



The Planning Inspectorate Yr Arolygiaeth Gynllunio

The Planning Act 2008

Norton Bridge Area Improvements

Examining Authority's Report of Findings and Conclusions

and

**Recommendation to the
Secretary of State for Transport**

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Examining Authority

The Examining Authority's findings and conclusions and recommendation in respect of an application for a Development Consent Order for railway development including associated development that comprises a new section of railway and a grade separated junction at Norton Bridge, Staffordshire.

Date: 3 January 2014

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File Ref TRO40004

- The application, dated 18 December 2012, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 19 December 2012.
- The applicant is Network Rail Infrastructure Limited.
- The application was accepted for examination on 10 January 2013.
- The examination of the application began on 19 April 2013 and was completed on 14 October 2013.
- The development proposed is a new 6.8 kilometres (km) section of railway consisting of a new twin track section diverging from the existing West Coast Main Line (WCML) at Little Bridgeford and running to the west of the WCML to a new junction at Searchlight Lane where a single track forks off to reconnect to the WCML north of Norton Bridge at Heamies Bridge and the twin track section turns north to cross over the WCML on a new intersection bridge before rejoining the existing Stone Line at Yarnfield Junction. The construction of the railway includes the construction of new permanent cuttings and embankments, the construction of new bridges and widening of bridges to cross the River Sow and the Meece Brook, footpaths and the WCML and related works including drainage, foundations and permanent way (rail tracks). Additional works include a major realignment of the B5026 highway, the diversions of Searchlight Lane and Scannell Lane, the temporary widening of Chebsey Lane, the diversion of two public footpaths including the provision of a new footbridge over the Stone Line, the diversion of watercourses and the diversion of two major gas pipe-lines and one fuel pipe-line.

Summary of Recommendation: The Examining Authority recommends that the Secretary of State for Transport should make the Order in the form attached.

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ERRATA SHEET – Norton Bridge Area Improvements – Ref.TR040004

**Examining authority's Report of Findings and Conclusions and
Recommendation to the Secretary of State for Transport dated 3
January 2014**

**Corrections agreed by the Examining authority prior to a decision
being made**

Page Number	Correction
3	Para. 2.8, 7 th – 8 th line – “.... Parliamentary <u>Under</u> Secretary of State”
43	Para. 4.127, 9 th line – “affect” not “affect <u>ed</u> ”; Para. 4.129, 4 th line – “look <u>ing</u> ” not “looked”
48	Para. 5.4, 4 th line – “R <u>iv</u> er” not “Rover”
53	Footnote 173 – “APP-0 <u>47</u> ” not “APP-012”
54	Footnote 179 - “APP-0 <u>47</u> ” not “APP-012”
56	Para. 7.21, 5 th line – “..... would <u>be</u> derived”
81	Chapter 8 main heading – “DEVELOPMENT” not “DEVEL <u>E</u> OPMENT”
84	Para. 8.19, 8 th line – “structur <u>ally</u> ” not “structural”
88	Para. 8.36, last line – “article <u>35</u> (2)” not “article 25(2)”

1 INTRODUCTION

- 1.1 On 15 March 2013 I was appointed to be the Examining Authority (ExA) for the examination of this application.
- 1.2 The main events of the examination and procedural decisions taken during the examination are listed in detail in Appendix A. I held a Preliminary Meeting on 18 April 2013. As set out in the timetable I held an open floor hearing on 19 June 2013 at Chebsey Village Hall and issue-specific hearings on landscape and ecology matters (24 July 2013) and on the draft Development Consent Order (20 June and 11 September 2013) at The Post House, Stafford. A hearing into the proposed compulsory acquisition was held on 23 July 2013.
- 1.3 In addition to a number of unaccompanied site visits to see the line of the proposed new railway and the surrounding area, I carried out an inspection of the site in the company of the applicant and interested parties on 19 June 2013. The itinerary, location plan and attendance list for this accompanied site visit are at Documents EV-011, EV-012 and EV-013.
- 1.4 Thirty nine relevant representations were received from Interested Parties (IPs) within the statutory period and I accepted one late representation as an Other Party¹.
- 1.5 In addition to consent required under the Planning Act 2008 (PA2008) (the subject of this report and recommendation), the proposed development needs other consents and permits. These are described further in Chapter 2 below and in Appendix H.
- 1.6 This document sets out in accordance with section 83(1)(b)(i) of PA2008 my findings and conclusions in respect of the application and my recommendation to the Secretary of State under section 83(1)(b)(ii) of the PA2008.

¹ In accordance with Rule 10(3) of the Infrastructure Planning (Examination Procedure) Rules 2010

2 MAIN FEATURES OF THE SITE AND THE PROPOSAL

The site

- 2.1 The site is located some 6.5km northwest of Stafford on a complex section of the WCML and centred around the Norton Bridge railway junction. The main scheme area is to the west of the WCML with the M6 about 2km to the east. The physical extent of the permanent works and temporary land take for construction works (within the Order limits) covers approximately 112 hectares (ha). The location of the application site in relation to Stafford, Stoke-on-Trent, Birmingham, the WCML, M6 and M54 can be seen on the location plan at Appendix 1 of the Planning Statement (Document APP-018).
- 2.2 The route of the new railway is through a largely rural area, comprising mainly arable fields and grassland and an area of woodland known as Yelds Rough. The topography is undulating and the new railway would cross the floodplains of two watercourses, the River Sow and its tributary, the Meece Brook. Downstream the River Sow feeds the Doxey and Tillington Marshes which lie to the north of Stafford and are designated as a Site of Special Scientific Interest (SSSI).
- 2.3 In addition to the villages of Norton Bridge and Shallowford to the east, Chebsey to the west, Little Bridgeford to the south and Yarnfield to the north, the area is characterised by a scatter of individual residential properties and farm buildings. The station at Norton Bridge was closed some years ago.

The proposal

- 2.4 The WCML runs in a northerly direction from Stafford through the Norton Bridge junction where it bears off to the west towards Crewe and the Stone Branch line goes north taking trains to Manchester.
- 2.5 Network Rail Infrastructure Ltd (NR) propose to construct a new section of railway to the west of the existing WCML to provide a grade separated junction to replace the existing flat junction at Norton Bridge².
- 2.6 At its southern end the new twin track section would diverge from the WCML at Little Bridgeford, pass through a deep cutting and split to the north of Searchlight Lane. The line to Stone would rise on embankment to cross the WCML and the Meece Brook and its floodplain north of Norton Bridge whilst a new single line would fork off the flyover tracks and rejoin the WCML further north at

² The proposed railway layout is shown on the site overview map in the ES Volume 4 at Figure 2.1 (Document APP-046). At the compulsory acquisition hearing NR provided me with a more detailed drawing (Document EV-048) which is very useful in showing the full length of the scheme with details of the bridges and the land take.

Heamies Bridge. The new sections of track would be fitted with Overhead Line Electrification (OLE) equipment.

2.7 Associated development³ would include -

- the construction of ten new bridges, including a new footbridge over the railway, and the widening of two existing bridges;
- the realignment of the B5026 (Stone Road) and a new roundabout junction with Meece Road;
- diversions of Searchlight Lane and Scannell Lane;
- a temporary upgrade of the A5013/Chebsey Lane junction;
- diversions of the River Sow and the Meece Brook;
- the diversion of a footpath that runs alongside the existing WCML;
- the diversion of two high pressure gas pipelines and a fuel pipeline;
- mitigation earthwork bunds;
- surface water disposal arrangements;
- diversion of services; and
- three permanent maintenance compounds, located next to the three railway junctions, with associated vehicle access.

2.8 During the course of the examination, further information was provided by NR on the details of the scheme, more particularly on the proposed landscaping, ecology and highway works, which I consider in more detail in Chapter 4 below, but no substantive modifications were made by the applicant to the scheme as submitted. The Secretary of State will be aware of the letter dated 28 November 2011 from Bob Neill MP, then Parliamentary Secretary of State for Planning. It is my view that in this case and having regard to the application made, the Secretary of State has power under s114 of PA2008 to make a DCO.

The construction phase

2.9 Subject to the grant of the Order, NR estimate a total construction period of 33 months with the programme designed to allow for specific periods of construction to occur at night and over the Christmas or Easter holidays when there would be planned closures of the WCML. In addition the programme allows for planned summer outages for the gas pipeline diversions.

2.10 The scheme provides for an internal haul road running through the site which would cross Searchlight Lane and Stone Road (B5026) at temporary crossings which would be controlled by temporary traffic signals.

³ There is a full description of the works and associated development in the ES Volume 2 Section 2.5 (Document APP-021), in the Planning Statement Chapter 3 (Document APP-018) and in the draft DCO at Schedule 1.

- 2.11 Further detail on the construction phase is given in the ES Volume 2 at sections 2.7 to 2.9 (Document APP-021).

When operational

- 2.12 The project is part of a programme of improvement works in the Stafford Area which I deal with in more detail in Chapter 4 below when I consider the need for the project. Implementation of the scheme would allow for delivery of the Department for Transport's new timetable for the WCML in 2017. It would provide additional capacity on the WCML. The upgrading of the junction would allow trains to travel at faster speeds through Norton Bridge.
- 2.13 In the same manner as the existing WCML and the Stone Branch line, the new tracks would be the subject of regular maintenance and safety checks and NR staff would use the 3 new maintenance compounds that are proposed to be provided next to the new junctions.

Other consents

- 2.14 In addition to consent required under the PA2008, the implementation of the project would require other consents. These are listed at Section 10 of the applicant's Statement of Reasons (Document APP-047). The list was updated by NR in its response to one of my first round questions which also gives detail on progress made in obtaining these consents. NR's updated list of consents required is at Document REP-036.
- 2.15 Amongst others, the applicant has agreed Statements of Common Ground (SOCGs) with Staffordshire County Council (as Highway Authority), the Environment Agency and with Natural England⁴. These also provide information on progress towards obtaining other consents required. In response to my questions further information was given on progress at the issue specific hearings.
- 2.16 As well as the consents which relate to the DCO application, applications have been made for advance works separate from the DCO process. So as to carry out early preparatory works, applications have been made to Stafford Borough Council (SBC) for non-DCO consented works. Permission was granted in January 2013 for the diversion of the fuel pipeline⁵ and the associated construction compound and access onto the B5026 have been constructed. SBC is considering, but had not yet determined by the close of the examination, an application for preparatory works in connection with the southern construction compound and in

⁴ SOCGs are Documents PD-044 to PD-060 and updated SOCG on nature conservation and ecology Document REP-100.

⁵ The permission for application 12/17771/FUL for diversion of pipeline; associated construction compound; temporary access on land off Stone Road (B5026), Norton Bridge and the officer's report is attached as Appendix A to the Local Impact Report (Document PD-040).

advance of the gas pipeline diversions⁶. In addition permission has been granted for the formation of six new ponds at Shallowford House for Great Crested Newt habitat⁷. To allow time for the ponds to settle and provide the optimum habitat, work has started on creating the replacement habitat in advance of a decision on the scheme.

- 2.17 Whilst a great deal has been done by the applicant and the relevant authorities, at the time the examination closed not all the consents related to the DCO application were in place although I have no reason to believe that they would not be granted at the appropriate time. A list of other consents is at Appendix H. I report on this further in Chapter 4 below.

⁶ The application 13/18944/FUL is for 'widening of Chebsey Lane road junction; temporary work compound; temporary haul roads; temporary bailey bridge to span the River Sow'. There is a link to the application at Document EV-083.

⁷ Permission was granted by SBC on 13.2.13 (12/17832/FUL) (Document PD-041). Work commenced on site on 26.4.13 (see Document REP-036 - Appendix 8 to NR's responses to ExA's first round questions)

3 LEGAL AND POLICY CONTEXT

- 3.1 At the time of closing the examination there was no designated national policy statement (NPS) in relation to railway projects under the PA2008 (nor had any relevant draft NPS been published). In such cases, section 105 of the PA2008 applies and requires that the Secretary of State in deciding the application must have regard to 'any local impact report', 'any matters prescribed in relation to the development of the description to which the application relates', and 'any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision'.
- 3.2 The Draft NPS for National Networks was published in December 2013. It sets out the need for development of the national rail network, wider Government policy on the national networks, assessment principles and generic impacts. It is subject to consultation and the Secretary of State may wish to consider what weight it should be given in the determination of this application.
- 3.3 The National Infrastructure Plan 2013 was published at the same time and sets out the Government's plans for the next decade and beyond and refers in the National Infrastructure Pipeline to NR's commitments in Control Periods 4 and 5. I deal with this in more detail in Chapter 4 when I consider need for the project.
- 3.4 The following legislation, policy and guidance are in my view relevant and important matters for the determination of this application.

European Requirements and Related UK Regulations

Habitats Directive⁸ and Birds Directive⁹

- 3.5 The UK is bound by the terms of the EU Birds and Habitats Directives (the Directives) and the Ramsar Convention¹⁰. The Directives form the cornerstone of Europe's nature conservation policy. It is built around two pillars: the Natura 2000 network of protected sites (the European sites) and a strict system of species protection. The directives protect over 1000 animals and plant species and over 200 habitat types (for example: special types of forests; meadows; wetlands; etc.), which are of European importance. The Ramsar Convention protects wetlands of international importance especially as waterfowl habitat.

⁸ Council Directive 92/43/EEC

⁹ Council Directive 2009/147/EC

¹⁰ Convention on wetlands of international importance especially as waterfowl habitat Ramsar, Iran 2.2.71 as amended by the Paris Protocol 3.12.92 and the Regina amendments adopted at the extraordinary conference of contracting parties at Regina, Saskatchewan between 28.5 and 3.6.87.

The Conservation of Habitats and Species Regulations 2010 (as amended)¹¹

- 3.6 The Habitats Regulations (and the 2012 Amendment Regulations) (the Habitats Regulations) are the principal means by which the Habitats Directive is transposed in England and Wales and provide for the protection of European sites and European protected species and plants.
- 3.7 It is Government policy that listed or proposed Ramsar sites should be given the same protection as European sites¹².
- 3.8 On that basis, the Directives and the Habitats Regulations are relevant to this application as the Cop Mere SSSI, a component site of the Midlands Meres and Mosses Ramsar site (Phase 2), is approximately 5.3km to the west of the project site¹³. The applicant has prepared a draft Habitats Regulation Assessment (HRA) which concludes that there is no likely significant effect on this Ramsar site and that an appropriate assessment is not required¹⁴.
- 3.9 Licences in respect of European protected species may be issued where there is no satisfactory alternative and the action authorised by the licence would not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range. Natural England (NE) is the licensing authority in most cases. The applicant accepts that the development would have an impact on European protected species and nationally protected species and proposes avoidance, mitigation and compensation measures and related methodologies. I deal with these matters in Chapter 4 below.

The Environmental Impact Assessment Directive¹⁵

- 3.10 Environmental Impact Assessment (EIA) is a process to assess the likely environmental effects of a project in order that decision makers may take these effects into account in making their determination. EIA is required in certain circumstances by European law and is implemented in English law in respect of projects requiring development consent pursuant to the PA2008 under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 as amended (EIA Regulations 2009)¹⁶.

¹¹ Statutory Instrument 2010 No. 490

¹² Paragraph 5 ODPM Circular 06/2005 Biodiversity and Geological Conservation - statutory obligations and their impact within the planning system and the NPPF paragraph 118 6th bullet.

¹³ Document APP-009 has plans identifying statutory and non-statutory sites or features of nature conservation habitats and water bodies.

¹⁴ Document APP-014

¹⁵ Council Directive 85/337/EEC as amended)

¹⁶ Statutory Instrument 2009 No. 2263

- 3.11 The application is for EIA development. It includes an Environmental Statement (ES) in 4 volumes, comprising a main statement, a non technical summary, figures and a set of 17 technical appendices¹⁷. I am satisfied that the ES meets the definition given in regulation 2(1) of the EIA Regulations 2009. Additional environmental information was received during the course of the examination in the form of detailed responses from the applicant¹⁸ and interested parties.
- 3.12 The ES and the additional environmental information deal with the environmental effects of the proposed development both during the construction phase and when it is operational. I consider these effects in Chapter 4 below.
- 3.13 In reaching my conclusions and making my recommendation I have taken into consideration all the environmental information, as defined in regulation 2(1) of the EIA Regulations 2009 (including the ES and any other information on the environmental effects of the development) since the Secretary of State is, where relevant, required to take this information into consideration before granting development consent in accordance with regulation 3(2) of the EIA Regulations 2009.

Water Framework Directive¹⁹

- 3.14 All activities that interact with the water environment must take the Directive into consideration and it requires a Water Framework Directive (WFD) assessment²⁰ to be undertaken to determine the effects of any proposed scheme or development which has the potential to significantly impact on any surface or groundwater body. As a large rail improvement project, the proposed scheme has the potential to impact on the River Sow and Meece Brook. The ES included a WFD assessment which was subsequently redrafted to address comments received from the Environment Agency²¹. I consider that this is a matter that is both important and relevant to the Secretary of State's decision.

National Policy and Legislation

Government Transport Policy

- 3.15 There is no designated national policy statement on the rail network. Relevant statements of Government policy on railways are contained in the White Paper 'Delivering a Sustainable Transport System' (DaSTS), published by the Department for

¹⁷ Documents APP-020 to APP-046

¹⁸ I am satisfied that this additional environmental information is 'any other information' as defined in the EIA Regulations 2009.

¹⁹ Council Directive 2000/60/EC

²⁰ The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003

²¹ Document EV-095

Transport (DfT) in November 2008, and in the White Paper 'Delivering a Sustainable Railway' published by DfT in July 2007.

- 3.16 DaSTS sets out the Government's response to the Eddington Transport Study and the Stern Review. It sets 5 goals for transport. These include supporting national economic competitiveness and growth, by delivering reliable and efficient transport networks; to contribute to better safety, security and health; to promote greater equality of opportunity; and to improve quality of life. In addition there is an objective to reduce transport's emissions of carbon dioxide and other greenhouse gases to address climate change and promotion of a healthy natural environment.
- 3.17 The DaSTS sets out the Government's aims for fitting these goals together along with an expectation that the development of the transport system collectively to support all five goals is a fundamental principle underpinning the approach to appraising transport schemes.
- 3.18 There is reference in the DaSTS to the Climate Change Act 2008 (then only a Bill) with its mandatory target of a reduction of 80% in greenhouse gas emissions by 2050. It indicates that DfT will be addressing this issue by such measures as rail electrification and development of improved road vehicle technology as well as behavioural changes.
- 3.19 In terms of economic priorities, it accepts the Eddington analysis that there are localised acute congestion problems that lead to delay and unpredictable journey times on strategic routes. In the short to medium term a policy of improving reliability and resilience and providing appropriate capacity is advocated concentrating 'on the lowest carbon transport mode that can actually meet the requirements of the goods or people movement'²².
- 3.20 Strategic National Corridor 8, which covers London to the West Midlands, North Wales, the North West and Scotland, is described as facing a number of challenges if it is to continue to support the goal of economic growth. It is a key artery for freight with growing pressure on the roads and railways. Annex 1 paragraph A1.37 confirms support for capacity improvements to remove the bottleneck at Stafford and upgrading of the WCML power supply.
- 3.21 The 2007 White Paper 'Delivering a Sustainable Railway' also identifies increasing capacity as the most urgent investment need²³. Chapters 3 and 4 note the need for capacity enhancements and investment in the resilience of the network so

²² DaSTS paragraph 2.12

²³ Executive Summary quoted in NR's Planning Statement Document APP-018 paragraph 6.17

that the rail network can continue to contribute to sustainable economic growth.

- 3.22 The White Papers are in my view relevant and important to the decision on this application.
- 3.23 NR has a responsibility under its Network Licence to translate these high level requirements into a practical delivery plan through the preparation of Route Utilisation Strategies (RUS) for the railway network. I consider the detail of the WCML RUS and the Freight RUS in my consideration of need in Chapter 4.

National Planning Policy Framework

- 3.24 The National Planning Policy Framework (NPPF) was published on 27 March 2012. It sets out the Government's planning policies for England and how these are expected to be applied.
- 3.25 The NPPF does not contain specific policies for nationally significant infrastructure projects (NSIPs) for which particular considerations apply. Paragraph 3 of the NPPF explains that these are to be determined in accord with the decision making framework set out in the PA2008 and relevant national policy statements for major infrastructure 'as well as any other matters that are considered both important and relevant (which may include the NPPF).'
- 3.26 In this case the NPPF is of particular relevance as there is no designated national policy statement for railways.
- 3.27 Paragraph 162 of the NPPF requires that when plan making local planning authorities should 'take account of the need for strategic infrastructure including nationally significant infrastructure within their areas'.
- 3.28 Paragraph 215 notes that weight should be given to relevant policies in development plan adopted before 2004 'according to their degree of consistency with this framework'.

The National Parks and Access to the Countryside Act 1949

- 3.29 The Act is relevant in that it established powers to declare National Nature Reserves, to notify Sites of Special Scientific Interest (SSSIs) and for local authorities to establish Local Nature Reserves. In relation to the application, the examination considered the possible impacts on the nearby SSSIs and on local designated Sites of Biological Importance. These are addressed in detail in Chapter 4 below.

The Wildlife and Countryside Act 1981 (as amended)

- 3.30 The Wildlife and Countryside Act 1981 (the 1981 Act) is the primary legislation which protects birds, animals, plants, and

certain habitats in the UK. The Act provides for the notification and confirmation of SSSIs and measures for their protection and management. These sites are identified for their flora, fauna, geological or physiographical features by the countryside conservation bodies (in England this is Natural England (NE)). If a species protected under Part I of the Act is likely to be affected by development, a protected species licence will be required from Natural England.

- 3.31 The 1981 Act is relevant to the consideration of the impact of the development on the Doxey and Tillington Marshes SSSI and on those protected species and habitats which might be affected. These impacts are addressed further in Chapter 4.

Natural Environment and Rural Communities Act 2006

- 3.32 The Natural Environment and Rural Communities Act (NERC) made provision for bodies concerned with the natural environment and rural communities, in connection with wildlife sites, SSSIs, National Parks and the Broads. It includes a duty that every public body must, in exercising its functions, have regard so far as is consistent with the proper exercising of those functions, to the purpose of biodiversity. In complying with this duty, regard must be had to the United Nations Environmental Programme Convention on Biological Diversity of 1992²⁴.
- 3.33 This is of relevance to concerns about the impact of the proposed development on biodiversity, ecology and landscape matters and to the consideration of proposed mitigation.
- 3.34 The potential effects on habitats and species listed as priorities in the UK Biodiversity Action Plan (BAP)²⁵, and by Local Biodiversity Partnerships, together with policies in the England Biodiversity Strategy²⁶ are also, I think, matters to be considered in the determination of this NSIP.

Protection of Badgers Act 1992

- 3.35 This is specific legislation for the protection of Badgers. NE is responsible for issuing licences where it is necessary to interfere with a Badger sett in the course of development. I consider the impact on protected species in Chapter 4 below.

Local Impact Report

- 3.36 There is a requirement under section 60(2) of PA2008 to give notice in writing to each local authority falling under section 56A

²⁴ As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010

²⁵ Biodiversity The UK Action Plan 1994 see www.ukbap.org.uk

²⁶ Working with the grain of nature; a biodiversity strategy for England DEFRA 2002

inviting them to submit Local Impact Reports. This notice was given on 30 April 2013²⁷.

3.37 A Local Impact Report (LIR) was prepared jointly by Stafford Borough Council (SBC) and Staffordshire County Council (SCC)²⁸. The principal matters raised in the LIR are: -

- Highways and traffic
- Ecology
- Landscape
- Public rights of way
- The historic environment
- Flood risk
- Minerals and waste
- Social impacts

3.38 I had regard to its contents in my examination of the application, including the holding of an issue-specific hearing on landscape and ecology matters, and the principal issues raised in the LIR are considered at Chapter 4 below.

The Development Plan

3.39 I consider that the plans and policies that make up the development plan for the local area of the scheme are matters that are important and relevant to the Secretary of State's decision.

3.40 A SOCG on the planning policy background has been agreed between NR, SBC and SCC²⁹. It confirms that there is no disagreement about the interpretation of planning policy and that the applicant's analysis in Chapter 8 of the ES³⁰ broadly reflects the Councils' view of the proposed project, when considered together with the updated policy review in the SOCG.

Stafford Borough Local Plan 2001

3.41 The formal development plan comprises the saved policies of the Stafford Borough Local Plan (SBLP). There are relevant policies in the Environment and Development, Recreation, Leisure and Tourism, and Movement and Transportation chapters³¹. There is agreement in the planning policy SOCG that the relevant policies are consistent with the NPPF. I assess the development against these policies in Chapter 4.

²⁷ Document DEC-004

²⁸ Document PD-038

²⁹ Documents PD-049 to PD-059

³⁰ Document APP-021

³¹ The saved policies of the Borough Local Plan are at Documents PD-058 and PD-059

- 3.42 The emerging Plan for Stafford Borough was submitted by SBC for examination in August 2013³². It does not have full weight at this time as it has not been formally adopted; however it contains policies on the countryside, environment and transport which are relevant to the consideration of this application.
- 3.43 A small part of the Order limits is within a Mineral Consultation Area identified in the Staffordshire and Stoke-on-Trent Minerals Local Plan 1994-2006 and subject to saved policy 5³³.
- 3.44 The Staffordshire and Stoke on Trent Joint Waste Local Plan 2010-2016 was adopted in 2013³⁴. It has policies to encourage better use of waste associated with non-waste related development (policy 1.2), for construction, demolition and excavation waste (policy 1.3), and for the use of waste for landscaping, screening, engineering purposes (policy 1.4).

Applicability of the NPPF

- 3.45 I note above that, in the absence of a NPS, the NPPF is of particular relevance in this case. The NPPF sets out the presumption in favour of sustainable development. The applicant's case is that the scheme would deliver sustainable development and accords with the following core planning principles in paragraph 17 by -
- section 1 - building a strong, competitive economy
 - section 4 - promoting sustainable transport
 - section 7 - achieving good design
 - section 10 - meeting the challenge of climate change, flooding and coastal change
 - section 11 - conserving and enhancing the natural environment
 - section 12 - conserving and enhancing the historic environment
 - section 13 - facilitating the sustainable use of minerals
- 3.46 I consider these matters in Chapter 4 below.

Revoked plans

- 3.47 The planning policy SOCG notes that 'the Stafford Area Improvement Project (including the Norton Bridge Enhancements) was developed under the guidance and support of the West Midlands Regional Strategy (2008) and the Stafford and Stoke on Trent Structure Plan 2001³⁵. During the examination, an Order to revoke the West Midlands Regional Strategy in its entirety came

³² The emerging plan for Stafford Borough (Publication - pre-submission) is at Document PD-56 and PD-057 and minor modifications made in the examination version are at Document EV-101

³³ Document PD-054

³⁴ Document PD-054

³⁵ Document PD-049 page 5

into force³⁶ on 20 May 2013, and all directions under paragraph 1(3) of Schedule 8 to the Planning and Compensation Purchase Act 2004 preserving policies contained in structure plans in the area to which the West Midlands Regional Strategy relates were also revoked. However whilst the Regional Strategy and Structure Plan have been revoked the evidence prepared in relation to them potentially remains important and relevant.

- 3.48 The applicant noted in its Planning Statement³⁷ references in the Regional Strategy to improving national rail networks to ensure that strategic links to external markets are maintained and that the Region does not become a transport bottleneck undermining national economic growth (policy T1Biii). Also to the need for improved rail services on key routes (policy T5), the international importance of the WCML (paragraph 9.58), the desirable upgrading of the route (paragraph 9.64), and support for rail freight growth (policy T10). The Structure Plan specifically promoted the improvement of the rail network in the county and encouraged '....the upgrading of the WCML...' (policy T8A)³⁸.

Other plans

- 3.49 Although largely highway focussed, the SCC Local Transport Plan 2011 acknowledges and is generally supportive of NR's aims to improve the rail network, including the speed and frequency of services³⁹. Rail freight is discussed in the Staffordshire Freight Strategy (April 2011) which refers to Staffordshire as being placed at the centre of some important regional and national rail routes. Norton Bridge on the WCML is described as a particular hotspot with single directional flows of over 50 freight trains per day⁴⁰.
- 3.50 Whilst it is not a formal document and is not mentioned in the planning policy SOCG, the applicant also mentioned the Mid West Stafford Market Towns Parish Plan prepared in 2004 which covers the parish of Chebsey. Its main priority is traffic management with concerns about speed, heavy goods vehicles on narrow roads and through villages, and increasing volumes of traffic in general⁴¹. These are matters addressed in the ES and mitigation measures proposed in relation to the application⁴² and which I consider in Chapter 4.

³⁶ Statutory Instrument 2013 No. 933 The Regional Strategy for the West Midlands (Revocation) Order 2013

³⁷ Document APP-018 paragraphs 7.2 to 7.7

³⁸ Document APP-018 paragraph 7.8

³⁹ Document APP-018 paragraph 7.9 and Document PD-051

⁴⁰ Document PD-051 page 37

⁴¹ Document APP-018 paragraph 7.16

⁴² Document APP-021 Chapter 13 Transport and Access Section 13.6 page 155

4 FINDINGS AND CONCLUSIONS IN RELATION TO POLICY AND FACTUAL ISSUES

Preliminary identification of principal issues

- 4.1 In accordance with s88 of the PA2008 I made an initial assessment of principal issues based on the matters raised in the relevant representations and my reading of the application documents. This was sent to all interested and affected parties and was part of the agenda for the Preliminary Meeting held on 18 April 2013.
- 4.2 The issues that I identified at the outset of the examination were as follows:
- Planning policy context
 - Need
 - Transport and highways impacts
 - Landscape and visual impacts
 - Impact on the natural environment
 - Impacts on the local area
 - Construction impacts
 - Compulsory acquisition
 - Development Consent Order
- 4.3 Additional detail was provided within these broad issues on topics of interest⁴³.
- 4.4 Requests were made during the Preliminary Meeting that certain matters should also be considered as principal issues, more particularly alternatives to the application scheme and the transport policy basis. I did not see a need at that stage to revise or expand the principal issues in that 'planning policy context' is a broad heading which, in the circumstances here, would cover transport policy as well as planning policy and would include consideration of the alternatives that the applicant had assessed, bearing in mind that the examination was into the application that had been made. I saw no reason why any of the points raised in these requests could not be properly covered by the interested parties as part of their written representations or in response to my questions.

Issues arising in the LIR

- 4.5 I summarised at paragraph 3.35 the principal matters raised in the LIR. The LIR refers to impacts during the construction phase and when operational. It describes both short term and longer term impacts on the local area in environmental terms by the changes to the character and appearance of the area and the potential to affect ecological interests. The issues raised in the LIR are

⁴³ Document DEC-003

generally embraced in my preliminary assessment of issues. I deal with the issues raised in the LIR, and in subsequent representations made by the SCC and SBC in my consideration of the key issues below.

The Environmental Statement

- 4.6 A wide range of issues have been assessed in the ES and many were raised separately by interested parties. The ES includes details of measures proposed to mitigate identified harmful impacts and I address these in my assessment below. I conclude at the end of this chapter on the adequacy of the ES.

Key issues for the determination of the application

- 4.7 From the submitted written representations, responses to my written questions and evidence given orally at the hearings, I consider that the matters that emerged as key issues in the examination and therefore relevant to the SOS's decision are:
- The policy context;
 - The need for the proposed development;
 - Landscape and visual impact;
 - The impact on ecology, biodiversity, protected species and statutory designations;
 - Traffic and highway implications;
 - Noise and amenity impacts including air quality;
 - Water, drainage and flood risk;
 - Heritage impacts; and
 - Socio-economic impacts.

Policy context

- 4.8 No relevant NPS had been published (either in draft or approved) at the time of the examination and therefore s105 of the PA2008 applies. This requires that the SOS in reaching his decision must have regard to the submitted LIR, any matters prescribed, and any other matters thought to be both important and relevant. The LIR and all matters that, on behalf of the SOS, I considered were both important and relevant were examined through the written evidence and the hearings held.
- 4.9 The initial assessment of principal issues identified the need to consider the planning policy context and it was addressed in the SOCG on the planning policy background⁴⁴. This also considered the relevance of Government policy in the NPPF.

⁴⁴ Documents PD-051 and its appendices PD-052 to PD-059

The adopted Stafford Borough Local Plan 2001⁴⁵

- 4.10 With the revocation of the RSS, the formal development plan comprises the policies of the adopted SBLP, saved under the provisions of the Planning and Compulsory Purchase Act 2004. Whilst it is now of some age, I am satisfied that the policies relevant to the consideration of this proposal are generally consistent with the NPPF and can be given substantial weight.
- 4.11 In terms of this development, the Local Plan includes objectives 'to support the maintenance and expansion of means of travel which are more energy efficient', 'reduce congestion', and 'cause less environmental damage than the private car through the promotion of public transport'⁴⁶. It also seeks to make the best use of 'the potential for international European rail connections' and aims 'to encourage the greater use and improvement of public transport'.
- 4.12 The LIR refers to the SBLP supporting the strategic improvement of the railway and rail facilities. Although there is no specific reference in the plan to improvements to the WCML, paragraph 7.2.20 refers to the greater use of the rail network for local traffic, the intention that Stafford will enjoy status as a stopping point for Channel Tunnel services and the potential to increase its strategic importance and attraction. Policy MV10 considers the impact of new development on the highway network which should cause no demonstrable harm to the function of adjoining roads or lead to an unacceptable level of additional traffic movements through unsuitable areas.
- 4.13 The development would cut through countryside around Norton Bridge and the planning policy SOCG lists a number of policies in the Environment and Development chapter of the SBLP that were considered to be relevant. In particular, policy E&D1 sets out general requirements. Policy E&D2 requires that new development pays due regard to the existing landscape framework and its individual elements, including trees and hedgerows, whilst policies E&D28 and E&D30 deal with landscape mitigation and policies E&D47, E&D44 and E&D48 with the detail of landscape schemes.
- 4.14 Historic heritage and archaeology are covered by policies E&D18, E&D23, E&D33 and E&D34. Policies E&D36, E&D37, E&D38 and E&D39 deal with development affecting nature conservation sites of international, national and local importance and the mitigation and amelioration of any impact (policy E&D40). The SBLP also includes policies on water and flooding (policies E&D50, E&D51 and E&D53), on noise (policy E&D5), public rights of way (policy RLT12), and on traffic and highways (policies MV9 and MV10).

⁴⁵ Document PD-058

⁴⁶ Document PD-058 paragraph 7.1.10 (a) and (g)

- 4.15 Policy E&D7 is the overarching policy on development in the countryside and refers to protecting the countryside for its own sake from 'unnecessary and incongruous development' and that development in the countryside should be 'well designed and if appropriate screened to reduce its impact on the landscape'. The policy is generally permissive of development unless harmful to designations of special value; the rural economy; the landscape, wildlife habitats and historic features; the quality of agricultural land; the need to protect other non-renewable resources; and other considerations such as traffic, water, ... noise and pollution'. I deal with these matters in the following sections.

The emerging Plan for Stafford Borough

- 4.16 During the examination the publication version of The Plan for Stafford Borough was submitted for its examination⁴⁷. The LIR refers to the new plan supporting the strategic improvement of the railway and rail facilities. Its key issues and challenges and spatial vision recognise the need for sustainable development and policy T1 promotes the delivery of a sustainable transport system.
- 4.17 There are policies in the Environment chapter of the emerging plan concerned with design (policy N1), climate change (policy N2), the natural environment (policy N4), sites of nature conservation importance (policy N5), landscape character (policy N8), and the historic environment (policy N9).

The National Planning Policy Framework⁴⁸

- 4.18 Policies in the NPPF promote sustainable transport. Paragraph 29 states that 'the transport system needs to be balanced in favour of sustainable development' and in paragraph 32 that decisions should take account of whether 'opportunities for sustainable transport modes have been taken up' and [of whether] 'improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development'. Paragraph 41 requires local planning authorities to 'identify and protect, where there is robust evidence, sites and routes which could be critical in developing infrastructure to widen transport choice'.

Need for the development

- 4.19 The application was accompanied by an Assessment of Need⁴⁹ and Chapter 3 of the ES deals with project need and alternatives⁵⁰. NR

⁴⁷ Documents PD-056 and PD-057 and EV-101

⁴⁸ Document PD-050

⁴⁹ Document APP-019

⁵⁰ Document APP-021 ES Vol 2 Main Statement

provided further detail in its responses to my first round questions on need⁵¹, and at my request NR produced a note on HS2⁵².

- 4.20 The WCML is the electrified high-speed mixed traffic link between London, Birmingham, Manchester, the North West and Scotland. It carries cross-country, commuter and local passenger as well as heavy tonnages of freight traffic. Since the completion of the West Coast Route Modernisation (WCRM) upgrade, the WCML has seen considerable growth in the demand for rail passenger services as well as an increase in the demand for freight. Passenger train and freight train operators are looking to run more frequent services whilst meeting improved performance targets.
- 4.21 The 2007 White Paper 'Delivering a Sustainable Railway' set out the need for increased capacity on the WCML to be achieved amongst other things through 'addressing the remaining capacity pinch points, including a significant increase in network capability in the Stafford area'. Included in this long term strategy were shorter term priorities to be delivered in the current control period CP4 (April 2009 to March 2014). The High Level Output Specification (HLOS) for the WCML is for an additional 913 million passenger kilometres by 2013/14⁵³.
- 4.22 The WCML Route Utilisation Strategy (RUS)⁵⁴ published in July 2011 is NR's strategic document outlining how the 2007 HLOS requirements would be delivered. Figures in the RUS show recent passenger growth on the WCML and the forecast of future demand growth for long distance high speed services over the period to 2024/25. The Freight RUS (March 2007)⁵⁵ shows growth in intermodal traffic northwards from ports in SE England with Stafford indicated as a key location, being sufficient gauge for container traffic and en route to key intermodal terminals such as Daventry, Trafford Park and Ditton.
- 4.23 Given its length and the wide variety of services with varying speeds and stopping patterns using it, the issues affecting performance on the WCML are complex. Much of the route currently operates at or just below capacity for much of the day. It is constrained at a number of key locations with 2 track sections and there are various bottlenecks on the route.
- 4.24 Norton Bridge is a bottleneck. Either side of the junction the fast line speed is 90mph up and 105mph down. However the junction itself is subject to a speed restriction which reduces line speeds for all services from 90mph to 70mph. There is a 30mph speed limit on trains travelling to and from Stoke and Stafford which have to

⁵¹ Document REP-028 section 2

⁵² Document REP-201

⁵³ Document APP-019 paragraph 4.11 - WCML had an annual passenger forecast of 5,737 million km (2008/09), second only to the East Coast Main Line.

⁵⁴ Document PD-052

⁵⁵ Document PD-053

cross both the WCML fast lines on the existing flat junction. This constrains the number of paths available for the faster moving WCML passenger services.

- 4.25 In addition NR's evidence is that reliability at the junction is poor and these flat 'switch diamond' junctions often experience mechanical component failure. A maintenance crew is on 24 hour standby. Between 2007 and 2012, there were an average of 3.3 incidents per month at Norton Bridge resulting in an average of 589 delay minutes, at a total cost of £1.619 million. Between 2009 and 2011 there were 40 incidents preventing trains calling at Stoke at an average annual cost of £0.88 million⁵⁶.
- 4.26 The RUS proposes a number of improvements to improve capacity (and performance) on the WCML including the Stafford Area Improvement Project (which includes the Norton Bridge proposals). The Project is a commitment in the approved CP4 delivery plan confirmed by the Office of Rail Regulation (ORR). As well as the scheme at Norton Bridge, the Project includes two other main upgrades within the existing rail corridor - Crewe to Stafford line speed improvements in 2014 and re-signalling in the Stafford area in 2015. Although these works will provide increased reliability and performance on the WCML, they will not deliver any capacity benefits⁵⁷.
- 4.27 I am satisfied that the Norton Bridge improvements, by providing for the traffic travelling between Stafford and Stone to 'flyover' the WCML, would increase capacity in the Stafford area. Slow and fast moving trains would be separated and not cross each other's paths. Reliability and performance would be improved by allowing fast line speeds of 115mph and slow line speeds of 100mph⁵⁸. Journey times on the WCML would be improved. By eliminating crossing conflicts, delays that result from the current junction layout would be reduced removing a major constraint in developing timetables on the WCML. It would facilitate an increase in high speed long distance passenger services; services between Birmingham and Manchester; and intermodal freight.
- 4.28 Capacity on the slow lines would increase from 8 train paths per (peak) hour to 12, to include 1 additional freight path in each direction per hour through Stafford via Trent Valley and 1 additional train per hour between Manchester and Birmingham. On the fast lines there would still only be 7 train paths per hour (7 trains north bound and 7 south bound). But by moving 2 existing Birmingham to Liverpool services from the fast lines to the slow

⁵⁶ Document REP-028 response to question 2.3

⁵⁷ Document REP-028 NR responses to questions 2.5 and 2.6

⁵⁸ Document REP-050 has existing and proposed speed diagrams at page 18

lines, there would be capacity for 2 additional fast trains per hour in each direction between London Euston and the North West⁵⁹.

- 4.29 In addition to the flyover, the scheme includes a single line chord that would in the future take all the traffic that currently uses the north bound slow lines toward Crewe (through Norton Bridge). The single down line would be retained on the current track alignment between Yarnfield Junction and Norton Bridge as a means to provide operational flexibility. The points and crossings would be remodelled through the existing railway corridor, with consequential track maintenance and signalling savings⁶⁰.

