parks and Access to the Countryside Act 1949(a);

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

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

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

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

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

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

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

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

“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) or any part of it 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;

“bridleway” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

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

“carriageway” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

“the classification of roads plans” means the plans certified by the Secretary of State as the traffic regulation measures classification of roads plans for the purposes of this Order;

“the clearways and prohibitions plans” means the plans certified by the Secretary of State as the traffic regulation measures clearways and prohibitions plans for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, ecological surveys and pre-construction ecological mitigation, erection of any temporary means of enclosure, set up works associated with construction compounds such as soil-stripping, stockpiling, and the provision of access points, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“the Cotswold Way national trail diversion report” means the report certified by the Secretary of State as the Cotswold Way national trail diversion report for the purposes of this Order;

“cycle track” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act(j);

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

“electronic transmission” means a communication transmitted—

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- (a) 1949 c.97.
  - (b) 1961 c.33.
  - (c) 1965 c.56.
  - (d) 1980 c.66.
  - (e) 1981 c.66.
  - (f) 1984 c.27.
  - (g) 1990 c.8.
  - (h) 1991 c.22.
  - (i) 2008 c.29.
  - (j) 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).

(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 plans certified by the Secretary of State as the engineering drawings and sections for the purposes of this Order;

“the environmental management plan (design stage)” means the design stage outline environmental management plan certified by the Secretary of State as the environmental management plan (design stage) for the purposes of this Order;

“the environmental masterplan” means the plan certified by the Secretary of State as the environmental masterplan for the purposes of this Order;

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

“footpath” and “footway” have the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

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

“highway” has the same meaning as in section 328 (meaning of “highway”) of the 1980 Act;

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

“the limits of deviation” means the limits of deviation referred to in article 8 (limits of deviation);

“the local highway authority” means Gloucestershire County Council;

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

“the Order land” means the land shown on the land plans which is 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 limits of the land to be acquired or used permanently or temporarily shown on the land plans and works 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);

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

“the rights of way and access plans” means the plans certified by the Secretary of State as the rights of way and access plans for the purposes of this Order;

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

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

“the speed limits plans” means the plans certified by the Secretary of State as the traffic regulation measures speed limits plans for the purposes of this Order;

“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” has the same meaning as in section 49 (the street authority and other relevant authorities) of the 1991 Act;

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

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

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

“tree preservation order” has the meaning given in section 198 of the 1990 Act(b);

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

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

(c) section 10(c) (general provision as to trunk roads) or section 19(1)(d) (certain special roads and other highways to become trunk roads) of the 1980 Act;

(d) an order made or direction given under section 10 of that Act;

(e) an order granting development consent; or

(f) any other enactment;

“the undertaker” means National Highways Limited, company number 09346363, whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

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

“the works plans” means the plans certified by the Secretary of State as the works plans 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 airspace 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, areas 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) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

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

### **Disapplication of legislative provisions**

**3.—**(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within any maintenance period defined in article 35(12), any maintenance of any part of the authorised development—

(a) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(e) in relation to the carrying on of a flood risk activity or a water discharge activity;

(b) section 24 (restrictions on abstraction) of the Water Resources Act 1991(f);

(c) section 25 (restrictions on impounding) of the Water Resources Act 1991;

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(a) This section was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the New Roads and Street Works Act 1991 (c.22); and brought into force by S.I. 1991/2288.

(b) Section 198 was amended by the 2008 Act.

(c) As amended by section 22(2) of the 1991 Act and paragraph 22 of Schedule 2 to the 2008 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c.7).

(d) As amended by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c.7).

(e) S.I. 2016/1154

(f) 1991 c.57.

- (d) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (bye-law making powers of the appropriate agency) to the Water Resources Act 1991;
- (e) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(a);
- (f) section 32 (variation of awards) of the Land Drainage Act 1991;
- (g) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991;
- (h) section 28E (duties in relation to sites of special scientific interest) of the Wildlife and Countryside Act 1981;
- (i) section 28H (statutory undertakers, etc.: duty in relation to carrying out operations) of the Wildlife and Countryside Act 1981;
- (j) section 80 (notice to local authority of intended demolition) of the Building Act 1984(b);
- (k) in so far as they relate to the temporary possession of land, the provisions of the Neighbourhood Planning Act 2017(c); and
- (l) section 55 (variation of approved proposals) of the 1949 Act.

(2) In paragraph (1)(a) “flood risk activity”(d) and “water discharge activity”(e) have the meaning given in the Environmental Permitting (England and Wales) Regulations 2016.

#### **Maintenance of drainage works**

4.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991.

## PART 2

### PRINCIPAL POWERS

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

5.—(1) Subject to the provisions of this Order, including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

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

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

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(a) 1991 c.59.

(b) 1984 c.55.

(c) 2017 c.20.

(d) This term is defined in paragraph 3 of Part 1 of Schedule 25 to the Regulations.

(e) This term is defined in paragraph 3 of Schedule 21 to the Regulations.



### **Planning permission**

7. If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force 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 under the terms of the planning permission does not constitute a breach of the terms of this Order.

### **Limits of deviation**

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

- (a) in respect of the earthworks associated with Work Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 only, deviate laterally from the lines or situations of the authorised development shown on the works plans to a maximum of 2.0 metres except—
  - (i) between points A and B, between points I and J, and between points M and N where they may deviate a maximum of 1.0 metres;
  - (ii) between points C and D, between points G and H, between points K and L, between points O and P, between points Q and R, and between points S and T where they may not deviate outwards; and
  - (iii) between points E and F where they may deviate a maximum of 5.3 metres;
- (b) in respect of any other work, deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the Order limits shown on those plans;
- (c) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 0.5 metres upwards or downwards except for Work No. 4d between points A1 (shown on sheet 2 of the works plans) and point B1 (shown on sheet 4 of the works plans) where it may deviate to a maximum of 0.5 metres upwards or 2.0 metres downwards,

except that these maximum limits of deviation do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority and the local highway authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement.

### **Benefit of Order**

9.—(1) Subject to article 10 (consent to transfer benefit of Order) 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 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 Order**

10.—(1) The undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order, including those relating to compulsory acquisition, 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, including those relating to compulsory acquisition, 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.

(4) If the benefit of the provisions of this Order relating to compulsory acquisition is transferred or granted to a transferee or lessee pursuant to this article and the transferee or lessee exercises those powers then the undertaker is liable to the transferee or lessee for any compensation that is payable to another party as a consequence of the exercise of those powers by the transferee or lessee.

(5) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to—

- (a) Western Power Distribution (West Midlands) plc (company number 03600574, whose registered office is at Avonbank, Feeder Road, Bristol, Avon, BS2 0TB) for the purposes of undertaking Work Nos. 11, 14, 15, 16, 19, 20, 21, 22, 28 and 32;
- (b) Openreach Limited (company number 10690039, whose registered office is at Kelvin House, 123 Judd Street, London, United Kingdom, WC1H 9NP) for the purposes of undertaking Work Nos. 12, 17, 18, 23, 27, 29, 34 and 36;
- (c) Gigaclear Limited (company number 07476617, whose registered office is at Building One, Wyndyke Furlong, Abingdon, Oxfordshire, United Kingdom, OX14 1UQ) for the purposes of undertaking Work Nos. 25, 26, 31 and 33;
- (d) Severn Trent Water Limited (company number 02366686, whose registered office is at Severn Trent Centre, 2 St John’s Street, Coventry, CV1 2LZ) for the purposes of undertaking Work No. 13, 24, 30 and 35.

## PART 3 STREETS

### Street works

**11.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets as are 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) Subject to article 12 (application of the 1991 Act), the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

## Application of the 1991 Act

12.—(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)(a) of that Act; or
- (b) they are works which, had they been executed by the local highway authority, might have been carried out in exercise of the powers conferred by section 64(b) (dual carriageways and roundabouts) of the 1980 Act or section 184(c) (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act references 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 not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 56(d) (power to give directions as to timing of street works);
- (b) section 56A(e) (power to give directions as to placing of apparatus);
- (c) section 58(f) (restriction on works following substantial road works);
- (d) section 58A(g) (restriction on works following substantial street works);
- (e) section 73A(h) (power to require undertaker to re-surface street);
- (f) section 73B(i) (power to specify timing etc. of re-surfacing);
- (g) section 73C(j) (materials, workmanship and standard of re-surfacing);
- (h) section 78A(k) (constructions to costs of re-surfacing by undertaker); and
- (i) schedule 3A(l) (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 undertaker under the powers conferred by article 15 (temporary stopping up and restriction of use 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(m) referred to in paragraph (4) are—

- (a) section 54 (advance notice of certain works), subject to paragraph (6);
- (b) section 55 (notice of starting date of works), subject to paragraph (6);
- (c) section 57 (notice of emergency works);
- (d) section 59 (general duty of street authority to co-ordinate works);
- (e) section 60 (general duty of undertakers to co-operate);

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(a) Section 86(3) defines what highway works are major highway works.  
(b) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c.51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c.22).  
(c) As amended by section 4 of, and paragraph 45 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11); and section 18 of and Schedule 8 to, the New Roads and Street Works Act 1991 (c.22).  
(d) As amended by sections 40 and 43 of the Traffic Management Act 2004 (c.18).  
(e) Inserted by section 44 of the Traffic Management Act 2004 (c.18).  
(f) As amended by section 51 of the Traffic Management Act 2004.  
(g) Inserted by section 52 of the Traffic Management Act 2004.  
(h) Inserted by section 55 of the Traffic Management Act 2004.  
(i) Inserted by section 55 of the Traffic Management Act 2004.  
(j) Inserted by section 55 of the Traffic Management Act 2004.  
(k) Inserted by section 57 of the Traffic Management Act 2004.  
(l) Inserted by section 52 of, and Schedule 4 to, the Traffic Management Act 2004.  
(m) All as amended by the Traffic Management Act 2004.

- (f) section 68 (facilities to be afforded to street authority);
- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 75 (inspection fees);
- (i) section 76 (liability for cost of temporary traffic regulation); and
- (j) 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.

(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 13 (construction and maintenance of new, altered or diverted streets and other structures)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act;
- (b) means that the undertaker is 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
- (c) has effect in relation to street works to which the provisions of Part 3 of the 1991 Act apply.

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

**13.—**(1) Any highway (other than a trunk road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a highway (other than a trunk road) is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, that part of the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(3) Where a street which is not and is not intended to be a public highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be) must, when completed to the reasonable satisfaction of the street authority and unless otherwise agreed in writing with the street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(4) Where a highway is de-trunked under this Order—

- (a) section 265 (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway; and
- (b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed in writing with the local highway authority, be maintained by and at the expense of the local highway authority from the date of de-trunking.

(5) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over a trunk road, the highway surface (being those elements over the waterproofing membrane) and the structure of the bridge must from their completion be maintained by and at the expense of the undertaker unless otherwise agreed in writing with the local highway authority.

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

(7) For the purposes of a defence under paragraph (6), 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.

### **Classification of roads, etc.**

**14.**—(1) From the date on which the roads described in Part 1 (trunk roads) of Schedule 3 (classification of roads, etc.) are completed and open for traffic, they are to become trunk roads as if they had become so by virtue of an order under section 10(2)(a) (general provision as to trunk roads) of the 1980 Act specifying that date as the date on which they were to become trunk roads.

(2) On such day as the undertaker may determine, the roads described in Part 2 (roads to be de-trunked) of Schedule 3 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(3) From the date on which the roads described in Part 3 (classified roads) of Schedule 3 are completed and open for traffic, they are to become classified roads for the purpose of any enactment or instrument which refers to highways classified as classified roads as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

(4) From the date on which the roads described in Part 4 (unclassified roads) of Schedule 3 are completed and open for traffic, they are to become unclassified roads for the purpose of any enactment or instrument which refers to unclassified roads.

(5) From the date on which the roads described in Part 5 (speed limits) of Schedule 3 are open for traffic, no person is to drive any motor vehicle at a speed exceeding the limit in miles per hour specified in column (3) of that Part along the lengths of road identified in the corresponding row of column (2) of that Part.

(6) On such day as the undertaker may determine, the restrictions specified in column (3) of Part 6 (traffic regulation measures (clearways and prohibitions)) of Schedule 3 are to apply to the lengths of road identified in the corresponding row of column (2) of that Part.

(7) Unless otherwise agreed with the local highway authority, the public rights of way set out in Part 8 (public rights of way) of Schedule 3 and identified on the rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use from the date on which the authorised development is open for traffic and will have the status described in column (2) of that Part.

(8) On such day as the undertaker may determine, the order specified in column (3) of Part 7 (revocations & variations of existing traffic regulation orders) of Schedule 3 is to be varied or

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(a) As amended by section 22 of the 1991 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015.

revoked as specified in the corresponding row of column (4) of that Part in respect of the lengths of roads specified in the corresponding row of column (2) of that Part.

(9) The application of paragraphs (1) to (7) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters, including by an instrument made under the 1984 Act where the matter in question could have been included in an order made under that Act.

### **Temporary stopping up and restriction of use of streets**

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

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

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street temporarily stopped up or restricted under the powers conferred by this article, and which is 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, diversion or restriction of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily stop up, alter, divert or restrict the use of any street for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

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

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

### **Permanent stopping up and restriction of use of streets and private means of access**

**16.—**(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 and private means of access specified in columns (1) and (2) of Parts 1, 2, 3 and 4 of Schedule 4 (permanent stopping up of highways and private means of access & provision of new highways and private means of access) to the extent specified and described in column (3) of those Parts of that Schedule.

(2) No street or private means of access specified in columns (1) and (2) of Parts 2 and 4 of Schedule 4 (being a street or private means of access to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street or private means of access to be constructed and substituted for it, which is specified in column (4) of those Parts 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 or private means of access 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 or private means of access until the completion and opening of the new street or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in columns (1) and (2) of Parts 1 and 3 of Schedule 4 (being a street or private means of access to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in

paragraph (4) is satisfied in relation to all the land which abuts on either side of the street or private means of access to be stopped up.

- (4) The condition referred to in paragraph (3) is that—
  - (a) the undertaker is in possession of the land;
  - (b) there is no right of access to the land from the street or private means of access concerned;
  - (c) there is reasonably convenient access to the land otherwise than from the street or private means of access concerned; or
  - (d) the owners and occupiers of the land have agreed to the stopping up.
- (5) Where a street or private means of access has been stopped up under this article—
  - (a) all rights of way over or along the street or private means of access 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 or private means of access as is bounded on both sides by land owned by the undertaker.
- (6) 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 of the 1961 Act.
- (7) This article is subject to article 37 (apparatus and rights of statutory undertakers in stopped up streets).

### **Access to works**

**17.** 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.

### **Clearways**

**18.—**(1) From such day as the undertaker may determine, except as provided in paragraph (2), no person is to cause or permit any vehicle to wait on any part of the lengths of road described in column (2) of Part 6 (traffic regulation measures (clearways and prohibitions)) of Schedule 3 (classification of roads, etc.) where it is identified in the corresponding row of column (3) of that Part that such lengths of road are to become a clearway, except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

- (2) Nothing in paragraph (1) applies—
  - (a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—
    - (i) the removal of any obstruction to traffic;
    - (ii) the maintenance, improvement, reconstruction or operation of the road;
    - (iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A (the Electronic Communications Code) to the Communications Act 2003(a); or
    - (iv) any building operation or demolition;
  - (b) in relation to a vehicle being used—
    - (i) for police, ambulance, fire and rescue authority or traffic officer purposes;
    - (ii) in the service of a local authority, safety camera partnership or Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;

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(a) 2003 c. 21. Schedule 3A was inserted by section 4(2) of, and Schedule 1 to, the Digital Economy Act 2017 (c. 30).

- (iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991<sup>(a)</sup>; or
- (iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Services Act 2000<sup>(b)</sup>; or
- (c) in relation to a vehicle waiting when the person in control of it is—
  - (i) required by law to stop;
  - (ii) obliged to stop in order to avoid an accident; or
  - (iii) prevented from proceeding by circumstances outside the person’s control.

(3) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraph (1) for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

(4) Paragraphs (1), (2) and (3) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

(5) In this article, “traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004<sup>(c)</sup>.