Other options

- 4.30 During the course of the examination, a number of interested parties questioned the need for the development. In particular, Mr Sullivan, who represented Railfuture West Midlands⁶¹, an independent organisation campaigning for better rail services for passengers and freight⁶², saw dubious value in improving the operation of Norton Bridge as it would not address the most important limitation on capacity and reliable operation of the WCML in the Stafford area which he saw as being the Colwich junction. He promoted an earlier proposal for a Stafford by-pass put forward as an option in a 2007 study by ARUP which he maintained would bring greater benefits, is feasible, capable of high speeds and of incorporation into an alternative high speed route to High Speed 2 (HS2)⁶³, as proposed by the 51M Group of local authorities opposed to HS2. Other interested parties, including Mr Court (IP10016873), also suggested that HS2 undermined the need for the Norton Bridge development⁶⁴.
- 4.31 In response to my question⁶⁵, NR set out how the consideration of the options in the Stafford area had evolved from an early report in 2003 to the decision in 2010 to proceed to GRIP stage 3⁶⁶ with options for Norton Bridge along with enhancements at and around Stafford station. It appears that whilst ARUP's 2007 Stafford Area Capacity Study⁶⁷ considered a variety of options including bypass options east of Stafford which would have provided a higher level of capacity, by 2009 NR's Investment Panel had decided to move the focus back to on-line WCML solutions.
- 4.32 Whatever the reason for that, it is clear to me that a number of alternative scenarios for improvements in the Stafford area have

⁵⁹ Document APP-021 Chapter 3 paragraph 3.2.6 and Document REP-028 response to question 2.8.

⁶⁰ Document REP-050 NR response to Question 5.1 page 17

⁶¹ Mr Sullivan made three separate representations - 10016882 (in his own right), 1016888 (on behalf of Railfuture West Midlands Branch) and 1016893 (for an unnamed environmental organisation)

⁶² Documents RR-024 and REP-037

⁶³ Documents RR-019, RR-024, RR-029, REP-010, REP-037, EV-026 and EV-028

⁶⁴ Document PD-079

⁶⁵ Document REP-028 pages 8 to 12

⁶⁶ GRIP Governance for Railway Investment Projects - there are 8 stages with stage 3 option selection

⁶⁷ Document EV-028

been tested over the last 10 years. It may be that there are moves by others, including Mr Sullivan, Railfuture and the 51M Group, to promote a Stafford bypass but there is no alignment as yet. Indeed from my reading of the ARUP report, it seems to me likely that most if not all of the bypass options put forward then would have required similar large scale infrastructure around Norton Bridge to the current application in order to address the junction constraints and each would have had their own environmental issues.

- 4.33 I consider that the option, evaluation and selection process undertaken was long and methodical. Following detailed pre-application public consultation, NR has chosen to put forward the current scheme. It is that scheme on which I have to make a recommendation and the SOS a decision on the Order.

HS2

- 4.34 HS2 is the planned new high speed rail network connecting London to the West Midlands (phase 1) and running to Manchester and Leeds (phase 2). The Government's plans for phase 2 were published in January 2013 and on its westerly line to Manchester via Crewe the route that is currently preferred would bypass the Stafford area and run to the east of the M6 crossing it north of Yarnfield. Consultation on the route runs until January 2014⁶⁸.
- 4.35 Phase 2 is not expected to be open until 2032 or 2033. NR argued that it would not obviate the need for the Norton Bridge improvements. These are urgently needed now to address the current capacity constraint and in time for the new timetable to be introduced in December 2017. Indeed removing the longstanding capacity constraint at Norton Bridge would have long term benefits for the network if HS2 is built and when services are reconfigured and rationalised.
- 4.36 Irrespective of plans for HS2 or other proposals on the WCML, I am satisfied that there is a need for the Norton Bridge junction improvements and that the works need to take place now if NR is to complete the project in advance of the December 2017 passenger change date. To that end, and I appreciate to the bemusement of some local people, NR has already applied for planning applications for various preliminary works so that if the Order is made, work can progress quickly. Such works would be undertaken at NR's own risk. This is not something that I find should weigh against the scheme nor influence my recommendation.

⁶⁸ Document REP-201

Conclusion on need

- 4.37 The NPPF states a presumption in favour of sustainable development. In that the purpose of the project is to improve capacity on the railway, it supports Government policy by delivering the presumption in favour of sustainable development in particular through transport infrastructure. The railway is generally recognised as a more sustainable transport system than the private car. To achieve a modal shift, the railway system needs to be made more attractive to users in terms of both reliability and capacity. The scheme would help achieve this. Further it would remove a capacity constraint on the WCML, where increased capacity is recognised in the Railways' White Paper as an urgent investment need if the rail network is to continue to contribute to sustainable economic growth.
- 4.38 The NPPF also recognises the character and beauty of the countryside and the Local Plan seeks to protect it from unnecessary development. For the reasons set out above, I am satisfied that there is a well argued and strong need for the development. Thus it meets the first part of saved policy E&D7. I address the other parts of the policy in the sections that follow.

Landscape and visual impact

- 4.39 The new railway would cut across an area of rolling English countryside. Whilst the WCML is a dominant landscape feature, it generally follows the valley of the Meece Brook and to the west around Chebsey its presence is not obvious. Interested parties made representations about the large scale and intrusive nature of the project and the LIR referred to the impact on landscape character and visual impacts on properties and the users of local roads and rights of way.
- 4.40 Chapter 8 of the ES and Technical Report 8 address landscape and visual matters⁶⁹. The site is not subject to any statutory designations. The study area lies within Countryside Character Area 61⁷⁰ - Shropshire, Cheshire and Staffordshire Plain - characterised by the landscapes of slopes below rolling plateaux, with hedged fields, scattered woods and a dispersed settlement pattern. The more detailed Staffordshire Landscape Character Assessment identifies the majority of the application site as falling within the landscape character type of Settled Farmlands.
- 4.41 Key features of this character type include a gently undulating landform with pronounced high points, mature broadleaved woodlands, a strong irregular hedgerow pattern, well treed field ponds and stream corridors, traditional farmsteads and

⁶⁹ Documents APP-021 and APP-031

⁷⁰ Within Countryside Character Volume 5: West Midlands, published by then Countryside Commission in 1999.

settlements, and ancient winding lanes. Hedgerow trees and vegetation around the ponds and marl pits are important in the landscape where they join visually and filter views across what is otherwise a generally open landscape.

- 4.42 The ES assesses the overall value of the landscape as low to medium and that the current overall intactness of the landscape is partially fragmented due to breaks in existing hedgerows and the urbanising effects of the WCML and existing development. Loss of farmland, partial removal of hedgerows and woodland and more urbanising features as a result of the project would further increase this fragmentation and have a slight adverse effect on the landscape.
- 4.43 The route alignment passes to the west of Norton Bridge junction in cutting⁷¹. The cutting would cut a wide gap through the woodland of Yelds Rough to the south of Searchlight Lane. As the route emerges from cutting and the single track forks off towards Lower Heamies to rejoin the WCML, bunds for Barn Owls (*Tyto Alba*) and landscape mitigation are proposed alongside the cutting which would maximise screening of the railway line and gantries. The route toward Stone and the realigned B5026 would cross the Meece floodplain on an extensive embankment, for much of its length more than 8m high, dissecting the valley floor. Towards the new roundabout of the B5026/Meece Road, mitigation bunds would raise the land on the valley side. The bunds would be designed with a slope suitable for agricultural use and the land returned to the original owner, albeit in an altered state⁷².
- 4.44 The proposal would significantly change the character of the Meece valley, introducing a substantial structure across the floodplain and truncating views up the valley. It would have a moderate adverse visual impact on residents of Norton Bridge, particularly those living in Stone Road, those using the new road and users of the rights of way⁷³ and would change the perceived rural character of the area. With the realignment of the B5026 and reconfiguration of the junction with Scannell Lane those living near the junction would experience a visual change but because of the lie of the land the new railway chord would not have a significant adverse impact. From Rodgeley Lodge and Rodgeley Lodge Farm in Searchlight Lane, which currently enjoy long open views north and west, the project would have a slight adverse effect with the loss of some hedgerows and isolated trees⁷⁴.

⁷¹ Document EV-048 is good for an overview and appreciation of the whole scheme and the proposed environmental mitigation. Also the 5 environmental mitigation plans Figures 19.1 to 19.5 in the ES Volume 4 Document APP-046.

⁷² See Figure 2.3 showing permanent and temporary land take Volume 4 ES Document APP-046

⁷³ LIR section 8.5 (Document PD-038) also see Photoview 03/A and Photomontage A ES Technical Report 8 Appendix B (Document APP-031) for views from the B5026. Document EV-024 is photographs taken from The Old Smithy of the Meece floodplain.

⁷⁴ See Photoview 18A and Photomontage D ES Volume 3 Technical Report 8 Appendix B (Document APP-031)

- 4.45 Proposed mitigation includes bunding for both landscape and ecology reasons, woodland planting, and hedgerow and tree planting to minimise the landscape and visual impacts. The ES refers to the sensitive treatment of the bunds with 'subtle, localised changes' in the topography and locating woodland, hedgerow and tree planting so as not to 'adversely affect the existing pattern of vegetation in the landscape'.
- 4.46 However the environmental mitigation plans submitted with the application are not of a scale to show sufficient detail to be satisfied that the mitigation would achieve its purpose and be sufficient. Particular concerns include the lack of detail on the design of the bunds especially at the corners beside the road and rail intersections, the suitability of the slopes for agriculture, the need for an integrated approach to ecological and landscape mitigation, and the mitigation of permanent structures such as fencing.
- 4.47 During the course of the examination, in response to the detailed concerns of the CC and others, NR, NE and SCC had a number of discussions and I held a hearing on landscape and ecology matters. To address concerns about the adequacy of the mitigation, additional detailed information in the form of a Design Brief⁷⁵, was provided by NR and substantial revisions proposed to the draft Order. These revisions expand on the detail of the plans and programmes making up the Construction Environmental Management Plan (CEMP) to include, amongst others, a Landscape and Ecology Management Plan (LEMP) and a Soil Management Plan. The Design Brief and the draft Order were the subject of further detailed discussions and revisions and the final draft of the Order is dated 25 September⁷⁶ and the final Design Brief is dated 3 October⁷⁷.
- 4.48 The LEMP would provide, amongst other things, for details to be submitted, approved and implemented for protection controls for retained landscape features; detailed plans and specifications for ecological and landscape mitigation; 5 year establishment, maintenance and monitoring plans, as well as aftercare; and for a Soil Management Plan interface strategy.
- 4.49 Requirement 3(2) now provides that the CEMP must incorporate the findings and recommendations of the Design Brief as well as those of the ES. Whilst the Design Brief does not constitute a detailed landscaping scheme, it sets out overarching guiding principles for ecology and landscape mitigation, habitat type, location and extent of mitigation with planting and establishment techniques to be in accordance with best practice. In particular it

⁷⁵ Document EV-071 is the first Design Brief submitted by NR

⁷⁶ Document PD-025

⁷⁷ Document EV-102A (this is the same as that dated 4 September (Document REP-052) but with an amended drawings list)

provides that mitigation bunds 'are to marry smoothly into the existing landform'; the reinstatement of hedgerows should link to the existing hedgerow network to avoid 'the creation of small/awkward field corners'; and the reinstatement or creation of riparian woodland corridors to reflect the existing character. The accompanying drawings provide details of habitat losses, landscape integration and protection measures.

- 4.50 On 18 September, SCC confirmed that it was in agreement with the content of the Design Brief and that whilst the content of the LEMP was still work in progress, it accepted the wording in the draft Order as to what should be in the LEMP⁷⁸. It also confirmed that the provision in the LEMP for a validation survey and tree protection plan sufficed to address its concerns about trees being shown on the Design Brief drawings⁷⁹.
- 4.51 There was criticism during the examination that there should be more detailed landscaping proposals. However given the scale and nature of the project I think that would be unrealistic at this stage when more work has to be done on the engineering and construction details. For that reason, and to give flexibility in the final design of the bunds to ensure that they fit into the surrounding landscape, I am satisfied that it is appropriate in this case to provide in the Order for a vertical deviation of no more than 3m upwards⁸⁰.

Conclusion on landscape and visual impact

- 4.52 With the submission of the Design Brief, setting out the key principles, the need to incorporate it in the CEMP, and the requirement for the LEMP, I am satisfied that the Order as drafted by NR⁸¹ provides a clear framework for the submission, approval and implementation of detailed mitigation proposals to minimise the adverse landscape and visual impacts of the project. As such I consider that the applicant has demonstrated good design and the proposal complies with the objectives of the landscape and visual impact policies in the SBLP and emerging Plan and with NPPF policy for sustainable development.

The impact on the local ecology

- 4.53 The NPPF seeks to protect soils and minimise impacts on biodiversity, providing net gains in biodiversity where possible (paragraph 109). During the course of the examination SCC in particular raised concerns about the impact of the proposed development on the local ecology.

⁷⁸ Document EV-096

⁷⁹ Document REP-199

⁸⁰ Appendix F Article 6(b)(i)

⁸¹ Document PD-026

- 4.54 Chapter 9 of the ES and Technical Report 9 assessed the effects of the scheme on designated sites, habitats and species⁸². However interested parties continued to raise issues in relation to European and protected and priority species, statutory and non-statutory sites, UK priority habitats and soils, including the use of best and most versatile agricultural land⁸³.
- 4.55 The LIR similarly identified the impacts on designated sites, protected species, UK Biodiversity Action Plan habitats and species and on ecological connectivity as being matters of concern as well as the need for mechanism/resources to secure the long term management of mitigation habitats and features. It also questioned the adequacy of the submitted plans and draft DCO to ensure that adequate protection and mitigation would be incorporated into the project⁸⁴.
- 4.56 These matters were the subject of considerable discussion during the course of the examination. A SOCG on Ecology and Nature Conservation between NR, SCC, SBC, the Environment Agency and NE was agreed in June 2013 which set out those matters where there was common ground and matters still to be agreed⁸⁵. There was then further discussion with and work by NR, including revisions to the relevant requirements in the draft Order and publication of the draft Design Brief and habitat loss and landscape integration plans. The same parties signed a second SOCG in September which confirmed those matters where there was now common ground and those matters that had still to be agreed as part of the detailed design process⁸⁶.
- 4.57 NE's advice at the outset of the examination was that there was no fundamental reason of principle why the project should not be permitted. During the course of the examination, further evidence was provided by NR to address NE's concerns as to how the required European protected species mitigation and compensation would be delivered⁸⁷. I deal with this below.
- 4.58 NR also proposed major revisions to the draft Order acknowledging concerns that the project needed to adopt a holistic approach to soil resource management, ecology and landscape character to reflect the interrelationship between these elements. The revisions include requiring the CEMP to incorporate the findings and recommendations of the Design Brief, along with those of the ES, as well as requiring the CEMP to include the preparation, submission, approval and implementation of a LEMP and a Soil Management Plan⁸⁸. NE welcomed the proposed

⁸² Documents APP-021 and APP-032 to APP-035

⁸³ Documents RR-017, RR-026, REP-016

⁸⁴ Document PD-038 Section 7

⁸⁵ Document PD-048

⁸⁶ Document REP-100

⁸⁷ Document RR-017

⁸⁸ Appendix F Schedule 2 Requirement 3

revisions to the draft Order, the detail to be included in the CEMP, and made no adverse comment on the content of the Design Brief.

Impacts on designated sites

- 4.59 Cop Mere, a component SSSI of the Midlands Meres and Mosses Ramsar site, is located 5km west of the proposed development site. I deal with the HRA implications in Chapter 5 where I conclude, in line with the SOCG⁸⁹, that there is sufficient evidence to allow the SOS to conclude that significant effects can be excluded for all the features of the relevant European site either alone or in combination with other plans or projects.

- 4.60 In respect of other designated sites, the Doxey and Tillington Marshes SSSI lies approximately 4km south east downstream from the development site and may be hydrologically connected to the site by the Meece Brook and the River Sow. The SSSI is notified for its ornithological significance (for breeding Snipe) and for reed sweet grass. Subject to the implementation of suitable pollution control, NE is satisfied that the project is unlikely to damage the SSSI⁹⁰. The draft Order provides for the LEMP to include controls for the protection of the SSSI and that the CEMP must require adherence to relevant EA Pollution Prevention Guidelines⁹¹.

- 4.61 The Meece Brook, an area of deciduous woodland, scrub and grassland and open water providing important habitat for fish and Otter, and Yelds Rough, plantation woodland with ancient woodland remnants, are identified as local Sites of Biological Importance (SBIs), provided protection through the SBLP. The project would result in loss of habitats and habitat continuity for both SBIs and adversely affect their existing habitat structure. The Design Brief sets out an updated table of habitat losses and gains and key principles for ecology and landscape mitigation. These include SBI habitat mitigation at a ratio of 1.5:1 lost, mature tree mitigation at a ratio of 3:1 lost, and hedgerow mitigation on a linear like for like basis with species rich hedgerow planting. Further details of mitigation for the Meece Brook and Yelds Rough SBIs are to be provided as part of the LEMP.

- 4.62 I am satisfied that the development does not conflict with national policy, with the objectives of SBLP policies E&D36, E&D37, E&D38, E&D39 and E&D40, or with emerging policy N5.

Impacts on protected species

- 4.63 The ES identifies that the development would have the potential to adversely affect Bats, Otters and Great Crested Newts (GCN),

⁸⁹ Document REP-100 page 6

⁹⁰ Document REP-016

⁹¹ Document PD-025 Requirement 3(4)(h) and 3(5)(a)

which are European Protected Species (EPS). Although NE's initial representation set out concerns about the sufficiency of evidence to establish that the required European and protected species mitigation and compensation would be delivered, during the examination NE and NR continued to discuss avoidance and mitigation measures and an updated survey programme. On the basis of information provided in draft licence applications, NE was able to confirm that it had found no impediment to licences being issued in the future for Otter and Bat⁹².

- 4.64 In respect of GCN and the maintenance of the population at a favourable level in the affected area, NE has granted a licence for the BPA (UKOP) pipeline works (subject of a separate planning permission) and mitigation has commenced. Prior to the close of the examination, NE confirmed that a licence had been issued on 12 September to facilitate the movement and exclusion of GCN only from the DCO site. The early issue of a licence, rather than a letter of comfort, was to enable preparatory works to proceed, due to the scheduling challenges facing NR relating both to the NG pipeline diversion works and the 2017 rail timetable alterations. If the Order is made, NE has advised that modifications may be needed to the licence to include destructive searches⁹³. However I have seen nothing to suggest, subject to appropriate controls and mitigation measures being put in place, that these would not be granted.
- 4.65 Badgers are nationally protected. NE is satisfied that NR's mitigation strategy should minimise the impact on the species through provision of a replacement sett and new tree and hedgerow planting to offset the likelihood of Badgers attempting to cross the new line. A Badger mitigation licence application has been made and NE has issued NR with the equivalent of a letter of comfort⁹⁴.
- 4.66 In respect of Barn Owls, listed in Schedule 1 Wildlife and Countryside Act 1981, the concern is about how they might adapt to the permanent severance effects of the scheme with the road and rail structures potential barriers to accessing foraging habitats with the risk of collision known to be a significant cause of Barn Owl mortality. Three 3 breeding pairs have been recorded nesting close to the route, which is significant at the County scale⁹⁵.
- 4.67 To mitigate for severance, loss of habitat and collision risk, mitigation is proposed in the form of substantial vegetated bunds along all sections of the new road and rail alignment where cutting depth is 6m or less. During the examination these mitigation proposals were the subject of much discussion between the parties

⁹² Document REP-100 page 10 and letters of comfort are Documents REP-020 and REP-021

⁹³ Document EV-102

⁹⁴ Document REP-019

⁹⁵ Document PD-038 paragraph 7.6.3

and guiding principles for ecology and landscape mitigation recorded in the Design Brief and accompanying Landscape Integration Plans. It notes in particular 'mitigation bunds and careful planting of tree groups and scrub will be used to minimise the risk of Barn Owls being struck by trains by deterring them from foraging in high risk areas and forcing them to fly at a height above trains and track infrastructure'⁹⁶.

4.68 The second SOCG records the parties' agreement that these proposals would provide as effective mitigation as is possible and post-construction monitoring is covered in the LEMP.

4.69 I am satisfied that through the Design Brief suitable mitigation, including protection of retained habitats, habitat translocation, replacement and creation measures, would be secured for other nationally protected species that might be affected by the proposal, including kingfisher, breeding and over-wintering birds, fish assemblage, invertebrates and other UK BAP priority species.

Impact on habitats

4.70 National and local planning policy acknowledges the importance of ecological networks that allow species to move through the landscape and provide ecosystem services. It is inevitable that the railway as a linear feature would have an effect on ecological connectivity. In response to criticisms in the LIR that there was insufficient mitigation for lost hedgerows, trees and other habitat features, Appendix 1 to the Design Brief updates the table in the ES on temporary and permanent habitat losses and gains, on a worst case basis, with an accompanying suite of drawings indicating habitat losses/gains. It indicates that there would be a net gain of 0.74ha habitat in the Meece Brook SBI; a net gain of 0.39ha in Yelds Rough SBI; a net gain of 2,890m of hedgerow; and a net gain of 370 individual trees. As a result of mitigation there would be 3.94ha of semi-improved grassland and 2.35ha of woodland and scrub. Whilst 5 ponds and 3 marl pits would be lost, 6 wet ponds would be created and 1 marl pit.

4.71 The LEMP provides for a further detailed design process to take place and be agreed before works starts on site which would allow for further consultation and negotiation with landowners with the aim to retain and protect more of the existing vegetation and habitats. I am satisfied that the Order as drafted provides for an appropriate level of habitat mitigation, aftercare and monitoring.

Impact on soils

4.72 The NPPF supports the protection and enhancement of soils and requires account to be taken of the economic and other benefits of the best and most versatile agricultural land (paragraphs 109 and

⁹⁶ Document EV-102A paragraph 2.1 9th bullet point

112). The ES covers geology, soils and contaminated land in Technical Report 11 and land use and agriculture in Technical Report 16⁹⁷.

- 4.73 Impacts include temporary losses during construction that require satisfactory reinstatement (46.8ha) together with permanent losses of best and most versatile land totalling 24ha⁹⁸. However in the absence of any flexibility in the route/junction layout, NE has accepted that its loss cannot be avoided.
- 4.74 The draft Order requires that a Soil Management Plan is prepared as part of the CEMP to include a soil resource survey and soil resource plan⁹⁹ as well as details of criteria and measures for the re-use of soils on site. These will include methods for the handling, storage and stripping of soils, their re-use on the same land or as near as possible and restoration of the land to a high standard. I am satisfied that sufficient regard has been had to the interrelationship between soils, ecology and landscape character.

Conclusion on local ecology

- 4.75 During the course of the examination, there was much discussion and negotiation between the applicant, NE and SCC on background information and on the approach to be taken towards mitigation and licensing of works that would affect protected species. As revised the draft Order adopts a holistic approach to ecology and landscape mitigation and as such I am satisfied that adverse impacts on biodiversity and on the ecology of the local area would be minimised.

Traffic and highways

- 4.76 Impacts on traffic and the road network would arise temporarily during the scheme's construction phase. The LIR identifies issues in relation to the designated haulage routes, additional traffic on local roads, the location of and access to the construction compounds, the use of internal haul roads, and the need for a construction traffic management plan and a travel plan. The Highway Authority (HA) also had concerns about increased maintenance liability for the new roads and structures, and the detailed design, drawings and specifications for the highway works¹⁰⁰.
- 4.77 The ES assesses transport and access matters at Chapter 13 and in the accompanying Technical Report 13¹⁰¹. The application proposes changes to the Chebsey Lane junction with the A5013, to Searchlight Lane, to the B5026 and Meece Road and to the two

⁹⁷ Documents APP-037 and APP-044
⁹⁸ Agricultural Land Classification grades 1-3a
⁹⁹ Requirement 3(4)(j)
¹⁰⁰ Document PD-038 section 6
¹⁰¹ Documents APP-021 and APP-041

affected public rights of way. The total construction phase is estimated to be 33 months and subject to consent being granted, the DCO consented works are scheduled to start in June 2014 with completion in October 2016¹⁰².

Details of the highway works

- 4.78 A SOCG on traffic and highway matters has been agreed between the applicant and SCC as HA. Whilst there is 'Approval in Principle' for the design of the proposed new highways (B5026, Meece Road, Searchlight Lane, and Chebsey Lane junction improvement) and for the bridge structures, there were outstanding matters in relation to their detailed design and specification, street lighting, highway drainage and safety audits.
- 4.79 During the course of the examination, discussions continued between the applicant and the HA and detailed highway design drawings were agreed and added to the Plans and Drawings listed in Schedule 11 of the draft DCO. Matters that remain outstanding in relation to the draft Order are considered in Chapter 8 below.
- 4.80 The scheme provides for a new roundabout at the junction of the realigned B5026/realigned Meece Road. This would help control and assist vehicle movements and road users would have to reduce their speed to negotiate it. Given the speed limit and the rural nature of the roads, the use of a give way or stop arrangements for the main vehicle flow at this junction would not be appropriate. I am satisfied that a roundabout would be the safest solution as vehicles would be required to slow down on all approaches. I see no reason why the arrangement with two roundabouts within a relatively short distance should not work satisfactorily. In respect of the appearance of the bridge structures, SBC was satisfied that the proposed finishes were appropriate¹⁰³.

Road traffic access

- 4.81 The main northern site access would be from Stone Road (B5026) and there would be a southern access point off the A5013 at Chebsey Lane to serve the construction compounds indicated on Figure 2.2 of the ES¹⁰⁴. They would be linked by a 6km internal haul road running along the west side of the new track and the new connection to the Stone Branch line which would be used for all construction traffic and for the haulage of spoil so as to minimise any disruption to the local road network. Where the haul road crosses the public highways there would be temporary signals.

¹⁰² The construction programme is set out in the ES Chapter 13 Table 2 (Document APP-021)

¹⁰³ Document EV-100

¹⁰⁴ Document APP-046

- 4.82 The draft Order provides for the submission and approval of a Traffic Management Plan as part of the CEMP to include further details of these crossing points as well as the access strategy and traffic management of the laydown area on the B5026 to serve the Yarnfield Junction area. I am satisfied that adequate control would be provided through the CEMP to ensure that the construction of the development does not have an unacceptable adverse impact, by way of delays or diversions, on traffic using the local road network.
- 4.83 Whilst works to the Chebsey Lane/A5013 junction would result in the loss of some hedgerows, the scheme provides for the protection of the hedgerow trees that are to be retained and for replacement planting on the reinstatement of Chebsey Lane. By retaining the right turn lane on the A5013 and the improvements to the geometry of the junction with Chebsey Lane on completion of the scheme, highway safety at this junction would be improved.
- 4.84 Parking would be provided for contractors at the construction compounds. Given the number of vehicles predicted at times of peak construction intensity, which could be reduced significantly through organised car sharing and staff minibus options, I consider it important that the draft Order provides for a Traffic Management Plan and a Travel Plan to be included as part of the CEMP¹⁰⁵. These Plans should include measures to prohibit construction traffic from using unsuitable local lanes and to manage contractors' travel to the site compounds and mechanisms for review and monitoring.

Designated haulage routes

- 4.85 Although it is the applicant's intention to deliver as much material as is practicable to the site by rail with early completion of the southern connection to the WCML to form a railhead, road vehicles would be required to deliver a range of materials. Two designated haulage routes are proposed from the M6 using the A5013 (Route A) and B5026 (Route B)¹⁰⁶.
- 4.86 The ES includes estimates of deliveries equating to approximately 18,000 two way lorry movements on Route A and 23,000 on Route B, during the construction phase with a daily maximum of up to 900 and 1150 two way lorry movements for the most intense periods of work¹⁰⁷. Although it is not planned to export spoil from the site and these figures include 20% uplift for robustness, they are indicative of the scale of the works and the potential for a significant negative local impact if the routing of construction traffic is not managed.

¹⁰⁵ Appendix F Requirement 3(4)(e) and (f)

¹⁰⁶ Document APP-046 Figure 13.1

¹⁰⁷ Document APP-021 paragraph 2.7.16

- 4.87 To manage the safe routing of construction traffic and ensure minimum disruption to local residents, the Traffic Management Plan proposes that all construction traffic uses the designated haulage routes for access to the site compounds with all local and minor roads and routes via Chebsey and Yarnfield prohibited. Given the importance of ensuring that the permitted and banned routes are adhered to, I am recommending a revision to requirement 3(4)(e) to ensure that the Plan includes mechanisms to be put in place by NR and its contractors to enforce their compliance.

Public rights of way

- 4.88 The project would directly affect two public rights of way; Public Footpath 10 (PF10) which provides a link across the Stone Branch line between the village of Yarnfield and the B5026; and PF11 which runs between Norton Bridge and Lower Heamies parallel to the southern side of the WCML. Options for the diversions were developed through consultation with SCC's footpath team and consultation with statutory undertakers and the public was carried out as part of NR's S42 consultation exercise in 2011 and again in March 2012¹⁰⁸.
- 4.89 In respect of PF10, it is proposed to close and remove the existing level crossing for safety reasons and to replace it with a footbridge crossing at a location adjacent to it. The installation of a footbridge across the railway is due to the increase in train speeds and would be in line with NR's National Level Crossings Closure Scheme which aims to restrict the amount of pedestrian, cyclist and horse traffic which crosses railways without the use of an underpass or overbridge. No adverse comment was received following the 2011 consultation, from statutory undertakers or via public representations. It was not an issue raised in relevant representations about the scheme or a matter of concern during the course of the examination.
- 4.90 The LIR refers to the rural character of the route which runs around the edges of fields and through a small copse. The proposed footbridge would have a slight negative impact on the visual appeal of a walk in the area. It might also be more difficult for some less able users to cross the bridge although I noted on the accompanied site visit that the footpath is not a level walk at present and walkers have to open gates and step up to cross the railway. These are matters that NR would have to consider when it undertakes an Equality Impact Assessment and the SOS will need to consider the Public Sector Equality Duty contained in the Equality Act 2010. However, the evidence on balance is positive that the footbridge would make crossing the railway line safer. If NR were not to propose the installation of a footbridge then there

¹⁰⁸ Document APP-021 Appendix 10 Section 42 consultation pack phase 3 section 6

is potential for future health and safety risks for pedestrians crossing the railway due to the increase in the speed of trains and their frequency as a result of the proposed scheme.

- 4.91 In respect of PF11, it is part of the Stone Circles walk and appears to be well used. Four alternative routes were considered and three options were consulted upon and the preferred route agreed with SCC Rights of Way team¹⁰⁹. During the course of the examination, in response to comments made by the landowner that the chosen route would run across very waterlogged ground, changes were made to the Street Plan to show the revised route of the diversion and it is intended that parts would be surfaced.
- 4.92 Whilst some concern was expressed about the potential conflict between walkers and vehicles using the access road to NR's maintenance compound, traffic on the track is likely to be very light. As the new route for PF11 would remain for the most part alongside the railway as does the current route I am satisfied that any impact on its amenity would be negligible.

Conclusion on traffic and highways

- 4.93 During the construction phase the development has the potential to have significant adverse impacts on the local area in respect of additional traffic using the local road network, in addition to any impacts as a consequence of the proposed changes to road layouts and diversion of public footpaths. There has been extensive consultation with the HA and I am satisfied that the proposed changes to the highways and footpaths are acceptable and that the recommended Order would put in place adequate controls and safeguards to ensure that the impacts during construction are minimised and would be proportionate. As such I find the scheme complies with the objectives of local and national planning policy.

Noise and amenity impacts

- 4.94 In accordance with regulation 5(2)(f) of the APFP Regulations, the application was accompanied by a statement which identified those matters defined in Section 79(1) of the Environmental Protection Act 1990 which might be engaged by the scheme and proposals for mitigating or limiting them¹¹⁰. It concluded that the only matters under S79(1) that might potentially be engaged in the construction and operation of the scheme are noise, artificial light and dust, the latter during the construction phase only, and that a statutory nuisance would be unlikely to occur.
- 4.95 Notwithstanding that conclusion, representations from those living in the area included their concerns about dust, noise, and disturbance during construction, noise and vibration from the

¹⁰⁹ Document APP-021 Appendix 10 paragraphs 6.5 et seq

¹¹⁰ Document APP-016 Assessment of statutory nuisance

trains, and intrusion from the new highway lighting. The LIR also referred to potential issues of mud, dust and detritus materials affecting roads during certain phases of construction and the need to agree suitable measures to manage and alleviate any problems.

Air quality and dust

- 4.96 The NPPF makes it clear that unavoidable dust emissions should be controlled, mitigated or removed at source. Air quality is addressed in Volume 2 of the ES at Chapter 7¹¹¹ and in Volume 3 Technical Report 7¹¹². In the Borough, national air quality standards are achieved and there are no Air Quality Management Areas. The ES concludes that construction traffic, the highway realignments and operational rail traffic would have a negligible impact on air quality¹¹³. However construction activities would have the potential to generate fugitive dust¹¹⁴ emissions, particularly from the use of the internal haul routes and stripping of topsoil, excavation and earthworks, unless mitigation measures are put in place.
- 4.97 In response to my question¹¹⁵, NR referred to advice from the Institute of Air Quality Management¹¹⁶ that the majority of dust particles travel no more than 200m from source and that a distance greater than 200m from a receptor represents a low to negligible risk regardless of the size of the construction site or extent of the works. Even so the ES identifies that without mitigation properties in Norton Bridge and those located on the northern section of Scannell Lane and the Scannell Lane/Stone Road junction could have an increased risk of being exposed to nuisance dust effects from construction, although this was considered to be unlikely with dust control measures in place.
- 4.98 Fuller and more location specific detail of these mitigation measures was provided by NR during the course of the examination¹¹⁷. In line with the Institute's recommendations dust control measures would include the surfacing of 3km of internal haul road; the use of water assisted sweepers for dust suppression and to reduce 'trackout'¹¹⁸; no dry sweeping; the sheeting of vehicles; monitoring of inspections of the haul routes; a dedicated crew to maintain the haul roads and drainage system; a vehicle washing bay at each compound with at least 100m between the

¹¹¹ Document APP-021 Chapter 7

¹¹² Document APP-029 ES Volume 3 Technical Report 7

¹¹³ The air quality assessment methodology for roads used that in the Highways Agency's Design Manual for Roads and Bridges and assessed changes in annual mean NO₂ and PM₁₀ levels (µg/m³).

¹¹⁴ Dust is the generic term which BS6069 Part 2 uses to describe particulate matter in the size range 1-75 µm(micrometres) in diameter

¹¹⁵ Document REP-028 Question 6.4

¹¹⁶ Institute of Air Quality Management (January 2012) Guidance on the Assessment of the Impacts of Construction on Air Quality and the Determination of their Significance

¹¹⁷ Document REP-050 NR response to Question 5.3 pages 18 to 21

¹¹⁸ Trackout is defined in the Institute of Air Quality Management's Guidance as 'the transport of dust and dirt from the construction/demolition site onto the public road network, where it is deposited and then re-suspended by vehicles using the network.'

wheel wash and the site exit; and with access gates at least 200m from receptors.

- 4.99 In addition NR proposes in the detailed planning for the haul routes to locate the crossings as far away from receptors as possible and if possible eliminate the B5026 crossing point when the new road bridge is in use for the main earthmoving operation over the WCML. In respect of potential dust effects from the earthworks and material storage, the earthworks and exposed areas/soil stockpiles would be re-vegetated as soon as practicable; dusty stockpiles would be damped down during dry periods; there would be targeted use of sprinklers on potentially dust generating activities; equipment would have suitable dust suppression; and drop heights from conveyors, loading shovels, hoppers, etc would be minimised and water sprays used.
- 4.100 The draft Order requires, as part of the CEMP, the preparation and approval of a Nuisance Management Plan to deal with noise, vibration, dust, air pollution and lighting. This would include amongst other things for a specific risk assessment to be carried out; for specific control and mitigation measures; and for a monitoring regime for dust.
- 4.101 I am satisfied that with these measures in place there would be appropriate and adequate mitigation to minimise the risk during the construction period for those living around the site of unacceptable levels of fugitive dust emissions. As such I find there would be no conflict with national and local planning policy in respect of air quality and dust.

Noise and vibration

- 4.102 Noise and vibration is addressed in Volume 2 of the ES at Chapter 6¹¹⁹ and in Volume 3 Technical Report 6¹²⁰ which assessed noise and vibration from the scheme during construction and when operational. The assessment assumed an increase of 27% in train movements and faster train speeds as a result of the scheme.
- 4.103 In respect of vibration, as the choice of piling methods has not yet been finalised, the ES only includes an indicative vibration assessment. It concludes that the potential separation distances between plant and sensitive receptors are such that significant vibration effects are unlikely. But in any event vibration would be a matter to be addressed as part of any application for prior consent under s61 of the Control of Pollution Act 1974. The draft Order provides for this to be included as part of the Nuisance Management Plan¹²¹.

¹¹⁹ Document APP-021 Chapter 6

¹²⁰ Document APP-029 ES Volume 3 Technical Report 6

¹²¹ Appendix F Requirement 3(4)(g)(v)

- 4.104 The noise measurement locations are shown on Figure 6.1 of Volume 4 of the ES¹²². Whilst none are in Searchlight Lane, I understand that the locations were agreed in advance with SBC. NR considers Drumble Cottage (location 18 in the ES) to be representative of sensitive noise receptors in Searchlight Lane, like Rodgeley Lodge Farm, and that the noise measurements taken at Park Farm (location 4) present the worst case scenario as it is likely to be quieter being away from the road and any traffic noise.
- 4.105 The site would have internal haul roads with all off-site construction traffic travelling to one or other of the main compounds on designated haulage routes. These roads already carry substantial traffic flows and, based on the CRTN¹²³ calculation methodology, the increase in vehicles as a result of the construction of the scheme would not have a significant effect on road traffic noise or vibration levels. In respect of the southern rail head, given the distance to the nearest sensitive receptor, significant noise and vibration effects are also unlikely.
- 4.106 Construction noise always varies considerably depending upon the scale and nature of the works, the distance to any sensitive receptor and the topography, and any intervening screening. Using the methodology from BS5228¹²⁴ and measured ambient noise levels at the selected locations, the ES indicates that with mitigation, significant effects as a result of construction noise are unlikely to occur during the day, except at Park Farm which is to be acquired by NR. However the assessment identifies that night time construction works would have significant effects.
- 4.107 Proposed mitigation measures include the use of appropriate work practices, environmental monitoring, control of working hours and environmental mitigation bunds. In response to my question about noise impacts at Rodgeley Lodge Farm, NR provided more detail on the use of best practicable means to reduce noise levels at all locations¹²⁵. As drafted the Order requires that standards and codes of practice for working, specific control and mitigation measures, and noise monitoring are provided as part of a Nuisance Management Plan, and the CEMP must ordinarily require adherence to set working hours on weekdays and Saturdays¹²⁶.
- 4.108 Due to the operational requirements of the railway, the construction programme has been designed to allow for specific periods of construction during the night and over Christmas or Easter, in order to minimise disruption to normal rail movements. The Order makes provision for such extraordinary working through

¹²² Document APP-046

¹²³ Department of Transport and the Welsh Office (1998) Calculation of Road Traffic Noise

¹²⁴ British Standard 5228 'Noise Control on Construction and Open Sites' 2009

¹²⁵ Document REP-028 pages 35 and 36

¹²⁶ Document PD-026 requirements 3(g)(viii) and 3(5)(b)

requirement 3(5)(b)(i) and (ii) and provides for a prior notification process.

- 4.109 Noise would be generated during the creation of the earthwork bunds forming part of the landscaping scheme. However, once in place, by creating a false cutting around sections of the track and new road that are either on embankment or level, they would offer a degree of acoustic screening, reducing noise levels at nearby sensitive locations.
- 4.110 Operational noise contours have been generated showing the predicted level of rail noise from the scheme. These are shown on ES figures 6.2 and 6.3 (Volume 4)¹²⁷ and indicate a potential increase in railway noise levels of approximately 1dB¹²⁸ with the effect of this noise increase declining with distance from the track. Although the scheme would alter the level and line of the B5026, the assessment predicts that similarly any change in traffic noise levels would be unlikely to be perceptible with no significant effects on noise sensitive receptors.
- 4.111 I am satisfied that subject to appropriate mitigation, to be secured through the approval of the nuisance management plan as part of the CEMP, construction work during the day would not result in unacceptable noise and vibration impacts. Delivery of the project on schedule would demand some night-time working and during weekends and public holidays which could have significant noise effects on sensitive receptors. This is unavoidable for a project of this scale and because of the need for works on or adjacent to the operational railway. With the CEMP and the inclusion of a prior notification process in the Order¹²⁹, I consider that reasonable and appropriate steps have been taken to mitigate and minimise the adverse impact on the local area. As such I find there would be no conflict with national and local planning policy in respect of noise.

Lighting

- 4.112 The NPPF at paragraph 125 refers to limiting the impact of light pollution from artificial light on local amenity. The scheme includes new lighting for the new B5026 road and roundabouts, the temporary junction improvement at Chebsey Lane and at the NR maintenance compounds.
- 4.113 This is a rural area and whilst the existing roundabout may have performed acceptably with no lighting, when new road features are introduced consideration has to be given to whether benefits, in terms of reliability, physical activity and safety, outweigh any environmental issues¹³⁰.

¹²⁷ Document APP-046

¹²⁸ L AeqT Department of Transport (1995) Calculation of Railway Noise

¹²⁹ Appendix F Requirement 3(5)(b)(ii)

¹³⁰ Document REP-028 NR response to Question 3.7

- 4.114 I am satisfied that lighting here would help to increase the awareness and visibility at night of the highway features and the visibility of other road users. The lighting design follows the Institute of Lighting Professionals' guidance and DEFRA guidelines for lighting in the countryside. The area would have an Environmental Zone Classification of E2, which is rural low district brightness. The lighting equipment and levels would meet the criteria for this zone and be suitable for this location and the adoption of a dimming sequence to reduce the lighting at times when traffic activity is at its lowest, would help to mitigate its impact¹³¹. I am therefore satisfied that the highway lighting would be acceptable in this location and would not materially harm local amenity.
- 4.115 Lighting for the maintenance compounds would be seen in the context of the railway infrastructure including signals, OLE and passing trains. As it would only be used during night time inspection or maintenance works, any disturbance would be limited.

Conclusion on noise and amenity impacts

- 4.116 I am satisfied that subject to the controls and safeguards included in the recommended Order, the development would not give rise to unacceptable impacts on the local area in respect of air quality, dust, noise, vibration or intrusive lighting and as such would comply with local and national planning policy.