### **Traffic regulation**

**19.**—(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) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7) 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 it has—

- (a) given not less than—
  - (i) 12 weeks’ notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
  - (ii) 4 weeks’ notice in writing of its intention so to do 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

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(a) 1991 c. 56.  
 (b) 2000 c. 26.  
 (c) 2004 c. 18.



- (b) advertised its 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, 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.

(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 it considers necessary and appropriate and must take into consideration any representations made to it 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 the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.

### **Cotswold Way national trail**

**20.**—(1) On the date on which the Cotswold Way national trail diversion is laid out and provided in accordance with the Cotswold Way national trail diversion report, the Cotswold Way national trail diversion will take effect and the Cotswold Way national trail will be varied accordingly.

(2) In this article—

- (a) “the Cotswold Way national trail” means the long-distance route from Chipping Campden to Bath approved pursuant to section 52(a) of the 1949 Act;
- (b) “the Cotswold Way national trail diversion” means the variation of the Cotswold Way national trail identified on Appendix A Cotswold Way national trail permanent diversion plan of the Cotswold Way national trail diversion report.

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(a) Section 52 was amended by paragraph 10(f) of Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c.16), paragraph 2(6) of Schedule 10 to the Environment Act 1995 (c.25), and Schedule 30 to the Local Government Act 1972 (c.70).

## PART 4

### SUPPLEMENTAL POWERS

#### **Discharge of water**

**21.**—(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, maintenance or use 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.

(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 or the person or body otherwise having authority to give such consent; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

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

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

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

(6) In this article—

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

(b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991<sup>(a)</sup> have the same meaning as in that Act.

(7) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application, that person is deemed to have granted consent or given approval, as the case may be.

#### **Protective works to buildings**

**22.**—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building 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 to a building under this article the undertaker may (subject to paragraphs (5) and (6))—

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(a) 1991 c.57.

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

(5) Before exercising—

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

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its 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), (5)(c) or (5)(d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 48 (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(a) (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 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**

**23.—**(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 (including any watercourses, ground water, static water bodies or vegetation on the land);
- (b) without limitation on the scope of sub-paragraph (a), make any excavations, trial holes or boreholes in such positions on the land as the undertaker thinks fit to investigate the nature

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

of the surface layer, subsoil and groundwater and remove soil and water samples and discharge water samples onto the land;

- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including making any excavations or trial holes on the land for such purposes; 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 or boreholes.

(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 their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes or boreholes.

(4) No trial holes or boreholes are to be made under this article—

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

but such consent must not be unreasonably withheld.

(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 powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

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

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

that authority is deemed to have granted consent.

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

## PART 5

### POWERS OF ACQUISITION

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

**24.**—(1) The undertaker may acquire compulsorily so much of the Order land as is required to carry out or to facilitate, or is incidental to, the authorised development, or is required as replacement land.

(2) This article is subject to paragraph 27(2) of article 27 (compulsory acquisition of rights and restrictive covenants) and paragraph (8) of article 34 (temporary use of land for carrying out the authorised development).

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

25. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(a) are incorporated into 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 “undertaking” substitute “authorised development”.

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

26.—(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 of the 1965 Act as modified by article 30 (modification of Part 1 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 31 (application of the 1981 Act).

(2) The authority conferred by article 34 (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 from 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 and restrictive covenants**

27.—(1) The undertaker may acquire such rights over the Order land or impose restrictive covenants affecting the Order land as may be required for any purpose for which that land may be acquired under article 24 (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 and relating to that part of the authorised development specified in column (3) of that Schedule.

(3) The power to impose restrictive covenants under paragraph (1) is exercisable only in respect of plots specified in column (1) of Schedule 5.

(4) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants)), where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker is not required to acquire a greater interest in that land.

(5) Schedule 6 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.

### **Public rights of way**

28.—(1) The public rights of way identified in columns (1) to (3) of Parts 1 and 2 of Schedule 4 (permanent stopping up of highways and private means of access & provision of new highways and private means of access) and shown on the rights of way and access plans are to be extinguished on the date of the expiry of the notice given under paragraph (2).

(2) Prior to the extinguishment of each of the public rights of way identified in columns (1) to (3) of Parts 1 and 2 of Schedule 4 and shown on the rights of way and access plans, the undertaker must

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(a) 1981 c.67.

erect a site notice at each end of the rights of way to be extinguished no less than 28 days prior to the extinguishment of that right of way.

- (3) The notice to be erected under paragraph (2) must include—
- (a) details of the public rights of way to be extinguished;
  - (b) the date on which the extinguishment will take effect;
  - (c) details of any public rights of way being provided in substitution; and
  - (d) details of the places where a copy of this Order and the documents listed in Schedule 9 (documents to be certified) may be inspected.

### **Private rights over land**

**29.**—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

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

whichever is the 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) 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) (powers of entry) 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 within the Order limits which are required to be interfered with or breached 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 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 36 (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.

### **Modification of Part 1 of the 1965 Act**

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

(2) In section 4A(1)(a) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 26 (time limit for exercise of authority to acquire land compulsorily) of the A417 Missing Link Development Consent Order 20[•]”.

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

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (interests omitted from purchase), for “section 4 of this Act” substitute “article 26 of the A417 Missing Link Development Consent Order 20[•]”.

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

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

“(2) But see article 32(3) (acquisition of subsoil or airspace only) of the A417 Missing Link Development Consent Order 20[•], which excludes the acquisition of subsoil or airspace only from this Schedule”; and

(b) after paragraph 29, end insert—

## **“PART 4**

### **INTERPRETATION**

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 22 (protective works to buildings), 34 (temporary use of land for carrying out the authorised development) or 35 (temporary use of land for maintaining the authorised development) of the A417 Missing Link Development Consent Order 20[•].”.

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

**31.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

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(a) As inserted by section 202(1) of the Housing and Planning Act 2016 (c.22).

(b) As inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).

(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 body or person authorised to acquire land by means of a compulsory purchase order.”.

(4) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

(5) Omit section 5A(a) (time limit for general vesting declaration).

(6) In section 5B(b) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118(c) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 26 (time limit for exercise of authority to acquire land compulsorily) of the A417 Missing Link Development Consent Order 20[•]”.

(7) In section 6(d) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134(e) (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(8) In Schedule A1(f) (counter-notice requiring purchase of land not in general vesting declaration) for paragraph 1(2) substitute—

“(2) But see article 32(3) (acquisition of subsoil or airspace only) of the A417 Missing Link Development Consent Order 20[•], which excludes the acquisition of subsoil or airspace only from this Schedule.”.

(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 (and as modified by article 30 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil or airspace only**

**32.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil or of the airspace over the land referred to in paragraph (1) of article 24 (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 or of the airspace over the land referred to in paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) Section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

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(a) Inserted by section 182(2) of the Housing and Planning Act 2016 (c.22).

(b) As inserted by section 202(2) of Schedule 3 to the Housing and Planning Act 2016 (c.22).

(c) As amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25, to the Localism Act 2011 (c.20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c.2).

(d) As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c.22).

(e) As amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011 (c.20) and S.I. 2012/16.

(f) As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c.22).



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

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

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

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

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

(4) Subject to paragraph (5), any person who is an owner or occupier of land 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 a statutory undertaker to whom section 85 (sharing of 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**

**34.**—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 26(2) (time limit for exercise of authority to acquire land compulsorily)—

- (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(a) (powers of entry) of the 1965 Act and no declaration has been made under section 4 (execution of declaration) of the 1981 Act (other than in connection with the acquisition of rights only);
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct any permanent works specified in relation to that land in column (3) of Schedule 7, or any other mitigation works in connection with the authorised development.

(2) 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 and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

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

- (a) in the case of 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

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(a) Section 11 was amended by section 14 of, paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1) and S.I. 2009/1307.

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;
- (b) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1)(d); or
- (c) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from 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 powers conferred by 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 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 to be precluded from acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 32 (acquisition of subsoil or airspace 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(a) (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 24 (compulsory acquisition of land) or article 27 (compulsory acquisition of rights and restrictive covenants).

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

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

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

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

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(a) Section 13 was amended by sections 62(3) and 139 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).

(3) Not less than 28 days before entering upon 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 explaining the purpose for which entry is to be taken.

(4) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of—

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practicable in the circumstances.

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

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

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

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

(9) 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 execution of any works, other than loss or damage for which compensation is payable under paragraph (7).

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

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

(12) In this article “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**

**36.**—(1) Subject to the provisions of article 27(3) (compulsory acquisition of rights and restrictive covenants), Schedule 8 (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; and
- (b) extinguish the rights of, or 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 37 (apparatus and rights of statutory undertakers in stopped up streets).

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

**37.**—(1) Where a street is stopped up under article 16 (permanent stopping up and restriction of use of streets and private means of access), 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 16 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 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 Chapter 1) of the Communications Act 2003(a).

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

**38.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 36 (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 36, 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 37 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

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

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

### **Special category land**

**39.**—(1) The common land is not to vest in the undertaker and the undertaker is not to take possession of the common land until the Secretary of State has certified that a satisfactory scheme for the provision of the replacement land and a satisfactory timetable for the implementation of the scheme has been received from the undertaker.

(2) On the requirements of paragraph (1) being satisfied, the undertaker may take possession of the common land in accordance with the scheme.

(3) When the undertaker takes possession of the common land, the common land is to vest in the undertaker and be discharged from all rights, trusts and incidents to which it was previously subject.

(4) On the date on which the replacement land is laid out and provided in accordance with the scheme at paragraph (1), the replacement land is to vest in the person(s) in whom the common land was vested immediately before it was vested in the undertaker and is to be subject to the same rights, trusts and incidents as attached to the common land.

(5) As soon as reasonably practicable after paragraph (4) takes effect, the undertaker must apply under section 14 (statutory dispositions) of the Commons Act 2006(b) and paragraph 8 of Schedule 4 (applications pursuant to section 14: statutory dispositions) to the Commons Registration (England) Regulations 2014(c) to amend the relevant register of common land accordingly.

(6) In this article—

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(a) 2003 c.21.

(b) 2006 c.26.

(c) S.I. 2014/3038.

“the common land” means the land numbered 2/13, 2/13a, 3/1n, 3/9b, 3/11b, 3/12, 3/12a, 3/12c, 3/12d and 3/12e in the book of reference and on the land plans and forming part of registered common land which may be acquired compulsorily under this Order;

“the replacement land” means the land identified as such and numbered 2/1n, 2/1q, 2/1r, 3/1p, and 3/1s in the book of reference and on the land plans.

## PART 6 OPERATIONS

### **Felling or lopping of trees and removal of hedgerows**

**40.**—(1) The undertaker may fell or lop any tree or shrub, or cut back its roots, within or overhanging land within the Order limits if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

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

(2) In carrying out any activity authorised by paragraph (1), the undertaker must—

- (a) do no unnecessary damage to any tree or shrub;
- (b) pay compensation to any person for any loss or damage arising from such activity; and
- (c) take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981<sup>(a)</sup> and the Conservation of Habitats and Species Regulations 2017<sup>(b)</sup> or any successor acts and regulations.

(3) The authority given by paragraph (1) constitutes a deemed consent under a 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 of the 1961 Act.

(5) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.

(6) In this article “hedgerow” has the same meaning as in the Hedgerows Regulations 1997<sup>(c)</sup> and includes important hedgerows.

### **Removal of human remains**

**41.**—(1) In this article “the specified land” means the land within the Order limits.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the undertaker must give notice of the intended removal describing the specified land and stating the general effect of the following provisions of this article by—

- (a) publishing a notice for two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to the relevant planning authority.

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(a) 1981 c.69.  
(b) S.I. 2017/1012.  
(c) S.I.1997/1160.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question must be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

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

then subject to paragraph (10) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which are to be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

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

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

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

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

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

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

## PART 7

### MISCELLANEOUS AND GENERAL

#### Application of landlord and tenant law

**42.**—(1) This article applies to—

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

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

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

(3) No such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

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

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

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

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

**44.**—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990<sup>(b)</sup> in relation to a nuisance falling within paragraph (d), (fb), (g) or (ga) 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 sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974<sup>(c)</sup>; or

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(a) 1857 c.81.  
(b) 1990 c.43.  
(c) 1974 c.40.



- (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (iii) 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 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

### **Protective provisions**

45. Schedule 8 (protective provisions) has effect.

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

46.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of each of the plans and documents set out in Schedule 9 (documents to be certified) for certification that they are true copies of the plans and 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**

47.—(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.

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(a) 1978 c.30.

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

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

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

(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 is 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.

### **Arbitration**

**48.** 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.

Signed by authority of the Secretary of State for Transport

Date

*Name*  
Title  
Department

# SCHEDULES

## SCHEDULE 1

Article 2

### AUTHORISED DEVELOPMENT

**In the administrative areas of Gloucestershire County Council, Cotswold District Council and Tewkesbury Borough Council.**

The authorised development is a nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act (a) and associated development within the meaning of section 115(2) of the 2008 Act, comprising—

**Work No. 1** – the construction of a new A417 dual carriageway road approximately 5.5 kilometres in length at the location shown on sheets 1, 2, 4, 5 and 6 of the works plans. To include—

- (a) the construction of drainage attenuation basin no. 2 with associated drainage facilities, access and landscaping at the location shown on sheet 1 of the works plans;
- (b) construction compound no. 1 of approximately 34,660 square metres at the location shown on sheet 1 of the works plans;
- (c) the construction of a land drainage channel at the location shown on sheet 1 of the works plans;
- (d) the construction of 2 public laybys on the eastbound carriageway of the new A417 and 2 public laybys on the westbound carriageway of the new A417 at the locations shown on sheets 1 and 5 of the works plans;
- (e) the construction of drainage culverts at the locations shown on sheets 1, 4 and 5 of the works plans;
- (f) the construction of an open channel (Crickley Hill stream) with associated drainage facilities, access and landscaping at the location shown on sheet 1 of the works plans;
- (g) the realignment of the existing Dog Lane at the location shown on sheet 1 of the works plans;
- (h) the construction of a new connecting bridleway track (Cold Slad bridleway) between Dog Lane and the new Cold Slad Lane connecting road as shown on sheets 1 and 2 of the works plans;
- (i) the construction of a bat underpass (Crickley Hill bat underpass) at the location shown on sheet 1 of the works plans;
- (j) the construction of drainage attenuation basin no. 3c with associated drainage facilities, access and landscaping at the location shown on sheet 2 of the works plans;
- (k) the construction of a new local connecting road (Cold Slad Lane) between the existing U41140 and the new Ullenwood junction as shown on sheet 2 of the works plans;
- (l) the provision for a new private means of access at Grove Farm at the location shown on sheet 2 of the works plans;
- (m) construction of a new underpass (Grove Farm underpass) at the location shown on sheet 2 of the works plans for the new private means of access at Grove Farm;
- (n) the demolition of Woodside House at the location on sheet 2 of the works plans;
- (o) the demolition of The Air Balloon Public House at the location shown on sheet 2 of the works plans;
- (p) the construction of drainage attenuation basin no. 3a with associated drainage facilities, access and landscaping at the location shown on sheet 2 of the works plans;

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

- (q) construction compound no.2 of approximately 40,840 square metres at the location shown on sheet 2 of the works plans.
- (r) the construction of mammal culverts at the locations shown on sheets 4 and 5 of the works plans;
- (s) the construction of drainage attenuation basin no. 9 with associated drainage facilities, access and landscaping at the location shown on sheet 5 of the works plans
- (t) the construction of drainage attenuation basin no. 10 with associated drainage facilities, access and landscaping at the location shown on sheet 5 of the works plans;
- (u) construction compound no. 3 of approximately 73,250 square metres at the location shown on sheet 6 of the works plans;
- (v) the demolition of Crickley Hill Tractors at the location on sheet 2 of the works plans;
- (w) the demolition of Pinewood at the location on sheet 2 of the works plans;
- (x) the construction of a new access track at the location shown on sheet 1 of the works plans for the new private means of access at Alexander and Angell Ltd's premises and Flyup 417 Bike Park;
- (y) the construction of a new access track at the location shown on sheet 1 of the works plans for the new private means of access for the residential property at Flyup 417 Bike Park.

**Work No. 2** – the construction of an overbridge (Cotswold Way Crossing) for walking, cycling and horse riding over the main carriageway of the new A417 at the location shown on sheet 2 of the works plans.

**Work No. 3** – works to de-trunk the existing A417 from the existing Air Balloon roundabout to the existing Cowley roundabout at the location shown on sheets 2, 3, 5 and 6 of the works plans. To include—

- (a) the partial demolition of the existing A417 carriageway with 3m of road surface retained and the replacement of the demolished section of carriageway with a 2m surface for non-motorised users as shown on sheets 2, 3, and 5 of the works plans and the creation of an access to Crickley Ridge and Emma's Grove;
- (b) creation of an unclassified road to access the new car park from the unclassified road leading to Stockwell Farm as shown on sheet 5 of the works plans;
- (c) creation of a new car park for disabled users as shown on sheet 5 of the works plans;
- (d) the narrowing of the carriageway between Cowley roundabout and Stockwell junction as shown on sheets 5 and 6 of the works plans;
- (e) the creation of a new car park as shown on sheet 5 of the works plans;
- (f) the widening of an existing track connecting Barrow Wake car park to existing A417 and provision of a restricted byway as shown on sheets 2 and 3 of the works plans;
- (g) provision of replacement common land as shown on sheets 2 and 3 of the works plans.

**Work No. 4** – the realignment of the existing A436 and a new connecting local road (A436 link road) from the Ullenwood junction to Shab Hill junction shown on sheet 2 and sheet 4 of the works plans. To include—

- (a) the construction of Ullenwood junction at the location shown on sheet 2 of the works plans;
- (b) the demolition of the Air Balloon roundabout at the location shown on sheet 2 of the works plans;
- (c) the realignment of the existing C377 to Leckhampton Hill at the location shown on sheet 2 of the work plans;
- (d) the construction of a new connecting local road (A436 link road) between the new Ullenwood junction and Shab Hill junction shown on sheet 2 and sheet 4 of the work plans;
- (e) the realignment of the existing A436 from the new Ullenwood junction at the location shown on sheet 2 of the works plans;

- (f) the construction of drainage attenuation basins nos. 5a, 5b and 5c with associated drainage facilities, access and landscaping at the location shown on sheet 2 of the works plans.

**Work No. 5** – the construction of a multi-purpose crossing (Gloucestershire Way Crossing) to include essential ecological mitigation and with provision for walking, cycling and horse riding over the main carriageway of the new A417 and the new A436 link road at the location shown on sheet 2 of the works plans.

**Work No. 6** – the construction of a connecting local road between Shab Hill junction and B4070 at Birdlip as shown on sheet 3 and 4 of the works plans. To include—

- (a) the construction of a new roundabout (Barrow Wake roundabout) at the junction of the unclassified road 47282 at Barrow Wake and the unclassified road 50852 at the location shown on sheet 3 of the works plans;
- (b) the length of carriageway (B4070 Birdlip Road) between the new Barrow Wake roundabout to the junction of the B4070 at the location shown on sheet 3 of the works plans;
- (c) the construction of a new carriageway (B4070 Barrow Wake Road) between the new Barrow Wake roundabout to the new Shab Hill junction at the location shown on sheet 3 and 4 of the works plans;
- (d) the construction of a mammal culvert at the location shown on sheet 4 of the works plans;
- (e) the construction of new carriageway (Birdlip Radio Station Lane) northwest of the new Shab Hill roundabout to its junction with the unclassified road U50852 at the location shown on sheet 4 of the works plans;
- (f) the construction of a new carriageway (Shab Hill Farm access) south west of the new Shab Hill roundabout to its junction with the unclassified road U50853 at Shab Hill Farm at the location shown on sheet 4 of the works plans.

**Work No. 7** – the construction of a new grade separated dumbbell junction at Shab Hill (Shab Hill junction) shown on sheets 2 and 4 of the works plans. To include—

- (a) the construction of a new roundabout west of the main carriageway of the new A417 at the location shown on sheet 4 of the works plans;
- (b) the construction of a new westbound on-slip to the main carriageway of the new A417, approximately 412 metres in length at the location shown on sheet 2 and 4 of the works plans;
- (c) the construction of a new westbound off-slip from the main carriageway of the new A417, approximately 371 metres in length at the location shown on sheet 4 of the works plans;
- (d) the construction of drainage attenuation basin no 6 with associated drainage facilities, access and landscaping at the location shown on sheet 4 of the works plans;
- (e) construction of a new link road and underbridge to connect the east and west roundabouts, at the location shown on sheet 4 of the works plans;
- (f) the construction of a new eastbound off-slip from the main carriageway of the new A417, approximately 426 metres in length at the location shown on sheet 4 of the works plans;
- (g) the construction of a new eastbound on-slip to the main carriageway of the new A417, approximately 424 metres in length at the location shown on sheet 4 of the works plans;
- (h) the construction of a new roundabout east of the main carriageway of the new A417 at the location shown on sheet 4 of the works plans;
- (i) construction of drainage attenuation basin no 7b with associated drainage facilities, access and landscaping at the location shown on sheet 4 of the works plans;
- (j) construction of drainage attenuation basin no. 7a with associated drainage facilities, access and landscaping at the location shown on sheet 4 of the works plans;
- (k) construction of a new unclassified road (Ullenwood Lane) connecting the eastern roundabout at Shab Hill junction to the unclassified road U50852 at the location shown on sheet 2 and 4 of the works plans;

- (l) construction of drainage attenuation basin no 8 with associated drainage facilities, access and landscaping at the location shown on sheet 4 of the works plans;

**Work No. 8** – the construction of a new overbridge at Cowley Lane at the location shown on sheet 5 of the works plans. To include—

- (a) the construction of a realignment of the Unclassified Road U40859 (known as Cowley Lane) approximately 650 metres in length at the location shown on sheet 5 of the works plans;
- (b) the construction of an overbridge at Cowley Lane at the location shown on sheet 5 of the works plans;
- (c) The construction of stepped access between the unclassified road and the Cowley Overbridge at the location shown on sheet 5 of the works plans;
- (d) The construction of stepped access between the proposed diverted Public Right of Way the Cowley Overbridge at the location shown on sheet 5 of the works plans.

**Work No. 9** – the construction of a new overbridge at Stockwell Farm at the location shown on sheet 5 of the works plans. To include—

- (a) the construction of a private means of access to Stockwell Farm at the location shown on sheet 5 of the works plans;
- (b) the construction of a new overbridge over the main carriageway of the new A417 at the location shown on sheet 5 of the works plans;
- (c) associated drainage features, landscaping and planting at the location shown on sheet 5 of the works plans.

**Work No. 10** - the construction of a new at grade junction at Cowley at the location shown on sheet 6 of the works plans. To include—

- (a) the construction of a new roundabout connecting westbound slips onto the local network at the location shown on sheet 6 of the works plans;
- (b) the construction of a realignment of the existing A417 (Ermine Way) connecting to the new roundabout, approximately 52 metres in length at the location shown on sheet 6 of the works plans;
- (c) the construction of a realignment of the existing Climperwell Road connecting to the new roundabout, approximately 163 metres in length at the location shown on sheet 6 of the works plans;
- (d) the construction of a westbound merge and diverge connecting roads from the main carriageway of the new A417, approximately 72 metres in length at the location shown on sheet 6 of the works plans;
- (e) the construction of drainage attenuation basin no. 11a with associated drainage facilities, access and landscaping at the location shown on sheet 6 of the works plans;
- (f) the closure and demolition of the existing Cowley roundabout at the location shown on sheet 6 of the works plans;
- (g) the construction of drainage attenuation basin no. 11b with associated drainage facilities, access and landscaping at the location shown on sheet 6 of the works plans;
- (h) the construction of drainage attenuation basin no. 11c with associated drainage facilities, access and landscaping at the location shown on sheet 6 of the works plans;
- (i) the construction of an eastbound merge and diverge connecting road (Cowley junction loop) from the main carriageway of the new A417, approximately 405 metres in length at the location shown on sheet 6 of the works plans;
- (j) the construction of a private means of access and restricted byway to join the stopped-up Cowley Wood Lane at the location shown on sheet 6 of the works plans.

**Work No. 11** – the diversion of 223 metres of power cables at the location shown on sheet 1 of the works plans.

**Work No. 12** – the diversion of 753 metres of telecoms equipment at the location shown on sheet 1 and 2 of the works plans.

**Work No. 13** – the diversion of 624 metres of water pipeline at the location shown on sheets 1 and 2 of the works plans.

**Work No. 14** – the diversion of 38 metres of power cables at the location shown on sheet 1 of the works plans.

**Work No. 15** – the diversion of 310 metres of power cables at the location shown on sheets 1 and 2 of the works plans.

**Work No. 16** – the diversion of 632 metres of power cables at the location shown on sheets 1 and 2 of the works plans.

**Work No. 17** – the diversion of 583 metres of telecoms equipment at the location shown on sheet 1 and 2 of the works plans.

**Work No. 18** – the diversion of 69 metres of telecoms equipment at the location shown on sheet 2 of the works plans.

**Work No. 19** – the diversion of 242 metres of power cables at the location shown on sheet 2 of the works plans.

**Work No. 20** – the diversion of 258 metres of power cables at the location shown on sheet 2 of the works plans.

**Work No. 21** – the diversion of 47 metres of power cables at the location shown on sheet 2 of the works plans.

**Work No. 22** – the diversion of 35 metres of power cables at the location shown on sheet 2 of the works plans.

**Work No. 23** – the diversion of 2670 metres of telecoms equipment at the location shown on sheet 2, 3 and 4 of the works plans.

**Work No. 24** – the diversion of 102 metres of water pipeline at the location shown on sheet 2 of the works plans.

**Work No. 25** – the diversion of 1169 metres of telecoms equipment at the location shown on sheets 2 and 4 of the works plans.

**Work No. 26** – the diversion of 95 metres of telecoms equipment at the location shown on sheet 2 of the works plans.

**Work No. 27** – the diversion of 292 metres of telecoms equipment at the location shown on sheet 2 and 4 of the works plans.

**Work No. 28** – the diversion of 393 metres of power cables at the location shown on sheets 3 and 4 of the works plans.

**Work No. 29** – the diversion of 258 metres of telecoms equipment at the location shown on sheet 4 of the works plans.

**Work No. 30** – the diversion of 67 metres of water pipeline at the location shown on sheet 4 of the works plans.

**Work No. 31** – the diversion of 142 metres of telecoms equipment at the location shown on sheet 4 of the works plans.

**Work No. 32** – the diversion of 383 metres of power cables at the location shown on sheet 5 of the works plans.

**Work No. 33** – the diversion of 670 metres of telecoms equipment at the location shown on sheet 5 of the works plans.

**Work No. 34** – the diversion of 925 metres of telecoms equipment at the location shown on sheet 6 of the works plans.

**Work No. 35** – the diversion of 862 metres of water pipeline at the location shown on sheet 6 of the works plans.

**Work No. 36** – the diversion of 311 metres of telecoms equipment at the location shown on sheet 6 of the works plans.

In connection with the construction of any of the above works, further development within the Order limits consisting of—

- (a) works required for the strengthening, improvement, maintenance or reconstruction of any street;
- (b) the strengthening, alteration or demolition of any structure;
- (c) ramps, means of access including private means of access, public rights of way and crossing facilities;
- (d) embankments, abutments, shafts, foundations, retaining walls, barriers, parapets, drainage, outfalls, ditches, wing walls, highway lighting, fencing and culverts;
- (e) works to place, alter, remove or maintain street furniture or apparatus in a street, or apparatus in other land, including mains, sewers, drains, pipes, cables and ducts;
- (f) works to alter the course of or otherwise interfere with a watercourse, including private water supplies;
- (g) landscaping, noise bunds and barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (h) works for the benefit or protection of land affected by the authorised development;
- (i) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures); earthworks (including soil stripping and storage, site levelling); remediation of contamination;
- (j) the felling of trees;
- (k) working sites, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction-related buildings, temporary worker accommodation facilities, welfare facilities, construction lighting, haulage roads and other buildings, machinery, apparatus, works and conveniences; and
- (l) the provision of other works including pavement works, kerbing and paved areas works, signing, signals, gantries, road markings works, traffic management measures including temporary roads and such other works as are associated with the construction of the authorised development.



## SCHEDULE 2 REQUIREMENTS

Article 5

### PART 1 REQUIREMENTS

#### Interpretation

1. In this Schedule—

“contaminated land” has the same meaning as that given in section 78A of the Environmental Protection Act 1990;

“County Archaeologist” means the individual nominated or appointed as such by the relevant planning authority;

“DAMS and OWSI” means the Detailed Archaeological Mitigation Strategy and the Overarching Written Schemes of Investigation certified by the Secretary of State for the purposes of this Order;

“Design Summary Report” means the Design Summary Report certified by the Secretary of State for the purposes of this Order;

“Ecological Clerk of Works” means the individual appointed as such by the undertaker;

“EMP (construction stage)” means the construction stage environmental management plan to be submitted and approved under paragraph 3 of this Schedule;

“EMP (end of construction stage)” means the end of construction stage environmental management plan to be developed towards the end of the construction of the authorised development which is 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 authorised development; and
- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies;

“Historic England” means the Historic Buildings and Monuments Commission for England established under the National Heritage Act 1983(b), the functions of which include acting as a statutory consultee and advising the government on the historic environment, including advice to the Department of Digital, Culture, Media and Sport;

“LEMP” means the landscape and ecological management plan;

“Manual of Contract Documents for Highway Works” means the document of that name published electronically by or on behalf of the strategic highway authority for England, or any equivalent replacement published for that document;

“protected species” means species which are subject to protection under the laws of England or which are European protected species;-

“structures engineering drawings and sections” means the structures engineering drawings and sections certified by the Secretary of State for the purposes of this Order.

## **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.

## **Environmental Management Plan (Construction Stage)**

3.—(1) No part of the authorised development is to commence until a EMP (construction stage) for that part has been prepared in consultation with the relevant planning authority and the local highway authority and submitted to and approved in writing by the Secretary of State.

(2) The EMP (construction stage) must—

- (a) be substantially in accordance with the environmental management plan (design stage) certified under article 46 (certification of plans etc.);
- (b) contain a record of all the sensitive environmental features that have the potential to be affected by the construction of the proposed development;
- (c) incorporate the measures referred to in the environmental statement as being incorporated in the EMP (construction stage);
- (d) require adherence to working hours of 07:30 to 18:00 on Mondays to Friday and 08:00 to 13:00 on Saturdays, Sundays and public holidays, except for—
  - (i) night-time closures for bridge demolition and installation;
  - (ii) any oversize deliveries or deliveries where daytime working would be excessively disruptive to normal traffic operation;
  - (iii) junction tie-in works;
  - (iv) removal of overhead power lines;
  - (v) overnight traffic management measures;
  - (vi) cases of emergency;
  - (vii) any works for which different working hours have been agreed with parties who will or may be affected by those works and recorded in the approved EMP (construction stage), in which case the EMP (construction stage) must require adherence to those working hours; and
  - (viii) as otherwise agreed by the relevant planning authority in advance;
- (e) include the following management plans—
  - (i) Construction Traffic Management Plan;
  - (ii) Landscape and Ecological Management Plan;
  - (iii) Materials Management Plan;
  - (iv) Public Rights of Way Management Plan; and
  - (v) Ground and Surface Water Management Plan.

(3) The authorised development must be constructed in accordance with the approved EMP (construction stage).

(4) Upon completion of construction of the authorised development the EMP (construction stage) must be converted into the EMP (end of construction stage). The EMP (end of construction phase) must be submitted to the Secretary of State for approval within 28 days of the opening of the authorised development for public use.

(5) The authorised development must be operated and maintained in accordance with the EMP (end of construction stage) approved under sub-paragraph (4).

## **Details of consultation**

4.—(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule following consultation with another party, the details

submitted must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation.

(2) At the time of submission to the Secretary of State for approval, the undertaker must provide a copy of the summary report referred to under sub-paragraph (1) to the relevant consultees referred to in the requirement in relation to which approval is being sought from the Secretary of State.

(3) The undertaker must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, but only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.