Water, drainage and flood risk

- 4.117 The proposed scheme runs through a rural area and three new river crossings are required where the new railway line would pass over the Meece Brook (a tributary of the River Sow) with the river diverted to allow a perpendicular crossing of the railway. To the south the new line would separate from the WCML at an existing crossing of the River Sow and to the northeast the line would join the Stone Branch line where it crosses a tributary of the Meece Brook. Both the existing bridges would need widening¹³².
- 4.118 The NPPF requires that development should be directed away from areas at highest risk of flooding 'but where development is necessary, making it safe without increasing flood risk elsewhere'. A Sequential Test is to be applied, and if necessary, an Exception Test. Decisions should be informed by a site specific flood risk assessment and development in an area at risk of flooding should be appropriately flood resilient and resistant with any residual risk capable of being safely managed¹³³. The Technical Guidance to

¹³¹ Document PD-038 paragraphs 6.11.10 to 6.11.13

¹³² The location of the river crossings and the bridges are shown on the site overview map Figure 2.1 ES Volume 4 Document APP-046

¹³³ NPPF paragraph 103

the NPPF classifies flood risk vulnerability and essential infrastructure includes 'essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk'¹³⁴. The term is not defined and railways are not expressly referred to. However it seems to me reasonable to consider the railways, which would be used to transport people in times of mass evacuation, as transport infrastructure that is essential when considering vulnerability to flood risk.

- 4.119 The LIR identifies that there could be offsite effects on areas within the floodplain as the railway would pass over low lying areas on a raised embankment and cut through sections of high ground. Interested parties raised concerns about the risk of flooding as the Meece Brook has flooded before over the Stone Road bridge and the scheme proposes its redirection onto land outside of the floodplain and closer to PF11. They also questioned the drainage of the new track, earthwork bunds, and new highways and their long term maintenance.

Statement of common ground

- 4.120 Water quality, hydrology and hydrogeology are covered in chapter 10 of the ES and supporting Technical Report 10¹³⁵ and the Flood Risk Assessment (FRA) is Technical Report 4¹³⁶. NR and the Environment Agency (EA) have agreed a SOCG¹³⁷ in which the EA confirms that the ES accurately summarised the risk and potential effects of the scheme on tidal, fluvial, overland flow, surface water and groundwater flood risk, as well as drainage and water resource implications and the potential effect on water quality of the scheme. The EA also confirms in the SOCG that the FRA in the ES is final and accepted and that it has no objections to the proposal.
- 4.121 The Meece Brook and River Sow are both Main Rivers. Flood Defence Consents are required for their crossings and diversions and draft applications have been prepared. The SOCG sets out agreement in principle between NR and the EA on the size of the bridge openings, effects on flood levels, and designs for the river diversions. The tributary of the Meece Brook is an Ordinary Watercourse and SCC as the Lead Local Flood Authority has granted consent for the widening of Underbridge 8¹³⁸.
- 4.122 In response to comments from the EA and further discussions and developments in the scheme design, the Water Framework Directive Assessment submitted with the ES has been replaced by a new document - Norton Bridge Area Improvements Water

¹³⁴ Technical Guidance to the NPPF Table 2

¹³⁵ Documents APP-021 Main Statement and APP-036 Technical Report 10

¹³⁶ Document APP-026

¹³⁷ Document PD-046

¹³⁸ Document PD-046 page 7

Framework Directive Compliance Assessment¹³⁹ - and the EA has confirmed that the new document provides the clarity it was seeking and its previous concerns have been addressed¹⁴⁰.

Ground water and surface water

- 4.123 In respect of groundwater flooding, the deepest cutting would be below the water table. However as the cutting is designed to allow groundwater to pass through and be intercepted with drainage at the crest, toe and down the slope of the embankment, before being collected along with surface water and drained to a watercourse or attenuation pond, I am satisfied that any increase in risk can be mitigated. No significant sources of contamination have been identified, but if any were to become apparent it would be managed in accordance with the Pollution Incident Prevention and Control Plan, required as part of the CEMP¹⁴¹.
- 4.124 In respect of surface water, as the proposal would increase the impermeable area, all culverts and outfalls are to be retained, all primary track drainage designed for up to a 1 in 50 year event, and attenuation basins constructed to accommodate flows up to a 1 in 100 year storm event (including a 30% allowance for climate change). Through hydraulic control, water would be released from the basins at the greenfield runoff rate whilst maintaining a suitable minimum water depth for biodiversity.

Flood risk

- 4.125 The NPPF explains that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The floodplains of the two rivers are categorised by the EA as being within Flood Zones 2 and 3 where there is risk of flooding. The River Sow and Meece Brook have no defences and out of bank flooding occurs during heavy rainfall as can be seen in the photographs of the Meece Brook flooding provided by Mr and Mrs Llewellyn¹⁴² who live on the opposite side of Stone Road.
- 4.126 The guidance supporting the NPPF however explains that essential infrastructure which has to cross an area at risk is permissible in areas of high flood risk, subject to the requirements of the Exception Test. Due to the existing configuration of the WCML, it is proposed here that the new railway and road would cross the low lying area of the Meece Brook floodplain on embankment. As such the new railway line would be above the 1 in 100 year flood level (including a 20% increase in flow for climate change). However, it would have offsite effects. It would impede flood flows, result in a loss of floodplain storage and increase the depth

¹³⁹ Document EV-095

¹⁴⁰ Document REP-048

¹⁴¹ Requirement 3(4)(b)

¹⁴² Document EV-024

and extent of flooding at Norton Bridge, although the SOCG notes that the proposals would reduce downstream flows in Stafford¹⁴³.

- 4.127 Floodplain compensation was considered in the FRA. But whilst the water level could be reduced, hydraulic modelling indicated that the area would still suffer significant flooding, and the conclusion, agreed with the EA, was that the wider environmental impacts associated with creating the compensation outweighed the benefits. No commercial, industrial or residential development would be at risk of flooding. However it could take several days for floodwater to recede from the low lying agricultural land and thus affected the productivity and usability of the affected fields. This would be a matter for NR to deal with in discussion with the affected landowners in respect of appropriate compensation. During the examination the route of the diverted PF11 was changed to avoid waterlogged land.
- 4.128 In respect of the maintenance of the drainage proposals, NR would maintain any structure or drainage works on its own land. If land is only to be used temporarily, for example for access to the works or for the bunds, the Order as drafted¹⁴⁴ requires all temporary works to be removed and the land restored to the reasonable satisfaction of the landowner. That would include it being satisfactorily drained.
- 4.129 The scheme includes accommodation access to severed farmland and originally there were proposals for a ford across the River Sow. The EA sought an alternative and at the CA hearing NR confirmed that it was looked to retain the Bailey bridge to provide access to fields the other side of the river.

Conclusion on water, drainage and flood risk

- 4.130 The new railway would affect two Main Rivers and their tributaries and require significant changes and new and altered structures. The SOCG confirms the involvement of the EA throughout the development of plans for the scheme. The scheme provides for adequate surface water attenuation in the form of ponds. The CEMP would require adherence to best practice guidance for construction near watercourses and for pollution prevention. Whilst there would be a residual adverse impact on flood risk, there would be no risk to properties or persons and NR is engaged in negotiations with the owners of farmland likely to be affected by any increase in flooding.
- 4.131 I am satisfied that all other potential effects can be the subject of effective mitigation such that the scheme would not adversely impact on water supply, water resources, water quality,

¹⁴³ Document APP-026 FRA page 19 paragraph 3.2.11

¹⁴⁴ Document PD-025 Article 28(4)

groundwater or surface water. As such I find there would be no conflict with the objectives of national or local planning policies.

Heritage impacts

- 4.132 The potential effects of the scheme on the historic environment of the area are assessed in chapter 12 of the ES and accompanying technical report 12¹⁴⁵. Details of the historic environment are shown on Figures 12.1 and 12.2 in the Volume 4 of the ES¹⁴⁶.
- 4.133 A SOCG on the Historic Environment has been agreed between the applicant and SCC¹⁴⁷. It confirms that the methodology and approach taken in the ES was appropriate and predicted effects on known heritage assets accurately described.
- 4.134 The LIR notes that whilst no designated heritage assets would be directly affected by the scheme, the setting of some would be affected as well as that of undesignated heritage assets. Particular concerns were below ground archaeological remains, the historic landscape character and the historic built environment.
- 4.135 In respect of below ground archaeological remains, the LIR notes that very little archaeological work has been carried out in this area of Staffordshire and there may be potential for the presence of previously undiscovered remains, particularly in the river valleys. These could be affected not just by the construction activity but also by potential changes in groundwater levels.
- 4.136 The SOCG notes that NR has undertaken a geophysical survey programme, the final phase of which was due to be completed during the examination. The results are intended to be fed into the Archaeological Management Plan to be provided as part of the CEMP and which would include: (iii) procedures for dealing with unexpected significant archaeological discoveries; (iv) programme of archaeological mitigation; and (v) post excavation reporting and archiving. English Heritage welcomed and supported the commitment in the Order for the CEMP to include an Archaeological Management Plan¹⁴⁸.
- 4.137 The landscape around Norton Bridge and Chebsey retains much of its 17th to 19th century character of piecemeal enclosure. The scheme, by cutting across field boundaries and altering the shape and size of many fields and the road network, would impact on the integrity of the area's historic landscape character. The CEMP through the LEMP and the Design Brief provides for further consultation and discussion on the retention of important hedgerows, the line of new hedgerows and the final pattern of field boundaries to reflect the historic landscape character of the area.

¹⁴⁵ Documents APP-021 and APP-040

¹⁴⁶ Document APP-046

¹⁴⁷ Document PD-060

¹⁴⁸ Document RR-028

- 4.138 Whilst there are designated and undesignated heritage assets around the site, they have already been significantly affected by the existing WCML and I agree with the LIR that the new line would not represent a substantial worsening of their settings.
- 4.139 In respect of the Chebsey Conservation Area¹⁴⁹, its character is defined in a large part by its open countryside setting which penetrates into the village from all directions. However I do not consider that, given their distance from the village, the temporary impact on the junctions to the approach roads to the village as a result of the construction works would be so wide reaching and adverse as to materially affect the setting of the Conservation Area. On completion of the works the Chebsey Lane junction would be restored. Whilst the B5026 would be realigned from Scamnell Lane and Searchlight Lane would be straightened with a new bridge, again I am satisfied that these are sufficiently distant from the village so as not to intrude on its countryside setting.

Conclusion on heritage impacts

- 4.140 I am satisfied that the CEMP, through the archaeological management plan and the LEMP, represents a satisfactory approach to securing appropriate mitigation for any adverse impacts on the historic environment that might arise as a result of the construction or operation of the scheme. Thus there would be no conflict with national or local planning policies for the protection of designated and undesignated heritage assets.

Socio-economic impacts

- 4.141 Chapter 14 of the ES addresses the potential socio-economic effects of the proposed development, both during construction and when operational, in respect of employment effects; effects on access to and use of key local recreational facilities; and wider economic benefits¹⁵⁰. The impacts on farming businesses is assessed in Chapter 16 and there would be other aspects that have a social and economic dimensions including the effects on the local road network, visual amenity and noise, which I have dealt with above, and minerals and waste.
- 4.142 The area around the site is economically healthy¹⁵¹. NR's assessment of the wider economic benefits highlights the significant improvement to rail operation with improved rail journey time, frequency and capacity that benefit both existing and new rail users, as well as encouraging a modal shift from road to rail. NR's own calculations indicate benefits to road users and safety benefits to society in the order of £920 million with 3 million

¹⁴⁹ Document REP-200

¹⁵⁰ Document APP-021 Chapter 14 also Technical Report 14 (Document APP-042)

¹⁵¹ Document APP-042 Technical Report 14 section 6 on baseline conditions

vehicle miles removed from the roads as a result of the project and a Net Present Value of £1,200 million¹⁵².

- 4.143 Railway infrastructure has a role to play in bringing forward sustainable development with the potential to achieve broader regional and national economic and social benefits. The LIR recognises that the project would bring long term economic benefits for the sub-region, due to the nature of the development and the connectivity it would deliver¹⁵³. Jobs would be created during construction and the increased capacity and frequency on the network would enhance longer distance employment opportunities.
- 4.144 There would also be local negative impacts with disruption to businesses and local residents during construction, the demolition of property, the diversion of existing roads and footpaths, and the loss of land, even if only temporarily, to a number of local farms. Whilst the land take has been minimised, some farm holdings would be affected by the permanent loss and severance of land, including best and most versatile land, and NR has proposed, outside the DCO process, to discuss with landowners the potential for replacement land and land swaps. Those affected either temporarily or permanently by the scheme would be entitled to compensation in line with the statutory compensation code.
- 4.145 The project would generate nearly 600,000 cubic metres of excavated material from the cuttings that it is intended to be used on site¹⁵⁴. This would be in line with national waste policy and would have a benefit in reducing the number of vehicle movements on the local road network. SBC referred in the LIR to permission for the remodelling of the Izaak Walton Golf Course using imported soils¹⁵⁵. During the examination that work appeared to me to have begun and I think adverse cumulative effects are unlikely. The potential has been investigated for using locally won material for engineering works but bore holes and trial pits have not identified a proven consistent resource¹⁵⁶. However both NR and NG have appropriate clauses in their agreements/deeds with each other and with landowners if useable minerals are encountered¹⁵⁷.

Conclusion on socio-economic impacts

- 4.146 Paragraph 6 of the NPPF sets out the purpose of the planning system to contribute to the achievement of sustainable development. The scheme would have both short and long term environmental impacts and local social impacts. But by providing

¹⁵² Document APP-021 paragraphs 14.4.5 and 14.4.6

¹⁵³ Document PD-038 paragraph 5.5

¹⁵⁴ Document APP-021 Table 17.3 page 188

¹⁵⁵ Documents PD-038 and PD-039

¹⁵⁶ Document REP--050 response to question 6

¹⁵⁷ Document REP-050 paragraph 2.39

infrastructure that would help contribute towards building a strong, responsive and competitive economy with the potential for broader regional and national economic and social benefits, I conclude that overall the scheme in terms of socio-economic impacts would have a neutral effect on the area.

5 FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

Legal Framework

- 5.1 Regulation 61 of the Habitats Regulations requires that before any consent, permission or other authorisation can be granted, which would include grant of a DCO, an assessment is made of the implications for European sites where the plan or project 'is likely to have a significant effect on a European site .. (either alone or in combination with other plans or projects)'.
- 5.2 In accordance with Regulations 5(2)(g) and (l) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regs), the application was accompanied by plans showing sites and features of nature conservation, habitats and water bodies¹⁵⁸ along with a Report Identifying the Effects on European and/or Ramsar Sites (the HRA report)¹⁵⁹. This concluded that having regard to the nature of the scheme there would be no activities associated with it, either direct or indirect, considered likely to result in effects on European sites beyond 10km. This is agreed by NE¹⁶⁰.

Site Location

- 5.3 The proposed scheme is within 10km of a Ramsar site, the Midlands Meres and Mosses Ramsar site (Phase 2)¹⁶¹. The Midlands Meres¹⁶² and Mosses¹⁶³ are post glacial features comprising shallow depressions in the underlying glacial drift. The Ramsar site is designated for its internationally important wetland habitats and comprises 18 component SSSIs, the nearest to the scheme being Cop Mere SSSI located approximately 5.3km to the west. The other component SSSIs are beyond 10km. The conservation objectives are at Document REP-043.

HRA implications of the project

- 5.4 Cop Mere SSSI is an outlier of the series of meres concentrated in North Shropshire and Cheshire. It is a shallow lake lying in a hollow in Keuper Marl but unlike many of the meres it has a distinct inflow and outflow with the Rover Sow entering the mere at the western end and leaving at the eastern end.

¹⁵⁸ Document APP-009 and

¹⁵⁹ Document APP-017

¹⁶⁰ Document PD-048

¹⁶¹ Document APP-046 Figure 9.1 shows designated sites within 10km of the site

¹⁶² Meres are defined in Document APP-017 as 'a lake formed in a shallow depression in the underlying geology'.

¹⁶³ Mosses are defined in Document APP-017 as 'a peat filled basin formed in a shallow depression in the underlying geology, where vegetation has accumulated over many thousands of years to form a peat habitat'.

- 5.5 As already described, much of the new railway would be in cutting with short sections at grade and with flyovers across the River Sow and the Meece Brook. There is potential for cuttings along the new rail alignment to cause the drawdown of ground water and result in significant effects on the Ramsar site.

Assessment of effects resulting from the project, alone and in combination

- 5.6 The Water, Hydrology and Hydrogeology Technical Report in the ES¹⁶⁴ includes an assessment of the potential effects of the scheme on surface and ground water resources. It concludes that there is the potential for localised drawdown of ground water where the new railway would be in cutting through areas of high ground at a depth below the level of the recorded water table.
- 5.7 The cutting would be a maximum of 14m below ground level and the water table here was encountered at approximately 10m below ground level. Although the ES does not specifically identify the sections of cutting that would be below the water table, the works plans¹⁶⁵ include longitudinal sections that show existing and proposed ground levels. I am satisfied on the evidence that at this depth of cutting for relatively limited sections of the track, and given the distances involved, small depressions in the water table would not be likely to have a significant effect on the European site. NE also agrees that any groundwater drawdown would be localised and affect groundwater levels in the immediate vicinity of the project only¹⁶⁶.
- 5.8 Appropriate design of the cutting and its drainage, as shown on the application drawings, would address any local effect of lowering the water table. The requirements in the revised final draft DCO, agreed by NE, would ensure that the development is carried out in accordance with the design drawings, habitats are monitored, and protection controls for retained habitats put in place as well as controls to prevent pollution¹⁶⁷.
- 5.9 The applicant's draft HRA report concluded at paragraph 2.1.9 that 'there would be no significant effect on the Midlands Meres and Mosses Ramsar site and that no appropriate assessment is required'. In May 2013 NE confirmed its agreement with that conclusion stating 'that, on the basis of objective evidence, the proposed development will not have significant effects on the Ramsar site, alone or in combination with other plans or projects'¹⁶⁸.

¹⁶⁴ Document APP-036

¹⁶⁵ Document APP-006

¹⁶⁶ Document REP-014

¹⁶⁷ Document PD-026 Schedule 2 Requirements 3(2), 3(4)(h)(iii) and (x), and 3(5)(a)

¹⁶⁸ Document REP-014 paragraph 6.2.1

- 5.10 During the examination two SOCGs on ecology and nature conservation were agreed by NR with NE, SBC, SCC and EA. A Report on the Implications for European Sites (RIES) was also prepared by the Planning Inspectorate Secretariat (Appendix G).
- 5.11 The advice of NE as the statutory nature conservation body is contained in its relevant and written representations and in the two SOCGs¹⁶⁹. I agree with NE that the distance between the development site and the Ramsar site is sufficient to avoid risks of pollution impacts upon the ground water resource or pollution as a result of noise, light or effects on air quality¹⁷⁰.

In combination effects

- 5.12 The applicant's HRA report did not specifically address in-combination effects. However the ES Technical Report on Water, Hydrology and Hydrogeology did identify three sites/projects that might affect the River Sow or Meece Brook upstream or downstream of Norton Bridge which should be considered cumulatively as part of the HRA assessment¹⁷¹.
- 5.13 In respect of the 2 redevelopment schemes in Stafford, these are 10km downstream of the scheme and given the distance any in combination impacts are unlikely. The third scheme is a large housing site north east of Stafford, 8km downstream of Norton Bridge, proposed to be allocated in the emerging Local Plan. The allocation is at a very early stage of gestation. The emerging Local Plan is subject to examination. If agreed, any development would have to satisfy the relevant requirements of the SBC and EA. There is no evidence that if it were to go ahead, there would be any adverse effects on the Ramsar site in combination with the rail project.
- 5.14 The SOCGs confirm that 'there is agreement that the scheme will not have significant effects on European designated or Ramsar sites, such as the Midlands Meres and Mosses Ramsar site (Phase 2), either alone or in combination with other schemes. Therefore no Appropriate Assessment is required'¹⁷².

Conclusion

- 5.15 I consider that there is sufficient evidence to allow the SoS to conclude that significant effects can be excluded for all the features of the relevant European or Ramsar site either alone or in combination with other plans or projects. If this is agreed, there is no requirement pursuant to Regulation 61 of the Habitats Regulations for the SoS as the competent authority, before

¹⁶⁹ Documents RR-017, REP-016, PD-048 and REP-100

¹⁷⁰ Document REP-016 paragraph 6.2.1

¹⁷¹ Document APP-036 and the sites are shown on Figure 18.1 ES Volume 4 (Document APP-046)

¹⁷² Documents PD-048 and REP-100

deciding to give consent, to make an appropriate assessment of the implications for the site in view of its conservation objectives.

6 OVERALL CONCLUSION AND RECOMMENDATION ON THE CASE FOR DEVELOPMENT CONSENT

- 6.1 My overall conclusion on the case for development consent for this scheme is based on an assessment of prescribed matters and those matters that I consider are both important and relevant to the SOS's decision, as well as those matters identified in the LIR.
- 6.2 In Chapter 3 of this report I set out the policy context which I consider is both important and relevant to my assessment of the application, and I have referred to specific relevant policies in concluding on issues examined in Chapters 4 and 5.
- 6.3 The adequacy of the ES was not challenged during the examination. I am satisfied that the environmental information provided both in the ES and additional environmental information received during the course of the examination is sufficient for the SOS to take into consideration before taking a decision on the application in compliance with Regulation 3(2) of the EIA Regulations 2009.
- 6.4 I have set out the reasons for my conclusions on each of the matters in Chapters 4 and 5.
- 6.5 I am satisfied that the application supports the policy objectives set out in the NPPF and conforms to the objectives of local planning policies.
- 6.6 The project would increase capacity on the WCML, identified as a specific objective in the Railways White Paper, and by removing a significant bottleneck on the mainline would improve performance, reliability and safety. It accords with the goals of the Government's transport policy, would minimise adverse impacts and would deliver sustainable development.
- 6.7 I am satisfied that the application satisfies all legal and regulatory requirements and that, for the reasons set out in Chapter 5, the project can proceed without putting the UK in breach of the Habitats Directive.
- 6.8 I conclude that, when account is taken of the proposed mitigation that would be secured through the CEMP, the need for the project to be delivered and other benefits of the scheme outweigh any adverse impacts. I therefore recommend that the SOS should grant consent to the application.
- 6.9 Chapter 7 that follows deals with the request for compulsory acquisition powers and Chapter 8 with the draft DCO necessary to give effect to that recommendation. My overall conclusions and recommendations are set out in Chapter 9.

7 COMPULSORY ACQUISITION

The Request for Compulsory Acquisition Powers

- 7.1 Through the DCO, NR is seeking compulsory acquisition powers to acquire land and to acquire rights and impose restrictive covenants over land. In addition it provides for National Grid (NG) to acquire new rights and impose restrictive covenants over land.
- 7.2 The application also seeks, within the DCO, additional acquisition powers in respect of:
- Stopping up of streets (article 11 and Schedule 5)
 - Temporary stopping up of streets (article 13)
 - Level crossings (article 17 and Schedule 6)
 - Authority to survey and investigate land (article 19)
 - Private rights (article 23)
 - Rights under or over streets (article 27)
 - Temporary use of land by NR and NG (articles 28 and 29 and Schedule 9)
 - Temporary use of land for maintaining the authorised development (article 30)
 - Felling or lopping of trees (article 35)
- 7.3 The DCO seeks through Article 24 to apply the provisions of the Compulsory Purchase (Vesting Declarations) Act 1981 with certain modifications.

The Purposes for which the Land is Required

- 7.4 In accord with Regulation 5(2)(h) of the APFP Regulations, a Statement of Reasons¹⁷³ was submitted as part of the application. It remained unchanged during the examination.
- 7.5 In broad terms, the purpose of acquisition is to enable NR to construct and operate the development on the land and also for NG to carry out the diversions of its pipelines and to protect and maintain the new lengths of pipelines once installed. Land is also required for other associated development, including road diversions, road remodelling and river diversions¹⁷⁴.
- 7.6 The Book of Reference (BoR)¹⁷⁵ and the Land Plans¹⁷⁶ submitted with the application were both subject to change during the course of the examination. Plot 101 was deleted as it was decided it would not be required as alternative access could be provided to a ditch¹⁷⁷. Revisions were made to entries in the BoR to correctly

¹⁷³ Document APP-012

¹⁷⁴ Paragraphs 2.13 and 5.1 Statement of Reasons Document APP-012.

¹⁷⁵ Document APP-049

¹⁷⁶ Document APP-005

¹⁷⁷ Document REP-097 letter from Malcolm Armstrong dated 10.9.13 to PINS

refer to National Grid Gas plc. The final version of the BoR and Land Plans are those submitted on 4 September 2013¹⁷⁸.

7.7 The original BoR identified 212 plots. Negotiations continued through the examination period, but other than plot 101 none of the original parcels have been withdrawn. The specific purposes for which the applicant requires each plot of land are set out in the DCO and in the Statement of Reasons¹⁷⁹.

7.8 Article 20(1) of the DCO provides that NR may acquire compulsorily 'so much of the Order land as is required for the authorised development or to facilitate it, or is incidental to it'. This is subject to article 22(2) (compulsory acquisition of rights) and article 28(8) (temporary use of land by NR). The land plots in respect of which full compulsory acquisition powers are sought by NR for the construction and maintenance of the permanent works are listed in the Statement of Reasons¹⁸⁰ and are -

3, 10, 11, 23, 25, 27, 37, 39, 44-46, 48-50, 54, 56, 58, 60, 66, 68-70, 74-76, 79-81, 86-90, 93, 95, 96, 100, 104, 106a, 108a, 109, 111-113, 117-119, 123-126, 129, 130, 139, 146-148, 150, 156-161, 165, 166, 166a, 167-169, 178, 183, 185, 188, 190, 191, 197, 200, 202, 205, 207, 208a, and 209

7.9 The plots in respect of which only new rights may be acquired by NR or for which restrictive covenants may be imposed for the purposes of vehicular access and power supply are¹⁸¹ -

11a, 29a, 30a, 42, 52a, 55, 130a, 141, 156a, 170, 174, 175, 178a, 210a, 211, and 212

7.10 The plots in respect of which only new rights may be acquired by NG or for which restrictive covenants may be imposed for the purposes of construction and maintenance of pipeline are¹⁸² -

30, 30a, 33, 34, 37, 38, 56, 58, 59, 61, 65, 67, and 71

7.11 The plots of land where NR may take temporary possession of land, and the purposes for which they may be required¹⁸³, are listed in Schedule 9 Part 1 of the DCO. They are -

1, 2, 4-9, 11a, 12-16, 19-22, 24, 28, 29, 29a, 30, 30a, 33, 34, 34a, 35, 36, 37a, 38, 40, 42, 43, 47, 51, 52, 52a, 53, 55, 56, 57, 59, 61-65, 67, 71-73, 77, 78, 82, 82a, 83-85, 91, 92, 94, 97-99,

¹⁷⁸ Documents REP-098 and 099

¹⁷⁹ Document APP-012

¹⁸⁰ Document APP-047 paragraph 5.2

¹⁸¹ See the DCO (Document PD-026) article 22(1) and Schedule 7 Part 1

¹⁸² See the DCO (Document PD-026) article 22(3) and Schedule 7 Part 2

¹⁸³ These include earthworks, access to works, works compound, river diversion, road widening, construction and maintenance of pipeline, tree planting, environmental mitigation, drainage works, junction remodelling, grubbing up highway, mitigation work, works to utilities, access to severed land, and installation of power supply.

102, 103, 105, 105a, 107, 107a, 108, 110, 114-116, 120-122, 127, 128, 130a, 131-134, 136, 140-145, 149, 151-155, 156a, 162, 163, 164, 170-177, 178a, 179-182, 184, 186, 187, 189, 192-196, 198, 199, 201, 203, 204, 206, 208, 209, 210a, 211, 212

7.12 The plots of land where temporary possession may be taken by NG, and the purposes for which they may be required¹⁸⁴ are listed in Schedule 9 Part 2. They are -

1, 2, 3, 5, 7, 8, 11, 11a, 13, 19, 30, 30a, 33, 34, 34a (part), 37, 37a, 38, 42, 49, 50, 52, 52a, 54, 55, 56, 57, 58, 59, 61, 65, 66, 67, 71, 76, 80, 87, 90, 96.

7.13 There is a useful map showing the permanent and temporary land take in the ES¹⁸⁵. The ES sets out the land use requirements; approximately 71.41ha being required for temporary use, approximately 38.9ha for permanent use and 1.4ha for rights¹⁸⁶. The scheme would not result in the demolition of any permanent residential properties although outbuildings, a cattle shed with slurry pit and poultry sheds would be lost.

Affected persons

7.14 There are 55 affected persons. The scheme would pass through farmland and there is a useful Land Owner Map at Document APP-046 Figure 16.1 showing the farm holdings affected by the scheme and which are subject to the proposed compulsory acquisition of parcels of their land. Land in SCC's ownership (50 plots) is also required to facilitate the road diversion and junction widening works.

7.15 None of the land affected by the draft DCO is identified in Part 5 of the BoR as land the acquisition of which is subject to special parliamentary procedure, is special category land, or which is replacement land¹⁸⁷.

Statutory undertakers and others

7.16 The PA2008 sets out particular considerations in respect of statutory undertakers' land (section 127) and the extinguishment of rights, and removal of apparatus, of statutory undertakers etc (section 138).

7.17 NR agreed SOCGs with National Grid and UKOP. These set out common ground and matters awaiting agreement. Subsequently NR reached separate agreement with National Grid, Western

¹⁸⁴ These include worksites and access to works, construction of pipeline and construction and maintenance of pipeline.

¹⁸⁵ Document APP-046 ES Volume 4 Figure 2.3

¹⁸⁶ Document APP-021 ES Volume 2 Main Statement paragraph 2.6.1

¹⁸⁷ As set out in Regulation 7(1)(e) of the APFP Regulations (for example commons, open space, National Trust land, etc).

Power Distribution Ltd and UKOP¹⁸⁸ with the drawing up of various asset protection agreements and prior to the close of the examination their objections were withdrawn¹⁸⁹.

- 7.18 A number of other statutory undertakers may have apparatus affected by the development and were consulted. No response raised any objection to the development¹⁹⁰.

The Requirements of the Planning Act 2008

- 7.19 Compulsory acquisition powers can only be granted if the conditions set out in sections 122 and 123 of the PA2008 are met.
- 7.20 Section 122(2) provides that the land must be required for the development to which the development consent relates or is required to facilitate or is incidental to the development. In respect of land required for the development, the land to be taken must be no more than is reasonably required for the purposes of the development and is proportionate.¹⁹¹
- 7.21 Section 122(3) requires that there must be a compelling case in the public interest for the land to be acquired compulsorily. For this condition to be met, the DCLG guidance advises that 'the SoS will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired'. In balancing public interest against private loss, compulsory acquisition must be justified in its own right. But this does not mean that the proposal for compulsory acquisition must be considered in isolation from the wider consideration of the merits of the project. There must be a need for the project to be carried out and there must be consistency and coherency in the decision-making process.
- 7.22 Section 123 requires that one of three conditions is met by the proposal¹⁹². As the application for the DCO included a request for the compulsory acquisition of the land to be authorised it satisfies S123(2) of the Act.

¹⁸⁸ United Kingdom Oil Pipelines Ltd is not a statutory undertaker for the purposes of the PA2008.

¹⁸⁹ Withdrawal of NG objection Document PD-065; withdrawal of Western Power Document PD-069; withdrawal of UKOP objection Document PD-077.

¹⁹⁰ Document REP-050 response to question 8

¹⁹¹ Guidance related to procedures for the compulsory acquisition of land DCLG September 2013 paragraph 11

¹⁹² (1) An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that one of the conditions in subsections (2) to (4) is met.

(2) The condition is that the application for the order included a request for compulsory acquisition of the land to be authorised.

(3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.

(4) The condition is that the prescribed procedure has been followed in relation to the land.

- 7.23 Other general considerations also have to be addressed as a result of following applicable guidance and in accordance with the legal duties placed on decision-makers –
- all reasonable alternatives to compulsory acquisition must be explored¹⁹³;
 - the applicant must have a clear idea of how it intends to use the land and to demonstrate a reasonable prospect of funds being available¹⁹⁴; and
 - the decision-maker must be satisfied that the purposes stated for the acquisition are legitimate and are necessary and proportionate, and sufficiently justify the inevitable interference with the human rights of those with an interest in the land affected¹⁹⁵.

How the Case for Compulsory Acquisition was Examined

- 7.24 I asked two rounds of questions of which 7 in the first round and 5 in the second were specifically directed at compulsory acquisition. In addition there were questions about the protective provisions in Schedule 10 of the Order and about S127/S138 of the PA2008.
- 7.25 Notice was given by several affected persons of their wish to be heard at a compulsory acquisition hearing. Accordingly a hearing was scheduled and held in Stafford on 23 July 2013. The hearing agenda is Document EV-038. At the accompanied site visit on 19 June 2013 I also looked at the land proposed to be acquired both permanently and temporarily.
- 7.26 As representations were made about the application by statutory undertakers, I had to consider whether S127 of the PA2008 relating to statutory undertakers' land would apply. In the event, following discussions with NR and the signing of various asset protection agreements, the objections by NG and Western Power Distribution were withdrawn during the examination¹⁹⁶ and S127 is not engaged.
- 7.27 The BoR includes a number of plots where potential claimants are stated to be 'unknown'. I am satisfied that NR has taken sufficient and adequate steps to try and establish ownership¹⁹⁷. Further information on the compilation of the BoR was also given in NR's response to my second round questions¹⁹⁸.

¹⁹³ Paragraph 8 DCLG PA2008 Guidance relating to procedures for the compulsory acquisition of land

¹⁹⁴ Paragraph 9 of DCLG PA2008 Guidance on compulsory acquisition

¹⁹⁵ Paragraphs 8 and 10 DCLG PA2008 Guidance on compulsory acquisition and Article 1 of the First Protocol and Article 8 of the European Convention on Human Rights

¹⁹⁶ Documents PD-065 and PD-069

¹⁹⁷ See response at Document REP-028 page 46 Question 8.4

¹⁹⁸ Document REP-050 page 11 Question 3.1

The Case for the Applicant

- 7.28 The applicant maintains that there is a compelling case in the public interest for the project as a whole to go ahead, and that all the land is required for (or is incidental to) the purposes of the development¹⁹⁹. All statutory requirements have been complied with. The project accords with and is compliant with national, regional and local transport and planning policy and guidance.

WCML

- 7.29 NR's case is that the Norton Bridge junction slows down traffic and is a constraint on capacity on the WCML. The project would provide for increased rail passenger and freight capacity. The provision of new railway infrastructure over the WCML linking the WCML slow freight lines with the Stone Line would enable services between Stafford and Stoke-on-Trent, in both directions, to travel directly over the WCML, eliminating current conflicting crossing movements with the WCML fast passenger lines.
- 7.30 This would remove a major constraint on developing improved timetables for the WCML and facilitate planned capacity increases through the Stafford Area. Associated development within the project would allow for the construction of the new railway by providing for the diversion of pipelines, roads and rivers that cross the new alignment.

Policy support for the scheme

- 7.31 Whilst there is not yet a NPS relating specifically to railways, NR argues that this does not lessen the case for the Norton Bridge development being in the public interest. The application was accompanied by an Assessment of Need which explains the strategic transport case for the project²⁰⁰. The 2007 White Paper 'Delivering a Sustainable Railway' sets out the Government's policy for the railways and in Appendix A, the outputs the Government is seeking during the current regulatory period (CP4). These are translated into physical requirements through the Route Utilisation Strategies (RUS) which NR produces as part of its licence requirements.
- 7.32 NR referred to the WCML RUS²⁰¹ which includes a programme of enhancement works under the Stafford Area Improvement Programme funded by DfT (via approval of CP4 funding by the Office of Rail Regulation (ORR)). The development is part of those works. The Programme includes bringing forward the Norton Bridge project during CP4 and delivering it in the next control period, CP5, in order to enhance capacity on the WCML. The

¹⁹⁹ See Document APP-019 Assessment of Need and Document EV-049 Written Summary of NR's oral case put forward at the compulsory acquisition hearing.

²⁰⁰ Document APP-019

²⁰¹ Document PD-052

development needs to be authorised and implemented in time for the introduction of a new timetable on the WCML in December 2017.

- 7.33 Although arguments were put in representations and at the hearings that the prospect of HS2 undermined the case for the NSIP, NR's case is that there is a need for the development. That need is now, in time for the new December 2017 timetable, regardless of whether or not HS2 (or any alternative) eventually happens.

Need for compulsory acquisition

- 7.34 The applicant contends that compulsory acquisition powers are necessary to enable the construction and operation of the Norton Bridge improvements in time to implement the new timetable. Without the land that is currently in third party ownership and a means to override existing rights and interests in or over the land, the development could not take place. Without compulsory acquisition powers, the land might not be assembled, uncertainty about construction would continue, the objectives of NR would not be realised and the national need for the development could not be met.
- 7.35 The case for NR is that the acquisition of third party rights and interests cannot be avoided. There is no practicable alternative location for the development²⁰². The current constraints relate to the existing junction and require new track infrastructure. Other strategic and /or technological options, such as improved signalling, are not feasible or practical on their own. Alternatives to the current scheme were investigated and 8 options were subject to a 4 phase sifting process and whittled down to 3 options which progressed to more detailed design and assessment and public consultation.
- 7.36 It was as a result of further engineering design development and consultation feedback that a further option A1 (the current scheme) was taken forward and selected by NR's Board in May 2011 as the preferred alignment. The applicant outlined its advantages over the alternatives as better addressing concerns and feedback from consultees; improved opportunities to mitigate noise and visual effects; providing the optimum engineering alignment; meeting the operating specification; roughly equal to other options in environmental terms; and providing cost savings²⁰³. There have been various investigations to optimise the alignment of option A1 but a primary constraint to further modification is that the track radius cannot be reduced otherwise the specified line speeds for the 2017 timetable could not be achieved.

²⁰² Document APP-019 Assessment of Need section 8

²⁰³ Document APP-020 ES Main Statement section 3.4

Extent of the land take

- 7.37 The case for the applicant is that by its nature this is a long linear scheme. The limits of the land to be acquired have been drawn as tightly as possible at this stage to avoid unnecessary land take. Every plot is needed. In addition to the land take for the new railways and road works, the application scheme includes proposals for environmental mitigation in order to avoid adverse impacts on the surrounding area and its environment and residents.
- 7.38 These include the provision of new and replacement ponds, a marl pit, tree planting and earthworks bunds alongside the new track. These would utilise material dug out from the cuttings and would screen the railway in places, help it to integrate into the wider landscape, and provide new habitats for flora and fauna and mitigation for Barn Owls. Much of the land required for environmental mitigation would be returned to the owners after the works are completed. Around 64% of the land within the Order limits is only intended to be used temporarily.
- 7.39 Although the applicant stated that it is impractical at this stage to remove any plots, if it were to be found at the detailed design stage that less land is required, NR would not seek to acquire all the land. The DCO has been drafted to allow flexibility so that in certain cases it might be possible to reduce the area of outright acquisition and to rely instead on new rights²⁰⁴. It is NR's case that the condition in S122(2)(b) of the PA2008 is met in that all the land is required for (or incidental to) the purposes of the Norton Bridge development.

Availability and adequacy of funds

- 7.40 A Funding Statement was submitted with the application²⁰⁵. The scheme for a grade separated junction at Norton Bridge forms part of the wider Stafford Area Improvements Programme. The anticipated final cost of the programme is £255.4 million. The programme is identified for Government funding via the HLOS. In response to my question, NR referred to the latest statement dated July 2012 relating to the period April 2014 to March 2019 where the WCML Stafford upgrade is identified as a committed project. Whilst the funding was committed in CP4, the Programme is included in NR's delivery plan for the next 5 years (CP5)²⁰⁶.
- 7.41 It was confirmed at the compulsory acquisition hearing that there had been no change in position concerning the funding of the scheme and that the necessary funds are in place for the scheme including for compulsory acquisition.

²⁰⁴ For example Articles 20 (compulsory acquisition of land) and 22 (compulsory acquisition of rights).

²⁰⁵ Document APP-048

²⁰⁶ Document REP-028 NR's response to Questions 8.2 and 8.3 on page 46.

- 7.42 It is NR's case that the Norton Bridge scheme is fully funded and authorised funds would meet both the capital cost of implementing the DCO (including all compensation) and the cost of acquiring land.

Human rights

- 7.43 The applicant's Statement of Reasons also reviews the articles of the European Convention on Human Rights as applied within UK domestic law by the Human Rights Act 1998. It protects the right to respect for private and family life under Article 8 and to peaceful enjoyment under Article 1 with any interference being proportionate and striking a fair balance between the individuals' rights and the public interest. Article 6 entitles those affected by the powers sought in the DCO to a fair and public hearing by an independent and impartial tribunal with recourse to judicial review.
- 7.44 The Statement notes that procedures under the PA2008 and rights under the Compulsory Purchase Act 1965 and Land Compensation Act 1973 make provisions for objections to be heard by the ExA as an independent tribunal and for challenges to be brought by judicial review in the High Court. For those reasons, the applicant maintains that the inclusion in the Order of powers of compulsory acquisition would not infringe the Convention rights of those affected and it would be appropriate and proportionate to grant the DCO powers, including compulsory acquisition powers.

Representations on the draft Order

- 7.45 NR referred to the few representations in respect of the proposed land acquisition and creation of rights and that those are more concerned with the practicalities and consequences of compulsory acquisition than the acquisition itself. It is continuing to seek to agree terms with those affected by the scheme. Detailed negotiations are ongoing with the land agents acting for those affected. Offers have been made to acquire the entire land holdings of Park Farm and Rose Tree Farm, which are most severely affected by the scheme.