(4) Where the consultation responses are not reflected in the details submitted to the Secretary of State for approval, the undertaker must state in the summary report referred to under sub-paragraph (1) the reasons why the consultation responses have not been reflected in the submitted details.

## **Landscaping**

**5.**—(1) No part of the authorised development is to commence until a written landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority and the local highway authority.

(2) No part of the authorised development, including vegetation clearance, is to commence until an arboricultural walkover survey and tree survey for that part, taking due regard to the guidance in British Standard 5837:2012, have been undertaken to identify any significant constraints posed by trees.

(3) The landscaping scheme prepared under sub-paragraph (1) must be based on the environmental masterplan and the results of the surveys undertaken under sub-paragraph (2).

(4) The landscaping scheme prepared under sub-paragraph (1) must include details of hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) details of existing trees to be retained, with measures for their protection during the construction period; and
- (f) implementation timetables for all landscaping works.

## **Implementation and maintenance of landscaping**

**6.**—(1) All landscaping works must be carried out in accordance with the landscaping scheme approved under paragraph 5 of this Schedule.

(2) 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, and in accordance with the Landscape and Ecological Management Plan approved as part of the EMP (construction stage) and EMP (end of construction stage) under paragraph 3 of this Schedule.

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

## **Fencing**

**7.** Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the Manual of Contract

Documents for Highway Works except where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development.

### **Land and groundwater contamination**

**8.**—(1) No part of the authorised development is to commence until a contamination risk assessment in respect of controlled waters has been produced for that part which is to include details of—

- (a) any existing sources of contamination within the Order limits that may be affected by the carrying out of the authorised development;
- (b) any reasonably required protective measures to ensure that the carrying out of the authorised development does not make worse any adverse conditions or risks associated with such existing sources of contamination; and
- (c) appropriate remediation strategies and mitigation measures to address any historic contamination which is shown to be having significant, unacceptable effects on the environment within the context of the proposed works,

and the assessment has been submitted to and approved by the Secretary of State following consultation with the Environment Agency.

(2) The steps and measures that are identified as necessary for the purposes of carrying out the authorised development in the assessment referred to in sub-paragraph (1) must be implemented as part of the authorised development.

(3) In the event that contaminated material, including impacted 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 contamination and must report it immediately in writing to the Secretary of State, the Environment Agency and the relevant planning authority, and in agreement with the Environment Agency and the relevant planning authority undertake a risk assessment of the contamination, and sub-paragraphs (4) and (5) will apply.

(4) Where the undertaker 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 prepared submitted to and approved in writing by the Secretary of State following consultation with the Environment Agency and the relevant planning authority.

(5) Remedial measures must be carried out in accordance with the approved scheme.

### **Archaeology**

**9.** —(1) No part of the authorised development is to commence until for that part a scheme for the investigation and mitigation of areas of archaeological interest, reflecting the mitigation measures included in the DAMS and OWSI, with provision for ~~sub-written site-specific~~ schemes of investigation for each area and each phase (evaluation or detailed excavation or watching brief), has been prepared in consultation with the relevant planning authority and the local highway authority, agreed with the County Archaeologist in consultation with Historic England and submitted to and approved in writing by the Secretary of State.

(2) The authorised development must be carried out in accordance with the ~~archaeological framework strategy scheme for the investigation and mitigation of areas of archaeological interest~~ and ~~sub-written site-specific~~ schemes of investigation referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State.

(3) A programme of archaeological reporting, post excavation and publication required as part of the ~~archaeological framework strategy scheme for the investigation and mitigation of areas of archaeological interest~~ and ~~sub-written site-specific~~ schemes of investigation referred to in sub-paragraph (1) must be agreed with the County Archaeologist in consultation with Historic England and implemented within a timescale agreed with the County Archaeologist and deposited with the Historic Environment Record of the relevant planning authority within two years of the date of

completion of the authorised development or such other period as may be agreed in writing by the relevant planning authority.

(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be—

- (a) retained in situ and reported to the County Archaeologist as soon as reasonably practicable; and
- (b) subject to appropriate mitigation as set out in the [archaeological framework strategy scheme for the investigation and mitigation of areas of archaeological interest](#) and mitigation agreed with the County Archaeologist.

(5) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (4) for a period of 14 days from the date the remains are reported to the County Archaeologist under sub-paragraph (4) unless otherwise agreed in writing by the Secretary of State.

(6) Prior to commencement of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be agreed with the County Archaeologist.

### **Protected species**

**10.**—(1) In the event that any protected species which were not previously identified in the environmental statement or nesting birds are found at any time when carrying out the authorised development the undertaker must cease construction works near their location and report it immediately to the Ecological Clerk of Works.

(2) The undertaker must prepare a written scheme for the protection and mitigation measures for any protected species that were not previously identified in the environmental statement or nesting birds found when carrying out the authorised development. Where nesting birds are identified works should cease within 10 metres of the nest until birds have fledged and the nest is no longer in use.

(3) The undertaker must implement the written scheme prepared under sub-paragraph (2) immediately and construction in the area specified in the written scheme must not recommence until any necessary licences are obtained to enable mitigation measures to be implemented.

### **Detailed design**

**11.**—(1) The authorised development must be designed in detail and carried out so that it is compatible with—

- (a) the preliminary scheme design shown on the works plans, the general arrangement plans, ~~and the engineering drawings and sections, and the structures engineering drawings and sections; and~~
- (b) [the design principles set out in the Design Summary Report,](#)

**11.** unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority and local highway authority on matters related to their functions and provided that the Secretary of State is satisfied that any amendments to the works plans, the general arrangement plans, and the engineering drawings and sections showing departures from the preliminary design would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement.

~~(1)~~(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding works plans, general arrangement plans or engineering drawings and sections and the undertaker must make those amended details available in electronic form for inspection by members of the public.

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

**12.**—(1) No part of the authorised development is to commence until written details of the surface and foul water drainage system for that part, reflecting the mitigation measures in chapter 13 (Road Drainage and the Water Environment) of the environmental statement and including means of pollution control, have been submitted to and approved in writing by the Secretary of State following

consultation with the relevant planning authority, the local highway authority and the Environment Agency.

(2) The drainage system must be constructed in accordance with the approved details referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority, the local highway authority and the Environment Agency.

### **Noise Mitigation**

**13.—**(1) No part of the authorised development is to commence until written details of proposed noise mitigation in respect of the use and operation of that part of the authorised development, including noise barriers and any very low noise surfacing, have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The written details referred to in sub-paragraph (1) must either reflect the mitigation measures included in the environmental statement or, where the mitigation proposed materially differs from the mitigation identified in the environmental statement, the undertaker must provide evidence with the written details submitted that the mitigation proposed would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement taking into account the mitigation identified in it.

(3) The noise mitigation must be constructed in accordance with the approved details referred to in sub-paragraph (1) and must be retained thereafter.

### **Approvals and amendments to approved details**

**14.** 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 or agreed in writing by the Secretary of State.

## **PART 2**

### **PROCEDURE FOR DISCHARGE OF REQUIREMENTS**

#### **Applications made under requirements**

**15.—**(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the Secretary of State;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 16 of this Schedule; or
- (c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

- (a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;
- (b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and

- (c) the application is accompanied by a report referred to in paragraph 4 stating that, in the view of a body required to be consulted by the undertaker under the requirement in question, the subject matter of the application is likely to give rise to any materially new or materially worse environmental effects in comparison with those reported in the environmental statement,

then the application is taken to have been refused by the Secretary of State at the end of that period.

### **Further information**

**16.—**(1) In relation to any part of an application made under this Schedule, the Secretary of State has the right to request such further information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary, the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the Secretary of State does not give such notification within this 21 day period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 18 of this Schedule and in this paragraph.

(4) In this paragraph, “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(a).

### **Register of requirements**

**17.—**(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

### **Anticipatory steps towards compliance with any requirement**

**18.** If before this Order came into force the undertaker or any other person took any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

## **SCHEDULE 3**

Articles 14 and 18

### **CLASSIFICATION OF ROADS, ETC.**

**Note 1:** The naming conventions used in this Schedule to describe roads, junctions and structures relate to the naming conventions used in the labels on the traffic regulation measures plans.

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(a) 1971 c.80.

**Note 2:** References to the national speed limit in column (3) of the table in Part 5 of this Schedule are references to the maximum speed limits specified under the 1984 Act and to provision made, or deemed to have been made, under the 1984 Act.

**PART 1**  
**TRUNK ROADS**

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Length of road</i>
Badgeworth, Cowley, Coberley Civil Parishes	A417 Trunk Road From point A on sheet 1 of the classification of roads plans to point R on sheet 6 of the classification of roads plans, for a total distance of 5470 metres
Cowley Civil Parish	A417 Trunk Road westbound on-slip From point B on sheet 2 of the classification of roads plans to point C on sheet 4 of the classification of roads plans, for a total distance of 408 metres
Cowley Civil Parish	A417 Trunk Road westbound off-slip From point D on sheet 4 of the classification of roads plans to point E on sheet 4 of the classification of roads plans, for a total distance of 371 metres
Cowley Civil Parish	A417 Trunk Road eastbound off-slip From point F on sheet 4 of the classification of roads plans to point G on sheet 4 of the classification of roads plans, for a total distance of 425 metres
Cowley Civil Parish	A417 Trunk Road eastbound on-slip From point H on sheet 4 of the classification of roads plans to point I on sheet 4 of the classification of roads plans, for a total distance of 420 metres
Cowley Civil Parish	Cowley Junction West Link Road From point J on sheet 6 of the classification of roads plans to point K on sheet 6 of the classification of roads plans, for a total distance of 54 metres
Cowley Civil Parish	Cowley Junction East Link Road From point O on sheet 6 of the classification of roads plans to point Q on sheet 6 of the classification of roads plans, for a total distance of 361 metres
Cowley Civil Parish	A417 Trunk Road westbound merge From point K on sheet 6 of the classification of roads plans to point L on sheet 6 of the classification of roads plans, for a total distance of 111 metres
Cowley Civil Parish	A417 Trunk Road westbound diverge From point M on sheet 6 of the classification of roads plans to point K on sheet 6 of the classification of roads plans, for a total distance of 113 metres
Cowley Civil Parish	A417 Trunk Road eastbound diverge From point N on sheet 6 of the classification of roads plans to point O on sheet 6 of the classification of roads plans, for a total distance of 83 metres
Cowley Civil Parish	A417 Trunk Road eastbound merge



	From point O on sheet 6 of the classification of roads plans to point P on sheet 6 of the classification of roads plans, for a total distance of 81 metres
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## PART 2

### ROADS TO BE DE-TRUNKED

<i>(1)</i> Area	<i>(2)</i> Length of road
Cowley, Coberley Civil Parishes	A417 Trunk Road between point A on sheet 2 and point B on sheet 2 of the de-trunking plans, comprising 498 metres
Cowley Civil Parish	A417 Trunk Road between point C on sheet 3 and point D on sheet 3 of the de-trunking plans, comprising 962 metres
Cowley, Brimpsfield Civil Parishes	A417 Trunk Road between point E on sheet 5 and point F on sheet 5 of the de-trunking plans, comprising 1791 metres
Cowley, Brimpsfield Civil Parishes	A417 Trunk Road between point G on sheet 6 and point H on sheet 6 of the de-trunking plans, comprising 575 metres

## PART 3

### CLASSIFIED ROADS

<i>(1)</i> Area	<i>(2)</i> Length of road
Coberley Civil Parish	The new roundabout (Ullenwood junction) at point 5 on sheet 2 of the classification of roads plans for a total distance of 135 metres
Coberley Civil Parish	C377 between points 6 and 10 on sheet 2 of the classification of roads plans, comprising 258 metres
Coberley Civil Parish	Realigned A436 between point 8 to point 9 on sheet 2 of the classification of roads plans for a total distance of 54 metres
Coberley Civil Parish	Local access road (A436 link road) between points 7 and 11a on sheet 2 of the classification of roads plans, comprising 847 metres
Cowley, Coberley Civil Parishes	Local access road (A436 link road) between points 11b and 31 on sheet 4 of the classification of roads plans, comprising 220 metres
Cowley Civil Parish	Realigned B4070 between points 14 and 16 on sheet 3 of the classification of roads plans, comprising 692 metres
Cowley Civil Parish	The new roundabout at point 15 on sheet 3 of the classification of roads plans for a total distance of 65 metres
Cowley Civil Parish	Local access road (B4070 Barrow Wake Road) between points 19 and 22a on sheet 3 of the classification of roads plans, comprising 378 metres
Cowley Civil Parish	Local access road (B4070 Barrow Wake Road) between points 22b and 27 on sheet 4 of the classification of roads plans, comprising 344 metres
Cowley Civil Parish	The new Shab Hill junction western roundabout at point 28 on sheet 4 of the classification of roads plans for a total distance of 103 metres
Cowley Civil Parish	Shab Hill junction link road between point 29 to point 30 on sheet 4 of the classification of roads plans, for a total distance of 197 metres
Cowley Civil Parish	The new Shab Hill junction eastern roundabout at point 33 on sheet 4 of the classification of roads plans for a total distance of 125 metres

Cowley, Brimpsfield Civil Parishes	Realigned Climperwell Road between point 41 and point 42 on sheet 6 of the classification of roads plans, for a total distance of 164 metres
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## PART 4

### UNCLASSIFIED ROADS

<i>(1)</i> Area	<i>(2)</i> Length of road
Badgeworth Civil Parish	Unclassified road Dog Lane between points 1 and 2 on sheet 1 of the classification of roads plans, comprising 56 metres
Badgeworth, Coberley, Cowley Civil Parishes	Unclassified road Cold Slad Lane between points 3 and 4 on sheet 2 of the classification of roads plans, comprising 722 metres
Cowley, Coberley Civil Parishes	Unclassified road between points 13 and 12a on sheet 2 of the classification of roads plans, comprising 205 metres
Cowley, Coberley Civil Parishes	Unclassified road between points 12b and 32 on sheet 4 of the classification of roads plans, comprising 235 metres
Cowley Civil Parish	Unclassified road between points 20 and 21 on sheet 3 of the classification of roads plans, comprising 58 metres
Cowley Civil Parish	Unclassified road between points 17 and 18 on sheet 3 of the classification of roads plans, comprising 38 metres
Cowley Civil Parish	Unclassified road U50853 between points 23 and 24 on sheet 4 of the classification of roads plans, comprising 115 metres
Cowley Civil Parish	Unclassified road between points 25 and 26 on sheet 4 of the classification of roads plans, comprising 73 metres
Cowley Civil Parish	Unclassified road between points 34 and 35 on sheet 5 of the classification of roads plans, comprising 18 metres
Cowley Civil Parish	Cowley Lane between point 36 to point 37 on sheet 5 of the classification of roads plans, for a total distance of 650 metres
Cowley, Brimpsfield Civil Parishes	Unclassified road between point 38 to point 39 on sheet 6 of the classification of roads plans, for a total distance of 54 metres
Cowley, Brimpsfield Civil Parishes	The new western roundabout at Cowley junction at point 40 on sheet 6 of the classification of roads plans for a total distance of 101 metres

## PART 5

### SPEED LIMITS

<i>(1)</i> Area	<i>(2)</i> Road name, number and length	<i>(3)</i> Speed limit
Badgeworth, Cowley, Coberley Civil Parishes	A417 Trunk Road From point A on sheet 1 of the speed limits plans to point N on sheet 6 of the speed limits plans, for a total distance of 5470 metres	National speed limit for dual carriageways
Badgeworth Civil Parish	Unclassified road U41137 From point 1 to point 2 on sheet 1 of the speed limits plans, for a total distance of 56 metres	National speed limit for single carriageways
Cowley Civil Parish	A417 Trunk Road westbound on-slip	National speed limit for dual carriageways