Objections to Compulsory Acquisition

Alfred and Anthony Brown- plots 65, 68, 69, 82a, 84, 85, 86, 87, 88, 92, 93, 94, 95, 96, 97, 105a, 107, 107a, 108a, 114, 119, 120, 124

Anne, Philip and Roger Green - plots 209, 210, 210a, 212

Christopher Shaw- plots 164, 165, 166, 167, 173, 177, 178, 178a, 179, 180, 181, 182, 183, 185, 186, 187, 188, 189, 190, 191, 192, 196, 197, 198, 199, 200, 201, 203, 208, 208a

Kathleen and John Deane - plots 73, 74, 76, 77, 78, 79, 80,

81, 82, 83, 89, 90, 91

Background

7.46 The Browns, the Greens, the Deanes, and Mr Shaw farm around Norton Bridge²⁰⁷.

Case for the affected persons

- 7.47 The above affected persons were represented at the compulsory acquisition hearing by their land agent²⁰⁸. Whilst he acknowledged that discussion had taken place with NR, he said that there was no agreement on acquisition. Their concerns relate to the loss of agricultural land and buildings generally, the effect on farm businesses, the quality of land handed back including hedges, drainage and field shape and size, and the incorporation of bunds.
- 7.48 The agent explained at the hearing that farms nowadays are sophisticated businesses. Many use bank borrowings to fund their growth. The loss of agricultural land and buildings will impact on production and profit. Wherever possible, poorer quality land should be used for access roads and similar temporary development. Productive land should not be left segregated or unusable. The earthwork bunds are to avoid paying landfill tax. Best agricultural land is not protected. As well as the land take, the scheme will leave areas of land that cannot be farmed and are of less value. The needs of protected species should not take precedence over those of the farmers.
- 7.49 The case for the affected persons was that the bunds would be too large, too steep for agricultural machinery, of poor quality and would leave Mr Brown's land between the two lines unworkable.
- 7.50 Furthermore it was argued that the new railway would sever areas of farmland and there was a need to rationalise post scheme land ownership and field boundaries otherwise the severing of fields could produce small unusable fields. It may be necessary to remove more hedges to create viable fields. There should be early discussion on the rationalisation of hedges, planting new hedges where necessary but also the removal of hedges that no longer serve as a practical field boundary.
- 7.51 The agent's experience and that of his clients was that poor field drainage is a common problem after an infrastructure project - existing systems are not intercepted correctly or are severed. Problems are often experienced 10/12 years later. NR must

²⁰⁷ See Document APP-046 Figure 16.1 Land Owner Map - Farm E (Deane), Farm F (Brown), Farm J (Shaw), Farm K (Green)

²⁰⁸ Document EV-051

ensure that adequate field drainage systems are installed to prevent land flooding and the creation of wet unworkable areas.

- 7.52 It was also argued that the scheme is premature. If HS2 goes ahead, the need for the Norton Bridge improvement will go away.

Response by the applicant

- 7.53 NR replied that largely general concerns are raised, without reference to any specific land plots. Not all the farm businesses would be affected in the same way. NR is in discussions with all these local farmers.
- 7.54 The bunds would be made up of material dug out to create the cuttings. This is not to avoid payment of land fill tax, which would not be due anyway as the material is 'clean'. The earthwork bunds are for environmental mitigation; to redirect Barn Owl flight up and over the highway and rail corridors to minimise the risk of collision. Barn Owls are a protected species²⁰⁹. The bunds address concerns of SBC, SCC and NE about the scheme's landscape and ecological impacts.
- 7.55 They also provide landscape mitigation integrating the new highway and railway into the existing landscape. They would provide noise attenuation in some locations. They reduce the carbon footprint of the scheme by avoiding the need to transport excess material elsewhere for disposal which could have an environmental impact on the local community and road network from additional traffic movements.
- 7.56 The bunds comply with the compulsory acquisition rules. They are required to facilitate the development and are no more than is reasonably necessary and proportionate. The scheme has been designed to minimise the permanent land take where possible. By minimising the permanent acquisition of land and only occupying the land for bunds on a temporary basis, the conditions in S122(2) and (3) of the PA2008 would be met. Land needed temporarily will be returned to the owner (albeit in a changed form).
- 7.57 Requirement 3 provides for the approval and implementation of a Soil Management Plan to include handling and storage codes of practice and re-use criteria so there would be no detriment to soil or agricultural quality. The outer slopes of the bunds would be at a shallow incline suitable for farming.
- 7.58 Severance of land is unavoidable. It would not be a legitimate use of compulsory acquisition powers nor would the conditions of the Act be met if the Order sought to acquire compulsorily land from one affected party in order to transfer it to another. However there may be scope for some rationalisation of land post-scheme.

²⁰⁹ Schedule 1 of the Wildlife and Countryside Act 1981

NR is willing to consider, where appropriate, land swaps by agreement with those whose land is being permanently acquired and/or severed. Discussions about this are at an early stage and dependent on the DCO being confirmed. Messrs Brown, Deane and Shaw are all possible candidates for land swaps.

- 7.59 Any potential for conflict between the retention and replacement of hedgerows, for environmental and ecological reasons, and ensuring viable field boundaries can be dealt with by way of Requirement 3 and the production of the LEMP and Requirement 4 which provides for a landscaping and habitat replacement scheme to be agreed by the relevant planning authority.
- 7.60 The scheme has been designed with suitable drainage from the bunds. Connection into a new or existing drainage system would be provided if existing land drains are severed and there would be no adverse impact on the land.
- 7.61 NR would be willing to consider an alternative route across the Greens' land from the lay-by to the railway so as to cut across poorer quality farmland but want the power to compulsorily acquire the necessary rights in case agreement with any landowner cannot be reached.

James Holt - plots 16, 19, 20

Background

- 7.62 Mr Holt is the freehold owner of land at Field House Farm.

Case for the affected person

- 7.63 The plots are at the southern end of the Order lands where the new railway runs off to the west of the WCML. The fields between Chebsey Lane and the WCML are shown for the southern works compound and access.

Response by the applicant

- 7.64 Mr Holt's interest relates only to the temporary possession of land which would be used for part of the compound and access to the works. In accordance with article 28, the land would be restored 'to the reasonable satisfaction of the owners of the land' and returned to Mr Holt.

S&R Hopley Ltd - plots 21-25, 27-29, 29a, 30, 30a, 33, 34, 34a, 35-37, 37a, 38-40, 42-46, 48-52, 52a, 57

Background

7.65 Mr Hopley farms Halfhead Farm²¹⁰.

The case for the affected person

7.66 Mr Hopley's case was that the pipeline diversions and construction work will take a considerable amount of land both on a temporary and permanent basis with land severed and the remainder adversely affected. Whilst he had no objection in principle to the scheme, fair compensation should be paid for the disturbance, severance, etc. There has to be a quality end result. Stripped top soil should be stored on site for field restoration. Past experience of such works has not been good. When the gas pipeline was put in field drains were breached and not repaired. There needs to be a long term aftercare strategy.

7.67 NR should have considered an alternative route for the railway further to the west. It would have been down the hill and required less excavation, no new ponds and avoided Park Farm. There was no consultation on the pipeline diversion. There is an alternative route which would avoid sterilising potential sand and gravel resources.

7.68 Part of his farm business is crop trials. The sites are scattered through the farm. The new railway would sever the land and reduce the opportunity to rotate the sites. This could harm the business. The land take at Yelds Rough is considered excessive.

7.69 There is a need for accommodation works to allow access under the railway to livestock in the fields on the west side and access across the River Sow.

Response by the applicant

7.70 NR explained that alternative routes were considered²¹¹. Options and then the preferred scheme were widely consulted on, including with Mr Hopley, and no objection was previously raised. The pipelines have to cross perpendicular to the railway. The alternative route suggested is not feasible. It would be almost twice as long. It would require deeper tunnelling under the railway. The diversion route is environmentally constrained by the Meece Brook flood plain. The suggested alternative route would run alongside the river and through Yelds Rough with greater risk of contamination and environmental damage. Safety

²¹⁰ Farm C on Figure 16.1 Document APP-046

²¹¹ Document APP-021 ES Main Statement Appendix 8 National Grid Pipeline Diversions Report

requirements mean that it would require the use of thicker pipe, at an increased cost²¹².

- 7.71 Pedestrian access one metre wide under the railway at the southern abutment of Underbridge 2 may be possible to allow access to the livestock on the west side. The temporary Bailey bridge across the River Sow could be left on site as an alternative to the ford shown on the drawings to allow vehicular access to the land. To provide for a stable batter slope for the deep cutting, the land take at Yelds Rough has to be approximately 90m wide.
- 7.72 The pipeline diversion would not sterilise any workable sand deposits. The diversion does not fall within any of the Mineral Consultation Areas in the Minerals Local Plan and to which saved policy 5 applies. A British Geological Survey in 2006 indicated a 'superficial sand and gravel resource' along the Meece Brook/River Sow. But information from boreholes and trial pits collected as part of the project has established that there would only be a very localised and insignificant impact on any sand/gravel resource, which is already heavily constrained by the existing pipeline, the WCML and the character of the local roads²¹³.
- 7.73 NR would put in its own drains. It would maintain any structure or drainage system on its land. In respect of land returned to the land owner after temporary possession, article 28 of the DCO places a duty on NR to remove all temporary works and to restore to the reasonable satisfaction of the owner. Thereafter ongoing liability for maintenance would reside with the landowner. Any maintenance issues with the existing and/or diverted pipeline are for NG, not NR. Mr Hopley is a possible candidate for a land swap.

Sarah Edge - plots 129, 130, 130a, 131, 132, 133, 140, 141, 142, 143

Charles Edge - plot 128

Background

- 7.74 Mr Edge lives at Scannel on the B5026. Mrs Edge, his mother, is one of the owners of the surrounding land of Oxleasows²¹⁴, which is the family farm.

Case for the affected persons

- 7.75 Mrs Edge, her late husband and family have worked hard over many years to build up the farm. Oxleasows would lose land, both completely and for bunding, reducing the viability of the remaining holding. Wildlife habitats would be destroyed. The land take is

²¹² Document EV-049 paragraph 2.57

²¹³ See Document REP-050 NR's response to my 2nd round question 6.

²¹⁴ Document APP-046 Figure 16.1 Oxleasows is Farm G

more than that needed. The land that is not used would not be maintained and could become an eyesore with weeds that would spread to the farm land.

- 7.76 Shooting and sporting opportunities would be lost. There would be an adverse impact on the Oxleasows game shoot that rears several thousand pheasants and partridge each year. The new railway passes through a main game bird habitat. With the realignment of FP11 there will have to be severe cut backs in the birds released.
- 7.77 The realigned footpath would be located away from the new track and pass through wet areas. It should be closer to the track or diverted along the other side of the WCML. It is unnecessary for NR to have a new permanent access from Lower Heamies. The lane past Oxleasows is totally unsuitable for construction traffic.
- 7.78 Bunding on the edge of the new railway line in the field bounded by the B5026 would alter the appearance of the land and reduce its farming potential. The disposal and grading of excess material would disturb the soil and drainage structure and introduce weeds and it would take several decades before the field would return to its profitable state. Despite NR's assurances the bunded land would never be as productive as it is now. The minimum area should be disturbed and fenced and excess material taken away.
- 7.79 There is no convincing evidence that the bund is required for ecological reasons and specifically for the protection of Owls. The line would already be in cutting at this point. A hedge would be as effective in deflecting Barn Owls over the railway and take less land. The bund is a means to reduce the overall cost of the scheme by disposing of surplus sub soil on site.
- 7.80 Having regard to the criteria in the former MAFF Land Classification guidelines 1988, the land quality is grade 2. The loss of vital grade 2 land is unacceptable. The bund would be of no benefit for either ecological or landscape purposes. It would have an adverse landscape impact by creating a false and unsightly mound on the edge of an important wetland area.
- 7.81 The new bridges and earthwork bunds would cause bottlenecks in the Meece Brook flow and potential for flooding and crop damage.
- 7.82 The scheme is of no benefit to local people as Norton Bridge station is closed. Increased speed and traffic on the line would lead to more noise and disturbance. There is recent experience in the area of poor project management by NR.
- 7.83 The chord is planned for slower freight and passenger services which employ noisier diesel locomotives. There would be obvious visual and noise impact from the new rail lines, road routing and footpath realignments. There would be long term negative impacts on Scannel, including loss of privacy and security, and on

the surrounding farmland. Construction activity would be intrusive, particularly at night. Services could be disrupted. The scheme should be compensated by providing enhanced broadband.

- 7.84 Given the routing of HS2 phase 2, the long term future and justification for spending on the North Bridge improvements, that would be used less or become redundant in the next 30 years, is questionable. The potential is that rail passenger growth predictions will transfer to HS2. HS2 should be assessed as an alternative to this scheme. In any event, the chord that would pass through Oxleasows is not necessary to allow WCML trains to pass freely. Its environmental costs are not justified.

Response by the applicant²¹⁵

- 7.85 Scannel is approximately 130m away from the proposed alignment. The track would be in a false cutting 3 to 4.5m deep created by the bunding. Detailed noise modelling of trains on the new tracks indicates that there would be no significant increase in noise levels at Mr Edge's property. Views of the new track from the rear of the house would be limited by the existing topography and vegetation and the proposed bunding. The diversion of FP11 would be on the other side of the pair of houses and would not materially affect Mr Edge's security or privacy.
- 7.86 Night time construction work was assessed in the ES. The Order requires the approval of a Nuisance Management Plan to include a specific mitigation and control measures. An application is to be made to SBC under S61 of the Control of Pollution Act. Both will detail the 'best practical means' to be employed to manage construction noise. Other than short outage periods when new connections are made, all utility services would be maintained. The tie-in of the new and existing roads is outside the houses and temporary accesses would be created. Times when these would not be available would be agreed in advance with the occupants.
- 7.87 Plot 139 is NR owned land and there would be no impact on the existing field access at Lower Heamies. It is currently used infrequently for NR's maintenance vehicles to access the WCML. After construction, NR would require access close to Heamies Bridge in order to maintain the attenuation pond near Meece Brook. Construction traffic would not use the lane that passes Oxleasows farm²¹⁶. All construction work/traffic would take place within the rail alignment corridor.
- 7.88 Concerns about the new line of FP11 have been considered and revised plans have been submitted that show an agreed amended line that skirts the wet areas.

²¹⁵ Document REP-008 paragraph 1.121

²¹⁶ See Figure 13.2 ES Volume 4 Document APP-046

- 7.89 The land take is no more than is necessary for the project. Only around 4.28 ha would be taken permanently, less than 2% of the farm holding. The bund alongside the new railway is to provide mitigation for Barn Owls. Ecological mitigation for Barn Owls is referred to in the ES²¹⁷ and further information and research on its effectiveness was provided at the landscape and ecology hearing²¹⁸. Bunds provide effective mitigation for Barn Owls to avoid high levels of mortality as a result of collisions with trains and vehicles and have an immediate effect.
- 7.90 Hedge planting would not be as effective in protecting Barn Owls and would take several years to reach the required height of 3m to deflect the Owls' flight. The scheme has been carefully designed to balance the often conflicting concerns of landowners with the environmental and ecology responsibilities of SCC, NE and EA, and with planning issues.
- 7.91 A Soil Management Plan, to include the correct handling and storage of soils, would have to be prepared and agreed as part of the CEMP. The bunding would be formed of excavated natural soils below the topsoil excavated from the new rail cutting. These are the same soil strata as at Oxleasows. Topsoil would be retained and re-used in the same area/plot of land. A filter drain would be installed along the base of the new bund to provide positive drainage.
- 7.92 The original information in the ES on agricultural land quality has been reassessed and confirms that the field is subgrade 3b and grade 4²¹⁹. As the original subsoil and topsoil would be used, the construction of the bund would not affect the quality of the soil. If crop yields are affected, this could be considered under the statutory compensation code.
- 7.93 The bunds also have a landscape integration function. SCC's landscape officer has been consulted on the design proposals. The CEMP must incorporate the findings and recommendations of the design brief. These include that bunds marry smoothly into the existing landform and do not appear 'engineered'.
- 7.94 The marl pit used for game birds is to remain. Whilst a smaller marl pit would be lost, a replacement marl pit feature with associated tree planting would be provided as part of the new bunding landform and returned to the private landowner.
- 7.95 Hydraulic modelling of the existing and post-development flooding regime indicates an increase in depth and extent of flooding as a result of the embankments at Underbridge 6. However this is not

²¹⁷ Document APP-032 ES Technical Report 9 Ecology Table 7.2 page 50 and paragraphs 8.2.56 and 8.2.58.

²¹⁸ Documents EV-065 to EV-069

²¹⁹ See NR's letter and attached technical report at Documents As-004 to AS-008.

shown to reach further upstream than the existing railway and so is not predicted to impact upon the land at Oxleasows.

- 7.96 At rare events of heavy rainfall²²⁰ modelling shows there would be an increase in the depth and extent of flooding upstream of Underbridge 11 which could potentially have an effect on the crop land. However due to the proposed river diversions, the river channel would have increased capacity around Underbridge 11 so that modelling of more frequent events²²¹ shows a decrease in both depth and extent of flooding, an improvement on the current flooding situation upstream. A meeting was held with the Edges in December 2012 which explained the hydraulic modelling and the proposal not to carry out flood compensation mitigation that would take more land. This has now been agreed with the EA.
- 7.97 Land rationalisation can be considered further along with the potential for land swaps. It is likely that Mrs Edge is a possible candidate for a land swap.
- 7.98 The Norton Bridge junction improvements are required to increase capacity on the WCML now and are not an alternative to HS2.

Margaret Underwood - 98-100, 110-128, 134, 136, 144, 145, 152-156, 156a, 157-163, 166a, 168-170

Background

- 7.99 Rose Tree Farm lies on the north side of the B5026. It is affected by the line of the new road and the new track crossing the WCML.

Case for the affected person

- 7.100 Negotiations have resulted in a potential agreed settlement. However until that is concluded the position remains one of objection to the compulsory acquisition of land and the DCO.

Response by the applicant

- 7.101 NR has offered to purchase the entire property and terms have been agreed.

Mr and Mrs Bailey - 102, 103, 104

Background

- 7.102 Mr and Mrs Bailey own land at Barncroft, Scamnel Lane.

²²⁰ 1 in 100 years including an allowance for climate change

²²¹ 1 in 5 year return period and 1 in 20 year return period

Case for the affected persons

- 7.103 Although a holding response was lodged, the Baileys are liaising with NR over various matters. Concerns relate to the extent of the land take, temporary access rights and the land's value.

Response by the applicant

- 7.104 Discussions are ongoing. Valuation matters are not for the examination. Mr and Mrs Bailey are possible candidates for a land swap.

Mr and Mrs Ward - plot 128

Background

- 7.105 The Ward family live at The Scannel, a semi-detached house fronting the north side of the B5026. When they moved in 18 months ago the garden area in front of the house was already block paved and used for car parking.

Case for the affected persons

- 7.106 The new road would reduce parking in front of the house, reduce space for delivery and service vehicles, reduce manoeuvring space, and increase the hazard and danger when pulling on and off the drive. When permission was granted in 2006 to widen the drop kerb it was to provide more off-street parking, a greater flexibility of parking layout and allow safer manoeuvring. Traffic speeds are currently in excess of 60mph along the B5026.
- 7.107 Contrary to NR's claims, with the B5026 diversion it would not be possible to park the same number of cars in front of the house without blocking the front door and side access. Setting the exiting cars further back will reduce visibility to the west that is limited by vegetation and increase the risk.
- 7.108 The position of NR's maintenance access to the east will have adverse impacts including loss of privacy and greater risk to children playing in the garden. Hedging to the east of the house should be replaced to the same depth of planting.
- 7.109 With raised road and rail embankments, surface water would increase and be harder to deal with. The safety of children having to walk to Station Road to get the public bus is a serious concern. The new line of the footpath beside the railway would not be safe.
- 7.110 HS2 will negate all the issues said to justify this scheme. But it will be too late once this scheme has scarred the landscape.

Response by the applicant

- 7.111 The scheme requires the diversion of the B5026 onto an embankment between Scannell Lane/B5026 and a new roundabout on the diverted section of Meece Road. It would pass over the new railway, the WCML and Meece Brook on new bridge structures. Compulsory acquisition powers are required to ensure that the scheme can be delivered.
- 7.112 Mr and Mrs Ward's interest is in respect of the subsoil of the highway only. The line of the diverted B5026 would take off just by their house. A tapered strip of land would be taken. That land is highway land and there is no objection by SCC as Highway Authority to compulsory acquisition.
- 7.113 It is accepted that the loss of part of the driveway would adversely affect the full use and enjoyment of the land by reducing the area for parking cars. However when planning permission was granted in 2006 to widen the drop kerb and increase the off road parking, and notice served on the CC, it was noted that the land might ultimately be required for road widening purposes²²². There is no legal right, as such, to park on the land in question.
- 7.114 The scheme would have no impact on sightlines to the west of the property. To the east, the field hedge would be removed to accommodate new road building with replacement hedging set back along suitable visibility splays. The location of the new access track has been determined by the position of the safety barrier. It would be gated. It would provide maintenance access to the attenuation ponds and would be used infrequently. It is not intended to be used to access the track.
- 7.115 The new road has been designed to the Highway Authority's adoption standards. It would be subject to a full safety audit 12 months after opening. The Order provides through article 38 for NR to regulate traffic speeds and a 50mph speed limit on the B5026 is proposed. The stopping up of the existing road would affect pedestrian access to Station Road. Pedestrians would be able to use the diverted FP11 providing a more direct line of access and that part alongside the railway would be fenced.

Mr and Mrs Weston - plot 187

Background

- 7.116 They live at Upper Heamies. Although none of their residential curtilage is to be acquired, they are noted in the BoR as owning the sub-soil of the adjoining highway.

²²² Document EV-054

Case for the affected persons

- 7.117 There is uncertainty about what happens after the road is moved and the maintenance of the extended drive and verge. Their property would be devalued. The scheme would adversely impact on the surrounding farmland and cause more flooding. The new road layout is impracticable. There would be disturbance from increased rail traffic.

Response by the applicant

- 7.118 The scheme requires Meece Road to be diverted from the existing B5026 roundabout to a new roundabout with the realigned B5026 where a new bridge would take traffic over the new railway, rejoining the existing Meece Road in the vicinity of Upper Heamies Cottages. Compulsory acquisition powers are needed to ensure that the scheme can be delivered.
- 7.119 The new road would be moved further away from Mr and Mrs Weston's property. The existing road surface would be grubbed up and it is the usual legal position that ownership is returned to the subsoil owners who are the owners of the property either side.
- 7.120 The new roundabout would be some distance (around 300m) from their house and there would be no additional adverse impact as a result of traffic using it or its lighting. Although the new railway would be closer than the existing Stone branch line, it would be in cutting. Concerns about flooding relate to existing surface water issues rather than flooding from the Meece Brook. The new road and railway would be positively drained to a new drainage system. NR would be responsible for the maintenance of the road for 12 months from completion (article 10) and then this would pass to SCC as Highway Authority.

Mr Nadin - 101

- 7.121 Plot 101 has been deleted from the draft Order.

The ExA's Conclusions

- 7.122 My approach to the question whether and if so what compulsory acquisition powers I should recommend to the SoS to grant has been to apply the relevant sections of the Act, notably S122 and S123, the DCLG Guidance²²³, and the Human Rights Act 1998; and, in the light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing that against private loss.

²²³ Planning Act 2008, Guidance related to procedures for compulsory acquisition of land - September 2013

Whether there is a compelling case in the public interest

- 7.123 The DCO deals with both the development itself and compulsory acquisition powers. In order to conclude that a compelling case has been made for compulsory acquisition, the SOS must also be of the view that development consent should be granted for the proposal because the compulsory acquisition powers are required to bring about that development.
- 7.124 I have concluded that development consent should be granted for the reasons set out in Chapter 4 of this report. The question then is whether the case is made for the compulsory acquisition powers necessary to enable the development to proceed.
- 7.125 One of the reasons I give for the grant of development consent is that there is a clear need for this project to be delivered. This reason is also important to the applicant's case that there is a compelling case in the public interest to include compulsory acquisition powers in the DCO as in the absence of these powers the project will not be delivered.
- 7.126 The applicant bases the case for compulsory acquisition on the strategic transport case for the project as developed from the Government railway policies and the local issues driving the scheme. The current flat junction at Norton Bridge is a significant bottleneck on the WCML. Its replacement by a new grade separated junction would allow an increase in long distance high speed passenger, cross-country passenger and intermodal freight services, all of which accord with the objectives of Government transport policy.
- 7.127 The national need for and priority given to the Stafford Area Improvements in Government policy and in the revoked regional strategy is set out above. The project is one significant part of the programme described fully in the WCML RUS which sets out a number of schemes required to meet growth in passenger and freight services on the WCML including the increase in passenger kilometres specified in the DfT's HLOS.
- 7.128 For all these reasons, I consider that a compelling case in the national interest for the development has been clearly demonstrated for the application and the test of s122(3) of the PA2008 is met.

Funding

- 7.129 Having regard to the DCLG guidance, I am also satisfied that the applicant has demonstrated the availability of adequate funding to compulsorily acquire the land, to pay any necessary compensation, and to implement the project for which the land is to be acquired.

Alternatives

- 7.130 The DCLG Guidance also requires at paragraph 20 that the developer should be able to demonstrate that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored.
- 7.131 Before I turn to considered alternatives in terms of the selection of the site, the specific characteristics of the development and then in relation to the proposed acquisition of each parcel of land, it is necessary to address the issue of HS2.

HS2

- 7.132 Representations were made in writing and at the open floor hearing that the bringing forward of HS2 (phase 2), on which public consultation started during the course of the examination, undermines the need for development at Norton Bridge. However their timescales are very different. If approved and constructed, phase one of HS2 (London to the West Midlands) would not on current estimates be operational until 2026. Phase 2 (West Midlands to Manchester and Leeds) would not be operational (on current estimates) until 2032 or 2033. These time estimates may fall back. Whereas the evidence is compelling that the current capacity constraint on the WCML requires addressing now. I accept the case made by NR that HS2 is not an alternative to the project and does not obviate the need for these improvements which remain in NR's delivery plan to be delivered by 2017.

The site selected

- 7.133 In that the DCO works are to effect an alternative to the Norton Bridge flat junction, I am satisfied from the evidence submitted by NR that the choices available to it were constrained. I accept that to do nothing was not considered by NR to be an option if the 2017 timetable is to be delivered. NR considered but then concluded that no other strategic and/or technical options, such as improved signalling, would be feasible or practical on their own. I have seen no convincing evidence to the contrary. As such I find that new track infrastructure is required.
- 7.134 The options considered by NR only looked at new track and junction provision. Varying alignments of the new grade separated junction were considered, but because of the nature and purpose of the new junction, I accept that there is effectively no practicable alternative location and that this has been relatively fixed since design work began on the scheme.
- 7.135 The project design, looking at technical and engineering requirements along with impact on the locality, started in earnest in 2009 with the reconsideration of options for grade separation at Norton Bridge developed in 2007 as part of a wider strategic assessment related to the Stafford area remodelling. Eight

options were developed and subject to a 4 phase sifting process. Three different track alignments were the subject of a public consultation exercise in November 2010²²⁴. The preferred alignment, a variation of one of the options, was consulted on again along with the highway diversion proposals, probable locations of the compounds, and sequence of construction phases.

- 7.136 It was clear during the examination that the environment team has worked closely with the engineering team on issues such as the extent of the land take, proposed bunding and landscaping areas, the highway works and location of compounds and that it continues to do so. Having regard to the examination of alternatives in the ES²²⁵, I conclude that the case for this site and scale of development, as the most suitable in all the circumstances has been properly made.

The specific characteristics of the scheme

- 7.137 The proposed development put forward by the applicant would achieve the objective of a grade separated junction at Norton Bridge, removing conflicting train movements. The selected alignment would straighten the track, reducing maintenance and improving signal sighting for train drivers and maintenance staff; the embankments would be less extensive than other options reducing the need to import fill; and with cuttings the potential for adverse noise and visual effects would be reduced. There would be fewer river crossings and less of the floodplain would be affected. Any potential to further modify the alignment is constrained by the fact that a reduction in the track radius would mean that the line speeds required for the 2017 timetable could not be achieved.
- 7.138 I consider that the approach taken by NR to the selection of the scheme and the site has been methodical and well documented and the scheme makes the most efficient use of the land whilst balancing many conflicting technical, practical and environmental constraints. The land subject to compulsory acquisition is required for the development, which includes the provision of mitigation earthwork bunds along the alignment, or is required for associated development, such as the pipeline diversions and new road alignments, incidental to that development. I am satisfied that each plot of land has been identified with a clear purpose and no plot of land has been unnecessarily added to the land sought.
- 7.139 NR's approach of making the application for the DCO and in parallel conducting negotiations to acquire land by agreement accords with DCLG guidance. I also note that paragraph 25 of that guidance advises that for long linear schemes, such as this, where it may not always be practicable to acquire by agreement

²²⁴ Document APP-012 Consultation Report

²²⁵ Document APP-021 Main Statement Section 3 particularly 3.3, 3.4 and 3.5

each plot of land, it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset.

Conclusions on the acquisition of specific parcels

Alfred and Anthony Brown; Anne, Philip and Roger Green; Christopher Shaw; Kathleen and John Deane; S&R Hopley Ltd, Sarah and Charles Edge; Margaret Underwood: and Mr and Mrs Bailey

- 7.140 The proposal is for a large scale linear infrastructure development that has to connect to the existing railway tracks and is necessarily location specific. Running through countryside and farmland it would inevitably sever fields and land holdings. There would be significant potential impacts on a number of local farmers, many of whom were represented or spoke at the compulsory acquisition hearing and/or who made written representations.
- 7.141 The scheme has been designed to minimise the permanent land take and around 72ha of land that would be taken temporarily would be returned to the land owner. Although the land on which the earthwork bunds are to be created would be in a changed form, measures included in the CEMP would ensure that it would still be of a suitable gradient and soil quality for agriculture. I am satisfied that there would be no sterilisation of any workable mineral resources and that the pipelines diversions balance environmental and safety considerations.
- 7.142 NR is engaged in ongoing discussions with all those affected. Minor changes have been made to the scheme, for example the provision of access to fields and the route of FP11, to meet the specific concerns of landowners. The removal, retention and replacement of hedges to ensure that severed fields have viable boundaries could be dealt with as part of the LEMP. NR has indicated its willingness to consider, where appropriate, land rationalisation and land swaps. That seems to me to be a sensible approach to take, albeit one that lies outside the DCO process.
- 7.143 In respect of concerns about field drainage and ongoing maintenance, the scheme has been designed with its own suitable drainage. Any land used temporarily is required by articles 28 and 29 to be restored to the reasonable satisfaction of the owner. The earthwork bunds are an integral part of the scheme. They would be created using material from the cutting and having a balanced cut and fill operation accord with the principles of sustainable waste management.
- 7.144 The bunds are an important element in the scheme in terms of providing ecological, acoustic and landscape mitigation. The evidence on the risk to Barn Owl mortality through collision justifies the bund at Oxleasows. Through the preparation,

agreement and then implementation of a Soil Management Plan, I consider that appropriate and robust measures would be put in place to ensure that there would be no long term detriment to soil quality or agricultural land value of any affected land. The requirement to comply with the Design Brief²²⁶ would ensure that the detailed design of the bunds and their final appearance fit with the surrounding land and landscape.

7.145 On the evidence before me, I am satisfied that in respect of the loss of land and/or rights that alternatives have been explored and that no feasible alternative exists to the loss of these rights. In respect of the quantum of any compensation due to losses, this would only be agreed or otherwise determined after the DCO has been granted in accordance with the Compensation Code. In respect of severed land, there is scope for discussion on land rationalisation and land swaps outside the DCO process. The land is required for the development and compulsory acquisition powers are necessary otherwise the public benefit from the development might be frustrated.

Mr and Mrs Ward, Mr and Mrs Weston and Charles Edge

7.146 None of their land is to be acquired. The interference with their private interests is restricted to the subsoil of the highways in front of their properties that are proposed to be realigned.

7.147 The realigned Meece Road would be further away from Mr and Mrs Weston's property at Upper Heamies and there would be a wider grass highway verge. I accept NR's case that compulsory acquisition powers in relation to the plot in which Mr and Mrs Weston have an interest is essential to deliver the project and the interference in their interests is justified by the public benefit from the development.

7.148 Mr and Mrs Ward and Mr Edge live in adjoining semi-detached houses. The new line of the B5026 would tie in to the existing road by their properties. Whilst there would be a loss of land at the front of Mr and Mrs Ward's house that they currently use for parking their cars, this is highway land. From what I saw on an unaccompanied visit that I made after the compulsory acquisition hearing, I consider that adequate land would remain capable of being used for off-street parking in a similar manner to at present and there would be adequate visibility to the east and west.

7.149 Boundary hedging would be replaced and the new field access would be sufficiently distant from the houses such that its limited use would not cause undue disturbance or loss of privacy or security to their occupants. The route for those walking to Station Road would be less direct and part would be along the diverted footpath beside the railway. However no objection has been made

²²⁶ Requirement 3(2) Schedule 2 of the DCO in Appendix F

by SCC's footpath officer to the diversion on safety grounds. Currently there is no footway along Stone Road which is subject to the national speed limit whereas it is NR's intention to impose a 50mph limit through a TRO.

- 7.150 Given the topography the new chord would not have a significant adverse visual impact on those living in the pair of houses and the detailed noise modelling does not indicate there would be any significant increase in noise levels. Night-time construction work is unavoidable for a project of this scale involving works to the WCML but would be subject to an agreed prior notification procedure.
- 7.151 The rights that NR seeks to acquire compulsorily are needed to ensure that the development can be carried out. The realigned B5026/Meece Road are a necessary part of the development. I do not consider that any potential private disbenefits would be such as to outweigh the public benefits of the scheme.

Overall Conclusion and Recommendation on including Compulsory Acquisition Powers in the DCO

- 7.152 I am satisfied that the compelling case in the public interest has been made out; there is a clear need for the project to proceed; its delivery would be jeopardised in the absence of the compulsory acquisition powers contained in the draft DCO; and the interference with the affected persons and their land interests is proportionate to the benefits that would be brought about by the development. As such I consider that the tests in s122(2) and s122(3) of the PA2008 are met.
- 7.153 The mitigation measures as set out in the ES as secured by the amended requirements in the proposed Order are sufficient to manage the environmental impacts of the development and address the concerns of affected persons. The Order also contains provisions to ensure that there is adequate monitoring of impacts and contains provisions for remedial actions if any are required.
- 7.154 Each plot identified in the BoR has been identified with a clear purpose. The land is required for or is incidental to the development. The scheme's inclusion in NR's Delivery Plan for CP4, with delivery extending into CP5, means that funds are available for the development.
- 7.155 Finally in respect of the Human Rights of the affected persons, I am satisfied that the examination process including the written representations and the Compulsory Acquisition Hearing and all other matters, has ensured a fair and public hearing under Article 6 of the Convention. Further in relation to Articles 1 and 8, that the proposed interference with the individuals' rights would be lawful, necessary, proportionate and justified in the public interest.

7.156 I recommend that the compulsory acquisition powers included in the draft DCO are retained if the SoS is minded to grant development consent for the project.

8 DRAFT DEVELOPMENT CONSENT ORDER

- 8.1 The draft DCO constitutes the consent sought for the proposed development. It sets out the authority to be given to NR and NG, including the permanent and temporary compulsory acquisition of land and interests in land; the obligations that the applicant is prepared to accept to facilitate the development; the further approvals that are required before particular works can commence; the protective provisions necessary to safeguard the interest of other parties; and the requirements (corresponding to planning conditions) to be met when implementing the consent.
- 8.2 Section 120(5)(a) of the PA2008 provides that a DCO may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the DCO. If the Order includes such provision, S117(4) requires that it must be in the form of a statutory instrument. The DCO is in the form of a statutory instrument.
- 8.3 I scheduled two specific issue hearings on the draft DCO; one in June near the start of the examination to assist me and interested and affected persons to understand how the document was intended to work; and a second in September to consider what had been thought would be the final version of the DCO but which was subsequently revised in the light of discussions at the hearing.
- 8.4 In all the applicant submitted five revisions of the DCO during the course of the examination: the original December 2012 version with the application (Document APP-003); a second 12 June version tabled for the 20 June hearing (Document PD-018); a third 31 July version following the hearing (Document PD-019); a fourth version on 4 September for discussion at the second DCO hearing on 11 September (Document PD0-21); and a fifth and final version on 25 September (Document PD-026).
- 8.5 All versions were subject to comment and revisions were made to address changes sought by interested parties in their written or oral representations. They were also provided in response to my written questions on drafting or seeking justification for the powers sought²²⁷ or in response to my questions raised at or following the DCO hearings²²⁸ or to comply with the examination timetable. A number of the revisions, as can be seen on the tracked changes version²²⁹, are to use modern language, as advised in guidance on Statutory Instrument Practice.
- 8.6 Discussion about the DCO during the course of the examination was an iterative process and the applicant usefully provided commentaries to explain the background to the revisions made to

²²⁷ Document DEC-004 first round questions

²²⁸ Documents DEC-007, DEC-008, DEC-013 and DEC-014

²²⁹ Document PD-025

the 31 July, 4 September and 25 September versions²³⁰. I consider that the reasons for seeking the powers are adequately explained in the Explanatory Memorandum²³¹ and in the commentaries.

The Order

- 8.7 The applicant's fifth version is Document PD-026²³². My submitted version is this version, subject to some minor amendments as described below, and is at Appendix F. I recommend that should development consent be granted for the Norton Bridge Improvements the DCO attached at Appendix F is appropriate.
- 8.8 There was substantial discussion about the contents of the draft Order during the examination with SCC particularly concerned about the implications for its duties and responsibilities as Highway Authority. I report in this Chapter of the report on those points in the draft DCO which were contentious and to explain significant changes in the draft DCO submitted with the application that resulted from the examination. If I make no mention of particular provisions, requirements or schedules in the DCO the SOS can be clear that I am satisfied that the draft DCO provisions, requirements and schedules are appropriate for a railway infrastructure project of this kind.

Description of the development

- 8.9 The authorised development is described in Schedule 1 of the Order. The nationally significant infrastructure project is identified as Works 1 and 8 and both are described as 'a two track railway' (etc). The other works are all categorised as associated development within the meaning in s115(2) of the PA2008. The description of the authorised development comprises development, within the meaning in s32, falling within the terms of s14(1)(k), s25 and s115(2) of the PA2008. The provisions and requirements in the draft DCO fall within the terms of s120(1) of the PA2008.
- 8.10 In respect of further associated development, (a) was added in response to comments made by SCC to clarify what the applicant could do by way of preliminary activities, such as the erection of site offices and the erection of fencing, in advance of the authorised development which cannot commence on site until the CEMP is approved.

²³⁰ Documents PD-020, PD-024, and PD-027

²³¹ Document APP-004

²³² There is a version showing track changes made during the examination at Document PD-025.

Articles

8.11 The articles set out the principal powers to be granted if consent is given. Whilst the Localism Act 2011 has changed the approach to the Model Provisions in SI 2009:2265, they remain a sensible starting point for those drafting an Order and the railway model provisions have generally been used by NR in that way here. At the examination, regard was also had to the wording of articles that have been included in recent Orders for railway infrastructure at Ipswich and North Doncaster²³³.

Article 2 - Interpretation

8.12 As a result of representations made by SCC, the applicant has made a number of revisions and additions to the requirements in schedule 2. To assist in the drafting of these provisions, various additional definitions, such as 'design brief' and 'highway work' have been included in article 2. None were contentious at the examination and they all contribute to the clarity of the Order.

8.13 During the course of the examination and in response to representations and questions from SCC, NE, EA and SBC about particular aspects of the works, further detailed design drawings were submitted to be added to, or substituted for, those originally submitted. Given the number of plans and drawings, in the interests of clarity these have been listed in a new schedule 11 and the definitions in article 2 revised accordingly.

8.14 As the draft Order has been revised to include a new provision to make traffic regulation orders (article 38) with a separate set of plans (listed in Part 5 of schedule 11 and also referred to in schedule 12), a definition of these plans has also been included in article 2.

8.15 As the DCO is to authorise major gas pipeline diversions as well as railway works, the applicant has proposed that the definition of 'maintain', which has been used in other Orders authorising railway works, should be extended to include terms that would normally be included in gas pipeline easements. Examples of such terms include 'test' and 'render unusable' and 'protect and strengthen'. I am satisfied that in the context of this Order where NG would be granted authority under article 4(1)(b) and article 5(2) to carry out certain works and to maintain those works, the extended definition is justified.

8.16 As drafted the Order also used the verb 'maintain' in the context of maintaining a new or altered street (article 10). I agree with the applicant that it would be unhelpful to use the same word for street works as for railway works and pipeline works. To resolve

²³³ The Network Rail (Ipswich Chord) Order 2012 (SI 2012 No. 2284) and The Network Rail (North Doncaster Chord) Order 2012 (SI 2012 No. 2635)

this, the word maintain has been largely removed from article 10 and new definitions proposed of 'highway works' and 'defects period'. I consider that this is a sensible approach.

Article 6 - limits of deviation

- 8.17 As drafted the article allows for lateral deviation from the development shown on the works plan and for vertical deviation of up to 3m upwards and any extent downwards 'as may be found to be necessary or convenient'. I asked a question of NR (Document DEC-004 Question 9.8) about the justification for the limits of deviation and it was discussed at the first DCO hearing where SCC sought to have them deleted from the draft Order.
- 8.18 During the course of the examination NR provided further detailed design drawings, however it is clear to me that for an infrastructure project of this scale and complexity there remains a need for more detailed design work to be done by the applicant and the contractors.
- 8.19 Whilst certain elements are more fixed than others, for example the track alignment and highway alignment, I accept that there may be a need to make adjustments to other elements of the scheme as it goes through the detailed design stage, including 3-dimensional modelling and then site proving. In particular the detailed contours of the environmental mitigation bunds will require modelling to ensure that they blend with the surrounding landscape and topography, are structural safe, suitable for agricultural after-use, and provide effective Barn Owl mitigation. Having said that, it was clear to me during the examination that the design stage is well advanced and any final shaping of the bunds as a result of modelling would be subtle, and I am satisfied that having an allowance for vertical deviation would not result in the bunds looking materially different from those assessed in the visual impact assessment in the EIA.
- 8.20 The limits of deviation define, in effect, the three dimensional envelope within which the SBC, as the relevant planning authority, may agree to changes without NR having to apply for a new DCO. Approval could be withheld if any changes were considered to fall outside the scope of the EIA already carried out. I am satisfied that a case has been made to include limits of deviation in the draft Order, and I note that there are similar articles in the Ipswich Chord and North Doncaster Chord Orders.
- 8.21 I have considered whether a lesser limit would be more appropriate. However to impose a limit on the scheme of 1m or 2m, for example, could place potentially difficult and impracticable constraints on NR and could adversely impact on the landscape and environmental acceptability of the bunds.

8.22 The design of the mitigation bunds will have to accord with the Design Brief²³⁴ which refers at paragraph 19.1 to the need for the crests of the bunds to reflect the existing land form and 'avoid creating straight/flat horizons' and sharp crests. If the bunds are to be designed with rounded/rolling tops, then there needs to be some flexibility to allow for there to be points on the crest that are higher than the rest. In these circumstances, I consider that up to 3m is a reasonable allowance for vertical deviation, particularly when considered in relation to the substantial length and width of many of the bunds²³⁵. As details of the bunds will have to be submitted for approval as part of the LEMP, I am satisfied that there are adequate safeguards in place to ensure that their shape will be optimised within the 'envelope' to fit into the surrounding area.

Article 8 - Power to alter layout, etc of streets

8.23 The draft Order has been amended to clarify that the power to be given would be to alter streets only within the Order limits. I agree with the applicant that it is reasonable to require that the consent of the street authority 'must not be unreasonably withheld'. Although there is no reason to suggest that this is likely, if SCC were to have unqualified control and to make unreasonable demands, it could cause delay to the delivery of the project. If there were to be a dispute, article 43 provides for an arbitration process and article 44 sets out the formal process for obtaining consent.

8.24 The applicant has also proposed new requirements 6 and 7. These provide for NR to afford the HA the opportunity to inspect, monitor, survey and comment upon the carrying out of any highway work and the remedying of defects resulting from the work, and to approve the standard to which that work is carried out, and for NR to carry out stage 2, 3 and 4 safety audits and to remedy any defects identified.

Article 10 - Construction and maintenance of new or altered streets

8.25 In response to representations made by SCC, article 10 was substantially redrafted in the 4 September version. However whilst article 10(1) provides that any highway work must be completed to the reasonable satisfaction of the Highway Authority, SCC seeks provision for it to approve all street works in a similar way that article 16 provides for plans and specifications of any bridges carrying a highway to be approved beforehand by the Highway Authority. It argues that the DCO as currently drafted has one process (no HA approval) for the B5026 as it approaches

²³⁴ Document EV-102a

²³⁵ For example the bund on the west side of the realigned B5026 would be some 420m long and 70m wide (Document REP-188).

the bridges and a different process (requiring the HA's prior approval) as it crosses the bridges (article 16).

Technical approval

- 8.26 There is a need to distinguish between works that should be determined by the SOS, in the DCO, and how those works are to be undertaken, which is for NR to decide, and the standards to which the works should be carried out. NR made the case that it should not be prevented from starting any highway works until every last detail has been agreed by the Highway Authority.
- 8.27 All the drawings have been submitted to SCC for the works to be carried out. The only outstanding matter is some written specifications in respect of details not ordinarily shown on plans. The applicant accepts that the further approval of SCC will be required. The DCO as drafted already provides a process for that approval (article 44) whilst requirement 7 provides for the carrying out of stage 2, 3 and 4 road safety audits. Given the existing provisions in the draft Order, I am not persuaded of the need to add a further extra approval procedure.
- 8.28 However if the SOS disagrees and considers that it is necessary and reasonable to provide in article 10(1) for highway work not to be carried out until technical approval has been granted by the Highway Authority, then the CC has provided suggested wording in its letter of 2 October 2013²³⁶. This will require a new definition of technical approval to be included in article 2²³⁷.

Defects period

- 8.29 As drafted, the Order provides for a period of 12 months in which to remedy any defects. The applicant has referred to article 10 following 'statutory precedents'²³⁸ and at the hearing to 12 months being the 'industry-wide standard for defects'. The Infrastructure Planning Model Provisions refer to a defect period of 12 months but it is set in brackets indicating that the time period could vary depending on circumstances. The Order for the North Doncaster Chord included a 12 month defects period. In Staffordshire agreements made by SCC pursuant to S38 and S130 of the Highways Act 1980 have a 12 month maintenance period.
- 8.30 SCC seeks a defects period of 24 months in the Order to more closely align with sections 70 and 71 of the New Roads and Street Works Act 1991 which deal with reinstatements. However article 10 deals with new or altered streets which would have been

²³⁶ Document REP-023B

²³⁷ The CC has proposed the following definition of technical approval: - 'approval of the detailed design, associated details and specification. This includes design calculations, Stage 1 and 2 Road Safety Audits, designers' responses and forms the 'works information' which is used by the contractor to construct the highway work.'

²³⁸ Document PD-024 page 7

constructed to a design and specification already agreed with the Highway Authority. Requirement 6 provides the Highway Authority with 'the opportunity to inspect, monitor, survey and comment upon the carrying out of the work and the remedying of any defects resulting from the works and to approve the standard to which such work (including the remedying of any defects) is carried out'. Given that wide ranging authority to rectify any problems as soon as they occur, I see no need to extend the defects period in article 10.

Article 11 - Stopping up of streets

- 8.31 I am satisfied that article 11(6) meets the concerns of the Highway Authority to be informed of the extent of any stopping up.

Article 12 - Application of the 1991 Act

- 8.32 SCC has confirmed its satisfaction with the disapplications of certain provisions of Part 3 of the New Roads and Street Works Act 1991²³⁹ other than in respect of the defects period which I have already concluded on. However it remains concerned that its ability will be impaired to perform its network management duty under S16 of the Traffic Management Act 2004 and that the Order should provide for it to abrogate its duty in favour of NR within the Order limits.

- 8.33 I am not persuaded of the need to absolve the Highway Authority from its duty under S16 of the Act. The duty provides for the expeditious movement of traffic and reducing delay. In that the scheme includes works that could affect the free flow of traffic on the public highway, it is no different to any large construction project. Requirement 3(4)(e) provides for the submission and approval of a Traffic Management Plan that requires NR to submit details of the crossing points which are proposed to be managed by way of traffic signals. I see no reason why SCC cannot exercise its network management duty to take into account the exercise by NR of the Order powers to carry out highway works.

Article 27 - Rights under or over streets

- 8.34 During the course of the examination this article was revised by the inclusion of 27(4) to clarify NR's responsibility to repair and make good any damage to a street or to any highway apparatus, highway structure or street furniture when NR was exercising the power to occupy and use highway subsoil or airspace.

²³⁹ Document PD-032

Article 35 - Felling or lopping of trees

- 8.35 There was concern on behalf of SCC that without express reference in the article to the CEMP there may be potential for trees to be removed that should otherwise be retained. It was clarified at the second hearing that this concern related only to the construction and maintenance of the development and not the operation of the railway where it is accepted that trees may have to be felled or lopped if they affect the safe passage of trains.
- 8.36 I do not consider that the proposed revision is necessary. I am satisfied that article 35 does not override the obligation on NR to comply with the CEMP and with requirement 5. Both will apply to the extent anticipated in the Order. Article 35 will apply not just during the construction period but also for the lifetime of the authorised development. Further it requires that NR does not cause unnecessary damage to any tree or shrub (article 25(2)).

Article 38 - Traffic regulation

- 8.37 Some traffic regulation orders (TROs) under the Road Traffic Regulation Act 1984 will be required in order to implement the scheme including speed limits on sections of the A5013 and the B5026. In response to representations made by SCC as Highway Authority in writing and at the first DCO hearing, a new article on traffic regulation was included in the 31 July version of the Order and a new schedule 12 of where speed limits would be imposed. Whilst NR does not envisage other TROs being needed, for example to restrict stopping or parking, article 38(2) has been drafted to allow for that possibility. As article 38(3) and (6) provide for consultation and prior notification to the chief officer of police and to the traffic authority, the CC indicated at the second DCO hearing that it was content with the article as drafted and with the submitted drawings listed in schedule 11²⁴⁰.

Article 41 - Certification of plans etc

- 8.38 The traffic regulation order plans, set out as part 5 of schedule 11, and the design brief are included as additional plans and documents to be certified by the SOS if the Order is made. I am satisfied that it is necessary for them to be listed given the provisions of article 38 (traffic regulation) and of requirement 3(2) which requires that the CEMP incorporates the findings and recommendations of the ES and the design brief.

Article 44 (formerly 43) - Procedure in relation to certain approvals etc other than under Schedule 2

- 8.39 The purpose of this article is to prevent delay in the delivery of the project by the failure to consider expeditiously proposals that

²⁴⁰ Document EV-096 page 2

require the approval or consent of a third party (other than under a requirement in schedule 2). It applies to approvals or consents under:

- Article 8 (power to alter layout, etc of streets)
- Article 10 (construction and maintenance of new or altered streets)
- Article 11 (stopping up of streets)
- Article 14 (access to works)
- Article 16 (construction of bridges and tunnels)
- Article 17 (level crossings)
- Article 18 (discharge of water)
- Article 19 (authority to survey and investigate land)
- Article 38 (traffic regulation)

8.40 Deemed approval is only given if the relevant party fails within 28 days to indicate its ground/s for disapproval. Having regard to the amount of detailed information that NR has provided to the Highway Authority and other third parties during the examination, I consider the provisions of article 44 are reasonable.

Schedules

Schedule 10 - Protective Provisions

- 8.41 Part 1 sets out protective provisions for electricity, gas, water and sewerage undertakers and part 2 provides protection for operators of electronic communications code networks. Minor revisions have been made by the applicant to reflect modern drafting language.
- 8.42 The Explanatory Memorandum explains that the ambit of the provisions in Part 1 has been widened to include UKOP, the owner and operator of the oil pipeline to be diverted.
- 8.43 The protective provisions follow recent Orders and have effect 'unless otherwise agreed in writing between Network Rail and the undertaker/operator'.
- 8.44 During the course of the examination, NR negotiated and concluded separate protective asset agreements with Western Power Distribution Ltd, National Grid and UKOP²⁴¹, and their objections were withdrawn before the close of the examination.
- 8.45 Whilst these separate agreements are now in place, NR was of the view that the Protective Provisions should remain in the draft Order in their entirety.
- 8.46 The schedule to the BoR lists other statutory undertakers and other like bodies as 'having or possibly having a right to keep equipment on, in or over the land within the order limits'. As they

²⁴¹ Documents PD-065, PD-069 and PD-077

include British Telecommunications plc and Virgin Media Ltd, operators of electronic communications code networks, I consider that there is still a need for the protective provisions set out in Part 2 of the schedule.

- 8.47 In respect of Part 1, it sets out protective provisions for statutory undertakers affected by the authorised development. These include water and sewerage undertakers within the meaning of the Water Industry Act 1991²⁴². Severn Trent Water Ltd is listed in the schedule to the BoR in respect of water mains, public water sewers, water service connections and other apparatus. It seems to me more than likely that the highway works required as part of the scheme, in particular the realignment of the B5026, would involve works to existing water pipes and/or sewers under the roads. For that reason I consider that there remains a need to include the protective provisions in Part 1 in the Order.

Requirements

- 8.48 The requirements are set out in schedule 2. They correspond to conditions that could have been imposed on the grant of planning permission (s120(2)(a) of PA2008) and I have had regard to the guidance in Circular 11/95 on The Use of Conditions in Planning Permissions. They were subject to much discussion during the examination and to significant revisions by the applicant to address concerns such that the main interested parties, including SCC, NE, EA and SBC, as the relevant planning authority, were able to support the revised Schedule, subject to three outstanding matters in respect of requirements 3 and 4 (construction traffic, before and after road surveys and phasing) which I address below.

Requirement 2 - In accordance with approved details

Requirement 9 - Amendments to approved details

- 8.49 I have grouped these together as they raise the same issue. Requirement 2 provides that the authorised development must be carried out in accordance with the design drawings but provides for amendments to be agreed by the relevant planning authority through the inclusion of the words 'unless otherwise approved in writing by the relevant planning authority'. Requirement 9 makes similar provision that allows for the relevant planning authority to approve amendments to details that have been previously submitted and approved in accordance with the requirements.
- 8.50 Both are intended to give some flexibility to the applicant to apply to the relevant planning authority if changes need to be made to the design drawings or previously agreed details. The same requirements were included in the Ipswich Chord and North

²⁴² Draft Order Schedule 10 Part 1 paragraph 2 definition of undertaker parts (c) and (d)

Doncaster Chord Orders²⁴³ and they were not raised as an issue by any party or discussed at the examination.

- 8.51 Subsequent to the close of the examination, the decision of the Secretary of State on the Redditch Branch Line Enhancements was made on 31 October 2013. The same requirements had been recommended to be included in that Order. However in making the Order, the SOS made modifications to the form of the Order: -

'to delete the words "unless otherwise approved by the relevant planning authority" in requirement 3(1) (development in accordance with approved details) and to delete requirement 20 (amendment to approved details) to ensure that there is sufficient certainty about the form of development that has been authorised, in the interest of precision and reasonableness."

- 8.52 The Norton Bridge Improvements scheme is a considerably larger project than Redditch, involving two new tracks with a significant length in cutting or on embankment, a flyover of the WCML, the diversion of the B5026 on embankment with a new roundabout, three pipeline diversions, the diversion and bridging of two rivers, and substantial mitigation earthworks. The scheme covers some 111ha and it is possible that issues will be encountered at a later stage, for example when work starts on site, which might require amendments to be made either to the design drawings or to details approved in accord with the CEMP or other requirements.
- 8.53 My recommendation is based on the application documents and the examination of the application. I consider that whilst there is sufficient certainty about the form of the authorised development, as drafted requirements 2 and 9 would allow the applicant and relevant planning authority an appropriate degree of flexibility that is reasonable and necessary when delivering a large and complex scheme. The alternatives are that NR might have to deliver the scheme in a sub-optimal manner or apply to change the DCO (or possibly apply for another DCO) with consequential delays in the delivery of additional capacity and improved safety on the WCML.

Requirement 3 - CEMP

- 8.54 This requirement provides for the detail of how the authorised development is to be carried out and the major role of the CEMP. In response to criticisms of the lack of detail about the CEMP in the Order as originally drafted, 3(4) has been substantively revised and expanded by the applicant to set out fuller details of the plans and programmes that make up the CEMP and what they should comprise. These were the subject of further written and oral representations during the course of the examination with

²⁴³ Requirements 3 and 12 of The Network Rail (North Doncaster Chord) Order 2012 (SI 2012 No. 2635) and requirements 3 and 16 of The Network Rail (Ipswich Chord) Order 2012 (SI 2012 No. 2284)

other changes and additions being proposed by interested parties. The applicant made further revisions to the fifth version of the DCO (dated 25/9) to take account of the discussion at the second DCO hearing.

- 8.55 I am satisfied that as amended the fifth version of the Order provides sufficient adequate and appropriate detail on those matters that need to be included in the CEMP in order for the development to be carried out in a satisfactory manner, subject to the following highway matters.

Construction traffic

- 8.56 In respect of requirement 3(4)(e)(ii), local residents, the parish council, SBC and SCC have expressed concerns throughout the examination about construction traffic using inappropriate local roads. Whilst permitted and banned construction traffic routes are shown on the application plans²⁴⁴ and would form part of the Traffic Management Plan, there has been a lack of detail on how NR intends to enforce those routes.
- 8.57 In response to my question in the first round²⁴⁵ the applicant referred to the Staffordshire Alliance and the various actions it would take including signage, specific inclusion in site induction, and route maps, but offered no clear strategy as to how NR would manage the construction traffic to only use the permitted routes. I agree with the CC that there should be such a strategy to include mechanisms for dealing with breaches by anyone working for the Alliance directly, a sub-contractor, delivery driver, etc.
- 8.58 Following discussion at the DCO hearing on 11 September, NR provided a revised draft DCO with additional wording in requirement 3(4)(e)(ii). However as I still did not consider that adequately addressed the issue of what action NR would take to ensure that all construction traffic complies with the permitted and banned routes, I proposed amended wording in my Rule 17 letter of 4 October²⁴⁶ and asked for the parties' views. Both NR and SCC were content with my revised wording²⁴⁷, as was Mr Morris although he still had concerns about enforcement²⁴⁸.
- 8.59 The Traffic Management Plan would form part of the CEMP and the authorised development must be carried out in accordance with the CEMP (requirement 3(3)). As discussed at the second DCO hearing, enforcement of the CEMP would be a matter for the Borough Council, as it would if the development had been the subject of a planning permission.

²⁴⁴ Document APP-046 ES Volume 4 Figure 13.1 Designated Haulage Routes Map

²⁴⁵ Document REP-028 page 42 question 7.2

²⁴⁶ Document DEC-014

²⁴⁷ Documents REP-204 and REP-205

²⁴⁸ Document PD-078

- 8.60 I recommend the revised wording for requirement 3(4)(e)(ii) in Appendix F to read 'permitted and banned traffic routes and the mechanisms to be put in place by Network Rail and its contractors to enforce their compliance'.

Before and after road surveys

- 8.61 SCC, as Highway Authority, wished to see provision in the DCO for before and after condition surveys of the roads to be used by construction traffic and for NR to devise and implement a scheme of mitigation if so required. NR resists the inclusion of such a requirement.
- 8.62 The CC's proposal seems to me to be rather vague and uncertain as to how over the period of construction it would be possible to attribute added wear and tear to NR's contractors rather than to any other vehicle using the same roads; when that use would become disproportionate; and by what mechanism it would be proposing to provide for mitigation. Whilst SCC referred to wind farm proposals, I do not see them as being directly comparable. In my experience the construction period for onshore wind farms is generally shorter than the 33 months it will take to build out this scheme and involves fewer movements but traffic of extraordinary size and weight where it is more likely to be possible to attribute any damage to the highway to their passage.
- 8.63 There are existing powers available to the Highway Authority under s59 of the Highways Act 1980 which provides a mechanism for recovery of expenses in the event of damage due to exceptional traffic. The CC's objection to this remedy seems to be only that it is a laborious process involving the courts. I am not persuaded that this provides a compelling case to justify the inclusion of a variant of these powers in the Order.

Requirement 4 - Landscaping and habitat replacement

- 8.64 In respect of 4(1), NR amended the Order to address the concern of SCC that the landscaping and habitat replacement scheme for an area should be approved before construction work starts on that particular area. There is no dispute that that is necessary in the interests of achieving a satisfactory development that integrates with the surrounding landscape. However as drafted the requirement lacks clarity and is potentially misleading in the absence of a plan that identifies each phase's geographic area.
- 8.65 I proposed alternative wording in my Rule 17 letter of 4 October²⁴⁹ and asked for the parties' views. Both NR and SCC were content

²⁴⁹ Document DEC-014

with my revised wording²⁵⁰. I therefore recommend the revised wording for 4(1) in Appendix F.

Conclusion and recommendation

- 8.66 I recommend that the Order is made in the form set out in Appendix F.

²⁵⁰ Documents REP-204 and REP-205

9 OVERALL CONCLUSIONS AND RECOMMENDATION

- 9.1 In coming to my overall conclusion I have had regard to the LIR submitted during the examination, any prescribed matters and all matters that I consider are both important and relevant to this application. The legal and policy context that I consider applies to this application is set out in Chapter 3. My findings and conclusions in relation to policy and factual issues are in Chapter 4 and in relation to Habitat Regulations Assessment in Chapter 5. My overall conclusion on the case for development consent and my recommendation that development consent is granted is set out in Chapter 6.
- 9.2 I have also considered the request for compulsory acquisition powers in Chapter 7 and concluded that there is a compelling case in the public interest for the grant of the compulsory acquisition powers sought by Network Rail, for itself and for National Grid.
- 9.3 In Chapter 8 I concluded and recommended that, if development consent is granted as recommended, the Order should be made in the form set out in Appendix F.
- 9.4 In coming to my view that development consent should be granted in the form proposed in Appendix F, I have taken into account all matters raised in the representations and consider that there is no reason either individually or collectively that would lead me to a different conclusion.
- 9.5 I recommend that the Secretary of State, for the reasons set out in the above report, makes the Network Rail (Norton Bridge Area Improvements) Order as proposed in Appendix F.

APPENDICES

APPENDIX A – EVENTS IN THE EXAMINATION AND PROCEDURAL DECISIONS TAKEN

The table below lists the main 'events' occurring during the examination and 'procedural decisions' taken.

Date	Examination Event
10 January 2013	Acceptance by the Secretary of State for Examination
26 March 2013	Rule 6 letter with Rule 4 Annex sent (Infrastructure Planning (Examination Procedure) Rules 2010)
18 April 2013	Preliminary meeting and start of the examination
30 April 2013	Issue of the Rule 8 letter sent (Infrastructure Planning (Examination Procedure) Rules 2010) incorporating the examination timetable and ExA first written questions
15 May 2013	Deadline for receipt by the ExA of: Notification by interested parties of wish to speak at an open floor hearing Notification by affected parties of wish to speak at a compulsory acquisition hearing Notification by interested parties of wish to make oral representations at a specific issue hearing on the draft DCO
17 May 2013	Notification by the ExA of the: Open floor hearing on 19 June 2013 Accompanied site visit on 19 June 2013 Issue specific hearing relating to the draft DCO on 20 June 2013
29 May 2013	Deadline for receipt by ExA of: Written representations by all interested parties Summaries of all written representations exceeding 1500 words Responses to the ExA's first written questions
12 June 2013	Deadline for receipt by the ExA of: Statements of Common Ground Comments on written representations and comments on relevant representations Local Impact Reports from the local authorities Comments on responses to the ExA's first written questions Any proposed amendments to the draft DCO

19 June 2013	Accompanied site visit (all day) Open floor hearing (evening)
20 June 2013	Issue specific hearing relating to the draft DCO
21 June 2013	Notification by the ExA of the: Compulsory acquisition hearing Further issue specific hearing
26 June 2013	Issue of the ExA's request for further information
3 July 2013	Deadline for receipt by the ExA of: Comments on the Local Impact Report Any written summary of the oral case put at the DCO hearing Submissions as to whether there should be oral questioning by another person at the compulsory acquisition or issue specific hearings
17 July 2013	Deadline for receipt by the ExA of any further proposed amendments by the applicant to the draft DCO
23 July 2013	Compulsory acquisition hearing
24 – 25 July 2013	Landscape and ecology issue specific hearing
31 July 2013	Deadline for receipt by the ExA of responses to the ExA's request for further information
7 August 2013	Deadline for receipt by the ExA of: Any written summary of the oral cases put at the compulsory acquisition hearing Any written summary of the oral cases put at the open floor hearing
8 August 2013	Issue by the ExA of further written questions Consultation on the matrices to inform the Report on the Implications for European Sites
14 August 2013	Deadline for receipt by the ExA of comments on responses to the ExA's request for further information issued on 26 June 2013
29 August 2013	Deadline for receipt by the ExA of responses to the matrices to inform the RIES
4 September 2013	Deadline for receipt by the ExA of: Final draft DCO Responses to the ExA's further written questions

11 September 2013	Issue specific hearing relating to the draft DCO
18 September 2013	Deadline for receipt by the ExA of: Comments on responses to the ExA's further written questions Any written summary of the oral cases put at the second DCO hearing
19 September 2013	Issue of the ExA's request for further information
25 September 2013	Deadline for receipt by the ExA of: Final comments on the draft DCO Revised version of the final DCO
2 October 2013	Deadline for receipt by the ExA of: Comments on the revised version of the final draft DCO
4 October 2013	Issue of ExA's request for further information
10 October 2013	Deadline for receipt by the ExA of: Responses to the ExA's request for further information
14 October 2013	Close of the examination

APPENDIX B – LIST OF THOSE WHO ATTENDED THE EXAMINATION

Preliminary meeting

18 April 2013; commenced at 10:30 at the Post House, 35 Greengate Street, Stafford, ST16 2HZ

Mary O'Rourke	Examining Authority – The Planning Inspectorate
Kathrine Haddrell	The Planning Inspectorate
Siân Evans	The Planning Inspectorate
Dean Alford	The Planning Inspectorate
Tracey Clarke	The Planning Inspectorate
Stephen Roscoe	The Planning Inspectorate
Gemma Groves	Network Rail
Neil Hancock	Network Rail
Neil Winterburn	Network Rail
Malcolm Armstrong	Network Rail
Lucie Anderton	Network Rail
Lesia Kozlowsky	Network Rail
Lee Tearle	Bircham Dyson Bell
Ian McCulloch	Bircham Dyson Bell
Adam Merchant	National Grid
Timothy Bull	National Grid
Richard Glover	National Grid
James Chadwick	Staffordshire County Council
Andrew Knowles	Staffordshire County Council
Matthew Ellis	Stafford Borough Council
Gillian Bradley	
David Watkins	
Simon Hudson	
Sarah Edge	
Steve Jackman	
John Leather	Fisher German
David Williams	
Diane E Llewellyn	
Malcolm D Llewellyn	
Jane Field	Environment Agency
Robert Eld	
Derek Morris	
David Price	
Bernard Lee	Western Power Distribution
Cllr Brown	Seighford Parish Council
Mark Sullivan	Rail Future West Midlands Branch

Site Visit

19 June 2013; commenced at 10:00 at The Mill at Worston, Worston Lane, Great Bridgeford, Staffordshire, ST18 9QA

Mary O'Rourke	Examining Authority – The Planning Inspectorate
Siân Evans	The Planning Inspectorate

Tracey Clarke	The Planning Inspectorate
Ian McCulloch	Bircham Dyson Bell
Malcolm Armstrong	Network Rail
Lucie Anderton	Network Rail
Martin Daniels	Network Rail
Neil Hancock	Network Rail
Mark Homer	Network Rail
James Chadwick	Staffordshire County Council
Andrew Knowles	Staffordshire County Council
Barry Alcock	Staffordshire County Council
Paul Roachfort	Staffordshire County Council
Julia Banbury	Staffordshire County Council
Ali Glaisher	Staffordshire County Council
Matthew Ellis	Stafford Borough Council
Adam Merchant	National Grid
Helen Tobias	National Grid
Catherine McCloskey	National Grid
Mr Butler	
Steve Jackman	
Louise Pickering	
Mr Ward	
Mrs Ward	
Mark Pickering	

Open floor hearing

19 June 2013; commenced at 19:30 at Chebsey Village Hall, School Lane, Chebsey, Staffordshire, ST21 6JU

Mary O'Rourke	Examining Authority – The Planning Inspectorate
Alan Nettey	The Planning Inspectorate
Siân Evans	The Planning Inspectorate
Tracey Clarke	The Planning Inspectorate
Ian McCulloch of Bircham Dyson Bell	Network Rail
Lee Tearle of Bircham Dyson Bell	Network Rail
Malcolm Armstrong	Network Rail
Neil Hancock	Network Rail
Nigel Barber	Network Rail
Mr Haile	Network Rail
Lucie Anderton	Network Rail
Martin Daniels	Network Rail
Chris Rowley	Network Rail
Matthew Ellis	Stafford Borough Council
Catherine McCloskey	National Grid
Helen Tobias	National Grid
Adam Merchant	National Grid
John Green	Chebsey Parish Council
Mark Sullivan	Railfuture West Midlands Branch
Simon Hudson	Shallowford House Retreat and Conference Centre

Sarah Edge
David Williams
Derek Morris
Juliette Court
Tony Court
Neil Butler
Amanda Butler
Mr Farnworth
Roger Hopley
Ian Nadin

**Issue specific hearing on the draft development consent order
20 June 2013; commenced at 10:00 at The Post House, 35
Greengate Street, Stafford, ST16 2HZ**

Mary O'Rourke	Examining Authority – The Planning Inspectorate
Alan Nettey	The Planning Inspectorate
Siân Evans	The Planning Inspectorate
Tracey Clarke	The Planning Inspectorate
Ian McCulloch of Bircham Dyson Bell	Network Rail
Lee Tearle of Bircham Dyson Bell	Network Rail
Mark Roberts	Network Rail
Martin Daniels	Network Rail
Malcolm Armstrong	Network Rail
Lucie Anderton	Network Rail
Neil Hancock	Network Rail
Lesia Kozlowsky	Network Rail
Henry Long	Network Rail
Chris Rowley	Network Rail
Antony Muller	Natural England
Roger Lancaster Of Counsel	Staffordshire County Council
Mark Winnington	Staffordshire County Council
Becky Fuller	Staffordshire County Council
Andrew Knowles	Staffordshire County Council
James Chadwick	Staffordshire County Council
Barry Alcock	Staffordshire County Council
Heather Morgan	Staffordshire County Council
Paul Rochfort	Staffordshire County Council
Ali Glaisher	Staffordshire County Council
Julia Banbury	Staffordshire County Council
Matthew Ellis	Stafford Borough Council
Jane Field	Environment Agency
John Dingley	Environment Agency
Simon Hudson	Shallowford House Retreat and Conference Centre
Dianne E Llewellyn Malcolm D Llewellyn	

**Compulsory acquisition hearing
23 July 2013: commenced at 10:00 at The Post House, 35
Greengate Street, Stafford, ST16 2HZ**

Mary O'Rourke	Examining Authority – The Planning Inspectorate
Alan Nettey	The Planning Inspectorate
Siân Evans	The Planning Inspectorate
Ian McCulloch – Bircham	Network Rail
Dyson Bell	
Lee Tearle – Bircham	Network Rail
Dyson Bell	
Malcolm Armstrong	Network Rail
Neil Hancock	Network Rail
David Lawrence	Network Rail
Chris Rowley	Network Rail
Jill Stephenson	Network Rail
Henry Long	Network Rail
Mark Roberts – Wardell Armstrong	Network Rail
Martin Daniels – Laing O'Rourke	Network Rail
Chris Cornford – Bruton Knowles	Network Rail
Lucie Anderton	Network Rail
James Chadwick	Staffordshire County Council
Tony Court	
Mr Vawes	Wetmore Parish Council
Mr Wilkinson	Wetmore Parish Council
Sarah Edge	
Steve Jackman	
Roger Hopley	
Oliver Hestleton	National Grid
Bill Parry	Hinson Parry and Co
David Ward	
Mr Weston	
Mrs Weston	

**Landscape and ecology issue specific hearing
24 July 2013; commenced at 10:00 at The Post House, 35
Greengate Street, Stafford, ST16 2HZ**

Mary O'Rourke	Examining Authority – The Planning Inspectorate
Alan Nettey	The Planning Inspectorate
Siân Evans	The Planning Inspectorate
Ian McCulloch of Bircham Dyson Bell	Network Rail
Lee Tearle of Bircham Dyson Bell	Network Rail

John King of Wardell Armstrong	Network Rail
Sacha Rogers of Wardell Armstrong	Network Rail
Yue Zou of Staffordshire Alliance	Network Rail
Lucie Anderton	Network Rail
Malcolm Armstrong	Network Rail
Martin Daniels	Network Rail
Neil Hancock	Network Rail
Steve Ricks	Network Rail
Matt Oakley	Network Rail
Jill Stephenson	Network Rail
Christopher Rowley	Network Rail
Lesia Kozlowsky	Network Rail
Peter George	Temple Group
James Chadwick	Staffordshire County Council
Ali Glaisher	Staffordshire County Council
Julia Banbury	Staffordshire County Council
Matthew Ellis	Stafford Borough Council
Bill Waller	Stafford Borough Council
Kathleen Covill	Natural England
Kathryn Edwards	Environment Agency
Chris Grzesiak	Environment Agency
Jane Field	Environment Agency
John Dingley	Environment Agency
Malcolm D Llewellyn	
Diane E Llewellyn	
Steve Jackman	

**Issue specific hearing on the draft development consent order
11 September 2013; commenced at 10:00 at The Post House, 35
Greengate Street, Stafford, ST16 2HZ**

Mary O'Rourke	Examining Authority – The Planning Inspectorate
Alan Nettey	The Planning Inspectorate
Siân Evans	The Planning Inspectorate
Tracey Williams	The Planning Inspectorate
Zena Madden	The Planning Inspectorate
Robert Upton	The Planning Inspectorate
Ian McCulloch	Network Rail
of Bircham Dyson Bell	
Lee Tearle	Network Rail
of Bircham Dyson Bell	
Joel Strickland	Network Rail
Lucie Anderton	Network Rail
Neil Hancock	Network Rail
Martin Daniels	Network Rail
Jill Stephenson	Network Rail
Gemma Groves	Network Rail
Malcolm Armstrong	Network Rail

Christopher Rowley
Lesia Kozlowsky
Timothy Bull
Matthew Ellis
James Chadwick
Ruth Stockley
Of Counsel
Heather Morgan
Andrew Knowles
Becky Fuller
Ali Glaisher
Julia Banbury
Simon Hudson

Diane E Llewellyn
Malcolm D Llewellyn
Derek Morris
Louise Pickering
Mark Pickering
Steve Jackman

Network Rail
Network Rail
National Grid
Stafford Borough Council
Staffordshire County Council
Staffordshire County Council

Staffordshire County Council
Staffordshire County Council
Staffordshire County Council
Staffordshire County Council
Staffordshire County Council
Shallowford House Retreat and Conference
Centre

APPENDIX C – EXAMINATION LIBRARY

The following list of documents have been used during the course of the Examination. The documents are grouped together by document type.

Each document has been given an identification number (e.g. APP-001 for the application form submitted as part of the application), and all documents are available to view on the Planning Inspectorate's National Infrastructure Planning website at the Stafford Area Improvements - Norton Bridge Railway page:

<http://infrastructure.planningportal.gov.uk/projects/west-midlands/stafford-area-improvements-norton-bridge-railway/>

INDEX

Document type	Reference
Application Documents	APP-xxx
Procedural Decisions	DEC-xxx
Project Documents	PD-xxx
Relevant Representations	RR-xxx
Representations	REP-xxx
Events Documents	EV-xxx
Additional Submissions	AS-xxx

Examination Library

Application Documents

Application Form

APP-001	<u>1.1 Application Form</u>
APP-002	<u>1.2 Copies of Newspaper Notices</u>

Draft Development Consent Order

APP-003	<u>2.1 Draft Development Consent Order</u>
APP-004	<u>2.2 Explanatory Memorandum</u>

Plans

APP-005	<u>2.3 Land Plans and Land Affected Plans</u>
APP-006	<u>2.4 Works Plans and Sections</u>
APP-007	<u>2.5 Street Plans</u>
APP-008	<u>3.1 Design Drawings</u>
APP-009	<u>3.2 Plans identifying statutory and non-statutory sites or features of nature conservation habitats and water bodies</u>
APP-010	<u>3.3 Plans identifying statutory and non-statutory sites or features of the historic environment and other historic features</u>
APP-011	<u>3.4 Environmental Mitigation Plans</u>

Reports/Statements

APP-012	<u>4.1 Consultation Report</u>
APP-013	<u>4.2 Flood Risk Assessment</u>
APP-014	<u>4.3 Report on the assessment of effects on designated sites or features of nature conservation habitats and water bodies</u>
APP-015	<u>4.4 Assessment as to the effects on sites or features of the historic environment</u>
APP-016	<u>4.5 Assessment of statutory nuisance</u>
APP-017	<u>4.6 Report identifying the effects on European and or Ramsar Sites</u>
APP-018	<u>4.7 Planning Statement</u>
APP-019	<u>4.8 Assessment of Need</u>

Environmental Statement

APP-020	<u>5.1 Environmental Statement Volume 1 – Non Technical Summary</u>
APP-021	<u>5.2 Environmental Statement Volume 2 – Main Statement</u>
APP-022	<u>5.3 Environmental Statement Volume 3 – Environmental Statement Technical Appendices Index</u>
APP-023	<u>5.3 Environmental Statement Volume 3 – Report 1 (Scoping Report) – Technical Appendix</u>
APP-024	<u>5.3 Environmental Statement Volume 3 – Report 2 (Scoping Response Table) – Technical Appendix</u>
APP-025	<u>5.3 Environmental Statement Volume 3 – Report 3 (Sustainability Appraisal) – Technical Appendix</u>
APP-026	<u>5.3 Environmental Statement Volume 3 – Report 4 (Flood Risk Assessment) – Technical Appendix</u>
APP-027	<u>5.3 Environmental Statement Volume 3 – Report 5 (Habitat Regulation Assessment) – Technical Appendix</u>
APP-028	<u>5.3 Environmental Statement Volume 3 – Report 6 (Noise and Vibration) – Technical Appendix</u>
APP-029	<u>5.3 Environmental Statement Volume 3 – Report 7 (Air Quality) –</u>

	<u>Technical Appendix</u>
APP-030	<u>5.3 Environmental Statement Volume 3 – Report 8 (Landscape and Visual) – Technical Appendix</u>
APP-031	<u>5.3 Environmental Statement Volume 3 – Report 8 (Landscape and Visual - Appendix 4C) – Technical Appendix</u>
APP-032	<u>5.3 Environmental Statement Volume 3 – Report 9 (Ecology) – Technical Appendix</u>
APP-033	<u>5.3 Environmental Statement Volume 3 – Report 9 (Ecology – Appendices F - L) – Technical Appendix</u>
APP-034	<u>5.3 Environmental Statement Volume 3 – Report 9 (Ecology – Appendices M - N) – Technical Appendix</u>
APP-035	<u>5.3 Environmental Statement Volume 3 – Report 9 (Ecology – Appendices O - S) – Technical Appendix</u>
APP-036	<u>5.3 Environmental Statement Volume 3 – Report 10 (Water, Hydrology, Hydrogeology) – Technical Appendix</u>
APP-037	<u>5.3 Environmental Statement Volume 3 – Report 11 (Geology, Soils and Land Contamination – Part 1) – Technical Appendix</u>
APP-038	<u>5.3 Environmental Statement Volume 3 – Report 11 (Geology, Soils and Land Contamination – Appendix 4) – Technical Appendix</u>
APP-039	<u>5.3 Environmental Statement Volume 3 – Report 11 (Geology, Soils and Land Contamination – Appendix 5 & 6) – Technical Appendix</u>
APP-040	<u>5.3 Environmental Statement Volume 3 – Report 12 (Archaeology and Cultural Heritage) – Technical Appendix</u>
APP-041	<u>5.3 Environmental Statement Volume 3 – Report 13 (Transport and Access) – Technical Appendix</u>
APP-042	<u>5.3 Environmental Statement Volume 3 – Report 14 (Socio-economic) – Technical Appendix</u>
APP-043	<u>5.3 Environmental Statement Volume 3 – Report 15 (Human Health) – Technical Appendix</u>
APP-044	<u>5.3 Environmental Statement Volume 3 – Report 16 (Land Use and Agriculture) – Technical Appendix</u>
APP-045	<u>5.3 Environmental Statement Volume 3 – Report 17 (Waste) – Technical Appendix</u>
APP-046	<u>5.4 Environmental Statement Volume 4 – Figures</u>

Compulsory Acquisition Documents

APP-047	<u>6.1 Statement of Reasons</u>
APP-048	<u>6.2 Funding Statement</u>
APP-049	<u>6.3 Book of Reference</u>

Project Documents

General Project Documents

PD-001	<u>Letter to Local Authorities requesting Adequacy of Consultation – 30 November 2012</u>
PD-002	<u>CONSREP Phase 1 Network Rail – 23 January 2013</u>
PD-003	<u>CONSREP Phase 2 Network Rail – 23 January 2013</u>
PD-004	<u>CONSREP Phase 3 Network Rail – 23 January 2013</u>
PD-005	<u>CONSREP Phase 4 Network Rail – 23 January 2013</u>
PD-006	<u>Section 56 Notice letter – 16 January 2013</u>
PD-007	<u>Section 56 Notice publication – 17 January 2013</u>
PD-008	<u>Regulation 13 – Certificate of Compliance – 1 March 2013</u>
PD-009	<u>Section 56 – Certificate of Compliance – 1 March 2013</u>
PD-010	<u>Section 59 – Certificate of Compliance – 1 March 2013</u>

PD-011	<u>Network Rail notice of the open floor hearing and issue specific hearing in relation to the development consent order – 21 May 2013</u>
PD-012	<u>Network Rail site notice for the compulsory acquisition hearing and issue specific hearing on ecology and landscape – 27 June 2013</u>
PD-013	<u>Network Rail notice for the compulsory acquisition hearing and issue specific hearing on ecology and landscape – 27 June 2013</u>
PD-014	<u>Transboundary Screening Matrix – 6 June 2013</u>
PD-015	<u>Network Rail proposed boundary plan providing an overview of the project – 25 July 2013</u>
PD-016	<u>Advice to Network Rail on removing plot 101</u>
PD-017	<u>Great Crested Newt licence dated 12 September 2013</u>

Updates to draft Development Consent Order

PD-018	<u>Revised draft DCO – 12 June 2013</u>
PD-019	<u>Revised draft DCO - 31 July 2013</u>
PD-020	<u>Network Rail commentary on draft DCO of 31 July 2013</u>
PD-021	<u>Revised draft DCO - 4 September 2013 - (Clean Copy)</u>
PD-022	<u>Draft DCO Doc 2-1 Network Rail Amendments</u>
PD-023	<u>Norton Bridge Area Improvements Draft DCO Doc. 2.1 4 September 2013 - (Tracked Changes)</u>
PD-024	<u>Norton Bridge commentary on draft DCO 4 September 2013</u>
PD-025	<u>Draft DCO Doc. 2.1 - 4 September 2013 25 September 2013 - (Tracked Changes)</u>
PD-026	<u>Draft DCO Doc. 2.1 - 25 September 2013 - (Clean Copy)</u>
PD-027	<u>Commentary on draft DCO of 25 September 2013</u>

Comments on draft Development Consent Order & Explanatory Memorandum

PD-028	<u>Staffordshire County Council comments on the draft DCO dated 31 July - 21 August 2013</u>
PD-029	<u>Stafford Borough Council comments on the draft DCO dated 31 July - 14 August 2013</u>
PD-030	<u>Staffordshire County Council correction to their response of 21 August on the draft DCO - 4 September 2013</u>
PD-031	<u>Network Rail response to Staffordshire County Council comments of 21 August 2013 on the draft DCO</u>
PD-032	<u>Staffordshire County Council comments on 4 September 2013 version of the draft DCO</u>
PD-033	<u>Staffordshire County Council response to 25 September 2013 version of the draft DCO</u>