	From point B on sheet 2 of the speed limits plans to point C on sheet 4 of the speed limits plans, for a total distance of 414 metres	
Badgeworth, Coberley Civil Parishes	Unclassified road U41140 From point 3 to point 4 on sheet 2 of the speed limit plans, for a total distance of 726 metres	National speed limit for single carriageways
Coberley Civil Parish	The new Ullenwood junction At point 5 on sheet 2 of the speed limits plans for a total distance of 122 metres	50mph
Coberley Civil Parish	Classified Road C377 (Leckhampton Hill) From point 6 to point 10 on sheet 2 of the speed limits plans, for a total distance of 253 metres	50mph
Coberley Civil Parish	Existing A436 From point 8 to point 9 on sheet 2 of the speed limits plans, for a total distance of 54 metres	50mph
Coberley Civil Parish	The new local access road (A436 link road) From point 7 on sheet 2 of the speed limit plans to point 7a on sheet 2 of the speed limit plans for a total distance of 65 metres	50mph
Cowley, Coberley Civil Parishes	The new local access road (A436 link road) From point 7a on sheet 2 of the speed limits plans to point 11a on sheet 2 of the speed limits plans, for a total distance of 783 metres	National speed limit for single carriageways
Cowley, Coberley Civil Parishes	Local access road (to be known as Ullenwood Lane) From point 13 on sheet 2 of the speed limits plans to point 12a on sheet 2 of the speed limits plans, for a total distance of 205 metres	National speed limit for single carriageways
Cowley Civil Parish	Existing B4070 From point 14 to point 15 on sheet 3 of the speed limits plans, for a total distance of 90 metres	30mph
Cowley Civil Parish	Re-aligned B4070 (B4070 Birdlip Road) From point 16 to point 17 on sheet 3 of the speed limits plans, for a total distance of 760 metres	40mph
Cowley Civil Parish	The new roundabout (Barrow Wake roundabout) At point 18 on sheet 3 of the speed limits plans for a total distance of 65 metres	40mph
Cowley Civil Parish	The new local access road (B4070 Barrow Wake Road)	50mph

	From point 19 to point 22a on sheet 3 of the speed limits plans, for a total distance of 378 metres	
Cowley Civil Parish	Unclassified road off the B4070 From point 20 to point 21 on sheet 3 of the speed limits plans, for a total distance of 58 metres	National speed limit for single carriageways
Cowley Coberley Civil Parishes	The new local access road (A436 Link Road) From point 11b on sheet 4 of the speed limits plans to point 31 on sheet 4 of the speed limits plans, for a total distance of 221 metres	National speed limit for single carriageways
Cowley Coberley Civil Parishes	Local access road (Ullenwood Lane) From point 12b on sheet 4 of the speed limits plans to point 33 on sheet 4 of the speed limits plans, for a total distance of 236 metres	National speed limit for single carriageways
Cowley Civil Parish	A417 Trunk Road westbound off-slip From point D on sheet 4 of the speed limits plans to point E on sheet 4 of the speed limits plans, for a total distance of 366 metres	National speed limit for dual carriageways
Cowley Civil Parish	A417 Trunk Road eastbound off-slip From point F on sheet 4 of the speed limits plans to point G on sheet 4 of the speed limits plans, for a total distance of 419 metres	National speed limit for dual carriageways
Cowley Civil Parish	A417 Trunk Road eastbound on-slip From point H on sheet 4 of the speed limits plans to point I on sheet 4 of the speed limits plans, for a total distance of 428 metres	National speed limit for dual carriageways
Cowley Civil Parish	The new local access road (B4070 Barrow Wake Road) From point 22b to point 27 on sheet 4 of the speed limits plans, for a total distance of 373 metres	50mph
Cowley Civil Parish	Unclassified road U50853 (Birdlip Radio Station Lane) From point 23 to point 24 on sheet 4 of the speed limits plans, for a total distance of 131 metres	National speed limit for single carriageways
Cowley Civil Parish	Unclassified road off the B4070 to Shab Hill Farm (Shab Hill Farm access) From point 25 to point 26 on sheet 4 of the speed limits plans, for a total distance of 74 metres	National speed limit for single carriageways
Cowley Civil Parish	The new Shab Hill junction western roundabout	50mph

	At point 28 on sheet 4 of the speed limits plans for a total distance of 103 metres	
Cowley Civil Parish	Shab Hill junction link road From point 29 to point 30 on sheet 4 of the speed limits plans, for a total distance of 197 metres	50mph
Cowley Civil Parish	The new Shab Hill junction eastern roundabout At point 32 on sheet 4 of the speed limits plans for a total distance of 125 metres	50mph
Cowley Civil Parish	Cowley Lane realignment From point 36 to point 37 on sheet 5 of the speed limits plans, for a total distance of 651 metres	National speed limit for single carriageways
Cowley, Brimpsfield Civil Parishes	Realigned and narrowed existing A417 (to be known as Emine Way) From point 34 to point 35 on sheet 5 of the speed limits plans, for a total distance of 64 metres	40mph
Cowley Civil Parish	Cowley Junction western merge / diverge From point J on sheet 6 of the speed limits plans to point K on sheet 6 of the speed limits plans, for a total distance of 67 metres	National speed limit for single carriageways
Cowley Civil Parish	Cowley Junction eastern merge / diverge From point L on sheet 6 of the speed limits plans to point M on sheet 6 of the speed limits plans, for a total distance of 360 metres	National speed limit for single carriageways
Cowley, Brimpsfield Civil Parishes	Realigned and narrowed existing A417 (to be known as Ermine Way) From point 38 to point 39 on sheet 6 of the speed limits plans, for a total distance of 74 metres	40mph
Cowley, Brimpsfield Civil Parishes	The new western roundabout at Cowley junction At point 40 on sheet 6 of the speed limits plans for a total distance of 101 metres	National speed limit for single carriageways
Cowley, Brimpsfield Civil Parishes	Realignment of Climperwell Road From point 41 to point 42 on sheet 6 of the speed limits plans, for a total distance of 163 metres	National speed limit for single carriageways

## PART 6

### TRAFFIC REGULATION MEASURES (CLEARWAYS AND PROHIBITIONS)

(1) <i>Area</i>	(2) <i>Road name, number and length</i>	(3) <i>Measures</i>
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Badgeworth, Cowley, Coberley Civil Parishes	New A417 Trunk Road From point A on sheet 1 of the clearways and prohibitions plans to point AI on sheet 6 of the clearways and prohibitions plans, for a total distance of 5470 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	A417 Trunk Road westbound on- slip From point G on sheet 2 to point N on sheet 4 of the clearways and prohibitions plans, for a total distance of 414 metres	Clearway (to include verges)
Cowley Civil Parish	Re-aligned A436 From point E on sheet 2 to point F on sheet 2 of the clearways and prohibitions plans, for a total distance of 54 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	New local access road (A436 link road) From point D on sheet 2 to point T on sheet 4 of the clearways and prohibitions plans, for a total distance of 1068 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	The new roundabout at Ullenwood Junction At point C on sheet 2 of the clearways and prohibitions plans, for a total distance of 135 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	Re-aligned B4070 From point H to point J on sheet 3 of the clearways and prohibitions plans, for a total distance of 710 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	The new roundabout (Barrow Wake roundabout) At a point I on sheet 3 of the clearways and prohibitions plans, for a total distance of 65 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	Re-aligned B4070 From point K on sheet 3 to point L on sheet 4 of the clearways and prohibitions plans, for a total distance of 722 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	A417 Trunk Road westbound off- slip From point P to point Q on sheet 4 of the clearways and prohibitions plans, for a total distance of 366 metres	Clearway (to include verges)
Cowley Civil Parish	A417 Trunk Road eastbound off- slip From point R to point V on sheet 4 of the clearways and prohibitions plans, for a total distance of 419 metres	Clearway (to include verges)

Cowley Civil Parish	A417 Trunk Road eastbound on-slip From point W to point X on sheet 4 of the clearways and prohibitions plans, for a total distance of 427 metres	Clearway (to include verges)
Cowley Civil Parish	The new Shab Hill junction western roundabout At a point M on sheet 4 of the clearways and prohibitions plans, for a total distance of 103 metres	Clearway (to include verges)
Cowley Civil Parish	Shab Hill junction link road From point O to point S on sheet 4 of the clearways and prohibitions plans, for a total distance of 197 metres	Clearway (to include verges)
Cowley Civil Parish	The new Shab Hill junction eastern roundabout At a point U on sheet 4 of the clearways and prohibitions plans, for a total distance of 125 metres	Clearway (to include verges)
Cowley, Brimpsfield Civil Parishes	The new Cowley junction roundabout At a point Z on sheet 6 of the clearways and prohibitions plans, for a total distance of 101 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	Cowley Junction link West From point AA to point AB on sheet 6 of the clearways and prohibitions plans, for a total distance of 54 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	A417 Trunk Road westbound merge From point AB to point AC on sheet 6 of the clearways and prohibitions plans, for a total distance of 111 metres	Clearway (to include verges)
Cowley Civil Parish	A417 Trunk Road westbound diverge From point AD to point AB on sheet 6 of the clearways and prohibitions plans, for a total distance of 113 metres	Clearway (to include verges)
Cowley Civil Parish	Cowley Junction Loop link road From point AF to point AH on sheet 6 of the clearways and prohibitions plans, for a total distance of 360 metres	Clearway (to include verges and slip roads)
Cowley Civil Parish	A417 Trunk Road eastbound diverge From point AE to point AF on sheet 6 of the clearways and prohibitions plans, for a total distance of 83 metres	Clearway (to include verges)
Cowley Civil Parish	A417 Trunk Road eastbound merge From point AF to point AG on sheet 6 of the clearways and prohibitions	Clearway (to include verges)

	plans, for a total distance of 81 metres	
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## PART 7

### REVOCATIONS & VARIATIONS OF EXISTING TRAFFIC REGULATION ORDERS

<i>(1)</i> Area	<i>(2)</i> Road name, number and length	<i>(3)</i> Title of Order	<i>(4)</i> Revocations or variations
Badgeworth, Coberley, Cowley Civil Parishes	Clearways to be revoked along the length of the existing A417 from point B on sheet 1 to point AJ on sheet 2 of the clearways and prohibitions plans for a total distance of 1517 metres	The A417 Trunk Road (Brockworth Bypass, Gloucestershire) (24 Hours Clearway) Order 1997 and the A419/A417 Trunk Road (Blunsdon to Crickley Hill) (24 Hours Clearway) Order 1998	Order to be varied to remove the existing clearway over this length
Coberley, Cowley Civil Parishes	Clearways to be revoked on the existing Air Balloon roundabout at point AK on sheet 2 of the clearways and prohibitions plans for a total distance of 151 metres	The A417 Trunk Road (Brockworth Bypass, Gloucestershire) (24 Hours Clearway) Order 1997 and the A419/A417 Trunk Road (Blunsdon to Crickley Hill) (24 Hours Clearway) Order 1998	Order to be varied to remove the existing clearway over this length
Cowley, Brimpsfield Civil Parishes	Clearways to be revoked along the length of the existing A417 from point AL on sheet 2 to point Y on sheet 6 of the clearways and prohibitions plans for a total distance of 3739 metres	The A417 Trunk Road (Brockworth Bypass, Gloucestershire) (24 Hours Clearway) Order 1997 and the A419/A417 Trunk Road (Blunsdon to Crickley Hill) (24 Hours Clearway) Order 1998	Order to be varied to remove the existing clearway over this length
Coberley Civil Parish	Clearways to be revoked along the length of the existing A436 from point AM on sheet 2 to point AN on sheet 2 of the clearways and prohibitions plans for a total distance of 60 metres	The A417 Trunk Road (Brockworth Bypass, Gloucestershire) (24 Hours Clearway) Order 1997 and the A419/A417 Trunk Road (Blunsdon to Crickley Hill) (24 Hours Clearway) Order 1998	Order to be varied to remove the existing clearway over this length
Cowley Civil Parish	Clearways to be revoked along the length of the existing A436 from point AO on sheet 2 to point AP	The A417 Trunk Road (Brockworth Bypass, Gloucestershire) (24 Hours Clearway) Order 1997 and the	Order to be varied to remove the existing clearway over this length



	on sheet 2 of the clearways and prohibitions plans for a total distance of 28 metres	A419/A417 Trunk Road (Blunsdon to Crickley Hill) (24 Hours Clearway) Order 1998	
Cowley Civil Parish	Prohibition of right turn from Air Balloon pub car park onto A417 to be revoked at point 1 on sheet 2 of the clearways and prohibitions plans.	A417 Trunk Road (Birdlip Hill) (Prohibition of Right Turn) Order 2001	Order to be revoked

## PART 8

### PUBLIC RIGHTS OF WAY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Status and length of public right of way</i>
Badgeworth Civil Parish	PR1 1020 metres footpath as shown on sheet 1 of the rights of way and access plans
Badgeworth Civil Parish	PR2 24 metres footpath as shown on sheet 1 of the rights of way and access plans
Badgeworth Civil Parish	PR3 831 metres bridleway as shown on sheets 1 and 2 of the rights of way and access plans
Badgeworth Civil Parish	PR4 436 metres to be reclassified as bridleway as shown on sheets 2 and 3 of the rights of way and access plans
Badgeworth Civil Parish	PR5 460 metres bridleway as shown on sheet 2 of the rights of way and access plans
Badgeworth Civil Parish	PR6 24 metres bridleway as shown on sheet 2 of the rights of way and access plans
Badgeworth Civil Parish	PR7 155 metres bridleway as shown on sheet 2 of the rights of way and access plans
Badgeworth Civil Parish	PR8 242 metres footpath as shown on sheet 2 of the rights of way and access plans
Badgeworth Civil Parish	PR9 2870 metres restricted byway as shown on sheets 2,3 and 5 of the rights of way and access plans
Cowley Civil Parish	PR10 255 metres restricted byway as shown on sheet 2 of the rights of way and access plans
Coberley and Cowley Civil Parishes	PR11 221 metres bridleway as shown on sheet 2 of the rights of way and access plans
Coberley and Cowley Civil Parishes	PR12

	739 metres footpath as shown on sheet 2 of the rights of way and access plans
Coberley and Cowley Civil Parishes	PR13 91 metres footpath as shown on sheet 2 of the rights of way and access plans
Coberley, Cowley Civil Parishes	PR14 94 metres footpath as show on sheet 2 of the rights of way and access plans
Coberley and Cowley Civil Parishes	PR15 98 metres footpath as shown on sheet 2 of the rights of way and access plans
Coberley and Cowley Civil Parish	PR16 473 metres bridleway as shown on sheet 2 of the rights of way and access plans
Cowley Civil Parish	PR17 417 metres byway open to all traffic as shown on sheet 4 of the rights of way and access plans
Cowley Civil Parish	PR18 277 metres byway open to all traffic as shown on sheet 4 of the rights of way and access plans
Cowley Civil Parish	PR19 29 metres footpath (steps) as shown on sheet 4 of the rights of way and access plans
Cowley Civil Parish	PR20 1023 metres restricted byway as shown on sheets 4 and 5 of the rights of way and access plans
Cowley Civil Parish	PR21 208 metres footpath as shown on sheet 5 of the rights of way and access plans
Cowley Civil Parish	PR22 36 metres footpath (steps) as shown on sheet 5 of the rights of way and access plans
Cowley Civil Parish	PR23 381 metres bridleway as shown on sheet 5 of the rights of way and access plans
Cowley Civil Parish	PR24 325 metres to be reclassified as a bridleway as shown on sheets 5 and 6 of the rights of way and access plans
Cowley Civil Parish	PR25 486 metres to be reclassified as a bridleway as shown on sheets 5 and 6 of the rights of way and access plans
Cowley Civil Parish	PR26 200 metres to be reclassified as a restricted byway as shown on sheet 6 of the rights of way and access plans
Cowley Civil Parish	PR27 464 metres to be reclassified as a restricted byway as shown on sheet 6 of the rights of way and access plans
Cowley Civil Parish	PR28 60 metres footpath as shown on sheet 5 of the rights of way and access plans
Cowley Civil Parish	PR29 272 metres restricted byway as shown on sheet 3 of the rights of way and access plans
Cowley	PR30

Civil Parish	141 metres restricted byway as shown on sheet 3 of the rights of way and access plans
Cowley Civil Parish	PR31 213 metres bridleway as shown on sheet 4 of the rights of way and access plans

## SCHEDULE 4

Articles 16 and 28

### PERMANENT STOPPING UP OF HIGHWAYS AND PRIVATE MEANS OF ACCESS & PROVISION OF NEW HIGHWAYS AND PRIVATE MEANS OF ACCESS

In relating this Schedule to the rights of way and access plans, the provisions described in this Schedule are shown on the rights of way and access plans in the following manner—

- (a) Existing highways to be stopped up, as described in column (2) of Part 1 and Part 2 of this Schedule, are shown by thick black diagonal hatching (as shown in the key on the rights of way and access plans) over the extent of the area to be stopped up, which is described in column (3) of Part 1 and Part 2 of this Schedule, and are given a reference label (a capital letter and number in a rectangle).
- (b) New highways which are to be substituted for a highway to be stopped up (or which are otherwise to be provided), as are included in column (4) of Part 2 of this Schedule, are shown by red cross-hatching (for motorways and trunk roads), black stippling (for other classified roads and highways) and solid blue shading (for public rights of way) (as shown in the key on the rights of way and access plans) and are given a reference label (a capital letter in a circle for new highway and a PR number in a circle for new public rights of way) and will be a road unless otherwise stated beneath its reference letter in column (4) of Part 2 of this Schedule.
- (c) Private means of access to be stopped up, as described in column (2) of Parts 3 and 4 of this Schedule, are shown by solid black shading (as shown in the key on the rights of way and access plans) over the extent of stopping up described in column (3) of Parts 3 and 4 of this Schedule and are given a reference label (a lower case letter in a circle).
- (d) New private means of access to be substituted for a private means of access to be stopped up (or which are otherwise to be provided), as are included in column (4) of Part 4 of this Schedule, are shown by blue diagonal hatching (as shown in the key on the rights of way and access plans) and are given a reference label (a number in a circle).

## PART 1

### HIGHWAYS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
<i>Rights of way and access plans – Sheet 1</i>		
Badgeworth Civil Parish	Badgeworth bridleway 125 – reference A2	652 metres of its entire length

## PART 2

### HIGHWAYS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW HIGHWAYS WHICH ARE OTHERWISE TO BE PROVIDED

(1) Area	(2) Highway to be stopped up	(3) Extent of stopping up	(4) New Highway to be substituted/provided
<i>Rights of way and access plans – Sheet 1</i>			
Badgeworth Civil Parish	Badgeworth footpath 78 – Reference A1	115 metres between Badgeworth footpath 77 and Badgeworth Bridleway 125	Reference PR1 A new footpath for a total length of 1020 metres
Badgeworth Civil Parish	Badgeworth Footpath 77 – Reference A3	307 metres between Badgeworth footpath 78 and Badgeworth Bridleway 125	Reference PR1 A new footpath for a total length of 1020 metres
Badgeworth Civil Parish	Badgeworth Footpath 74 – Reference A4	328 metres at the northern extent of Badgeworth footpath 74 to Badgeworth bridleway 125	Reference PR2 and PR1 New footpaths for total lengths of 24 metres (PR2) and 1020 metres (PR1)
Badgeworth Civil Parish	Badgeworth footpath 126 – Reference A6	298 metres between Badgeworth footpath 80 and Badgeworth footpath 84	Reference PR1 A new footpath for a total length of 1020 metres
Badgeworth Civil Parish	Badgeworth footpath 80 – Reference A5	38 metres of its northern extent to Badgeworth bridleway 125	Reference PR1 A new footpath for a total length of 1020 metres
Badgeworth Civil Parish	Badgeworth footpath 84 – Reference A7	179 metres of its northern extent	Reference PR1 A new footpath for a total length of 1020 metres
Badgeworth Civil Parish	-	-	Reference A A new length of Dog Lane for a length of 53 metres south of the U41137
<i>Rights of way and access plans – Sheets 1 and 2</i>			
Badgeworth Civil Parish	-	-	Reference PR3 A new length of bridleway for a length of 831 metres between Dog Lane and Cold Slad Lane
<i>Rights of way and access plans – Sheet 2</i>			
Badgeworth Civil Parish	Badgeworth bridleway 87 – Reference A9	56 metres at its northern extent	Reference PR6 A new bridleway for a length of 24 metres through new Grove Farm underpass

Badgeworth Civil Parish	Badgeworth Bridleway 87 – Reference A10	22 metres at its northern extent	Reference PR7 A new bridleway for a length of 155 metres through new Grove Farm underpass
Badgeworth and Cowley Civil Parishes	Cowley Footpath 24 – Reference A11	163 metres at its western extent	Reference PR8 A new footpath for a length of 242 metres
Badgeworth and Cowley Civil Parishes	Badgeworth Footpath 89 Reference A12	171 metres at its northern extent	Reference PR8 A new footpath for a length of 242 metres
Cowley Civil Parish	Unclassified road – Reference A28	255 metres between Barrow Wake car park and the existing A417	Reference PR10 A new length of restricted byway for a length of 255 metres from Barrow Wake car park to the new restricted byway over the northern section of the repurposed A417 <a href="#">including a right to drive animals along PR10 shown hatched green and labelled CM1 on Inset J.</a>
Coberley Civil Parish	-	-	Reference PR11 A new length of bridleway for a length of 221 metres between Leckhampton Hill and Cold Slad Lane
Cowley and Coberley Civil Parishes	-	-	Reference PR12 A new footpath for a total length of 739 metres
Coberley Civil Parish	-	-	Reference PR13 A new footpath for a total length of 91 metres
Cowley Civil Parish	Coberley footpath 15 – Reference A14	91 metres at its southern end	Reference PR14 A new footpath for a length of 94 metres
Cowley Civil Parish	Cowley footpath 3 Reference A15	73 metres at its western end to Coberley footpath 16	Reference PR16 A new bridleway for a length of 473 metres incorporating the new Gloucestershire Way crossing
Coberley Civil Parish	Coberley footpath 16 – Reference A16	71 metres at its easterly extent	Reference PR15 and PR16 A new footpath for a length of 98 metres and a new bridleway for a length of 473 metres incorporating

			the new Gloucestershire Way crossing
Cowley, Coberley, Badgeworth Civil Parishes	-	-	Reference B A new length of unclassified road south west of the proposed Ullenwood junction for a length of 719 metres
Coberley Civil Parish	-	-	Reference C A new length of C377 from its junction with the new Ullenwood junction for a length of 250 metres
Coberley Civil Parish	-	-	Reference D A new length of the re-aligned A436 from its junction with the new Ullenwood junction for a length of 50 metres
Coberley Civil Parish	-	-	Reference E A new circulatory carriageway north east of the existing A436 roundabout for a length of 135 metres
<i>Rights of way and access plans – Sheet 2 and 3</i>			
Badgeworth Civil Parish	Badgeworth footpath 86 – Reference A8	508 metres at its northern extent	Reference PR4 436 metres reclassified as bridleway
<i>Rights of way and access plans – Sheets 2 and 4</i>			
Coberley Civil Parish	-	-	Reference F A new length of classified road (A436 link road) south east of the new Ullenwood junction for a length of 1066 metres
Cowley Civil Parish	U50852 – Reference A17	222 metres from a point north east of the Birdlip Radio Station to a point south of Ullenwood	Reference G A new length of unclassified road (Ullenwood Lane) north east of Shab Hill junction for a length of 438 metres
<i>Rights of way and access plans – Sheets 2, 3 and 5</i>			
Badgeworth, Cowley and Coberley Civil Parishes	<i>A417 Trunk Road – Reference A27</i>	<i>2805 metres from south of the Air Balloon public house to the unclassified</i>	Reference PR9 A new length of restricted byway for a length of 2870 metres from Cold Slad Lane

		<i>road leading to Stockwell Farm</i>	to the unclassified road leading to Stockwell Farm
Badgeworth, Cowley and Coberley Civil Parishes	<i>Footway forming part of A417 Trunk Road (Cotswold Way National Trail) – Reference A13</i>	<i>152 metres from south of the Air Balloon public house to a point south of Air Balloon cottages</i>	Reference PR9 A new length of restricted byway for a length of 2870 metres from Cold Slad Lane to the unclassified road leading to Stockwell Farm <u>including a right to drive animals along that part of PR9 shown hatched green and labelled CM1 on Inset J.</u>
<i>Rights of way and access plans – Sheet 3</i>			
Cowley Civil Parish	-	-	Reference S A new circulatory carriageway (Barrow Wake roundabout) connecting the classified B4070 Barrow Wake Road and the B4070 Birdlip Road
Cowley Civil Parish	-	-	Reference T A new length of classified road (B4070 Birdlip Road) to its junction with the Barrow Wake roundabout for a length of 687 metres
Cowley Civil Parish	-	-	Reference U A new unclassified northern link road to the new Barrow Wake roundabout for a length of 34 metres
Cowley Civil Parish	-	-	Reference V A new southern length of unclassified road from the B4070 Barrow Wake Road for a length of 17 metres
Cowley Civil Parish	B4070 – Reference A30	From a point west of the existing A417 to the new B4070 at Birdlip Road for a length of 272 metres	Reference PR29 A new length of restricted byway for a length of 272 metres from B4070 Birdlip Road to the new restricted byway over

			the northern section of the repurposed A417.
Cowley Civil Parish	-	-	Reference PR30 A new length of restricted byway for a length of 141 metres from the new restricted byway over the northern section of the repurposed A417 to the realigned unclassified road south of B4070 Barrow Wake Road.
<i>Rights of way and access plans – Sheet 3 and 4</i>			
Cowley Civil Parish	-	-	Reference K A new length of classified road (B4070 Barrow Wake Road) from its junction with the Barrow Wake roundabout to the new western roundabout of the dumbbell junction at Shab Hill for a length of 715 metres
<i>Rights of way and access plans – Sheet 4</i>			
Cowley Civil Parish	U50853 – Reference A18	302 metres from a point west of the new A417 mainline to the new byway open to all traffic PR17	Reference PR17A A new length of byway open to all traffic from its junction with the U50853 to the new unclassified road (Ullenwood Lane) east of Shab Hill junction for a length of 417 metres Reference PR18 A new length of byway open to all traffic from its junction with the U50853 to the U50944 for a length of 277 metres
Cowley Civil Parish	Cowley footpath 7 – Reference A19	11 metres at its southern extent	Reference PR18 A new length of byway open to all traffic from its junction with the U50853 to the U50944 for a length of 277 metres
Cowley Civil Parish	U50944 - Reference A31	193m at its northern extent	Reference PR18



			A new length of byway open to all traffic from its junction with the U50853 to the U50944 for a length of 277 metres
Cowley Civil Parish	-	-	Reference PR19 A new footpath (steps) for a length of 29 metres
Cowley Civil Parish	U50852 – Reference A29	213 metres from a point west of U50853 to the new B4070 Birdlip Road	Reference PR31 A new bridleway for a length of 213 metres from B4070 Barrow Wake Road to U50852.
Cowley Civil Parish	-	-	Reference H A new circulatory carriageway forming the eastern roundabout of the new dumbbell junction at Shab Hill for a length of 125 metres
Cowley Civil Parish	-	-	Reference I A new link between the western and eastern roundabouts of the new dumbbell junction at Shab Hill for a length of 197 metres
Cowley Civil Parish	-	-	Reference J A new circulatory carriageway forming the western roundabout of the new dumbbell junction at Shab Hill for a length of 103 metres
Cowley Civil Parish	-	-	Reference L The re-aligned northern U50853 to its junction with the U50852 for a new length of 115 metres
Cowley Civil Parish	-	-	Reference M The re-aligned U50853 to its junction with the B4070 Barrow Wake Road for a length of 79 metres
Cowley	-	-	Reference N

Civil Parish			Re-aligned U50853 to its junction with the U40859 for a length of 18 metres
<i>Rights of way and access plans – Sheet 4 and 5</i>			
Cowley Civil Parish	Cowley restricted byway 26 – Reference A20	804 metres stopped up along its entire length	Reference PR20 A new restricted byway for a length of 1023 metres
Cowley Civil Parish	U40859 – Reference A21	186 metres stopped up along its entire length	Reference O Re-aligned length of the U40859 north of Cowley roundabout for a length of 699 metres
<i>Rights of way and access plans – Sheets 5</i>			
Cowley Civil Parish	Cowley restricted byway 36 – Reference A22	383 metres of its entire length	References O and PR20 Cowley restricted byway 36 to be diverted over realigned length of unclassified U40859 north of Cowley roundabout for a length of 561 metres and to be diverted onto new restricted byway PR20 for a length of 407 metres
Cowley Civil Parish	-	-	Reference PR21 A new footpath for a total length of 208 metres
Cowley Civil Parish	-	-	Reference PR22 A new footpath (steps) for a total length of 36 metres
Cowley Civil Parish	Cowley footpath 22 – Reference A23	241 metres stopped up along its eastern extent where served by the scheme	Reference PR23 A new bridleway for a length of 381 metres incorporating the new Stockwell overbridge
Cowley Civil Parish	-	-	Reference PR28 A new footpath for a total length of 60 metres
<i>Rights of way and access plans – Sheets 5 and 6</i>			
Brimpsfield and Cowley Civil Parishes	-	-	Reference R The existing A417 north west of the existing Cowley roundabout to its junction with the access to Stockwell

			junction for a length of 1280 metres
Cowley Civil Parish	Cowley footpath 21 – Reference A24	325 metres of its entire length	Reference PR24 325 metres reclassified as bridleway
Cowley Civil Parish	Cowley footpath 22 – Reference A25	559 metres stopped up along its extent	Reference PR25 Reclassified and new bridleway for a length of 486 metres
<i>Rights of way and access plans – Sheet 6</i>			
Brimpsfield and Cowley Civil Parishes	-	-	Reference P New unclassified road (realigned former A417) west of the existing Cowley roundabout for a length of 158 metres
Brimpsfield and Cowley Civil Parishes	-	-	Reference Q A new circulatory carriageway forming the western roundabout at Cowley junction for a length of 101 metres
Brimpsfield and Cowley Civil Parishes	U40861 – Reference A26	664 metres stopped up from its southern end to private means of access for Harding’s Barn	Reference PR26 A new restricted byway for a length of 200 metres Reference PR27 A new bridleway for a length of 464 metres

### PART 3

#### PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Private means of access to be stopped up</i>	<i>(3) Extent of stopping up</i>
Badgeworth Civil Parish	Reference b Access to field south of the existing A417 (T) as shown on sheet 1 of the rights of way and access plans	From the existing A417(T) for a length of 23 metres as shown on sheet 1 of the rights of way and access plans
Cowley Civil Parish	Reference h Access to fields north west of new A417 mainline as shown on sheet 2 of the rights of way and access plans	At a point from the existing U50852 Cowley for a length of 78 metres