Scoping Documents

PD-034	<u>Scoping Opinion</u>
PD-035	<u>Scoping Report</u>
PD-036	<u>Scoping Report (Non Technical Summary)</u>
PD-037	<u>Late Scoping Consultation Response</u>

Local Impact Reports & Statements of Common Ground

PD-038	<u>Joint Local Impact Report submitted by Stafford Borough Council and Staffordshire County Council – 12 June 2013</u>
PD-039	<u>Local Impact Report – Appendix A – Planning history (Izaak</u>

	<u>Walton Golf Club</u>
PD-040	<u>Local Impact Report – Appendix A – Planning history (Land off Stone Road)</u>
PD-041	<u>Local Impact Report – Appendix A – Planning history (The Retreat Shallowford House)</u>
PD-042	<u>Local Impact Report – Appendix B – Accident information on proposed construction haulage routes</u>
PD-043	<u>Local Impact Report – Appendix C – M6 Emergency diversion routes</u>
PD-044	<u>Statement of Common Ground between Network Rail and National Grid – 12 June 2013</u>
PD-045	<u>Statement of Common Ground between Network Rail and United Kingdom Oil Pipelines Limited – 12 June 2013</u>
PD-046	<u>Statement of Common Ground between Network Rail and Environment Agency on drainage and flood risk – 12 June 2013</u>
PD-047	<u>Statement of Common Ground between Network Rail and Staffordshire County Council on traffic and highway matters – 11 June 2013</u>
PD-048	<u>Statement of Common Ground between Network Rail Staffordshire County Council Staffordshire Borough Council Environment Agency and Natural England on ecology and nature conservation – 12 June 2013</u>
PD-049	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – 12 June 2013</u>
PD-050	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – Appendix 1 Part 1</u>
PD-051	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – Appendix 1 Part 2</u>
PD-052	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – Appendix 1 Part 3</u>
PD-053	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – Appendix 1 Part 4</u>
PD-054	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – Appendix 2 Part 1</u>
PD-055	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – Appendix 2 Part 2</u>
PD-056	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – Appendix 3 Part 1</u>
PD-057	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – Appendix 3 Part 2</u>
PD-058	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – Appendix 3 Part 3</u>
PD-059	<u>Statement of Common Ground between Network Rail Staffordshire County Council and Stafford Borough Council on planning policy background – Appendix 3 Part 4</u>
PD-060	<u>Statement of Common Ground between Network Rail and</u>

	<u>Staffordshire County Council on historic environment – 11 July 2013</u>
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Correspondence from/to Interested Parties

PD-061	<u>Letter from Mark Sullivan – Attendance at Preliminary Meeting and request for information from Network Rail – 12 April 2013</u>
PD-062	<u>Letter to Mark Sullivan regarding attendance at Preliminary Meeting and request for information – 16 April 2013</u>
PD-063	<u>Letter from Mark Sullivan regarding request for information – 17 April 2013</u>
PD-064	<u>Correspondence between Bircham Dyson Bell and the Planning Inspectorate – 15 April 2013</u>
PD-065	<u>Letter from National Grid regarding withdrawal of objection – 25 June 2013</u>
PD-066	<u>Field Fisher Waterhouse on behalf of UKOP – 18 June 2013</u>
PD-067	<u>Reply to Field Fisher Waterhouse on behalf of UKOP – 24 June 2013</u>
PD-068	<u>Field Fisher Waterhouse on behalf of UKOP - update on negotiations - 4 September 2013</u>
PD-069	<u>Western Power Distribution withdrawal of relevant representation 19 August 2013</u>
PD-070	<u>Correspondence on behalf of Charles and Sarah Edge - 27 August 2013</u>
PD-071	<u>Mr and Mrs Llewellyn query regarding construction of embankment - 5 September 2013</u>
PD-072	<u>Network Rail response to Mr Morris - 9 September 2013</u>
PD-073	<u>Network Rail response to Mike Taylor - 10 September 2013</u>
PD-074	<u>Letter from Network Rail to Louise Pickering dated 30 August 2013 in response to EV-084</u>
PD-075	<u>Network Rail response to Sarah Edge letter of 10 September - 18 September 2013</u>
PD-076	<u>Field Fisher Waterhouse on behalf of UKOP update on negotiations with Network Rail - 9 July 2013</u>
PD-077	<u>United Kingdom Oil Pipelines Limited (UKOP) Withdrawal of objection - 2 October 2013</u>
PD-078	<u>Email from Derek Morris regarding requirement 3(4)(e)(ii) – 6 October 2013</u>
PD-079	<u>Mr Court regarding HS2 - 6 October 2013</u>
PD-080	<u>Letter from Louise Pickering to SCC regarding roads - 12 September 2013</u>
PD-081	<u>Letter from Louise Pickering to Network Rail regarding compound sheds - 24 September 2013</u>

Procedural Decisions

General Procedural Decisions

DEC-001	<u>Acceptance Decision Letter – 10 January 2013</u>
DEC-002	<u>Section 55 Checklist – 10 January 2013</u>
DEC-003	<u>Rule 4 & 6 Letter – 26 March 2013</u>
DEC-004	<u>Rule 8 Letter – 30 April 2013</u>
DEC-005	<u>Notice of Hearings from the Planning Inspectorate – 17 May 2013</u>
DEC-006	<u>Examination timetable – 26 June 2013a</u>
DEC-007	<u>Rule 17 – Request for further information – 26 June 2013</u>

DEC-008	Notification of Second Round Questions
DEC-009	RIES consultation letter
DEC-010	RIES
DEC-011	Examination Timetable as at 26 June 2013b
DEC-012	Examination Timetable as at 04 October 2013
DEC-013	Rule 17 request issued on 19 September 2013
DEC-014	Rule 17 request for further information issued on 04 October 2013
DEC-015	S99 Close of examination letter

Relevant Representations

RR-001	10016837	Malcolm Llewellyn – 1 February 2013
RR-002	10016838	Dianne Llewellyn – 1 February 2013
RR-003	10016840	Mary Evans – 3 February 2013
RR-004	10016845	Mr A Cadwallader – 4 February 2013
RR-005	10016846	Peter Hawkins – 4 February 2013
RR-006	10016850	National Grid Plc – 5 February 2013 (withdrawn)
RR-007	10016851	Staffordshire Police – 5 February 2013
RR-008	10016852	Gary Hill – 6 February 2013
RR-009	10016853	Mr J Stokes – 7 February 2013
RR-010	10016860	Marston Parish Meeting – 10 February 2013
RR-011	10016861	Neil Butler – 12 February 2013
RR-012	10016862	Shallowford House Retreat and Conference Centre – 13 February 2013
RR-013	10016863	Mrs M Underwood – 13 February 2013
RR-014	10016869	Beverley Leng – 15 February 2013
RR-015	10016872	Louise Pickering – 16 February 2013
RR-016	10016873	Anthony Court, Juliet Court, Andrew Court, Robert Court – 17 February 2013
RR-017	10016879	Natural England – 19 February 2013
RR-018	10016881	Parkland Farm Eggs Ltd – 19 February 2013
RR-019	10016882	Mark Sullivan – 20 February 2013
RR-020	10016883	Environment Agency – 20 February 2013
RR-021	10016884	Derek Morris – 20 February 2013
RR-022	10016885	Mr and Mrs Bailey – 20 February 2013
RR-023	10016886	S & R Hopley Limited – 20 February 2013
RR-024	10016888	Railfuture West Midlands Branch – 20 February 2013
RR-025	10016889	Highways Agency – 21 February 2013
RR-026	10016890	Staffordshire County Council – 21 February 2013
RR-027	10016891	Mr and Mrs Nadin – 21 February 2013
RR-028	10016892	English Heritage – 21 February 2013
RR-029	10016893	Environmental Organisation – 22 February 2013
RR-030	10016895	Steve Jackman – 22 February 2013
RR-031	10016897	Western Power Distribution (West Midlands) Plc – 22 February 2013 (withdrawn)
RR-032	10016898	United Kingdom Oil Pipelines Limited – 22 February 2013 (withdrawn)
RR-033	10016901	Gillian Bradley – 22 February 2013
RR-034	10016905	David Watkins – 22 February 2013
RR-035	10016906	Charles Edge – 22 February 2013
RR-036	10016907	Sarah Edge – 22 February 2013
RR-037	10016908	David Williams – 22 February 2013
RR-038	STAF-0001	David Davis - 19 February 2013
RR-039	STAF-0002	Health Protection Agency – 18 February 2013

Representations

Adequacy of Consultation

REP-001	<u>Adequacy of Consultation Response – Derbyshire County Council – 20 December 2012</u>
REP-002	<u>Adequacy of Consultation Response – Lichfield District Council – 20 December 2012</u>
REP-003	<u>Adequacy of Consultation Response – Shropshire Council – 20 December 2012</u>
REP-004	<u>Adequacy of Consultation Response – Cannock Chase District Council – 21 December 2012</u>
REP-005	<u>Adequacy of Consultation Response – Leicestershire County Council – 21 December 2012</u>
REP-006	<u>Adequacy of Consultation Response – East Staffordshire Borough Council – 21 December 2012</u>
REP-007	<u>Adequacy of Consultation Response – Stafford Borough Council – 3 January 2013</u>

Comments on Relevant Representations

REP-008	<u>NR/Ex/2 - Network Rail comments on relevant and written representations – 12 June 2013</u>
REP-009	<u>NR/Ex/4 - Network Rail comments on issues raised by Staffordshire County Council and Natural England – 12 June 2013</u>

Written Representations

REP-010	<u>Mark Sullivan – 29 May 2013</u>
REP-011	<u>Seighford Parish Council – 23 May 2013</u>
REP-012	<u>Staffordshire County Council – 29 May 2013</u>
REP-013	<u>Sarah Edge – 28 May 2013</u>
REP-014	<u>Charles Edge – 20 May 2013</u>
REP-015	<u>National Grid – 29 May 2013</u>
REP-016	<u>Natural England – 29 May 2013</u>
REP-017	<u>Natural England – Annex A</u>
REP-018	<u>Natural England – Annex B</u>
REP-019	<u>Natural England – Annex C (Badger 'Letter of Comfort')</u>
REP-020	<u>Natural England – Annex C (Bat 'Letter of Comfort')</u>
REP-021	<u>Natural England – Annex C (Otter 'Letter of Comfort')</u>
REP-022	<u>Chebsey Parish Council – 23 May 2013</u>
REP-023	<u>Mr and Mrs Llewellyn – 29 May 2013</u>

Responses to Examining Authority's First Written Questions

REP-024	<u>Environment Agency – 28 May 2013</u>
REP-025	<u>English Heritage – 29 May 2013</u>
REP-026	<u>Staffordshire County Council – 29 May 2013</u>
REP-027	<u>Stafford Borough Council – 28 May 2013</u>
REP-028	<u>NR/Ex/1 - Network Rail – 29 May 2013</u>
REP-029	<u>Network Rail – Appendix 1</u>
REP-030	<u>Network Rail – Appendix 2</u>
REP-031	<u>Network Rail – Appendix 3</u>
REP-032	<u>Network Rail – Appendix 4</u>
REP-033	<u>Network Rail – Appendix 5</u>
REP-034	<u>Network Rail – Appendix 6</u>
REP-035	<u>Network Rail – Appendix 7</u>
REP-036	<u>Network Rail – Appendix 8</u>

REP-037	Mark Sullivan – 29 May 2013
REP-038	Natural England – 29 May 2013

Comments on First Written Questions responses

REP-039	NR/Ex/3 - Network Rail comments on responses to the Examining Authority first written questions – 12 June 2013
REP-040	Staffordshire County Council comments on Network Rail responses to the Examining Authority first written questions – 12 June 2013
REP-041	Mr and Mrs Llewellyn comments – 11 June 2013

Comments on the Local Impact Report

REP-042	NR/Ex/5 - Network Rail comments on the Local Impact Report – 2 July 2013
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Examining authority's Second Round of Written Questions

Rep-042a	Notification of Second Round Questions (see DEC-008)
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Responses to Examining authority's Second Round of Written Questions

	Natural England response to second round questions
REP-044	Stafford Borough Council response to second round questions
REP-045	Sites of Regional and Local Importance submitted with Stafford Borough Council response to second round questions
REP-046	Yelds Rough SBI submitted by Stafford Borough Council with their response to 2nd round questions
REP-047	Meece Brook SBI submitted by Stafford Borough Council with their response to 2nd round questions
REP-048	Environment Agency response to second round questions
REP-049	Staffordshire County Council response to second round questions
REP-050	Network Rail response to 2nd round questions
REP-051	Network Rail revised Book of Reference
REP-052	Design Brief of 4 September 2013 submitted by Network Rail
REP-053	Network Rail - Fencing Overview Plan (NBSAIP-ASA-DRG-ECV-600200)
REP-054	Network Rail - Landscape treatment to balancing ponds indicative section (NBSAIP-ASA-DRG-ECV-200201)
REP-055	Network Rail - Landscape treatment to mitigation earthworks indicative section (NBSAIP-ASA-DRG-ECV-600202)
REP-056	Network Rail - Landscape treatment to highways corridor indicative section (NBSAIP-ASA-DRG-ECV-600203)
REP-057	Network Rail - Landscape treatment to 2 stage river channel indicative section (NBSAIP-ASA-DRG-ECV-600204)
REP-058	Network Rail - Landscape treatment to marl pit habitat indicative section (NBSAIP-ASA-DRG-ECV-600205)
REP-059	Network Rail - Landscape treatment to tree planting indicative section (NBSAIP-ASA-DRG-ECV-600206)
REP-060	Network Rail - Landscape treatment to PRoW footpath indicative section (NBSAIP-ASA-DRG-ECV-600206)
REP-061	Network Rail Landscape and integration plans - Overview drawing key plan (NBSAIP-ASA-DRG-ECV-600000)
REP-062	Network Rail Landscape integration plan sheet 1 (NBSAIP-ASA-DRG-ECV-600001)
REP-063	Network Rail Landscape integration plan sheet 2 (NBSAIP-ASA-

	<u>DRG-ECV-600002)</u>
REP-064	<u>Network Rail Landscape integration plan sheet 3 (NBSAIP-ASA-DRG-ECV-600003)</u>
REP-065	<u>Network Rail Landscape integration plan sheet 4 (NBSAIP-ASA-DRG-ECV-600004)</u>
REP-066	<u>Network Rail Landscape integration plan sheet 5 (NBSAIP-ASA-DRG-ECV-600005)</u>
REP-067	<u>Network Rail Landscape integration plan sheet 6 (NBSAIP-ASA-DRG-ECV-600006)</u>
REP-068	<u>Network Rail Landscape integration plan sheet 7 (NBSAIP-ASA-DRG-ECV-600007)</u>
REP-069	<u>Network Rail Landscape integration plan sheet 8 (NBSAIP-ASA-DRG-ECV-600008)</u>
REP-070	<u>Network Rail Landscape integration plan sheet 9 (NBSAIP-ASA-DRG-ECV-600009)</u>
REP-071	<u>Network Rail Landscape integration plan sheet 10 (NBSAIP-ASA-DRG-ECV-600010)</u>
REP-072	<u>Network Rail Landscape integration plan sheet 11 (NBSAIP-ASA-DRG-ECV-600011)</u>
REP-073	<u>Network Rail Landscape integration plan sheet 12 (NBSAIP-ASA-DRG-ECV-600012)</u>
REP-074	<u>Network Rail Landscape integration plan sheet 13 (NBSAIP-ASA-DRG-ECV-600013)</u>
REP-075	<u>Network Rail Habitat loss plan sheet 1 (NBSAIP-ASA-DRG-ECV-600101)</u>
REP-076	<u>Network Rail Habitat loss plan sheet 2 (NBSAIP-ASA-DRG-ECV-600102)</u>
REP-077	<u>Network Rail Habitat loss plan sheet 3 (NBSAIP-ASA-DRG-ECV-600103)</u>
REP-078	<u>Network Rail Habitat loss plan sheet 4 (NBSAIP-ASA-DRG-ECV-600104)</u>
REP-079	<u>Network Rail Habitat loss plan sheet 5 (NBSAIP-ASA-DRG-ECV-600105)</u>
REP-080	<u>Network Rail Habitat loss plan sheet 6 (NBSAIP-ASA-DRG-ECV-600106)</u>
REP-081	<u>Network Rail Habitat loss plan sheet 7 (NBSAIP-ASA-DRG-ECV-6000107)</u>
REP-082	<u>Network Rail Habitat loss plan sheet 8 (NBSAIP-ASA-DRG-ECV-600108)</u>
REP-083	<u>Network Rail Habitat loss plan sheet 9 (NBSAIP-ASA-DRG-ECV-600109)</u>
REP-084	<u>Network Rail Habitat loss plan sheet 10 (NBSAIP-ASA-DRG-ECV-600110)</u>
REP-085	<u>Network Rail Habitat loss plan sheet 11 (NBSAIP-ASA-DRG-ECV-600111)</u>
REP-086	<u>Network Rail Habitat loss plan sheet 12 (NBSAIP-ASA-DRG-ECV-600112)</u>
REP-087	<u>Network Rail Habitat loss plan sheet 13 (NBSAIP-ASA-DRG-ECV-600113)</u>
REP-088	<u>Network Rail Highway diversion and maintenance access key plan submitted in response to Q15 (124130-ECV-DRG-ATK-038101)</u>
REP-089	<u>Network Rail B5026 diversion plan and long section 1 of 8 submitted in response to Q15 (12410-ECV-DRG-ATK-038311)</u>
REP-090	<u>Network Rail B5026 diversion plan 2 of 8 submitted in response to Q15 (124130-ECV-DRG-ATK-038312)</u>

REP-091	<u>Network Rail B5026 diversion plan 3 of 8 submitted in response to Q15 (124130-ECV-DRG-ATK-038313)</u>
REP-092	<u>Network Rail B5026 diversion long section plan 4 of 8 submitted in response to Q15 (124130-ECV-DRG-ATK-038314)</u>
REP-093	<u>Network Rail B5026 diversion plan and long section 5 of 8 submitted in response to Q15 (124130-ECV-DRG-ATK-038315)</u>
REP-094	<u>Network Rail B5026 diversion and long section plan 6 of 8 submitted in response to Q15 (124130-ECV-DRG-ATK-038316)</u>
REP-095	<u>Network Rail B5026 diversion and long section plan 7 of 8 submitted in response to Q15 (124130-ECV-DRG-ATK-038317)</u>
REP-096	<u>Network Rail B5026 diversion and long section plan 8 of 8 submitted in response to Q15 (124130-ECV-DRG-ATK-038318)</u>
REP-097	<u>Letter from Network Rail regarding removal of plot 101</u>
REP-098	<u>Network Rail key plan amended to reflect that plot 101 is not required and has been deleted from the Order</u>
REP-099	<u>Network Rail land plan sheet 7 of 11 amended to reflect that plot 101 is not required and has been deleted from the Order</u>
REP-100	<u>Statement of common ground between Network Rail Staffordshire County Council Stafford Borough Council The Environment Agency and Natural England on Nature Conservation and Ecology - 4 September 2013</u>
REP-101	<u>Network Rail Chebsey Lane extent of temporary 40mph speed limit (TRO) (NBSAIP-ASA-DRG-EHW-035315)</u>
REP-102	<u>Network Rail Street plans [regulation 5(2)(k)] sheet 3 of 4 (124130-EMF-DRG-ATK-910048)</u>
REP-103	<u>Network Rail Works plans [regulation 6(2)] Overbridge 10A-B5026 West plans and elevation (124130-EMF-DRG-ATK-910061)</u>
REP-104	<u>Network Rail Design drawings [regulation 5(2)(o)] Overbridge 7 – Meece Road plans and elevations (124130-EMF-DRG-ATK-910024)</u>
REP-105	<u>Network Rail Design drawings [regulation 5(2)(o)] footpath longitudinal sections (124130-EMF-DRG-ATK-910009)</u>
REP-106	<u>Network Rail Works plans [regulation 6(2)] Underbridge 11 – Meece Brook West plans and elevations (124130-EMF-DRG-ATK-910062)</u>
REP-107	<u>Network Rail Design drawings [regulation 5(2)(o)] Underbridges 6 & 6A - Meece Brook North Plan (124130-EMF-DRG-ATK-910022)</u>
REP-108	<u>Network Rail B5026 diversion drainage sheet 1 of 4 (124130-ECV-DRG-ATK-028311)</u>
REP-109	<u>Network Rail B5026 diversion drainage sheet 2 of 4 (124130-ECV-DRG-ATK-028312)</u>
REP-110	<u>Network Rail B5026 diversion drainage sheet 3 of 4 (124130-ECV-DRG-ATK-028313)</u>
REP-111	<u>Network Rail B5026 diversion drainage sheet 4 of 4 (124130-ECV-DRG-ATK-028314)</u>
REP-112	<u>Network Rail Searchlight Lane drainage (124130-ECV-DRG-ATK-028315)</u>
REP-113	<u>Network Rail Design drawings [regulation 5(2)(o)] works overview Sheet 3 of 4 (124130-EMF-DRG-ATK-910004)</u>
REP-114	<u>Network Rail Works plans [regulation 5(2)(j)] 1:2500 plan sheet 3 of 4 (124130-EMF-DRG-ATK-910033)</u>
REP-115	<u>Network Rail Works plans [regulation 6(2)] footpath longitudinal sections (124130-EMF-DRG-ATK-910038)</u>
REP-116	<u>Network Rail Works plans [regulation 6(2)] Underbridges 6 & 6A Meece Brook North sections and elevations (124130-EMF-DRG-ATK-910057)</u>
REP-117	<u>Network Rail Design drawings [regulation 5(2)(o)] Overbridge 10A</u>

	<u>– B5026 West plans and elevations (124130-EMF-DRG-ATK-910027)</u>
REP-118	<u>Network Rail Works plans [regulation 6(2)] Overbridge 10A – B5026 West plans and elevations (124130-EMF-DRG-ATK-910061)</u>
REP-119	<u>Network Rail Design drawings [regulation 6(2)(o)] Underbridge 11 – Meece Brook West plans and elevations (124130-EMF-DRG-ATK-910028)</u>
REP-120	<u>Network Rail Design drawings [regulation 5(2)(o)] Underbridge 1 – LEC4/13 widening plans and elevations (124130-EMF-DRG-ATK-910015)</u>
REP-121	<u>Network Rail Design drawings [regulation 5(2)(o)] Underbridge 2 – Meece Brook South plans and elevations (124130-EMF-DRG-ATK-910017)</u>
REP-122	<u>Network Rail Design drawings [regulation 5(2)(o)] Underbridge 3 – Searchlight Lane plans and elevations (124130-EMF-DRG-ATK-910018)</u>
REP-123	<u>Network Rail Works plans [regulation 6(2)] Overbridge 3 – Searchlight Lane plans and elevations (124130-EMF-DRG-ATK-910053)</u>
REP-124	<u>Network Rail Design drawings [regulation 5(2)(o)] intersection bridge 5. WCML plans and elevations (124130-EMF-DRG-ATK-910020)</u>
REP-125	<u>Network Rail Design drawings [regulation 5(2)(o)] Overbridge 5A – WCML / B5026 plans and elevations (124130-EMF-DRG-ATK-910021)</u>
REP-126	<u>Network Rail Design drawings [regulation 5(2)(o)] Underbridges 6 & 6A – Meece Brook North plans and elevations (124130-EMF-DRG-ATK-910022)</u>
REP-127	<u>Network Rail Design drawings [regulation 5(2)(o)] Underbridges 6 & 6A – Meece Brook North section and elevations (124130-EMF-DRG-ATK-910023)</u>
REP-128	<u>Network Rail Works plans [regulation 6(2)] Underbridges 6 & 6A – Meece Brook North plan (124130-EMF-DRG-ATK-910056)</u>
REP-129	<u>Network Rail Works plans [regulation 6(2)] Overbridge 7 – Meece Road plans and elevations (124130-EMF-DRG-ATK-910058)</u>
REP-130	<u>Network Rail Works plans [regulation 6(2)] Intersection Bridge 5. WCML plans and elevations (124130-EMF-DRG-ATK-910054)</u>
REP-131	<u>Network Rail Chebsey Lane lighting (temporary situation) (NBSAIP-ASA-DRG-EHW-035312)</u>
REP-132	<u>Network Rail Chebsey Lane drainage (NBSAIP-ASA-DRG-EHW-035313)</u>
REP-133	<u>Network Rail Chebsey Lane traffic signs road markings and signals (temporary layout) (NBSAIP-ASA-DRG-EHW-035314)</u>
REP-134	<u>network Rail Chebsey Lane general arrangement (permanent situation) (NBSAIP-ASA-DRG-EHW-035320)</u>
REP-135	<u>Network Rail Chebsey Lane pavement & kerbing (permanent situation) (NBSAIP-ASA-DRG-EHW-035321)</u>
REP-136	<u>Network Rail Chebsey Lane traffic signs, road markings and signals (permanent situation) (NBSAIP-ASA-DRG-EHW-035323)</u>
REP-137	<u>Network Rail Chebsey Lane traffic signals layout (temporary situation) (NBSAIP-ASA-DRG-EHW-035354)</u>
REP-138	<u>Network Rail Chebsey Lane traffic signals ducting layout (temporary situation) (NBSAIP-ASA-DRG-EHW-035355)</u>
REP-139	<u>Network Rail B5026 and Meece Road TRO Plan sheet 1 (NBSAIP-ASA-DRG-EHW-035360)</u>

REP-140	<u>Network Rail B5026 and Meece Road TRO Plan sheet 2 (NBSAIP-ASA-DRG-EHW-035361)</u>
REP-141	<u>Network Rail B5026 and Meece Road TRO Plan sheet 3 (NBSAIP-ASA-DRG-EHW-035362)</u>
REP-142	<u>Network Rail B5026 and Meece Road TRO Plan sheet 4 (NBSAIP-ASA-DRG-EHW-035363)</u>
REP-143	<u>Network Rail Drainage network layout sheet 1 of 2 (124130-ECV-DRG-ATK-020150)</u>
REP-144	<u>Network Rail Drainage network layout sheet 2 of 2 (124130-ECV-DRG-ATK-020151)</u>
REP-145	<u>Network Rail B5026 diversion traffic signs details (124130-ECV-DRG-ATK-038003)</u>
REP-146	<u>Network Rail B5026 diversion traffic signs details (124130-ECV-DRG-ATK-038004)</u>
REP-147	<u>Network Rail B5026 diversion traffic signs details (124130-ECV-DRG-ATK-038005)</u>
REP-148	<u>Network Rail B5026 diversion traffic signs details (124130-ECV-DRG-ATK-038006)</u>
REP-149	<u>Network Rail B5026 diversion traffic signs details (124130-ECV-DRG-ATK-038007)</u>
REP-150	<u>Network Rail B5026 diversion proposed street lighting layout (124130-ECV-DRG-ATK-038381)</u>
REP-151	<u>Network Rail B5026 diversion proposed street lighting wiring diagram (124130-ECV-DRG-ATK-038382)</u>
REP-152	<u>Network Rail Scannell Lane sections (124130-ECV-DRG-ATK-038395)</u>
REP-153	<u>network Rail B5026 diversion fencing and road restraint systems sheet 1 of 4 (124130-ECV-DRG-ATK-038341)</u>
REP-154	<u>Network Rail B5026 diversion fencing and road restraint systems 2 of 4 (124130-ECV-DRG-ATK-038342)</u>
REP-155	<u>Network Rail B5026 diversion fencing and road restraint systems 3 of 4 (124130-ECV-DRG-ATK-038343)</u>
REP-156	<u>Network Rail B5026 diversion fencing and road restraint systems 4 of 4 (124130-ECV-DRG-ATK-038344)</u>
REP-157	<u>Network Rail B5026 diversion pavement footways and paved areas plan 1 of 4 (124130-ECV-DRG-ATK-038351)</u>
REP-158	<u>Network Rail B5026 diversion pavement footways and paved areas plan 2 of 4 (124130-ECV-DRG-ATK-038352)</u>
REP-159	<u>Network Rail B5026 diversion pavement footways and paved areas plan 3 of 4 (124130-ECV-DRG-ATK-038353)</u>
REP-160	<u>Network Rail B5026 diversion pavement footways and paved areas plan 4 of 4 (124130-ECV-DRG-ATK-038354)</u>
REP-161	<u>Network Rail Chebsey Lane fencing pavement and kerbs (temporary situation) (NBSAIP-ASA-DRG-EHW-035311)</u>
REP-162	<u>Network Rail Chebsey Lane general Arrangement (Temporary situation) (NBSAIP-ASA-DRG-EHW-035310)</u>
REP-163	<u>Network Rail Drainage key plan (124130-ECV-DRG-ATK-020100)</u>
REP-164	<u>Network Rail Highway standard details plan (124130-ECV-DRG-ATK-038001)</u>
REP-165	<u>Network Rail Little Bridgeford maintenance compound general arrangement plan (124130-ECV-DRG-ATK-038388)</u>
REP-166	<u>Network Rail Searchlight Lane diversion plan and long section sheet 1 of 2 (124130-ECV-DRG-ATK-038319)</u>
REP-167	<u>Network Rail Searchlight Lane diversion plan and long section sheet 2 of 2 (124130-ECV-DRG-ATK-038320)</u>

REP-168	<u>Network Rail Searchlight Lane drainage plan (124130-ECV-DRG-ATK-028315)</u>
REP-169	<u>Network Rail Searchlight Lane fencing and road restraint systems sheet 1 of 4 (124130-ECV-DRG-ATK-038345)</u>
REP-170	<u>Network Rail Searchlight Lane junction maintenance compound general arrangement plan (124130-ECV-DRG-ATK-038386)</u>
REP-171	<u>Network Rail Searchlight Lane kerbs (124130-ECV-DRG-ATK-038365)</u>
REP-172	<u>Network Rail Searchlight Lane pavement footways and paved areas (124130-ECV-DRG-ATK-038355)</u>
REP-173	<u>Network Rail Searchlight Lane traffic signs and road markings (124130-ECV-DRG-ATK-038375)</u>
REP-174	<u>Network Rail Yarnfield junction maintenance compound general arrangement plan (124130-ECV-DRG-ATK-038387)</u>
REP-175	<u>Network Rail B5026 diversion kerbs sheet 1 of 4 (124130-ECV-DRG-ATK-038361)</u>
REP-176	<u>Network Rail B5026 diversion kerbs sheet 2 of 4 (124130-ECV-DRG-ATK-038362)</u>
REP-177	<u>Network Rail B5026 diversion kerbs sheet 3 of 4 (124130-ECV-DRG-ATK-038363)</u>
REP-178	<u>Network Rail B5026 diversion kerbs sheet 4 of 4 (124130-ECV-DRG-ATK-038364)</u>
REP-179	<u>Network Rail B5026 diversion traffic signs and road markings sheet 1 of 3 (124130-ECV-DRG-ATK-038371)</u>
REP-180	<u>Network Rail B5026 diversion traffic signs and road markings sheet 2 of 3 (124130-ECV-DRG-ATK-038372)</u>
REP-181	<u>Network Rail B5026 diversion traffic signs and road markings sheet 3 of 3 (124130-ECV-DRG-ATK-038373)</u>
REP-183	<u>Network Rail Revised land affected plans [regulation 5(2)(i)(i)] key plan – plan exclude plot 101 sheet 1 of 4 (124130-EMF-DRG-ATK-910125)</u>
REP-184	<u>Network Rail Revised land affected plans [regulation 5(2)(i)(i)] 1:2500 plan – plan exclude plot 101 sheet 2 of 4 (124130-EMF-DRG-ATK-910127)</u>
REP-185	<u>Network Rail Revised land affected plans [regulation 5(2)(i)(i)] 1:2500 plan exclude plot 101 sheet 3 of 4 124130-EMF-DRG-ATK-910128</u>
REP-186	<u>Network Rail Revised landscape integration plan sheet 2 of 13 (NBSAIP-ASA-DRG-ECV-600002 Revision A02)</u>
REP-187	<u>Network Rail Revised landscape integration plan sheet 3 of 13 (NBSAIP-ASA-DRG-ECV-600003 Revision A02)</u>
REP-188	<u>Network Rail Revised landscape integration plan sheet 8 of 13 (NBSAIP-ASA-DRG-ECV-600008 Revision A02)</u>
REP-189	<u>Network Rail Revised landscape integration plan sheet 11 of 13 (NBSAIP-ASA-DRG-ECV-600011 Revision A02)</u>
REP-190	<u>Network Rail Revised habitat loss plan sheet 11 of 13 (NBSAIP-ASA-DRG-ECV-600111 Revision A02)</u>
REP-191	<u>Network Rail Revised landscape treatment to highways corridor - indicative section (NBSAIP-ASA-DRG-ECV-600203 Revision A02)</u>
REP-192	<u>Network Rail Revised B5026 diversion lighting and electrical standard derail drawing sheet 1 of 2 (124130-ECV-DRG-ATK-038385)</u>
REP-193	<u>Network Rail Revised B5026 diversion lighting and electrical standard derail drawing sheet 2 of 2 (124130-ECV-DRG-ATK-038394)</u>

REP-194	Network Rail Revised design drawings [regulation 5(2)(o)] works overview sheet 2 of 4 (124130-EMF-DRG-ATK-910003)
REP-195	Network Rail Revised design drawings [regulation 5(2)(o)] works overview sheet 3 of 4 (124130-EMF-DRG-ATK-910004)
REP-196	Network Rail Revised design drawings [regulation 5(2)(o)] works overview sheet 4 of 4 (124130-EMF-DRG-ATK-910005)
REP-197	Network Rail response to question 11 in the second round of written questions

Comments on the Second Round of Written Questions responses

REP-199	Staffordshire County Council comment on Design Brief Plans
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Response to Rule 17 Letter of 26 June 2013

REP-200	Chebsey Conservation Area Document 31 July 2013
REP-201	Network Rail HS2 Note
REP-202	Network Rail amended section 6 of extended sections - section 1-3
REP-203	Network Rail amended section 6 of the extended sections 4-7

Response to Rule 17 Letter of 19 September 2013

REP-203a	Draft DCO Doc. 2.1 - 25 September 2013 - (Clean Copy) (see PD-020 - PD-022)
REP-203b	Staffordshire County Council response to 25 September 2013 revised draft DCO (see PD-027)

Response to Rule 17 Letter of 4 October 2013

REP-204	Network Rail regarding revised wording for requirement 3(4)(e)(ii) and 4(1)
REP-205	Staffordshire County Council regarding revised wording for requirement 3(4)(e)(ii) and 4(1) 4th Oct

Responses to RIES consultation

REP-206	Network Rail response to RIES Consultation
REP-207	Natural England response to the RIES consultation

Additional Submissions

AS-001	Network Rail comment on the 3 and 17 July 2013 deadlines – 1 July 2013
AS-002	Natural England regarding planning application 13/18944/FUL
AS-003	Network Rail response to Mike Taylor Technical Note ALC calculation Edge land
AS-004	Network Rail response NR Justification of Edge Land ALC(3)
AS-005	Network Rail response to Mike Taylor Appendix 1 soil auger notes
AS-006	Network Rail response to Mike Taylor email Appendix A soil auger locations
AS-007	Network Rail response to Mike Taylor email Appendix B moisture balance calculations
AS-008	Network Rail response to Mike Taylor email Appendix C ALC climate data

Preliminary meeting, hearing and accompanied site visit documents

Preliminary Meeting – 18 April 2013

EV-001	<u>Preliminary Meeting – audio recording</u>
EV-002	<u>Preliminary Meeting – Meeting Note (18 April 2013)</u>

Accompanied site visit – 19 June 2013

EV-003	<u>Mr and Mrs Court - request to attend site visit 27 May 2013</u>
EV-004	<u>Mr Butler - request to attend site visit – 21 May 2013</u>
EV-005	<u>Staffordshire County Council – request to attend site visit – 24 May 2013</u>
EV-006	<u>Sarah Edge – request to attend site visit – 30 May 2013</u>
EV-007	<u>Mr and Mrs Llewellyn – requests regarding site visit – 22 May 2013</u>
EV-008	<u>David Williams – request to attend site visit – 31 May 2013</u>
EV-009	<u>Stafford Borough Council – attendance at site visit – 3 June 2013</u>
EV-010	<u>Staffordshire County Council – attendance at site visit – 3 June 2013</u>
EV-011	<u>Accompanied site visit itinerary – 13 June 2013</u>
EV-012	<u>Accompanied site visit location plan – 13 June 2013</u>
EV-013	<u>Accompanied site visit attendee list – 19 June 2013</u>

Open floor hearing – 19 June 2013

EV-013a	<u>Mr and Mrs Court - request to attend hearings (see EV-003) – 27 May 2013</u>
EV-013b	<u>Mr Butler - request to attend open floor hearing (see EV-004) – 21 May 2013</u>
EV-014	<u>Sarah Edge – reserve right to speak at open floor hearing – 15 May 2013</u>
EV-015	<u>Derek Morris – request to speak at open floor hearing – 15 May 2013</u>
EV-016	<u>Staffordshire County Council – notification that the Council may wish to speak at hearings – 13 May 2013</u>
EV-017	<u>Staffordshire County Council – do not wish to speak at open floor hearing – 22 May 2013</u>
EV-018	<u>Jack Tavernor on behalf of S&R Hopley Mrs Underwood Mr and Mrs Nadin and Mr and Mrs Bailey – may wish to speak at open floor hearing – 10 May 2013</u>
EV-019	<u>Charles Edge – request to speak at hearings – 15 May 2013</u>
EV-020	<u>Barbers Rural Consultancy LLP on behalf of Messrs Edge – request to speak at hearings – 15 May 2013</u>
EV-021	<u>David Williams – reserve right to speak at hearings – 15 May 2013</u>
EV-022	<u>Mr and Mrs Llewellyn – request to speak at hearings - 13 May 2013</u>
EV-023	<u>OFH audio recording</u>
EV-024	<u>Submission by Mr and Mrs Llewellyn prior to open floor hearing (Meece Brook photographs) – 16 June 2013</u>
EV-025	<u>Submission by Mr Tavernor on behalf of S&R Hopley Mrs Underwood Mr and Mrs Nadin and Mr and Mrs Bailey – in lieu of attendance at the open floor hearing – 18 June 2013</u>
EV-026	<u>Submission by Mr Sullivan at the open floor hearing – 19 June 2013</u>
EV-027	<u>Mr and Mrs Court further information to oral submission made at the open floor hearing – 29 June 2013</u>
EV-028	<u>Stafford Area Capacity Study submitted by Mr Sullivan - referred to in his written representation and at the open floor hearing – 27</u>

	<u>June 2013</u>
EV-029	<u>Network Rail written summary of case made orally at Open Floor and Compulsory Acquisition Hearings</u>

Issue specific hearing in relation to the development consent order – 20 June 2013

EV-030	<u>Environment Agency – offer to attend and make oral representations at the issue specific hearing on the development consent order and any other hearings – 15 June 2013</u>
EV-031	<u>Squire Sanders on behalf of National Grid – request to speak at the issue specific hearing on the development consent order – 15 May 2013</u>
EV-032	<u>Issue Specific Hearing in relation to draft Development Consent Order agenda – 17 June 2013</u>
EV-033	<u>ISH DCO hearing audio recording (morning)</u>
EV-034	<u>ISH DCO hearing audio recording (afternoon)</u>
EV-035	<u>Staffordshire County Council written summary of oral case at DCO hearing – 4 July 2013</u>
EV-036	<u>Network Rail not providing written summary of oral case at DCO hearing</u>

Compulsory acquisition hearing – 23 July 2013

EV-036a	<u>Jack Tavernor on behalf of S&R Hopley Mrs Underwood Mr and Mrs Nadin and Mr and Mrs Bailey – may wish to speak at compulsory acquisition hearing (see EV-018) – 10 May 2013</u>
EV-036b	<u>Squire Sanders on behalf of National Grid – request to speak at the compulsory acquisition hearing (see EV-030) – 15 May 2013</u>
EV-037	<u>Notification of compulsory acquisition hearing – 17 June 2013</u>
EV-038	<u>Compulsory Acquisition hearing agenda – 18 July 2013</u>
EV-039	<u>Audio recording of the compulsory acquisition hearing held on 23 July 2013 part 1</u>
EV-040	<u>Audio recording of the compulsory acquisition hearing held on 23 July 2013 part 2</u>
EV-041	<u>Written summary of oral submission – S & R Hopley Limited – 30 July 2013</u>
EV-042	<u>Written summary of oral submission – Mr and Mrs G Bailey – 30 July 2013</u>
EV-043	<u>Written summary of oral submission – Mrs Underwood – 30 July 2013</u>
EV-044	<u>Written summary of oral submission – Mr I Nadin – 30 July 2013</u>
EV-045	<u>Mr Court – HS2 Submission following Compulsory Acquisition Hearing – 24 July 2013</u>
EV-046	<u>Stafford Borough Council planning permission submitted by Network Rail – 23 July 2013</u>
EV-047	<u>Staffordshire County Council recommendation submitted by Mr Ward – 23 July 2013</u>
EV-048	<u>Network Rail proposed boundary plan providing an overview of the project submitted at the Compulsory Acquisition hearing</u>
EV-049	<u>Network Rail written summary of oral case put forward at the compulsory acquisition hearing</u>
EV-050	<u>Charles Edge and Sarah Edge submission on the Compulsory Acquisition hearing</u>
EV-051	<u>Mr Parry of Hinson Parry on behalf of Messrs Brown Green Holt Shaw and Deane</u>

EV-052	<u>Steve Jackman comments following the Compulsory Acquisition hearing and Issue specific hearing</u>
EV-053	<u>Steve Jackman comments on the CA hearing held on 23 July 2013 and the IS hearing held on 24 July 2013</u>
EV-054	<u>Stafford Borough Council planning permission application and officer report for widening of existing vehicle access crossing at the Scannel Chebsey - submitted by Network Rail at the compulsory acquisition hearing</u>