## PART 4

### PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW PRIVATE MEANS OF ACCESS WHICH ARE OTHERWISE TO BE PROVIDED

(1) Area	(2) Private means of access to be stopped up	(3) Extent of stopping up	(4) New private means of access to be substituted/provided
<i>Rights of way and access plans – Sheet 1</i>			
Badgeworth Civil Parish	Reference a Access to Crickley Hill Farm east of C195 Bentham Lane	At a point west of its junction with the C195 for a length of 984 metres	Reference 1 A new private access to Crickley Hill Farm to the east of C195 Bentham Lane for a length of 846 metres south of its existing access  A new private access to Crickley Hill Farm to the east of C195 Bentham Lane for a length of 320 metres south of its existing access
<i>Rights of way and access plans – Sheet 2</i>			
Badgeworth Civil Parish	Reference c Access to Grove Farm south west of the existing A436 Roundabout	At a point south west of the existing A436 roundabout for a length of 224 metres	Reference 2 A new private access to Grove Farm south west of the existing A436 roundabout for a length of 295 metres north east of its existing access
Coberley Civil Parish	Reference d Access to Ullenwood Bharat Cricket Club	At a point north of the existing A436 roundabout for a length of 14 metres	Reference 3 A new private access to Ullenwood Bharat Cricket Club north of the existing A436 roundabout for a length of 108 metres
Cowley Civil Parish	Reference e Access to Crickley Ridge south west of the existing A436 roundabout	At a point south west of the existing A436 roundabout for a length of 13 metres	Reference 4 A new private access to Crickley Ridge south west of the existing A436 roundabout for a length of 370 metres south of its existing access
Coberley and Cowley Civil Parishes	Reference f Access to Cuckoopen Farm south east of the	At a point south east of the existing A436 roundabout for a length of 124 metres	Reference 5 A new private access to Cuckoopen Farm south east of the

	existing A436 roundabout		existing A436 roundabout for a length of 40 metres east of its existing access
Coberley and Cowley Civil Parishes	Reference g Access to Rushwood Kennels and Cattery south east of the existing A436	At a point south east of the existing A436 roundabout for a length of 70 metres	Reference 6 A new private access to Rushwood Kennels and Cattery south east of the existing A436 roundabout for a length of 74 metres east of its existing access
Cowley Civil Parish	-	-	Reference 7 A new private access to Crickley Hill Country Park for a length of 28 metres east of the existing access
Cowley Civil Parish	-	-	Reference 11 A new private access to Emma's Grove south west of the existing A436 roundabout for a length of 108 metres west of the existing access
<i>Rights of way and access plans – Sheet 3</i>			
Cowley Civil Parish	-	-	Reference 8 A new private access to the western end of the B4070 for a length of 146 metres
<i>Rights of way and access plans – Sheet 5</i>			
Cowley Civil Parish	Reference i Access to Stockwell Farm north of the existing Cowley roundabout	At a point north of the existing Cowley roundabout for a length of 208 metres	Reference 9 A new private access to Stockwell Farm north of the existing Cowley roundabout for a length of 381 metres east of its existing access
<i>Rights of way and access plans – Sheet 6</i>			
Cowley Civil Parish	-	-	Reference 10 A new private means of access to Harding's Barn, Fosse Farm, Keeper's cottage and B.&M. Babbage & Co. Limited's premises from east of U40861 for a length of 665 metres

SCHEDULE 5

Article 27

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>	<i>(3)</i> <i>Relevant part of the authorised development</i>
<i>Land Plans – Sheet 1</i>		
1/1s	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter an existing drainage network	11, 1e
1/1w	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution	11
1/1y	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter an existing drainage network	11, 1e
1/1z	New right to construct, use, protect, inspect, maintain and alter an existing drainage network New right to construct, use, protect, inspect, maintain and alter an existing drainage network	11, 1e
1/1ac	New right to construct, use, protect, inspect, maintain and alter an existing drainage network	1e
1/1af	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes New right to construct, use, protect, inspect, maintain and alter an existing drainage network	12, 1, 1h
1/1aj	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	12, 1
1/1ak	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	12, 1
1/1am	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	13, 1
1/2	New right to construct, use, protect, inspect, maintain and alter an existing drainage network	1e
1/3a	New right to construct, use, protect, inspect, maintain and alter drainage apparatus	1a

1/3b	New right to construct, use, protect, inspect, maintain and alter drainage apparatus	1a
1/3c	New right to construct, use, protect, inspect, maintain and alter drainage apparatus	1a
1/5c	New right to construct, use, protect, inspect, maintain and alter drainage apparatus	1e
1/19d	New right to construct, use, protect, inspect and maintain a public right of way New right to construct, use, protect, inspect and maintain a private means of access for the benefit of Flyup 417 Bike Park	1-10, 1y
1/19e	New right to construct, use, protect, inspect, maintain and alter electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter drainage apparatus and equipment	11 1x
1/19n	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/19s	New right to construct, use, protect, inspect, maintain and alter drainage apparatus and equipment	1
1/19u	New right to construct, use, protect, inspect, maintain and alter electrical apparatus and equipment for the benefit of Western Power Distribution	11
1/19v	New right to construct, use, protect, inspect, maintain and alter electrical apparatus and equipment for the benefit of Western Power Distribution	11
1/20	New right to construct, use, protect, inspect, maintain and alter an existing drainage network	1e
1/20a	New right to construct, use, protect, inspect, maintain and alter an existing drainage network	1h
1/20b	New right to construct, use, protect, inspect, maintain and alter an existing drainage network	1h
1/21	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	12, 1
1/21a	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/22	New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	12, 1
1/23	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	13, 1
1/23c	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	14
1/24	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1

1/24a	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	14
1/25a	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	14
1/25b	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications	15, 17
1/26a	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/26b	New right to construct, use, protect, inspect, maintain and alter electrical apparatus and equipment for the benefit of Western Power Distribution A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	16, 1
1/26c	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/27a	New right to construct, use, protect, inspect and maintain a public right of way	1-10
1/28	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of British Telecommunications	15, 17
1/30	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	15, 17, 1
1/31	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	15, 1
1/31a	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/32	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	15, 17, 1
1/33	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1



1/34	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/34a	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
1/35	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	17, 15, 1
1/36	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	15, 17, 1
<i>Land Plans – Sheet 2</i>		
2/1	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	17, 1
2/1a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	17, 1
2/1g	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/2	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	17, 15, 1
2/3	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/4	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/5	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications	1, 17
2/6	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	17, 1

2/7	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/8	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/9	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/9a	A sub-soil right to construct, use, protect, inspect and maintain longitudinal sub-surface drainage pipes	1
2/10a	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications	16, 17
2/10c	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	16
2/13b	New right to construct, use, protect, inspect and maintain a new soakaway and equipment for the benefit of Gloucestershire County Council	1k
2/13e	New right to construct, use, protect, inspect and maintain a new boundary feature New right to construct, use, protect, inspect and maintain a public right of way	4c, 1-10
2/13g	New right to construct, use, protect, inspect and maintain a new boundary feature New right to construct, use, protect, inspect and maintain a public right of way	4c, 1-10
2/15a	New right to construct, use, protect, inspect and maintain a new boundary feature	1
2/15b	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	13
2/16a	New right to construct, use, protect, inspect and maintain a new soakaway and equipment for the benefit of Gloucestershire County Council	1k
2/21	New right to construct, use, protect, inspect and maintain a public right of way	3a
2/21e	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	20
2/29	New right to construct, use, protect, inspect and maintain a public right of way New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	1-10, 24
2/29a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear	24, 25
2/30	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24

<i>Land Plans – Sheet 3</i>		
3/15c	New right to construct, use, protect, inspect and maintain a new boundary feature	6c
3/15d	New right to construct, use, protect, inspect and maintain a new boundary feature New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	6c, 28
<i>Land Plans – Sheet 4</i>		
4/2a	New right to construct, use, protect, inspect and maintain a new boundary feature	6c
4/2c	New right to construct, use, protect, inspect and maintain a new boundary feature	6c
4/2d	New right to construct, use, protect, inspect and maintain new mammal culvert	6d
4/2k	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	28
4/2r	New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 9 with associated drainage facilities, access and landscaping	1s
4/3a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/3b	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of Gigaclear New right to construct, use, protect, inspect and maintain a public right of way	28, 29, 31, 1-10
4/3d	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear	28, 29, 24, 31
4/3e	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications	24, 29, 31

	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	
4/3f	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
4/4	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/4a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/5a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/5b	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	28, 29
4/6a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of Gigaclear New right to construct, use, protect, inspect and maintain a public right of way	28, 29, 31, 1-10
4/7a	New right to construct, use, protect, inspect and maintain a new boundary feature	6
4/7d	New right to construct, use, protect, inspect and maintain access to an existing structure for environmental mitigation	1-10
4/7f	New right to construct, use, protect, inspect and maintain a new power supply for A417 mainline technology equipment for the benefit of Western Power Distribution	1
4/7g	New right to construct, use, protect, inspect and maintain access to an existing structure for environmental mitigation	1-10
4/8	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/9	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24
4/9a	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	24, 28, 29, 31

	<p>New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of Gigaclear</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p>	
4/9b	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p>	24, 29, 31
4/9d	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p>	24, 29, 31
4/10a	<p>New right to construct, use, protect, inspect and maintain access to an existing structure for environmental mitigation</p>	1-10
4/11	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p> <p>New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution</p>	24, 28, 29, 31
4/11a	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p>	24, 29, 31
4/12	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p>	24, 29, 31

	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p>	
4/12a	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p>	24, 29, 31
4/12b	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p>	24, 29, 31
4/13	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p>	24, 29, 31
4/13a	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p>	24, 29, 31
4/14	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications</p> <p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water</p>	24, 29, 31
4/15	<p>New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear</p>	24, 29, 31

	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	
4/16	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	24, 29, 31
<i>Land Plans – Sheet 5</i>		
5/3a	New right to construct, use, protect, inspect and maintain a new boundary feature	8
5/3d	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	32
5/3e	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	32
5/3g	New right to construct, use, protect, inspect and maintain new electrical apparatus and equipment for the benefit of Western Power Distribution	32
5/3h	New right to construct, use, protect, inspect and maintain a new boundary feature New right to construct, use, protect, inspect and maintain new maintenance track	8, 1t
5/3n	New right to construct, use, protect, inspect and maintain a new boundary feature	8
5/3v	New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 10 with associated drainage facilities, access and landscaping	1t
5/3w	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 9 with associated drainage facilities, access and landscaping	32, 1s
5/3x	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Western Power Distribution	32
5/3z	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water New right to construct, use, protect, inspect and maintain a public right of way	35, 1-10
5/3aa	New right to construct, use, protect, inspect and maintain a public right of way New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 10 with associated drainage facilities, access and landscaping	1-10, 1t

5/3ac	New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 9 with associated drainage facilities, access and landscaping	1s
5/3af	New right to construct, use, protect, inspect and maintain a new boundary feature	8
5/3ah	New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of Gigaclear	33
5/3aj	New right to construct, use, protect, inspect and maintain a new underground fibre optic cable and equipment for the benefit of Gigaclear	33
5/4f	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear	33
5/5g	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Gigaclear	33
<i>Land Plans – Sheet 6</i>		
6/5	New right to construct, use, protect, inspect and maintain a public right of way	1-10
6/5a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water New right to construct, use, protect, inspect and maintain a public right of way	35, 1-10
6/5c	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water New right to construct, use, protect, inspect and maintain a new boundary feature	1, 35
6/5j	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	35
6/7a	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of Severn Trent Water	35
6/8	New right to construct, use, protect, inspect, maintain and alter statutory undertakers apparatus for the benefit of British Telecommunications New right to construct, use, protect, inspect and maintain a new underground pipeline and equipment for the benefit of Severn Trent Water	34, 35
6/8e	New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 11 with associated drainage facilities, access and landscaping	10h
6/8g	New right to construct, use, protect, inspect and maintain drainage attenuation basin no. 11 with associated drainage facilities, access and landscaping	10h
6/9	New right to construct, use, protect, inspect and maintain a new power supply for A417 mainline technology equipment for the benefit of Western Power Distribution	1



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

**Compensation enactments**

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

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

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

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the Compulsory Purchase Act 1965 (as modified by paragraph 5(5) of Schedule 6 to the A417 Missing Link Development Consent Order 20[•] (the “A417 Missing Link Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the Compulsory Purchase Act 1965 (as substituted by paragraph 5(8) of Schedule 6 to the A417 Missing Link Order) to acquire an interest in the land; and
- (c) the acquiring authority enter on and take possession of that land,

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

3.—(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-paragraph (2).

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

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

**Application of Part 1 of the 1965 Act**

4. Part 1 of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 30 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 24 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 27(1) (compulsory acquisition of rights and restrictive covenants)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

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

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(a) 1973 c.26.

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

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

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

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

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

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

are modified 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.

(5) Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 24), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(a) (powers of entry: further notices of entry), 11B(b) (counter-notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

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

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 30(4) is also 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 enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

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

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(a) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).  
(b) Section 11B was inserted by section 187(2) of the above Act.

**“SCHEDULE 2A**  
**COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT**  
**IN NOTICE TO TREAT**

**Introduction**

**1.**—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 31 (application of the 1981 Act) of the A417 Missing Link Development Consent Order 20[•] in respect of the land to which the notice to treat relates.

(2) But see article 32(3) (acquisition of subsoil or airspace only) of the A417 Missing Link Development Consent Order 20[•] which excludes the acquisition of subsoil or airspace only from this Schedule.

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

**Counter-notice requiring purchase of land**

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

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

**Response to counter-notice**

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

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

**6.** The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

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

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

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

**Determination by the Upper Tribunal**

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

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

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

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

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

**14.—(1)** If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

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

**15.** Any dispute as to the compensation is to be determined by the Upper Tribunal.”

## SCHEDULE 7

Article 34

### LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> Location	<i>(2)</i> Plot Reference Number shown on land plans	<i>(3)</i> Purpose for which temporary possession may be taken	<i>(4)</i> Relevant part of the authorised developme nt
<i>Land Plans – Sheet 1</i>			
Badgeworth Civil Parish	1/1b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/1c	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1d	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1e	Required to inspect and good existing drainage culvert	1e
Badgeworth Civil Parish	1/1f	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/1g	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1

Badgeworth Civil Parish	1/1h	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1k	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1m	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1n	Required for the protection of existing vegetation	1
Badgeworth Civil Parish	1/1p	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1q	Required for the provision of and to provide working space and temporary access for works associated with the provision of planting Required to inspect and make good existing drainage culvert	1, 1e
Badgeworth Civil Parish	1/1ad	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/1ae	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline Required to inspect and make good existing drainage culvert	1, 1e
Badgeworth Civil Parish	1/ah	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/4	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/5	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/5a	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/5b	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/6	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/7	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/8	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/9	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/10	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/10a	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/11	Required to inspect and make good existing drainage culvert	1e

Badgeworth Civil Parish	1/11a	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/12	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/13	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/13a	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/14	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/17	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/18	Required to inspect and make good existing drainage culvert	1e
Badgeworth Civil Parish	1/19	Existing WPD overhead line to be dismantled Required for the provision of and to provide working space and temporary access for works associated with the Flyup 417 Bike Park private means of access, A417 mainline and mitigation planting	11 1x
Badgeworth Civil Parish	1/19a	Required for the provision of temporary car parking for Flyup 417 Bike Park Required for the provision of and to provide working space and temporary access for works associated with the Flyup 417 Bike Park private means of access and essential mitigation planting	1x
Badgeworth Civil Parish	1/19b	Required for the provision of and to provide working space and temporary access for works associated with the Flyup 417 Bike Park private means of access and maintenance access for the benefit of Western Power Distribution and the undertaker	1x
Badgeworth Civil Parish	1/19f	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Flyup 417 Bike Park private means of access	1y
Badgeworth Civil Parish	1/19g	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Badgeworth Civil Parish	1/19h	Required for the provision of and to provide working space and temporary access for works associated with the A417, Flyup 417 Bike Park private means of access and essential mitigation planting	1 1y
Badgeworth Civil Parish	1/19j	Required to facilitate the stopping up of an existing public right of way	1y
Badgeworth Civil Parish	1/19k	Required for the provision of and to provide working space and temporary access for the	1f

		new A417, watercourse diversion and associated essential mitigation planting	
Badgeworth Civil Parish	1/19o	Required for the provision of and to provide working space and temporary access for works associated with Flyup 417 Bike Park private means of access and essential mitigation planting	1 1x
Badgeworth Civil Parish	1/19r	Required for the provision of and to provide working space and temporary access for works associated with essential mitigation planting	1
Badgeworth Civil Parish	1/19t	Required for the provision of and to provide working space and temporary access for works associated with the Flyup 417 Bike Park private means of access and maintenance access for the benefit of Western Power Distribution and the undertaker	1x
<i>Land Plans – Sheet 2</i>			
Badgeworth Civil Parish	2/10d	Required for the provision of and to provide working space and temporary access for works associated with the provision of the private means of access and turning area for Grove Farm	11
Coberley Civil Parish	2/13d	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realigned Leckhampton Hill and protection of existing vegetation	4c
Coberley Civil Parish	2/13f	Required for the construction of new private means of access for Crickley Hill Country Park	4c
Badgeworth Civil Parish	2/13h	Required for the construction of new private means of access for Crickley Hill County Park	4c
Cowley Civil Parish	2/16	Required for the widening of an existing track and provision of a new restricted byway	3f
Coberley Civil Parish	2/20	Required for the construction of new private means of access for Air Balloon Cottages	1k
Coberley Civil Parish	2/21a	Required for the provision of and to provide working space and temporary access for vegetation management	1-10
Coberley Civil Parish	2/21b	Required for the provision of and to provide working space and temporary access for vegetation management	1-10
Cowley Civil Parish	2/21d	Required for the provision of and to provide working space and temporary access for vegetation management	1-10
Coberley Civil Parish	2/21n	Required for the provision of a site compound, including but not limited to site offices, welfare facilities, parking for workers' private vehicles and work vehicles, storage of plant, materials and top soil, and the treatment of site-generated waste	1q
Cowley Civil Parish	2/24c	Required for the provision of and to provide working space and temporary access for	4c

		works associated with the provision of the realigned Leckhampton Hill	
Cowley Civil Parish	2/26	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A436 tie-in at Ullenwood junction	4e
Coberley Civil Parish	2/27a	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realigned Leckhampton Hill	4c
Cowley, Coberley Civil Parishes	2/28a	Required for the provision of and to provide working space and temporary access for works associated with the provision of the attenuation basins and to provide screening works during construction	4f
Coberley Civil Parish	2/28b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the attenuation basins and to provide screening works during construction	4f
Coberley Civil Parish	2/28c	Required for the provision of and to provide working space and temporary access for works associated with the provision of the temporary outfall from associated attenuation basins during construction	4f
Coberley Civil Parish	2/28d	Required for the provision of and to provide working space and temporary access for works associated with the provision of the temporary outfall from associated attenuation basins during construction	4f
Coberley Civil Parish	2/30a	Required for the provision of and to provide working space and temporary access for works associated with the provision of a new public right of way	5
Coberley Civil Parish	2/35a	Required for the provision of and to provide working space and temporary access for works associated with the provision of Ullenwood Lane and associated private means of access	7k
Cowley Civil Parish	2/36a	Required for the provision of and to provide working space and temporary access for works associated with the provision of Ullenwood Lane and associated private means of access	7k
<i>Land Plans – Sheet 3</i>			
Cowley Civil Parish	3/1j	Required for Barrow Wake Car Park landscaping	1-10
Cowley Civil Parish	3/7a	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 to Birdlip and associated boundary treatment	6b
Cowley Civil Parish	3/12b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the	6b