Issue specific hearing in relation to landscape and ecology – 24 July 2013

EV-055	<u>Notification of an issue specific hearing in relation to landscape and ecology – 17 June 2013</u>
EV-056	<u>Landscape and ecology issue specific hearing agenda – 18 July 2013</u>
EV-057	<u>Audio recording of the landscape and ecology matters ISH held on 24 July 2013 part 1</u>
EV-058	<u>Audio recording of the landscape and ecology matters ISH held on 24 July 2013 part 2</u>
EV-058a	<u>Steve Jackman comments following the issue specific hearing in relation to landscape and ecology – submitted 29 July 2013</u>
EV-059	<u>Drainage typical details outfall arrangement</u>
EV-060	<u>Drainage pond 3 cross sections</u>
EV-061	<u>Drainage pond 4 cross sections</u>
EV-062	<u>Drainage pond 5 cross sections</u>
EV-063	<u>Drainage pond 6 cross sections</u>
EV-064	<u>Drainage pond 7 cross sections</u>
EV-065	<u>Barn Owl Mitigation note Colin Shawyer 22 July 2013</u>
EV-066	<u>Barn Owl research summary</u>
EV-067	<u>Barn Owl Survey Methodology 2011</u>
EV-068	<u>Barn Owls and Major Roads 2003</u>
EV-069	<u>Shawyer & Dixon HA Barn Owl Report</u>
EV-070	<u>Draft habitat loss sheets 1 to 12</u>
EV-071	<u>Design brief of July 2013</u>
EV-072	<u>Appendix 1 Habitat loss and gains technical note 22 July 2013</u>
EV-073	<u>Appendix 2 Protective fencing and signage</u>
EV-074	<u>Indicative sections July 2013</u>
EV-075	<u>Plan - permanent fencing overview</u>
EV-076	<u>Plan key sheets 1-12 (landscape integration plans)</u>
EV-077	<u>Sheets 1 to 4 of 12 - landscape integration plan 010813</u>
EV-078	<u>Sheets 5 to 8 of 12 - landscape integration plan 010813</u>
EV-079	<u>Sheets 9 to 12 of 12 - landscape integration plan 010813</u>
EV-080	<u>Letter from Stafford Borough Council enclosing planning application documents (13/18944/FUL) - submitted following the issue specific hearing</u>
EV-081	<u>Derek Morris submission on the planning applications made to Stafford Borough Council</u>
EV-082	<u>Mr Court HS2 submission</u>
EV-083	<u>Letter from Stafford Borough Council enclosing planning application documents (13/18944/FUL)</u>

Issue specific hearing in relation to the development consent order – 11 September 2013

EV-084	<u>Email from Mark and Louise Pickering regarding noise and landscaping 31 July 2013</u>
EV-085	<u>Letter from Mrs Pickering regarding noise and landscaping 8 August 2013</u>
EV-086	<u>Audio of drilling submitted by Mrs Pickering</u>
EV-087	<u>Audio of combine harvester submitted by Mrs Pickering</u>
EV-088	<u>Natural England representation prior to hearing</u>
EV-089	<u>Agenda for second DCO hearing</u>
EV-090	<u>Network Rail response letter to Mrs Pickering regarding her email to the Planning Inspectorate</u>
EV-091	<u>Network Rail Post House Sep 11 2013 - Session 1</u>
EV-092	<u>Network Rail Post House Sep 11 2013 Session 2</u>
EV-093	<u>Mrs Sarah Edge Issue Specific Hearing Correspondence</u>
EV-094	<u>Louise Pickering regarding roads</u>
EV-095	<u>Staffordshire Alliance Norton Bridge Area Improvements Water Framework Directive Compliance Assessment</u>
EV-096	<u>Stafford County Council written summary of oral case</u>
EV-097	<u>Network Rail written summary of oral case</u>
EV-098	<u>Email from Derek Morris dated 17 September 2013 regarding Network Rail construction traffic management scheme</u>
EV-099	<u>Letter from Stafford Borough Council dated 18 September 2013 further to the development consent order issue specific hearing regarding materials and finishes to the proposed bridges and the draft local plan</u>
EV-100	<u>Plan for Stafford Borough - Publication (Submission document) Schedule of Additional (minor) Modifications</u>
EV-101	<u>Natural England regarding Great Crested Newt licence - 19 September 2013</u>
EV102a	<u>Revised Design Brief of 03 October 2013 with updated drawings list</u>

General hearing documents

EV-103	<u>Mr and Mrs Llewellyn notification of attendance at hearings – 11 June 2013</u>
EV-104	<u>Network Rail comments on the use of oral questioning at the compulsory acquisition and issue specific hearings</u>

APPENDIX D – INTERESTED PARTIES

Mr and Mrs Bailey
Gillian Bradley
Neil Butler
Mr A Cadwallader
Anthony Court, Juliet Court, Andrew Court, Robert Court
David Davis
Charles Edge
Sarah Edge
Mary Evans
Peter Hawkins
Gary Hill
S & R Hopley Limited
Steve Jackman
Beverley Leng
Dianne E Llewellyn
Malcolm D Llewellyn
Derek Morris
Mr and Mrs Nadin
Louise Pickering
Mr J Stokes
Mark Sullivan
Mrs M Underwood
David Watkins
David Williams

English Heritage
Environment Agency
Environmental Organisation
Health Protection Agency
Highways Agency
Marston Parish Meeting
National Grid plc (withdrawn)
Natural England
Parkland Farm Eggs Ltd
Railfuture West Midlands Branch
Shallowford House Retreat and Conference Centre
Staffordshire County Council
Staffordshire Police
United Kingdom Oil Pipelines (withdrawn)
Western Power Distribution (West Midlands) plc (withdrawn)

APPENDIX E – LIST OF ABBREVIATIONS

APFP Regs	The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
BoR	Book of Reference
CC	County Council
CEMP	Construction Environmental Management Plan
CP4	Control Period 4
DaSTS	White Paper 'Delivering a Sustainable Transport System'
dB	Decibels
DCLG/CLG	Department for Communities and Local Government
DCO	Development Consent Order
DfT	Department for Transport
EA	Environment Agency
EIA	Environmental Impact Assessment
EPS	European Protected Species
ES	Environmental Statement
ExA	Examining Authority
FRA	Flood Risk Assessment
GCN	Great crested newt
ha	hectare
HA	Highway Authority
HLOS	High Level Output Specification
HRA	Habitats Regulations Assessment
HS2	High Speed Two
km	kilometres
LEMP	Landscape and Ecology Management Plan
LIR	Local Impact Report
m	metres
MLP	Minerals Local Plan
NE	Natural England
NG	National Grid
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NR	Network Rail

NSIP	Nationally Significant Infrastructure Project
OLE	Overhead line electrification
ORR	Office of Rail Regulation
PA 2008	Planning Act 2008 (as amended)
RIES	Report on the Implications for European Sites
RSS	Regional Spatial Strategy
RUS	Route Utilisation Strategy
SBC	Stafford Borough Council
SBI	Sites of Biological Importance
SBLP	Stafford Borough Local Plan
SCC	Staffordshire County Council
SOCC	Statement of Community Consultation
SOCG	Statement of Common Ground
SOS	Secretary of State
SPA	Special Protection Area
SSSI	Sites of Special Scientific Interest
TRO	Traffic Regulation Order
UKOP	United Kingdom Oil Pipelines
WCML	West Coast Main Line
WCRM	West Coast Route Modernisation

APPENDIX F FINAL DRAFT DEVELOPMENT CONSENT ORDER

This appendix comprises the Final Draft DCO with all proposed amendments to the First Draft DCO (submitted with the application) up to the close of the examination in tracked changes. The appendix has a tracked changes version showing all the changes followed by a 'clean' version incorporating all the tracked changes.



INFRASTRUCTURE PLANNING

PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (APPLICATIONS: PRESCRIBED FORMS AND PROCEDURE) REGULATIONS 2009

THE NETWORK RAIL (NORTON BRIDGE AREA IMPROVEMENTS) ORDER

Draft Development Consent Order

Document Reference No.	2.1
Regulation No.	Regulation 5(2)(b)
Author	Bircham Dyson Bell LLP
Date	<u>25</u> September 2013
Revision history:	8 June 2012: Draft for Consultation 7 December 2012: Application Draft <u>12 June 2013: Revisions proposed by Network Rail</u> <u>31 July 2013: Updated working draft by Network Rail</u> <u>4 September 2013: Updated draft by Network Rail</u> <u>25 September 2013: Further updated draft by Network Rail</u>
Planning Inspectorate reference number:	TR040004

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201[] No.

INFRASTRUCTURE PLANNING

The Network Rail (Norton Bridge Area Improvements) Order
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Made - - - - - ***

Coming into force - - - - - ***

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 - PART 1 — DESIGN DRAWINGS
 - PART 2 — LAND PLANS
 - PART 3 — STREET PLANS
 - PART 4 — WORKS PLANS
- SCHEDULE 12 — TRAFFIC REGULATION

An application has been made to the Planning Inspectorate (National Infrastructure Directorate) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a) for an Order under sections 37, 114, 115, 117(4), 120, 121 and 122 of the Planning Act 2008(b).

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Network Rail (Norton Bridge Area Improvements) Order 201[] and comes into force on [] 201[].

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Interpretation

2.—(1) In this Order—

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

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

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

(a) S.I. 2009/2264

(b) 2008 c.29.

(c) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c.65). There are other amendments to the 1980 Act which are not relevant to this Order.

(d) 1965 c.56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c.34). Section 11(1) and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c.23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.

(e) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); sections 1(2), (3) and (4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted by, and section 1(3) was amended by, section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 36(2) was amended by section 4(1) of, and paragraphs 47 (a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c.71), by S.I. 2006/1177, by section 4 of and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11), by section 64(1) (2) and (3) of the Transport and Works Act 1992 (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.

(f) 1984 c.27.

(g) 1990 c.8. Section 206(1) was amended by section 192(8) to, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c.29) (date in force to be appointed see section 241(3), (4)(a),(c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.

(h) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).

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

“associated development” has the same meaning as in section 115(2) of the 2008 Act;

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

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

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

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

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“defects period” means, in relation to any highway work, the period of twelve months referred to in article 10(5) during which Network Rail must remedy defects in a street;

“design brief” means the Design Brief for Landscape Proposals and Mitigation and Restoration of the Wider Landscape (Revised September 2013) as certified by the Secretary of State for the purposes of this Order;

“the design drawings” means the drawings listed in Part 1 of Schedule 11 (plans and drawings) and certified as the design drawings by the Secretary of State for the purposes of this Order;

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

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

“highway work” means any work that involves the construction of a new street or permanent change to an existing street, including changes to road layout, kerbs, signs and markings, lighting, signalling, drainage, landscaping and installation of roadside equipment;

“the land plans” means the plans listed in Part 2 of Schedule 11 (plans and drawings) and certified as the land plans by the Secretary of State for the purposes of this Order;

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

“maintain” and any of its derivatives include to inspect, test, repair, adjust, alter, remove, renew, reconstruct, replace, render unusable, protect or strengthen the authorised development and any derivative of “maintain” is to be construed accordingly;

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“National Grid” means National Grid Gas plc;

“Network Rail” means Network Rail Infrastructure Limited;

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

“Order limits” means the limits of deviation shown on the works plans and the limits of land to be acquired or used shown on the lands plans;

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

“relevant planning authority” means Stafford Borough Council;

“the sections” means the sections forming part of the works plans certified by the Secretary of State for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8), 128(5) or 129(2) of the 2008 Act and for the purpose of, or in connection with, Work No. 20, includes UKOP;

(a) 2008 c.29.

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

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

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

“the street plans” means the plans listed in Part 3 of Schedule 11 (plans and drawings) and certified as the street plans by the Secretary of State for the purposes of the Order;

“the traffic regulation order plans” means the plans listed in Part 5 of Schedule 11 (plans and drawings) and certified as the traffic regulation order plans by the Secretary of State for the purposes of the Order;

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

“UKOP” means United Kingdom Oil Pipelines Limited;

“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 list in Part 4 of Schedule 11 (plans and drawings) and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to 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 Network Rail’s railway undertaking.

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

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(4) All areas described in the Book of Reference are approximate.

(5) References in this Order to points identified by letters, with or without numbers, are to be construed as references to points so lettered on the works plans.

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

Incorporation of the Railways Clauses Acts

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845(a) are incorporated in this Order—

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section 46 (crossing of roads—level crossings), subject to paragraph (4) and article 17 (level crossings);

section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;

section 61 (company to make sufficient approaches and fences to highways crossing on the level);

section 68 (accommodation works by company);

section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;

sections 72 and 73 (supplementary provisions relating to accommodation works);

section 77 (presumption that minerals excepted from acquisition of land);

(a) 1845 c. 20. Section 46 was amended by sections 109(1) and (3) of, and paragraph 22 of Schedule 8, and Schedule 10 to, the Courts Act 2003 (c.39). Section 58 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c.101). Section 78 was amended by section 39(3) of, and Schedule 7 to, the Compulsory Purchase Act 1968 (c.56) and articles 5(1) and (2) of, and paras 1 and 3 of Schedule 7 to, S.I. 2009/1307. Section 105 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c.101), and section 31(6) of the Criminal Law Act 1977 (c.45), and sections 37 and 49 of the Criminal Justice Act 1982 (c.48). There are other amendments to the 1845 Act not relevant to this Order.

sections 78 to 83, 85 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923(a); and

section 105 (carriage of dangerous goods on railway), except for the words from “and if any person” to “for every such offence”.

(2) The following provisions of the Railways Clauses Act 1863(b) ~~are incorporated in this Order—~~

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sections 5 and 7 (level crossings); and

section 12 (signals, watchmen etc.).

(3) In those provisions, as incorporated in this Order—

“the company” means Network Rail;

“goods” includes any thing conveyed on the railway authorised to be constructed by this Order;

“lease” includes an agreement for a lease;

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means any railway authorised to be constructed by this Order and any other authorised development; and

“the special Act” means this Order.

(4) In section 46 of the Railways Clauses Consolidation Act 1845(c), as incorporated in this Order, for the proviso ~~substitute—~~

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“Provided always that, with the consent of the highway authority and subject to such conditions as the authority may reasonably impose, the railway may be carried across a highway on the level.”.

PART 2

Principal Powers

Development consent etc. granted by the Order

4.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (Requirements) to this Order—

(a) Network Rail is granted development consent for the authorised development; and

(b) National Grid is granted development consent for Work Nos. 17, 18, 19A and 19B and any further associated development in connection with those works,

but, in relation to Work No. 19A and Work No. 19B, only one of them (not both) may be carried out.

(2) Subject to article 6 (limits of deviation) the authorised development ~~is to be constructed in the lines and situations shown on the works plans and at the levels shown on the sections.~~

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Maintenance of authorised development

5.—(1) Network Rail may at any time maintain the authorised development except to the extent that this Order, or an agreement made under this Order, provides otherwise.

(a) 1923 c. 20. Section 15 was amended by section 10(1) of the Decimal Currency Act 1969 (c.19).

(b) 1863 c.92.

(c) 1845 c.20.

(2) National Grid may at any time maintain Work Nos. 17, 18 and 19A or 19B and any associated development in connection with those works except to the extent that this Order, or an agreement made under this Order, provides otherwise.

Limits of deviation

6. In carrying out the authorised development for which they are granted development consent by article 4(1), Network Rail and National Grid may—

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

Benefit of Order

7.—(1) Subject to paragraphs (2) to (4) of this article and paragraph (5) of article 22 (compulsory acquisition of rights)—

- (a) the following provisions have effect for the benefit of Network Rail and National Grid—
 - (i) the development consent granted by article 4(1)(b); and
 - (ii) subject to paragraph (b), any other provisions of this Order insofar as they are applicable to, or are exercisable for the purpose of, or in connection with, the carrying out or maintenance of Work Nos. 17, 18, 19A and 19B and of any associated development in connection with those works;
and references in any of those provisions to Network Rail, where applicable, with respect to those works, are to be construed as referring also to National Grid;
- (b) the following provisions have effect for the benefit of National Grid only—
 - (i) article 22(3) and Part 2 of Schedule 7 (land in which only new rights etc., may be acquired); and
 - (ii) article 29 (temporary use of land by National Grid) and Part 2 of Schedule 9 (land of which temporary possession may be taken); and
- (c) the remainder of the provisions of this Order have effect for the benefit of Network Rail only.

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

(3) National Grid may not exercise the powers referred to in sub-paragraphs (1)(a) or (1)(b) without the written consent of, and upon such terms as may be agreed by, Network Rail.

(4) The exercise by National Grid of any benefits or rights conferred on it by this Order are subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by Network Rail.

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PART 3

Streets

Power to alter layout, etc. of streets

8.—(1) Network Rail may for the purposes of the authorised development alter the layout of or carry out any works in the street specified in column (1) of Schedule 3 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2).

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

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

(3) Network Rail ~~must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.~~

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(4) The powers conferred by paragraph (2) ~~are not to be exercised without the consent of the street authority~~; but such consent ~~must not be unreasonably withheld.~~

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Street works

9.—(1) Network Rail may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place temporary apparatus in the street;
- (d) maintain temporary apparatus in the street and permanent apparatus under the street and, in either case, 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) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act and “in” as referring to apparatus in the street means under, over, across, along or upon the street.

Construction and maintenance of new or altered streets

10.—(1) ~~Any highway work constructed under this Order must be completed to the reasonable satisfaction of the highway authority.~~

(2) ~~When Network Rail considers that a highway work has been completed, save for any minor item not affecting safety, it may apply to the highway authority in accordance with the provisions of article 443 (procedure in relation to certain approvals, etc. other than under Schedule 2) for its approval of the standard to which the work has been carried out.~~

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(3) ~~In the case of a new street, Network Rail must, within 28 days of receiving the approval or deemed approval of the highway authority under article 443, vest the street in the highway authority.~~

(4) Upon the vesting of the new street in the highway authority, the highway authority must adopt it as a highway maintainable at the public expense.

(5) Notwithstanding in the case of a new street its adoption by the highway authority, Network Rail must, for a period of 12 months beginning with the date of the highway authority's approval or deemed approval under article 443 of the standard to which a highway work has been carried out under this Order, and unless otherwise agreed with the highway authority, remedy any defect in the street resulting from the carrying out of the work.

(6) Any work by Network Rail to remedy a defect in a street under this article must be carried out to the reasonable satisfaction of the highway authority.

(7) Network Rail must apply to the highway authority for its approval of the standard to which any remedial work under this article has been carried out.

(8) Network Rail will continue to be liable for the maintenance of the structure of any bridge or tunnel carrying a street over or under any railway of Network Rail regardless of the adoption of the highway by the highway authority or the expiry of any defects period applicable to the street under this article.

(9) In any action against Network Rail in respect of loss or damage resulting from any failure by it to remedy a defect 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 Network Rail 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.

(10) For the purpose of a defence under paragraph (9), 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 Network Rail 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;
- (e) where Network Rail 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 Network Rail had arranged for a competent person to carry out or supervise the remedial work to the part of the street to which the action relates unless it is also provided that Network Rail had given the competent person proper instructions with regard to the remedial work to the street and that the competent person had carried out those instructions.

(11) Nothing in this article—

- (a) prejudices the operation of section 87 of the 1991 Act (prospectively maintainable highways); and Network Rail is not by reason of any duty under this article to remedy a defect in a street to be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to the street works with regard to which the provisions of Part 3 of the 1991 Act apply.

Stopping up of streets

11.—(1) Subject to the provisions of this article, Network Rail may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Schedule 5 (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the street plans, in column (3) of that Schedule.

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

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

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

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

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

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

~~(6) When a street has been stopped up under the provisions of this article, Network Rail must provide to the street authority within 28 days of the stopping up a plan to a scale of not less than 1:500 showing the extent of the stopping up.~~

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Application of the 1991 Act

12.—(1) Works carried out 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 of the 1991 Act (street works in England and Wales) as major transport works if—~~

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

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(2) The following provisions of the 1991 Act ~~do not apply in relation to any works carried out under the powers conferred by this Order—~~

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

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(3) The provisions of the 1991 Act mentioned in paragraph (4) which, together with other provisions of that Act, apply in relation to the carrying out street works and any regulations made or code of practice issued or approved under those provisions ~~apply (with the necessary modifications) in relation to the temporary stopping up, temporary alteration or temporary diversion of a street by Network Rail under the powers conferred by article 13 (temporary~~

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stopping up of streets) and the carrying out of works under article 9 (street works) whether or not the stopping up, alteration or diversion, or the carrying out of such works, constitutes street works within the meaning of that Act.

- (4) The provisions of the 1991 Act referred to in paragraph (3) are—
- section 54 (advance notice of certain works), subject to paragraph (5);
 - section 55 (notice of starting date of works), subject to paragraph (5);
 - section 57 (notice of emergency works);
 - section 59 (general duty of street authority to co-ordinate works);
 - section 60 (general duty of undertakers to co-operate);
 - section 68 (facilities to be afforded to street authority);
 - section 69 (works likely to affect other apparatus in the street);
 - section 76 (liability for cost of temporary traffic regulation);
 - section 77 (liability for cost of use of alternative route); and

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

(5) 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 included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

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Temporary stopping up of streets

13.—(1) Network Rail, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street and may for any reasonable time—

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

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

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

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(4) Network Rail must not temporarily stop up, alter or divert or use as a temporary working site any street without the consent of the street authority which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld.

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(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.

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Access to works

14. Network Rail may, for the purposes of the authorised development and with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as Network Rail reasonably requires for the purposes of the authorised development.

Agreements with street authorities

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

- (a) the construction of any new street, including any structure carrying the street over or under a railway authorised by the Order;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;

- (c) the maintenance of the structure of any bridge or tunnel carrying a street over or under any authorised railway;
 - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
 - (e) the carrying out in the street of any of the works referred to in article 9(1) (street works).
- (2) Such agreement may, without ~~limitation on the scope of paragraph (1)~~—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between Network Rail and the street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

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Construction of bridges and tunnels

16. Any bridge or tunnel to be constructed under this Order for carrying a highway over or under a railway ~~or a watercourse must be constructed in accordance with the plans and specifications approved by the highway authority.~~

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Level crossings

17.—(1) Subject to paragraph (3), the level crossing specified in columns (1) and (2) of Schedule 6 (replacement and closure of level crossings) ~~are stopped up and discontinued.~~

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(2) Subject to paragraph (3), upon the stopping up and discontinuance of the level crossing referred to in paragraph (1), any right of way over it ~~is extinguished.~~

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(3) Paragraphs (1) and (2) ~~do not take effect with respect to the level crossing specified in Schedule 6 until the new way to be substituted for it, which is specified in column (4) of that Schedule, has been constructed and completed to the reasonable satisfaction of the highway authority, such approval not to be unreasonably withheld and is open for use.~~

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

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PART 4

Supplemental powers

Discharge of water

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

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

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

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(4) Network Rail ~~must not make any opening into any public sewer or drain except—~~

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(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

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

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(5) Network Rail must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

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

(7) This article does not authorise the entry into inland fresh waters or coastal waters of any matter whose entry or discharge into those waters is prohibited by regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(a).

(8) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, or a local authority; and

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

Authority to survey and investigate the land

19.—(1) Network Rail may for the purposes of this Order enter on any land shown within the Order limits and—

(a) survey or investigate the land;

(b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as Network Rail thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;

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(c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and

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(d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

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

(3) Any person entering land under this article on behalf of Network Rail—

(a) must, if so required, produce written evidence of their authority to do so; and

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(b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

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

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(a) in land located within the highway boundary without the consent of the highway authority; or

(b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld.

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

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(a) S.I. 2010/675.

PART 5

Powers of acquisition

Compulsory acquisition of land

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

(2) This article is subject to paragraph (2) of article 22 (compulsory acquisition of rights), paragraph (8) of article 28 (temporary use of land by Network Rail).

Time limit for exercise of authority to acquire land compulsorily

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

(a) no notice to treat is to be served under Part 1 of the 1965 Act; and

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(b) no declaration is to be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 24 (application of the Compulsory Purchase (Vesting Declarations) Act 1981)(a).

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(2) The authority conferred by article 28 (temporary use of land by Network Rail) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents Network Rail remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

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Compulsory acquisition of rights

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

(2) In the case of the Order land specified in column (1) of Part 1 of Schedule 7 (land in which only new rights etc., may be acquired) Network Rail's powers of compulsory acquisition are limited to the acquisition of such new rights or the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Part.

(3) In the case of the Order land specified in column (1) of Part 2 of Schedule 7 (land in which only new rights etc., may be acquired) National Grid may acquire compulsorily such new rights or impose such restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Part.

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(4) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights)) where Network Rail or National Grid acquires a right over land or the benefit of a restrictive covenant under paragraphs (1) to (3) Network Rail or National Grid is not required to acquire a greater interest in that land.

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(5) Schedule 8 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

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(a) 1981 c.66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c.50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c.28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c.51). There are other amendments to the 1981 Act which are not relevant to this Order.

under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(6) In any case where the acquisition of new rights or the imposition of restrictive covenants under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker or of UKOP, Network Rail may, with the consent of the Secretary of State, transfer the power to acquire such rights or impose such covenants to the statutory undertaker in question or to UKOP.

(7) The exercise by a statutory undertaker or by UKOP of any power in accordance with a transfer under paragraph (6) ~~is subject to the same restrictions, liabilities and obligations as would~~ compulsory under this Order if that power were exercised by Network Rail.

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Private rights

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

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

whichever is the earliest.

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

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

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights over land owned by Network Rail which, being within the limits of land which may be acquired or used shown on the land plans, are required for the purposes of this Order ~~are extinguished on the appropriation of the land by~~ Network Rail for any of those purposes.

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(4) Subject to the provisions of this article, all private rights over land of which Network Rail takes temporary possession under this Order ~~are suspended and unenforceable for as long as~~ Network Rail remains in lawful possession of the land.

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(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 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.~~

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(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 31 (statutory undertakers) applies.

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

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- (a) any notice given by Network Rail before—
 - (i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) Network Rail's appropriation of it;
 - (iii) Network Rail's entry onto it; or
 - (iv) Network Rail's taking temporary possession of it,
- that any or all of those paragraphs ~~do not apply to any right specified in the notice; and~~

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(b) any agreement made at any time between Network Rail 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.

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(9) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

24.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981 applies as if this Order were a compulsory purchase order.

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(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied, has effect with the following modifications.

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(3) In section 3 (preliminary notices) for subsection (1) there is substituted—

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

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

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

(4) In that section, in subsection (2), for “(1)(b)” there is substituted “(1)” and after “given” there is inserted “and published”.

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(5) In that section, for subsections (5) and (6) there is substituted—

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

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

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

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

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

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(b) subsection (2) is omitted.

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

Deleted: shall be

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are construed as references to that Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the compulsory acquisition of land under this Order.

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Acquisition of subsoil or airspace only

25.—(1) Network Rail may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in article 20(1) (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 Network Rail acquires any part of, or rights in, the subsoil of or the airspace over land under paragraph (1), Network Rail is not required to acquire an interest in any other part of the land.

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(3) Paragraph (2) does not prevent article 26 (acquisition of part of certain properties) from applying where Network Rail acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Acquisition of part of certain properties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(8) If Network Rail agrees to take the land subject to the counter-notice, or if the tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which Network Rail is authorised to acquire compulsorily under this Order.

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

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

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Rights under or over streets

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

(2) Subject to paragraph (3), Network Rail may exercise any power conferred by paragraph (1) in relation to a street without Network Rail 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—

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(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) Network Rail must repair and make good at its own expense and to the reasonable satisfaction of the highway authority any damage caused to a street or to any highway apparatus, highway structure or to any street furniture in the street belonging to the highway authority by virtue of its occupation and appropriation of the subsoil of, or airspace over, the street under this article.

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(5) Subject to paragraph (6), 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 Network Rail acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

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(6) Compensation is not payable under paragraph (3) to any person who is an undertaker to whom section 85 of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

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Temporary use of land by Network Rail

28.—(1) Network Rail may, in connection with the carrying out of the authorised development—

(a) enter on and take temporary possession of—

(i) the land specified in column (1) of Part 1 of Schedule 9 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of Part 1 of that Schedule relating to the part of the authorised development specified in column (3) of Part 1 of that Schedule;

(ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights

only) and no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981;

- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including, subject to the provisions of article 14, the provision of means of access) and buildings on that land; and
- (d) construct any works specified in relation to that land in column (2) of Part 1 of Schedule 9, or any other mitigation works.

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

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

- (a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of three years beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Part 1 of Schedule 9; or
- (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of three years beginning with the date of completion of the work for which temporary possession of this land was taken unless Network Rail has, before 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 Compulsory Purchase (Vesting Declaration) Act 1981.

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

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- (a) replace a building removed under this article;
- (b) restore the land on which any works have been constructed under paragraph (1)(d) insofar as the element of works shown in column (4) of Part 1 of Schedule 9 is concerned; or
- (c) remove any ground strengthening works which have been placed in that land to facilitate construction of the authorised development.

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

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(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.

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

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

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- (a) acquiring new rights or imposing restrictive covenants over any part of that land under article 22 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil or of airspace over (or rights in the subsoil of or airspace over) that land under article 25 (acquisition of subsoil or airspace only).

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

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

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Temporary use of land by National Grid

29.—(1) National Grid may, in connection with the carrying out of Work Nos. 17, 18, 19A and 19B and any associated development in connection with those works—

- (a) enter on and take temporary possession of the land specified in column (1) of Part 2 of Schedule 9 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of Part 2 of that Schedule relating to the part of the authorised development specified in column (3) of Part 2 of that Schedule;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including, subject to the provisions of article 14, the provision of means of access) and buildings on that land; and
- (d) construct any works specified in relation to that land in column (2) of Part 2 of Schedule 9.

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

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(3) National Grid may not, without the agreement of the owners of the land, remain in possession of any land under this article 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 (3) of Part 2 of Schedule 9.

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

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- (a) replace a building removed under this article;
- (b) remove any pipe-line constructed in that land; or
- (c) remove any ground strengthening works which have been placed in that land to facilitate construction of the authorised development.

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

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(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.

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

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(8) National Grid is not precluded from acquiring new rights or imposing restrictive covenants over any part of the land shown numbered 30, 30a, 33, 34, 37, 38, 56, 58, 59, 61, 65 and 67 on the land plans.

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

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

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Temporary use of land for maintaining authorised development

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

- (a) enter upon and take temporary possession of any Order land if such possession is reasonably required for the purpose of maintaining the authorised development; and

(b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) ~~does not authorise Network Rail to take temporary possession of—~~

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

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

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

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

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

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(6) Network Rail ~~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.~~

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

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(8) Nothing in this article ~~affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).~~

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

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

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

Statutory undertakers

31. Subject to the provisions of Schedule 10 (protective provisions), Network Rail may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the limits of the land to be acquired or used and described in the book of reference;

(b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Apparatus and rights of statutory undertakers in stopped up streets

32.—(1) Where a street is stopped up under article 11 (stopping up of streets) or article 17 (level crossings) any statutory utility whose apparatus is under, in, on, over, 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.~~

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(2) Where a street is stopped up under articles 11 or 17 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by Network Rail ~~must—~~

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- (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, Network Rail must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

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- (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 execution of the 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 Network Rail, or, in default of agreement, is not determined by arbitration in accordance with article 44 (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.

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

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

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(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.

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(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—

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

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(8) In this article—

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

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

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

Recovery of costs of new connections

33.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from Network Rail 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.

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

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- (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 Network Rail 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.

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(3) In this paragraph—

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

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

PART 6

Operations

Operation and use of railways

34.—(1) Network Rail may operate and use the railways and any other elements of the authorised development as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Nothing in this Order, or in any enactment incorporated with or applied by this Order, will prejudice or affect the operation of Part 1 of the Railways Act 1993(b) (the provision of railway services).

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Felling or lopping of trees

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

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

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

(b) 1993 c. 43.

(2) In carrying out any activity authorised by paragraph (1), Network Rail ~~must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.~~

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

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PART 7

Miscellaneous and general

Operational land for purposes of the 1990 Act

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

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Defence to proceedings in respect of statutory nuisance

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

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(a) the defendant shows that the nuisance—

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

(b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

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

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Traffic regulation

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38.—(1) ~~Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, Network Rail may at any time, in the interests of safety and for the purposes of, or in connection with, the construction of the authorised development, regulate vehicular speed indefinitely or temporarily in the manner specified in Schedule 12 (traffic regulation) on the roads specified in column (1) by imposing the speed limit corresponding to those roads in column (2) to the extent described in column (3), of that Schedule.~~

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

(b) 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to this Order.

(2) Without limitation on the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent to the traffic authority in whose area the road concerned is situated, Network Rail may, in so far as may be expedient or necessary for the purposes of or in connection with construction of the authorised development, at any time prior to the opening of the authorised development for use—

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(a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;

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(b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;

(c) authorise the use as a parking place of any road;

(d) make provision as to the maximum speed, direction or priority of vehicular traffic on any road; and

(e) permit or prohibit vehicular access to any road,

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

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(3) Network Rail must not exercise the powers of paragraphs (1) and (2) unless it has—

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(a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and

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(b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of Network Rail's intention in the case of sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by Network Rail under paragraph (1) or (2)—

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(a) has effect as if duly made by, as the case may be—

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(i) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or

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(ii) the local authority in whose area the road is situated as an order under section 32 of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 11 (traffic regulation) to which the prohibition, restriction or other provision is subject; and

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

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

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

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

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Protections of Interests

39. Schedule 10 to this Order has effect.

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Application of the Land Compensation Act 1973

40.—(1) Any regulations made by the Secretary of State under section 20 (sound proofing of buildings affected by public works) and 20A (power to make payments in respect of caravans and

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(a) 2004 c. 18

other structures affected by noise of public works) of the Land Compensation Act 1973(a) which apply to a railway provided or used in the exercise of statutory powers ~~apply to the railway~~ comprised in the authorised development as if that railway was provided or used in the exercise of statutory powers.

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(2) Section 28 (power to pay expenses) of the Land Compensation Act 1973 ~~has effect as if any~~ works comprised in the authorised development were public works for the purposes of that section.

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Certification of plans etc.

~~41.—~~(1) Network Rail ~~must, as soon as practicable after the making of this Order, submit to the~~ Secretary of State copies of—

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- (a) the book of reference;
- (b) the land plans;
- (c) the works plans;
- (d) the street plans;
- (e) ~~the traffic regulation order plans;~~
- (f) ~~the sections;~~
- (g) ~~the design brief;~~
- (h) ~~the design drawings; and~~
- (i) ~~the environmental statement;~~

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for certification that they are true copies of the 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.

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Service of Notices

~~42.—~~(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

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- (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 (6) to (8) by electronic transmission.

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

(3) For the purposes of section 7 (~~references to service by post~~) of the Interpretation Act 1978(b) 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.

(a) 1973 c.26. Section 20 was amended by subsections (6) and (12) of section 146 of, and Schedule 13 to, the Road Traffic Regulation Act 1984 (c.27). Subsection (10) of section 20 was repealed by section 343(3) of, and Schedule 25 to, the Highway Act 1980 (c.66) and subsection (11) was repealed by section 155 of, and Schedule 25 to, the Rent Act 1977 (c.42). There are other amendments to the 1973 Act which are not relevant to this Order.

(b) 1978 c. 30.

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

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

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

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

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

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(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.

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

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(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

43. 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 notice in writing to the other) by the President of the Institution of Civil Engineers.

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Procedure in relation to certain approvals, etc. other than under Schedule 2

44.—(1) In this article “plans” includes sections, drawings, specifications and particulars (including descriptions of methods of construction).

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(2) Where an application is made to the relevant planning authority, a highway authority, a street authority, a traffic authority or the owner of a sewer for any consent, agreement or approval required under any of the provisions of this Order such application must, where appropriate, be accompanied (if not already provided) by proper and sufficient plans of the proposal and such consent, agreement or approval must, if given, be in writing and may be given subject to such reasonable terms and conditions as the authority or owner may require and must not be unreasonably withheld.

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(3) If, within 28 days after the application has been submitted to the authority or owner, it has not intimated its disapproval and the grounds of disapproval, it is deemed to have approved the application.

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(4) In the event of any refusal or disapproval by the authority or owner, Network Rail may resubmit a revised application, or revised plans in support of the original application, and, in that event, if the authority or owner has not intimated its refusal or disapproval and the grounds of refusal or disapproval within 28 days of the revised application or of revised plans being submitted, it is deemed to have given its consent or agreement to, or its approval of, them.

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(5) Network Rail must not carry out the proposal until such plans have been approved or are deemed to have been approved or have been settled by arbitration.

Further provision as to approvals, etc. under Schedule 2

45—(1) Where the application is for a consent, agreement or approval required by a requirement under Schedule 2, the following provisions apply, so far as they relate to a consent agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission, as if the requirement was a condition imposed on the grant of a planning permission—

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- (a) sections 78 (other than paragraph (a) of subsection (2)) and 79 of the 1990 Act (right of appeal in relation to planning decisions); and
- (b) any orders, rules or regulations which make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission.

(2) For the purposes of paragraph (1), a provision relates to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission in so far as it makes provision in relation to an application for such a consent, agreement or approval, or the grant or refusal of such an application, or a failure to give notice of a decision on such an application.

Signed by authority of the []

[Date] 201[]

[Name]
[Designation]
[Department]

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

A nationally significant infrastructure project as defined in sections 14 and 25 of the 2008 Act comprising—

In the county of Staffordshire and the Borough of Stafford

Work No. 1 — A two track railway commencing at a junction with the existing West Coast Main Line railway at Little Bridgeford Junction, crossing over the diverted River Sow by means of Underbridge 1 (which is to be widened), continuing on embankment adjacent to a culvert proposed to be infilled under the existing West Coast Main Line (Underbridge 1A), then continuing on embankment over the diverted Meece Brook (Work No. 6) by means of Underbridge 2 and then passing into deep cutting to Searchlight Lane Junction, including cess and crest drainage outfalls into the diverted River Sow from the south and north (at Underbridge 1) and the diverted Meece Brook from the north (at Underbridge 2); an attenuation pond at Underbridge 2 including outfall headwall structure and parallel overflow spillway; passing under Work No. 7 at Overbridge 3; mitigation earthworks bunds; and diversion and alteration works to two distribution electricity services; then a single track railway running in cutting, passing under Work No. 11 at Overbridge 10A, then running onto embankment and crossing the diverted Meece Brook (Work No. 13) at Underbridge 11 (including cess and crest drainage from the south and outfalls into the diverted Meece Brook via an attenuation pond including outfall headwall structure and parallel overflow spillway) then in cutting past a further attenuation pool and outfalls into Meece Brook from the north, and terminating at a junction with the West Coast Main Line adjacent to Heamies Bridge at the northern end of the works including mitigation earthwork bunds along the alignment and all associated items that comprise a railway including track, cess drainage, combined troughing and walking route, overhead line electrification (new and alteration to existing), signalling, telecommunications and cutting or embankment earthworks, maintenance access track, crest drainage (where on sidelong ground) and boundary fencing;

Work No. 8 — A two track railway commencing at a junction with Work No. 1 (Searchlight Lane junction) and terminating at the Yarnfield junction with the Norton Bridge to Stone branch railway line, initially in cutting, then on embankment, crossing the West Coast Main Line by means of Intersection Bridge 5 and the diverted Meece Brook (Work No. 15) by means of Underbridge 6, then in cutting passing under the diverted Meece Road (Work No. 12) by means of Overbridge 7, including a widening of existing Underbridge 8 the replacement of the existing foot crossing at Mid Norton (Chebsey footpath 10) with a new footbridge (FB9) including track, cess drainage, combined troughing and walking route, overhead line electrification (new and alteration to existing), signalling, telecommunications, cutting and embankment earthworks, a maintenance access track, crest drainage (where on sidelong ground) and boundary fencing; and cess drainage outfalls into the diverted Meece Brook from the east and west, via attenuation ponds including outfall headwall structure and parallel overflow spillways, adjacent to the Underbridges 6 and 6A river diversion, with access tracks to both attenuation ponds from the existing B5026; and cess drainage outfalls into the unnamed watercourse at Underbridge 8, from the east.; and mitigation earthwork bunds along the alignment;

Associated development comprising—

In the county of Staffordshire and the Borough of Stafford

Work No. 2 — The formation of a right hand turn lane on the A5013, north of Great Bridgeford, and the re-modelling of its junction with Chebsey Lane, including the diversion and protection of telecommunications cables;

Work No. 3 — The remodelling of the junction of the A5013 with Chebsey Lane, including a widening of Chebsey Lane up to the bellmouth entrance to the temporary construction compound, a passing place and the diversion and protection of telecommunications cables, followed by a reinstatement to the existing width of the widened lane and remodelled junction;

Work No. 4 — A compacted stone access track with passing places from Chebsey Lane to a fenced compound adjacent to the new railway (Work No. 1) at Little Bridgeford Junction, with parking facilities, including the diversion/protection of a water main in the area of the fenced compound;

Work No. 5 — A diversion of the River Sow and a widening of the existing West Coast Main Line bridge (Underbridge 1), including earthworks on the southern side and cutting back the existing river cliff;

Work No. 6 — A diversion of the Meece Brook to provide a perpendicular crossing of the proposed railway by means of Underbridge 2;

Work No. 7 — A diversion of Searchlight Lane with the diverted road being carried over the proposed railway cutting, including new highway drainage, passing places and the diversion of existing telecommunications and water services along the new alignment, the stopping up of the old alignment where no longer required, the provision of access to adjacent land on both sides of the diverted road to the west of Overbridge 3 including parking facilities and the provision of access to adjacent land on the south side of the diverted road to the east of Overbridge 3;

Work No. 9 — A surfaced access track commencing at a compound adjacent to the new railway (Work No. 1) at Searchlight Lane junction and terminating near the diverted B5026 (Work No. 11). The compound will include a new Distribution Network Operator power supply, welfare facilities, parking facilities and water supply, a principal supply point and relocatable equipment building;

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Work No. 10 — A remodelling of the junction of Scannell Lane with the diverted B5026 (Work No. 11), including new highway drainage and diversion of an existing water main and a new field access on the east side of Scannell Lane;

Work No. 11 — A diversion of the existing B5026 passing above existing ground level, in a false cutting formed by mitigation earthworks bunds, over Work No. 1 by means of Overbridge 10A, continuing east over the existing West Coast Main Line by means of railway Overbridge 5A, then running on embankment, shared with the railway, over the diverted Meece Brook (Work No. 15) by means of Underbridge 6A, then continuing on embankment, with mitigation earthwork bunds, again forming a cutting, and terminating at a new roundabout junction with the diverted Meece Road (Work No. 12), including access to adjacent land on the north side, to the west of bridge 10A, access to adjacent land on the north side of the road to the west of the West Coast Main Line Overbridge 5A (opposite the new access road junction to Searchlight Lane Junction compound (Work No. 9) and access to adjacent land in the south verge on the approach to Meece Road, the diversion to include new highway drainage and partial diversion of existing electricity, telecommunications and water services, and a stopping up of the old alignment where no longer required;

Work No. 12 — A diversion of the existing Meece Road including Overbridge 7 carrying the new highway over the proposed cutting and new highway drainage and diversion of an existing telecommunications service along the new alignment and a stopping up of the old alignment

where no longer required. Access to adjacent land will also be provided in the western verge between Overbridge 7 and the existing Meece Road roundabout;

Work No. 13 — A diversion of the existing Meece Brook to provide a perpendicular crossing of the proposed railway (Work No. 1) at Underbridge 11 and to move the current channel away from the toe of the proposed railway embankment on the west side;

Work No. 14 — A diversion of Chebsey Footpath 11 to follow the proposed boundary on the west side of Work No 1 to include a new pedestrian bridge over Meece Brook, passing onto Network Rail property continuing along the access track for the attenuation pond; then passing onto the proposed B5026 (Work No. 11), crossing bridge 10A before leaving the highway alignment turning down the Searchlight Lane maintenance compound access road and crossing over, running along the crest of a mitigation bund and then running parallel to the West Coast Main Line Intersection Bridge 5 before tying back into the existing alignment on the existing B5026 opposite the end of Station Road;

Work No. 15 — A diversion of the existing Meece Brook to provide a perpendicular crossing of the proposed railway at Underbridges 6 and 6A;

Work No. 16 — A compacted stone access track with passing places, running from the existing layby on the B5026 to a fenced compound adjacent to the new railway (Work No 8) at Yarnfield Junction, to include a new Distribution Network Operator supply;

Work No. 17 — Diversion (approximately 610 metres in length) of high pressure gas pipe-line (Feeder No. 21), beneath the railway cutting to the south of Searchlight Lane;

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Work No. 18 — Diversion (approximately 266 metres in length) of high pressure gas pipe-line (Feeder No. 21), parallel to the railway cutting to the north of Searchlight Lane;

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Work No. 19A — Diversion (approximately 488 metres in length) of high pressure gas pipeline (Feeder No. 4) by horizontal directional drilling beneath the railway in cutting in the vicinity of Searchlight Lane Junction;

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Work No. 19B — Diversion (approximately 426 metres in length) of high pressure gas pipeline (Feeder No.4) by opencut or microtunnelling beneath the railway in cutting in the vicinity of Searchlight Lane junction;

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Work No. 20 — Diversion (approximately 680 metres in length) of fuel pipe-line beneath the railway in cutting in the vicinity of Searchlight Lane junction,

and such further associated development within Order limits as may be necessary or expedient for the purposes of or in connection with the construction of those works or any of them consisting of—

- (a) demolition, site clearance, devegetation, remediation, the erection of contractors' works compounds, the erection of site offices and the erection of fencing to site boundaries;
- (b) electrical equipment and signalling works;
- (c) ramps, means of access, footpaths and bridleways;
- (d) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, wing walls, fencing and culverts;
- (e) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (f) works to alter the course of, or that otherwise interfere with, a watercourse other than a navigable watercourse;
- (g) landscaping and habitat replacement (including replacement bat accommodation) 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) works required for the strengthening, improvement, maintenance, or reconstruction of any streets and the grubbing up of any former street;

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(j) working sites and works of demolition; and

(k) such other work as may be necessary or expedient for the purposes of or in connection with the construction of those works and which falls within the scope of the environmental impact assessment recorded in the Environmental Statement.

SCHEDULE 2

REQUIREMENTS

Article 4

Interpretation

1. In this Schedule—

“CEMP” means the Construction Environmental Management Plan to be submitted to and approved by the relevant planning authority, a draft of which is included in Appendix 6, Volume 2 (Folder 2) of the Environmental Statement; and

“Staffordshire Alliance” means the alliance formed by Network Rail with its contractors to progress and implement the works authorised by this Order.

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In accordance with approved details

2. The authorised development must be carried out in accordance with the design drawings unless otherwise approved in writing by the relevant planning authority.

Deleted: “commence”, in relation to the authorised development or any part of it, does not apply to preliminary works; and¶

“preliminary works” means demolition, site clearance, devegetation, remediation, environmental (including archaeological) investigation, site or soil survey, erection of contractors’ work compound, erection of site offices, erection of fencing to site boundaries or marking out of site boundaries.¶

Construction Environmental Management Plan

3.—(1) The authorised development must not be commenced until the following aspects of the CEMP have been submitted to and approved by the relevant planning authority.

(2) The CEMP must incorporate the findings and recommendations of the Environmental Statement and the design brief.

(3) The authorised development must be carried out in accordance with the CEMP.

(4) The CEMP must incorporate the following plans and programmes—

(a) External Communications Management Plan—

(i) External communications programme

(ii) External complaints procedure;

(b) Pollution Incident Prevention and Control Plan—

(i) Identification of potential pollution source, pathway and receptors;

(ii) Control measures to prevent pollution release to water, ground, and air (including detail of the surface/ground water management plan);

(iii) Control measures for encountering potential contaminated land;

(iv) Monitoring regime;

(v) Emergency environmental incident response plan;

(vi) Incident investigation and reporting;

(vii) Review/change management and stakeholder consultation;

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(c) Site Waste Management Plan (SWMP)—

- (i) Management of excavated material and other waste arising;
- (ii) Waste minimisation;
- (iii) Material re-use;

(d) Materials Management Plan (MMP)—

- (i) Material classification;
- (ii) On site re-use criteria and measures;
- (iii) Hazardous waste management;
- (iv) Disposal measures;

(e) Traffic Management Plan—

- (i) Roles and responsibilities;
- (ii) Permitted and banned construction traffic routes and the mechanisms to be put in place by Network Rail and its contractors to enforce their compliance;
- (iii) Procedures for working on the highway;
- (iv) Road signage plans;
- (v) Monitoring and reporting measures;
- (vi) Access strategy and traffic management at the access off the roadside lay-by (off the B5026 between the roundabout and Stone);
- (vii) The interfaces between the haul road and public highway (the crossing points at Searchlight Lane and the B5026);

(f) Travel Plan—

- (i) Measures to manage contractor travel to the site compounds such as on-site or remote car parking management, car sharing, works shuttle bus etc;
- (ii) Mechanisms for reviewing and monitoring;

(g) Nuisance Management Plan (Noise Vibration, Dust, Air Pollution and Lighting)—

- (i) Roles and responsibilities;
- (ii) Specific risk assessment – identification of sensitive receptors and predicted impacts;
- (iii) Standards and codes of practice;
- (iv) Specific control and mitigation measures;
- (v) Details of any section 61 consent;
- (vi) Monitoring regime – dust and noise;
- (vii) Review/change management and stakeholder consultation;
- (viii) Notification of working hours;

(h) Landscape and Ecology Management Plan (LEMP)—

- (i) Roles and responsibilities;
- (ii) Protection controls for retained landscape features, habitats and species;
- (iii) Controls for protection of Doxey and Tillington Marshes SSSI;
- (iv) Detailed mitigation for Meece Brook and Yelds Rough SBI;
- (v) Detailed plans and specifications for ecological and landscape mitigation;
- (vi) 5 year establishment, maintenance and monitoring plans for planting, ecology and geomorphology;
- (vii) Aftercare and maintenance plans for habitats on Network Rail land (post 5 years);
- (viii) Aftercare and maintenance guidelines for habitats on SCC Highways land (post 5 years);

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- (ix) Aftercare and maintenance guidelines for habitats on other land (post 5 years);
- (x) Habitat and protected species monitoring plans (to include scope, methods and reporting mechanism);
- (xi) Bat roost replacement plans;
- (xii) Soil Management Plan interface strategy;
- (xiii) Change control, review and consultation processes;
- (xiv) Tree survey validation and tree protection plan in accordance with BS 5837: 2012 (Trees in relation to design, demolition and construction);

(i) Archaeological management plan—

- (i) Roles and responsibilities;
- (ii) Review/change management and stakeholder consultation protocols;
- (iii) Procedures for dealing with unexpected significant archaeological discoveries;
- (iv) Programme of archaeological mitigation;
- (v) Post excavation reporting and archiving;

(j) Soil Management Plan—

- (i) Soil resource survey;
- (ii) Soil resource plan – including protection of in situ soils, handling and storage codes of practice;
- (iii) On site re-use criteria and measures;
- (iv) Hazardous waste management;
- (v) Strategy for interface with LEMP.

(5) The CEMP must require—

- (a) adherence to the relevant Environment Agency Pollution Prevention Guidelines PPG1, PPG5, PPG6, ~~PPG21~~ and PPG22; and
- (b) adherence to working hours of 7am to 7pm on Mondays to Fridays and 7am to 1pm on Saturdays save that:
 - (i) work on or adjacent to the operational railway may be carried out at other times if it would otherwise interfere with the operation of the railway; and
 - (ii) work may be carried out on Sundays, Bank Holidays and Public Holidays and after 1pm on Saturdays after prior notification to the relevant planning authority and affected residents in accordance with an agreed notification procedure.

Landscaping and habitat replacement

4.—(1) No authorised development may commence in any geographic area, those areas to be identified on a plan previously submitted to the relevant planning authority, unless and until a written landscaping and habitat replacement scheme for that area has been submitted to and approved by the relevant planning authority.

(2) The submitted scheme must incorporate—

- (a) the mitigation measures described in section 8 (Mitigation) of Technical Appendix Report 8 (Landscape and Visual Technical Report) to Volume 3 of the Environmental Statement and in the design brief; and
- (b) details of—
 - (i) location, number, species, size, ~~and~~ planting density and planting method and protection of any proposed planting;
 - (ii) cultivation, other amelioration where appropriate, importing of materials and other operations to ensure plant establishment;
 - (iii) implementation timetables for all landscaping and habitat replacement; ~~and~~

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- (iv) temporary fencing that complies with best practice to protect trees and hedgerows adjacent to the works; and
- (v) a 5 year aftercare programme including weed control and pruning, if required, to promote establishment and timely rectification of defects.

Implementation and maintenance of landscaping and habitat replacement

5.—(1) All landscaping and habitat replacement work must be carried out in accordance with the scheme and implementation timetable approved under requirement 4.

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(2) Any tree or shrub or other habitat replacement planted as part of an approved landscaping and habitat replacement scheme or ecological management plan that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, or has failed to become established, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

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Highways works

6. Prior to and during the carrying out of any highway work and during any defects period applicable to that work, Network Rail must afford the highway authority the opportunity to inspect, monitor, survey, and comment upon the carrying out of the work and the remedying of any defects resulting from the work and to approve the standard to which such work (including the remedying of any defects) is carried out, by—

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- (a) using the quality processes of the Staffordshire Alliance, as agreed from time to time by Network Rail, including inspection and test plans for all elements of the works under which the highway authority will be an inspection authority;
- (b) providing shared working facilities, including access to welfare and office facilities, for the highway authority at the Chebsey Lane works compound and the B5026/Meece Road works compound; ~~and~~
- (c) giving the highway authority access to the documents in the Staffordshire Alliance's electronic document management system that relate to the highway works authorised by this Order; and
- (d) allowing the highway authority such access to any highway work as it may reasonably require.

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7. Network Rail must have carried out stage 2, 3 and 4 road safety audits of the highway works authorised by this Order in accordance with the Standard HD 19/03 of the Department for Transport's Design Manual for Roads and Bridges or in accordance with any standard that supersedes that Standard and must remedy to the reasonable satisfaction of the highway authority any defects identified in any such road safety audits.

Alteration, reconstruction or replacement of buildings

8. No alteration, reconstruction or replacement of a building or bridge is to be carried out under article 5 (maintenance of authorised development) except in accordance with plans and specifications approved by the relevant planning authority.

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Amendments to approved details

9. With respect to any requirement which requires the authorised development to be carried out in accordance with details approved by the relevant planning authority, the approved details are taken to include any amendments that may subsequently be approved in writing by the relevant planning authority.

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SCHEDULE 3

Article 8

STREETS SUBJECT TO ALTERATION OF LAYOUT

In the County of Staffordshire and the Borough of Stafford

<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
B5026	Construction of turning head where B5026 is to be stopped up at point W on the street plans
Station Road/B5026	Change in road markings/right of way designation between points X and Y on the street plans

SCHEDULE 4

Article 9

STREETS SUBJECT TO STREET WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to street works</i>
County of Staffordshire, Borough of Stafford	Eccleshall Road A5013 Chebsey Lane Worston Lane Searchlight Lane Station Road Scannell Lane Stone Road B5026 Eccleshall Road B5026 Meece Road

SCHEDULE 5

Article 11

STREETS TO BE STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
County of Staffordshire, Borough of Stafford	B5026 (Stone Road)	Stopping up of highway between points R and S and V and W	Provision of new highway between points M and Q
County of Staffordshire, Borough of Stafford	Searchlight Lane	Stopping up of Searchlight Lane between points H and K	Provision of new access over highway between points H and L
County of Staffordshire, Borough of Stafford	Meece Road	Stopping up of Meece Road between points AA and Z and BA and CA	Provision of new access over highway between points AA and EA
County of Staffordshire, Borough of Stafford	Footpath 11	Stopping up of Chebsey Footpath 11 between points 1 and 8	New footpath to be created between points 1 and 8 via points 9 A to 22 v
County of Staffordshire, Borough of Stafford	Footpath 10	Stopping up of Chebsey Footpath 10 between points 26, 27, 28 and 29	New footpath to be created between points 26 to 29 via point 30, then over new footbridge and then via point 31

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SCHEDULE 6

Article 17

REPLACEMENT AND CLOSURE OF LEVEL CROSSINGS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Level crossing to be discontinued</i>	<i>(3)</i> <i>Street to be stopped up</i>	<i>(4)</i> <i>New street to be substituted</i>
County of Staffordshire, Borough of Stafford	Footpath 10 across the Stone railway line at Mid Norton	Between points 27 and 28 on the street plans	A new footbridge 15 metres from existing level crossing

SCHEDULE 7

Article 22

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

PART 1
NETWORK RAIL

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights may be acquired</i>
11a, 29a, 30a, 42, 52a, 55, 130a, 141, 156a, 170, 174, 175, 178a and 211	Vehicular access
210a and 212	Vehicular access and power supply

PART 2
NATIONAL GRID

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights may be acquired</i>
30, 30a, 33, 34, 37, 38, 56, 58, 59, 61, 65, 67 <u>and 71</u>	Construction and maintenance of pipe-line

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

Compensation enactments

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

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

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

(a) for the words “land is acquired or taken” there are substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and

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(b) for the words “acquired or taken from him” there are substituted the words “over which the right is exercisable or the restrictive covenant enforceable”.

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

(a) for the word “part” in paragraphs (a) and (b) there are substituted the words “a right over or restrictive covenant affecting land consisting”;

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(b) for the word “severance” there are substituted the words “right or restrictive covenant over or affecting the whole of the house, building or manufactory or of the house and the park or garden”;

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(c) for the words “part proposed” there are substituted the words “right or restrictive covenant proposed”; and

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(d) for the words “part is” there are substituted the words “right or restrictive covenant is”.

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Application of the 1965 Act

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

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(a) the right acquired or to be acquired; or

(b) the land over which the right is or is to be exercisable.

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

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

(a) 1973 c.26.

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

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

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

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

~~the Network Rail (Norton Bridge Area Improvements) Order 201[](a) (“the Order”), in relation to that person, ceases to authorise the purchase of the right and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.~~

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

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

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

- ~~(a) section 9(4) (failure by owners to convey);~~
- ~~(b) paragraph 10(3) 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);~~

(a) S.I. 201[X].

~~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.~~

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

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~~8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) 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.~~

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~~9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.~~

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SCHEDULE 9

Article 28

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

PART 1
NETWORK RAIL

In the County of Staffordshire and the Borough of Stafford

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>	<i>(4)</i> <i>Element of Work in respect of which land is not required to be re-instated</i>
1	A5013 signage Access to works	Work No.2 Work Nos. 17, 18, 19A and 19B	
2	A5013 improvement Access to works	Work No.2 Work Nos. 17, 18, 19A and 19B	
4	Storage and overspill parking	Work Nos. 2 and 3	
5	Road widening	Work No.3	
6	Access to works	Work No.3	
7	Vehicle passing place Access to works	Work No.3 Work Nos. 17, 18, 19A and 19B	
8	Works compound Access to works	Work Nos. 3 and 4 Work Nos. 17, 18, 19A and 19B	
9	For West Coast Main Line connection	Work No.1	
11a	Part of compound Access to works	Work No.4 Work Nos. 17, 18, 19A and 19B	Access for maintenance vehicles
12, 14, 21	River diversion	Work No.5	Diverted river and earthworks
13	Works compound Access to works	Work Nos. 4 and 5 Work Nos. 17, 18, 19A and 19B	
15	Access to works	Work Nos. 3 and 4	
16	Part of compound	Work Nos. 1 and 3	
19	Access to works Access to works	Work No.1 Work Nos. 17, 18, 19A and 19B	
20	Part of compound	Work Nos. 1 and 3	
22, 47	Access to works	Work No.1	
24, 28	River diversion	Work No.6	Diverted river and earthworks

(1) <i>Number of land shown on land plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>	(4) <i>Element of Work in respect of which land is not required to be re-instated</i>
29	Access to works	Work Nos. 1 and 6	
29a	Access to works	Work No.1	Access track
30	Access to works Access to works	Work No.1 Work Nos. 17, 18, 19A and 19B	
30a	Access to works	Work Nos. 1, 17, 18, 19A and 19B	Access track <u>and backfill of marl pit to support access track</u>
33, 34, 38	Construction and maintenance of pipe-line	Work No.17	Pipe-line
34a, 36	Tree planting	Work No.1	Replacement woodland
35	Working area for tree planting	Work No.1	
37a	Works compound Access to works	Work No. 1 Work Nos. 17, 18, 19A and 19B	
40	Access to works	Work No.1	Access track and fencing
42	Access to works Access to works	Work No.1 Work Nos. 17, 18, 19A and 19B	Access track
43, 51	Road works	Work No.7	Roadway
52	Road works Access to works	Work No.7 Work Nos. 17, 18, 19A and 19B	
52a	Access to works	Work Nos.17, 18, 19A and 19B	Access track
53, 55	Access to works Access to works	Work No.7 Work Nos. 17, 18, 19A and 19B	
56	Works compound and construction of pipe-line	Work Nos. 1, 18, 19A and 19B	Pipe-line <u>and access road</u>
57	Grub up highway	Work No.7	Removal of road surface
59	Access to works	Work Nos. 1, 18, 19A and 19B	Pipe-line
61, 65, 67	Construction of pipe-line	Work Nos. 19A and 19B	Pipe-line
62, 63	Access to Works	Work No.1	
64	Environmental mitigation	Work No.1	Replacement newt habitat
71	Access to works	Work No.19A	
72, 73, 82, 82a, 84	Access to works	Work No.20	
77	Access to works	Work Nos. 1, 19A and 19B	

(1) <i>Number of land shown on land plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>	(4) <i>Element of Work in respect of which land is not required to be re-instated</i>
78, 83, 103, 107, 107a, 108	Earthworks	Work No.1	Earthworks and landscaping
85, 91, 92	Earthworks	Work Nos. 1 and 8	Earthworks and landscaping
94, 116, 121, 122	Works compound	Work Nos. 1, 8 and 9	Earthworks and landscaping
97, 99, 176, 201	Access to works	Work No.8	
98	Earthworks	Work No.1	Earthworks, landscaping and replacement bat accommodation
102	Drainage works	Work No.1	Drainage
105, 105a	Junction remodelling	Work No.10	Roadway
110	Remodel B5026	Work No.8	Roadway and turning head
114, 120	Grub up highway	Work Nos. 1 and 8	Removal of road surface
115	Works compound	Work Nos. 1, 8 and 9	
127	Grub up highway	Work No.11	Removal of road surface
128	Roadworks	Work No.11	Roadway
130a, 141	Access to works	Work No.1	Access track
131, 132	Works compound	Work No.1	Earthworks and landscaping
133, 136	Access to works	Work Nos. 1 and 13	
134	Mitigation work <u>and river diversion</u>	Work Nos. 1 and 13	Fen and swamp habitat replacement <u>and diverted river</u>
140, 142	Access to works	Work No.1	
143	Access to works	Work Nos. 1, 13 and 14	
144, 145	Working area for earthworks	Work Nos. 8 and 11	
149	Remodel Station Road junction	Work No.8	Roadway
151	Road works	Work Nos. 8 and 11	
152	Works to utilities	Work Nos. 8 and 11	<u>Landscaping</u>
153, 154	Access to compounds and works	Work No.8	
155	Works compound	Work No.8	Landscaping

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(1) <i>Number of land shown on land plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>	(4) <i>Element of Work in respect of which land is not required to be re-instated</i>
156a	Access to works	Work No.8	Access track
162, 163	Access to works	Work Nos. 11 and 15	<u>Habitat creation</u>
164	<u>Access to works and river diversion</u>	<u>Work Nos. 11 and 15</u>	<u>Diverted river and habitat creation</u>
170, 171	Access to works	Work Nos. 8 and 15	Access
172, 173	Access to works	Work Nos. 8 and 15	
174, 175, 178a	Access to works	Work No.8	Access track
177	<u>Works compound and formation of access</u>	Work Nos. 8 and 11	<u>Earthworks landscaping, access and access track</u>
179	Access to works	Work Nos. 8, 11 and 15	
180, 182	Earthworks	Work Nos. 8 and 11	Earthworks and landscaping
181	Works to utilities	Work Nos. 8 and 11	
184, 193, 194, 195	Road works	Work No.12	Roadway
186	Works compound	Work No.12	
187	Grub up highway	Work No.12	Removal of road surface
189	Earthworks	Work Nos. 8, 11 and 12	Earthworks and landscaping
192, 196, 199	Earthworks	Work No.12	Earthworks and landscaping
198	Access to severed land	Work No.12	Access to severed land
203	Fencing	Work Nos. 8 and 12	
204, 206, 208	Access to works	Work No.8	
209	Access to works	Work No.16	
210a, 212	Access to works and installation of power supply	Work No.16	Power cables
211	Access to works	Work No.16	Access track

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PART 2
NATIONAL GRID

In the County of Staffordshire and the Borough of Stafford

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
1, 2, 3, 5, 7, 8, 11, 11a, 13, 19, 30, 30a, 37a, 42, 49, 50, 54, 55	Worksites and access to works	Work Nos. 17, 18, 19A and 19B
33, 34, 37, 38	Construction and maintenance of pipe-line	Work No.17
34a (part)	Construction of pipe-line	Work No.17
52, 52a	Worksites and access to works	Work Nos. 17, 18, 19A and 19B
56	Construction of pipe-line	Work Nos. 18, 19A and 19B
57	Worksites and access to works	Work Nos. 18, 19A and 19B
58, 59, 65, 67	Construction of pipe-line	Work Nos. 19A and 19B
61, 66, 77	Worksites and access to works	Work Nos. 19A and 19B
71	Construction of pipe-line	Work No.19A
76, 80, 87, 90, 96	Worksites and access to works	Work Nos. 18, 19A and 19B

PROTECTIVE PROVISIONS

PART 1

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

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

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2. In this Part of this Schedule—

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

“apparatus” means—

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

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

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

“undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(c);
- (c) a water undertaker within the meaning of the Water Industry Act 1991;
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991; and

(a) 1989 c.29.

(b) 1991 c.56.

(c) 1986 c.44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c.27).

(e) UKOP,

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

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

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

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5.—(1) If, in the exercise of the powers conferred by this Order, Network Rail acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of an 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 undertaker in question.

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

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(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of Network Rail, or Network Rail 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 undertaker in question must, on receipt of a written notice to that effect from Network Rail, 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.

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(4) Any alternative apparatus to be constructed in land of Network Rail under this Part of this Schedule is to be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and Network Rail or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

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(5) The undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 42, and after the grant to the 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 Network Rail to be removed under the provisions of this Part of this Schedule.

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

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(7) Nothing in sub-paragraph (6) authorises Network Rail 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.

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6.—(1) Where, in accordance with the provisions of this Part of this Schedule, Network Rail affords to an undertaker facilities and rights for the construction and maintenance in land of Network Rail 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 Network

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Rail and the undertaker in question or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along any railway of Network Rail, the arbitrator ~~must—~~

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

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

(3) If the facilities and rights to be afforded by Network Rail 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 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 Network Rail to that undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

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7.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by Network Rail under paragraph 5(2), Network Rail ~~must submit~~ to the undertaker in question a plan, section and description of the works to be executed.

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

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

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(4) If an undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by Network Rail, reasonably requires the removal of any apparatus and gives written notice to Network Rail of that requirement, paragraphs 1 to 6 ~~apply as if the removal of the~~ apparatus had been required by Network Rail under paragraph 5(2).

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

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

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8.—(1) Subject to the following provisions of this paragraph, Network Rail ~~must repay to an~~ undertaker the reasonable expenses incurred by that undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus (including costs or compensation payable in connection with the acquisition of land for that purpose) which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).

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

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by Network Rail or, in default of agreement, is not determined by arbitration in accordance with article 42 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

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

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

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(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) 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 undertaker 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.

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9.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of an undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any undertaker, Network Rail must—

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

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

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

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(3) An undertaker must give Network Rail reasonable notice of any such claim or demand and no settlement or compromise may be made without the consent of Network Rail which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

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

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PART 2

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

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

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

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

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

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act~~(a)~~;

“electronic communications code network” means—

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

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

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

2. The exercise of the powers of article 31 (statutory undertakers) are subject to paragraph 23 of Schedule 2 to the Telecommunications Act 1984~~(b)~~.

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

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

(b) there is any interruption in the supply of the service provided by an operator, Network Rail ~~must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must—~~

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(i) make reasonable compensation to an operator for loss sustained by it; and

(ii) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) ~~imposes any liability on Network Rail 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.~~

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

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(a) See section 106.

(b) 1984 c.12.

(4) Any difference arising between Network Rail and the operator under this paragraph must be referred to and settled by arbitration under article 42 (arbitration).

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

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

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

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PLANS AND DRAWINGS

PART 1

DESIGN DRAWINGS

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<u>Drawing Title</u>	<u>Drawing Number</u>	<u>Revision</u>
<u>Design Drawings [Regulation 5(2)(o)] Key Plan</u>	<u>124130-EMF-DRG-ATK-910001</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Works Overview Sheet 1 of 4</u>	<u>124130-EMF-DRG-ATK-910002</u>	<u>A02+</u>
<u>Design Drawings [Regulation 5(2)(o)] Works Overview Sheet 2 of 4</u>	<u>124130-EMF-DRG-ATK-910003</u>	<u>A02+</u>
<u>Design Drawings [Regulation 5(2)(o)] Works Overview Sheet 3 of 4</u>	<u>124130-EMF-DRG-ATK-910004</u>	<u>A03+</u>
<u>Design Drawings [Regulation 5(2)(o)] Works Overview Sheet 4 of 4</u>	<u>124130-EMF-DRG-ATK-910005</u>	<u>A02+</u>
<u>Design Drawings [Regulation 5(2)(o)] Track Longitudinal Sections Down Slow</u>	<u>124130-EMF-DRG-ATK-910006</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Track Longitudinal Section Up Norton Bridge</u>	<u>124130-EMF-DRG-ATK-910007</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Highways Longitudinal Sections</u>	<u>124130-EMF-DRG-ATK-910008</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Highways Longitudinal Sections</u>	<u>124130-EMF-DRG-ATK-910014</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Footpath Longitudinal Sections</u>	<u>124130-EMF-DRG-ATK-910009</u>	<u>A02+</u>
<u>Design Drawings [Regulation 5(2)(o)] Typical Earthworks Cross Sections Sheet 1 of 4</u>	<u>124130-EMF-DRG-ATK-910010</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Typical Earthworks Cross Sections Sheet 2 of 4</u>	<u>124130-EMF-DRG-ATK-910011</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Typical Earthworks Cross Sections Sheet 3 of 4</u>	<u>124130-EMF-DRG-ATK-910012</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Typical Earthworks Cross Sections Sheet 4 of 4</u>	<u>124130-EMF-DRG-ATK-910013</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Underbridge 1 – LEC4 / 13 Widening Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910015</u>	<u>A02</u>
<u>Design Drawings [Regulation 5(2)(o)] Underbridge 1A Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910016</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Underbridge 2 – Meece Brook South Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910017</u>	<u>A02</u>

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
<u>Design Drawings [Regulation 5(2)(o)] Overbridge 3 – Searchlight Lane Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910018</u>	<u>A02</u>
<u>Design Drawings [Regulation 5(2)(o)] Intersection Bridge 5, WCML Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910020</u>	<u>A02</u>
<u>Design Drawings [Regulation 5(2)(o)] Overbridge 5A – WCML / B5026 Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910021</u>	<u>A02</u>
<u>Design Drawings [Regulation 5(2)(o)] Underbridges 6 & 6A – Meece Brook North Plan</u>	<u>124130-EMF-DRG-ATK-910022</u>	<u>A02</u>
<u>Design Drawings [Regulation 5(2)(o)] Underbridges 6 & 6A – Meece Brook North Sections and Elevations</u>	<u>124130-EMF-DRG-ATK-910023</u>	<u>A02</u>
<u>Design Drawings [Regulation 5(2)(o)] Overbridge 7 – Meece Road Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910024</u>	<u>A02</u>
<u>Design Drawings [Regulation 5(2)(o)] Underbridge 8 – NBS/9 Widening Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910025</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Footbridge 9 – Mid Norton Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910026</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Overbridge 10A – B5026 West Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910027</u>	<u>A02</u>
<u>Design Drawings [Regulation 5(2)(o)] Underbridge 11 – Meece Brook West Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910028</u>	<u>A02</u>
<u>Design Drawings [Regulation 5(2)(o)] Earthworks Cross Sections Sheet 1 of 5</u>	<u>124130-EMF-DRG-ATK-910115</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Earthworks Cross Sections Sheet 2 of 5</u>	<u>124130-EMF-DRG-ATK-910116</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Earthworks Cross Sections Sheet 3 of 5</u>	<u>124130-EMF-DRG-ATK-910117</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Earthworks Cross Sections Sheet 4 of 5</u>	<u>124130-EMF-DRG-ATK-910118</u>	<u>A01</u>
<u>Design Drawings [Regulation 5(2)(o)] Earthworks Cross Sections Sheet 5 of 5</u>	<u>124130-EMF-DRG-ATK-910119</u>	<u>A01</u>
<u>Highway Diversion and Maintenance Access Key Plan</u>	<u>124130-ECV-DRG-ATK-038101</u>	<u>B03</u>
<u>B5026 Diversion Plan and Longsection Sheet 1 of 8</u>	<u>124130-ECV-DRG-ATK-038311</u>	<u>B03</u>
<u>B5026 Diversion Plan Sheet 2 of 8</u>	<u>124130-ECV-DRG-ATK-038312</u>	<u>B03</u>
<u>B5026 Diversion Plan Sheet 3 of 8</u>	<u>124130-ECV-DRG-ATK-038313</u>	<u>B03</u>
<u>B5026 Long Section Sheet 4 of 8</u>	<u>124130-ECV-DRG-ATK-038314</u>	<u>B03</u>

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<u>B5026 Diversion Plan and Long Section Sheet 5 of 8</u>	<u>124130-ECV-DRG-ATK-038315</u>	<u>B03</u>
<u>B5026 Diversion Plan and Long Section Sheet 6 of 8</u>	<u>124130-ECV-DRG-ATK-038316</u>	<u>B03</u>
<u>B5026 Diversion Plan and Long Section Sheet 7 of 8</u>	<u>124130-ECV-DRG-ATK-038317</u>	<u>B03</u>
<u>B5026 Diversion Plan and Long Section Sheet 8 of 8</u>	<u>124130-ECV-DRG-ATK-038318</u>	<u>B04</u>
<u>Searchlight Lane Diversion Plan and Long Section Sheet 1 of 2</u>	<u>124130-ECV-DRG-ATK-038319</u>	<u>B04</u>
<u>Searchlight Lane Diversion Plan and Long Section Sheet 2 of 2</u>	<u>124130-ECV-DRG-ATK-038320</u>	<u>B04</u>
<u>Searchlight Lane Junction Maintenance Compound General Arrangement</u>	<u>124130-ECV-DRG-ATK-038386</u>	<u>B03</u>
<u>Yarnfield Junction Maintenance Compound General Arrangement</u>	<u>124130-ECV-DRG-ATK-038387</u>	<u>B03</u>
<u>Little Bridgeford Maintenance Compound General Arrangement</u>	<u>124130-ECV-DRG-ATK-038388</u>	<u>B03</u>
<u>Highway Standard Details</u>	<u>124130-ECV-DRG-ATK-038001</u>	<u>B03</u>
<u>B5026 Diversion Fencing and Road Restraint Systems</u>	<u>124130-ECV-DRG-ATK-038341</u>	<u>B03</u>
<u>B5026 Diversion Fencing and Road Restraint Systems</u>	<u>124130-ECV-DRG-ATK-038342</u>	<u>B03</u>
<u>B5026 Diversion Fencing and Road Restraint Systems</u>	<u>124130-ECV-DRG-ATK-038343</u>	<u>B03</u>
<u>B5026 Diversion Fencing and Road Restraint Systems</u>	<u>124130-ECV-DRG-ATK-038344</u>	<u>B03</u>
<u>Searchlight Lane Fencing and Road Restraint Systems</u>	<u>124130-ECV-DRG-ATK-038345</u>	<u>B04</u>
<u>B5026 Diversion Pavement, Footways and Paved Areas Sheet 1 of 4</u>	<u>124130-ECV-DRG-ATK-038351</u>	<u>B03</u>
<u>B5026 Diversion Pavement, Footways and Paved Areas Sheet 2 of 4</u>	<u>124130-ECV-DRG-ATK-038352</u>	<u>B03</u>
<u>B5026 Diversion Pavement, Footways and Paved Areas Sheet 3 of 4</u>	<u>124130-ECV-DRG-ATK-038353</u>	<u>B03</u>
<u>B5026 Diversion Pavement, Footways and Paved Areas Sheet 4 of 4</u>	<u>124130-ECV-DRG-ATK-038354</u>	<u>B03</u>
<u>Searchlight Lane Diversion Pavement, Footways and Paved Areas</u>	<u>124130-ECV-DRG-ATK-038355</u>	<u>B04</u>
<u>B5026 Diversion Kerbs Sheet 1 of 4</u>	<u>124130-ECV-DRG-ATK-038361</u>	<u>B03</u>
<u>B5026 Diversion Kerbs Sheet 2 of 4</u>	<u>124130-ECV-DRG-ATK-038362</u>	<u>B03</u>
<u>B5026 Diversion Kerbs Sheet 3 of 4</u>	<u>124130-ECV-DRG-ATK-038363</u>	<u>B03</u>
<u>B5026 Diversion Kerbs Sheet 4 of 4</u>	<u>124130-ECV-DRG-ATK-038364</u>	<u>B03</u>
<u>Searchlight Lane Kerbs</u>	<u>124130-ECV-DRG-ATK-038365</u>	<u>B04</u>
<u>B5026 Diversion Traffic Signs & Road Markings</u>	<u>124130-ECV-DRG-ATK-038371</u>	<u>B03</u>

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<u>B5026 Diversion Traffic Signs & Road Markings</u>	<u>124130-ECV-DRG-ATK-038372</u>	<u>B03</u>
<u>B5026 Diversion Traffic Signs & Road Markings</u>	<u>124130-ECV-DRG-ATK-038373</u>	<u>B03</u>
<u>Searchlight Lane Traffic Signs & Road Markings</u>	<u>124130-ECV-DRG-ATK-038375</u>	<u>B04</u>
<u>B5026 Diversion Traffic Signs Details</u>	<u>124130-ECV-DRG-ATK-038003</u>	<u>B03</u>
<u>B5026 Diversion Traffic Signs Details</u>	<u>124130-ECV-DRG-ATK-038004</u>	<u>B03</u>
<u>B5026 Diversion Traffic Signs Details</u>	<u>124130-ECV-DRG-ATK-038005</u>	<u>B03</u>
<u>B5026 Diversion Traffic Signs Details</u>	<u>124130-ECV-DRG-ATK-038006</u>	<u>B03</u>
<u>B5026 Diversion Traffic Signs Details</u>	<u>124130-ECV-DRG-ATK-038007</u>	<u>B03</u>
<u>B5026 Diversion Proposed Street Lighting Layout</u>	<u>124130-ECV-DRG-ATK-038381</u>	<u>B03</u>
<u>B5026 Diversion Proposed Street Lighting Wiring Diagram</u>	<u>124130-ECV-DRG-ATK-038382</u>	<u>B03</u>
<u>Scannell Lane Sections</u>	<u>124130-ECV-DRG-ATK-038395</u>	<u>B03</u>
<u>Drainage Key Plan</u>	<u>124130-ECV-DRG-ATK-020100</u>	<u>B03</u>
<u>Drainage Network Layout Sheet 1 of 2</u>	<u>124130-ECV-DRG-ATK-020150</u>	<u>B03</u>
<u>Drainage Network Layout Sheet 2 of 2</u>	<u>124130-ECV-DRG-ATK-020151</u>	<u>B03</u>
<u>B5026 Diversion Drainage Sheet 1 of 4</u>	<u>124130-ECV-DRG-ATK-028311</u>	<u>B03</u>
<u>B5026 Diversion Drainage Sheet 2 of 4</u>	<u>124130-ECV-DRG-ATK-028312</u>	<u>B03</u>
<u>B5026 Diversion Drainage Sheet 3 of 4</u>	<u>124130-ECV-DRG-ATK-028313</u>	<u>B03</u>
<u>B5026 Diversion Drainage Sheet 4 of 4</u>	<u>124130-ECV-DRG-ATK-028314</u>	<u>B03</u>
<u>Searchlight Lane Drainage</u>	<u>124130-ECV-DRG-ATK-028315</u>	<u>B04</u>
<u>Chebsey Lane General Arrangement (Temporary Situation)</u>	<u>NBSAIP-ASA-DRG-EHW-035310</u>	<u>B01</u>
<u>Chebsey Lane Fencing, Pavement & Kerbs (Temporary Situation)</u>	<u>NBSAIP-ASA-DRG-EHW-035311</u>	<u>B01</u>
<u>Chebsey Lane Lighting (Temporary Situation)</u>	<u>NBSAIP-ASA-DRG-EHW-035312</u>	<u>B01</u>
<u>Chebsey Lane Drainage</u>	<u>NBSAIP-ASA-DRG-EHW-035313</u>	<u>B01</u>
<u>Chebsey Lane Traffic Signs, Road Markings & Signals (Temporary Situation)</u>	<u>NBSAIP-ASA-DRG-EHW-035314</u>	<u>B01</u>
<u>Chebsey Lane Extent of Temporary 40 mph Speed Limit (TRO)</u>	<u>NBSAIP-ASA-DRG-EHW-035315</u>	<u>B01</u>
<u>Chebsey Lane General Arrangement (Permanent Situation)</u>	<u>NBSAIP-ASA-DRG-EHW-035320</u>	<u>B01</u>
<u>Chebsey Lane Pavement And Kerbing (Permanent Situation)</u>	<u>NBSAIP-ASA-DRG-EHW-035321</u>	<u>B01</u>
<u>Chebsey Lane Traffic Signs, Road Markings & Signals (Permanent Situation)</u>	<u>NBSAIP-ASA-DRG-EHW-035323</u>	<u>B01</u>
<u>Chebsey Lane Traffic Signals Layout (Temporary Situation)</u>	<u>NBSAIP-ASA-DRG-EHW-035354</u>	<u>B01</u>
<u>Chebsey Lane Traffic Signals Ducting Layout (Temporary Situation)</u>	<u>NBSAIP-ASA-DRG-EHW-035355</u>	<u>B01</u>

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
<u>Lighting and Electrical Standard Details Sheet 1 of 2 (Chebsey Lane / A5013 Eccleshall Road Junction)</u>	<u>124130-ECV-DRG-ATK-038385</u>	<u>B03</u>
<u>Lighting and Electrical Standard Details Sheet 2 of 2 (Chebsey Lane / A5013 Eccleshall Road Junction)</u>	<u>124130-ECV-DRG-ATK-038394</u>	<u>B03</u>

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PART 2
LAND PLANS

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<i>Drawing Title</i>	<i>Reference</i>
Land Plans	
<u>Key Plan</u>	<u>30 August 2013 (Revision B)</u>
<u>Sheet 1</u>	<u>29 November 2012</u>
<u>Sheet 2</u>	<u>29 November 2012</u>
<u>Sheet 3</u>	<u>29 November 2012</u>
<u>Sheet 4</u>	<u>29 November 2012</u>
<u>Sheet 5</u>	<u>29 November 2012</u>
<u>Sheet 6</u>	<u>29 November 2012</u>
<u>Sheet 7</u>	<u>30 August 2013 (Revision C)</u>
<u>Sheet 8</u>	<u>29 November 2012</u>
<u>Sheet 9</u>	<u>29 November 2012</u>
<u>Sheet 10</u>	<u>29 November 2012</u>
<u>Sheet 11</u>	<u>29 November 2012</u>
Land Affected Plans	
<u>Key Plan</u>	<