		B4070 Birdlip Road and associated boundary treatment	
Cowley Civil Parish	3/12f	Required for the provision of and to provide working space and temporary access to construct a new boundary wall along Barrow Wake Car Park	1-10
Cowley Civil Parish	3/13a	Required for the widening of an existing track and provision of a new restricted byway Required for Barrow Wake Car Park landscaping	1-10
Cowley Civil Parish	3/15b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 and associated boundary treatment	6c
Cowley Civil Parish	3/15e	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 and associated boundary treatment	6c
<i>Land Plans – Sheet 4</i>			
Cowley Civil Parish	4/2	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 and associated boundary treatment	6c
Cowley Civil Parish	4/2f	Required for the provision of and to provide working space and temporary access to construct new mammal crossing and B4070	6c 6d
Cowley Civil Parish	4/2g	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 and associated boundary treatment	6c
Cowley Civil Parish	4/2h	Required for the provision of and to provide working space and temporary access for works associated with the provision of B4070 and associated boundary treatment	6c
Cowley Civil Parish	4/2j	Required for the provision of and to provide working space and temporary access for works associated with the alteration of Severn Trent Water statutory undertakers apparatus Required for the provision of and to provide working space and temporary access for works associated with the alteration of British Telecommunications statutory undertakers apparatus	24, 29
Cowley Civil Parish	4/2m	Required for the provision of and to provide working space and temporary access for works associated with the provision of byway open to all traffic	1
Cowley Civil Parish	4/2n	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline	1
Cowley Civil Parish	4/2q	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1

Cowley Civil Parish	4/7	Required for the provision of and to provide working space and temporary access for works associated with the provision of the B4070 and associated boundary treatment	6c
Cowley Civil Parish	4/7j	Required to facilitate the stopping up of an existing public right of way Required for the provision of and to provide working space and temporary access for works associated with the provision of a byway open to all traffic	1
Cowley Civil Parish	4/7m	Required for the provision of and to provide working space and temporary access and protection of existing vegetation	7
Cowley Civil Parish	4/9e	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Shab Hill junction	7, 7b
Cowley Civil Parish	4/17a	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Shab Hill junction	7, 7k
Cowley Civil Parish	4/17c	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Shab Hill junction and protection of existing vegetation	7
<i>Land Plans – Sheet 5</i>			
Cowley Civil Parish	5/3b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	5/3c	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of Cowley Lane and associated boundary treatment	8 8a
Cowley Civil Parish	5/3f	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of existing track and public right of way	8
Cowley Civil Parish	5/3j	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	5/3k	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of Cowley Lane and associated boundary treatment	8
Cowley Civil Parish	5/3m	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of existing track	8

Cowley Civil Parish	5/3s	Required to facilitate the stopping up of an existing public right of way	8
Cowley Civil Parish	5/3t	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	5/3u	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	5/3y	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	5/3ab	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Severn Trent Water works	35
Cowley Civil Parish	5/3ad	Required to facilitate the stopping up of an existing public right of way Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of Cowley Lane	8 8a
Cowley Civil Parish	5/4d	Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of Cowley Lane	8 8a
Cowley Civil Parish	5/5e	Required for the dismantling of existing Gigaclear apparatus Required for the provision of and to provide working space and temporary access for works associated with the provision of the realignment of Cowley Lane	8 8a
<i>Land Plans – Sheet 6</i>			
Cowley Civil Parish	6/1p	Required for the provision of construction access	1
Cowley Civil Parish	6/5b	Required for the provision of and to provide working space and temporary access for works associated with the provision of the Severn Trent Water works	35
Cowley Civil Parish	6/5e	Required for the provision of and to provide working space and temporary access for works associated with the provision of the A417 mainline and associated boundary treatment	1
Cowley Civil Parish	6/5g	Required for the provision of and to provide working space and temporary access for works associated with the provision of planting	1-10
Cowley Civil Parish	6/5h	Required for the provision of and to provide working space and temporary access for	1

		works associated with the provision of the A417 mainline and associated boundary treatment	
Brimpsfield Civil Parish	6/8b	Required for the provision of and to provide working space and temporary access for works associated with the provision of Cowley junction and associated boundary treatment	10
Brimpsfield Civil Parish	6/8d	Required for the provision of and to provide working space and temporary access for works associated with the provision of attenuation basin and associated boundary treatment	10h
Brimpsfield Civil Parish	6/8f	Required for the provision of and to provide working space and temporary access for works associated with the provision of attenuation basin and associated boundary treatment	10h
Cowley Civil Parish	6/10a	Required for the provision of and to provide working space and temporary access for works associated with the provision of a private means of access and restricted byway	10j
Cowley Civil Parish	6/10b	Required for the provision of a site compound, including but not limited to site offices, welfare facilities, parking for workers' private vehicles and work vehicles, storage of plant, materials and topsoil, and the treatment of site-generated waste	1u

## SCHEDULE 8

Article 45

### PROTECTIVE PROVISIONS

#### PART 1

#### FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

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

2. In this Part of this Schedule—

“alternative 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 utility 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 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 utility undertaker for the purposes of water supply; and

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(a) 1989 c.29.

(b) 1986 c.44.

- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the utility undertaker under the Water Industry Act 1991<sup>(a)</sup>; 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 (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act<sup>(b)</sup>,

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 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;

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

“utility undertaker” means—

- (e) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
  - (f) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
  - (g) a water undertaker within the meaning of the Water Industry Act 1991; and
  - (h) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,
- for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs 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 utility undertaker 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 16 (permanent stopping up and restriction of use of streets and private means of access), any utility undertaker 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 utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker 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 15 (temporary stopping up and restriction of use of streets), a utility undertaker 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.

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(a) 1991 c.56.

(b) Section 104 was amended by section 42(3) of the Flood and Water Management Act 2010 (c.29).

### **Protective works to buildings**

5. The undertaker, in the case of the powers conferred by article 22 (protective works 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 requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use 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 utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 48 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself 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 utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

### **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 utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 48 (arbitration).

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

### **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 utility undertaker 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 utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) are to 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 utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 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 it must give to the utility undertaker 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 utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2).

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

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

- (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 48 (arbitration) to be necessary then, if such placing involves cost exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

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

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

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

**11.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 5 or 7(2) 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 utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

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

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

(2) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (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 neglect or default of a utility undertaker, its officers, servants, contractors or agents.

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

## Cooperation

**12.** Where in consequence of the proposed construction of any part of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph



9, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker 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 utility undertaker in respect of any apparatus 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<sup>(a)</sup>;

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

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

“electronic communications code network” means—

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

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7 (infrastructure system) of that code; and

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

**16.** The exercise of the powers conferred by article 36 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

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

- (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 the authorised development), 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

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(a) 2003 c.21.

(b) Section 106 was amended by section 4 of the Digital Economy Act 2017.

expenses, loss, damages, penalty or costs incurred by it by reason, or in consequence of, any such damage or interruption.

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

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise 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 48 (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 in land belonging to the undertaker on the date on which this Order is made.

## PART 3

### FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

**20.** The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

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

“the Agency” means the Environment Agency;

“construction” includes placing, altering, replacing, relaying, removing and excavating and “construct” and “constructed” are to be construed accordingly;

“drainage work” means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence or tidal monitoring and any ancillary works constructed as a consequence of works carried out for drainage purposes;

“fishery” means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

“main river” means all watercourses shown as such on the statutory main river maps held by the Agency and the Department for Environment Food and Rural Affairs including any structure or appliance for controlling or regulating the flow of water in or out of such watercourses;

“plans” includes sections, drawings, specifications, calculations and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 8 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
- (b) affect the flow, purity or quality of water in any watercourse or other surface waters or ground water;
- (c) cause obstruction to the free passage of fish or damage to any fishery;

- (d) affect the conservation, distribution or use of water resources; or
- (e) affect the conservation value of the main river and habitats in its immediate vicinity.

**22.—**(1) Before commencing construction of any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 28.

(3) Any approval of the Agency required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) in the case of a refusal must be accompanied by a statement of grounds of refusal;
- (c) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans or receipt of further particulars if such particulars have been requested by the Agency for approval; and
- (d) may be given subject to such reasonable requirements as the Agency may make for the protection of any drainage work, fishery or water resources or for the prevention of flooding or pollution or in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(c).

**23.** Without limitation on the scope of paragraph 22, but subject always to the provisions of that paragraph as to reasonableness, the requirements which the Agency may make under that paragraph include—

- (a) a requirement for the undertaker to carry out monitoring during the implementation of any de-watering scheme approved by the Agency under this paragraph and to supply data arising from that monitoring to the Agency;
- (b) a requirement for the undertaker not to prevent or materially restrict the Agency's use of any access route during construction of the specified work or, where that is not possible owing to the nature of the work, a requirement for the undertaker to provide for use by the Agency during construction of the specified work a reasonably suitable alternative to the access route; and
- (c) conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—
  - (i) to safeguard any drainage work against damage; or
  - (ii) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,
 by reason of any specified work.

**24.—**(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 23, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Schedule; and
- (b) to the reasonable satisfaction of the Agency,

and the Agency is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of the specified work to which the protective works relate.

(4) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(5) Subject to sub-paragraph (6) if, within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any expenditure reasonably incurred by the Agency in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not except in the case of an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined in accordance with paragraph 28.

**25.—**(1) Subject to sub-paragraph (6), the undertaker must from the commencement of the construction of a specified work until the date falling 12 months from the date of completion of such specified work (“the maintenance period”), maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation and on land held by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence. Upon the expiry of the maintenance period, the drainage work must be maintained by the highway authority of the highway to which the specified work relates.

(2) If any such drainage work is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the person liable for maintenance to repair and restore the work, or any part of such work, or (if the person liable for maintenance so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (5), if, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the person liable for maintenance, that person has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is reasonably necessary for such compliance and any expenditure reasonably incurred by the Agency in so doing will be recoverable from that person.

(4) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions the Agency may serve written notice requiring the undertaker to cease all or part of the specified works and the undertaker must cease the specified works or part of them until it has obtained the consent or complied with the condition unless the cessation of the specified works or part of them would cause greater damage than compliance with the written notice.

(5) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 30.

(6) This paragraph does not apply to—

- (a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of this Order from doing so; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part of this Schedule.

**26.** If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure reasonably incurred by the Agency in doing so from the undertaker.

**27.** If by reason of construction of a specified work the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must provide such alternative means of access that will allow the Agency to access the flood defence or equipment no less effectively than was possible before the obstruction within 24 hours of the undertaker becoming aware of such obstruction.

**28.—(1)** The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in a fishery during the construction of any specified work.

(2) If by reason of—

- (a) the construction of any specified work; or
- (b) the failure of any such work,

damage to a fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage or, as the case may be, to protect the fishery against such damage.

(3) If within such time as may be reasonably practicable for that purpose after the receipt of written notice from the Agency of any damage or expected damage to a fishery, the undertaker fails to take such steps as are required under sub-paragraph (2), the Agency may take those steps and any expenditure reasonably incurred by the Agency in so doing will be recoverable from the undertaker.

**29.—(1)** The undertaker must repay to the Agency all costs, charges, expenses, damages and losses not otherwise provided for in this Part of this Schedule which may be reasonably incurred or suffered by the Agency by reason of—

- (a) the examination or approval of plans under this Part of this Schedule;
- (b) the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule;
- (c) the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works; or
- (d) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.

(2) The fact that any act or thing may have been done—

- (a) by the Agency on behalf of the undertaker; or
- (b) by the undertaker, its employees, contractors or agents in accordance with plans or particulars submitted to or modifications or conditions specified by the Agency, or in a manner approved by the Agency, or under its supervision or the supervision of its duly authorised representative,

does not excuse the undertaker from liability under the provisions of this paragraph.

(3) Nothing in sub-paragraph (2) imposes any liability on the undertaker with respect to any costs, charges, expenses, damages or losses to the extent that they are attributable to the act, neglect or default of the Agency, its officers, servants, contractors or agents.

(4) The Agency must give the undertaker written notice of any such claim or demand as is referred to in sub-paragraph (1) as soon as it becomes aware of such claim or demand, and no settlement or compromise of any such claim or demand is to be made without the prior consent of the undertaker, such consent not to be unreasonably conditioned, withheld or delayed. Any dispute arising between the undertaker and the Agency under this Part of this Schedule is to be determined by arbitration under article 48 (arbitration).

## SCHEDULE 9

Article 46

### DOCUMENTS TO BE CERTIFIED

<i>(1)</i> <i>Documents</i>	<i>(2)</i> <i>Document Reference</i>	<i>(3)</i> <i>Revision</i>
Book of reference	Volume 4, Document 4.3	
Works plans	Volume 2, Document 2.4	
Land plans	Volume 2, Document 2.2	
Rights of way and access plans	Volume 2, Document 2.5	
Classification of roads plans	Volume 2, Document 2.7c	
Special category land plans	Volume 2, Document 2.3	
Clearways and prohibitions plans	Volume 2, Document 2.7b	
De-trunking plans	Volume 2, Document 2.8	
Speed limits plans	Volume 2, Document 2.7a	
Environmental masterplan	Volume 2, Document 6.3, Figure 7.11	
General arrangement plans	Volume 2, Document 2.6a	
Engineering drawings and sections	Volume 2, Document 2.6b	
Environmental statement	Volume 6, Documents 6.2 to 6.4	
Environmental management plan (design stage)	Volume 2, Document 6.4, Appendix 2.1	
Cotswold Way national trail diversion report	Volume 7, Document 11	
Detailed Archaeological Mitigation Strategy and the Overarching Written Schemes of Investigation	Volume 2, Document 6.4, Appendix 2.1	
<u>Design Summary Report</u>	<u>Volume 1, Document 7.7</u>	
<u>Structures engineering drawings and sections</u>	<u>Volume 2, Document 2.6c</u>	

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises National Highways Limited to construct, operate and maintain the A417 Missing Link, and carry out all associated works.

This Order permits National Highways Limited 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, general arrangement plans, book of reference and environmental statement mentioned in this Order and certified in accordance with article 46 (certification of plans etc.) may be inspected free of charge during working hours at National Highways, Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ.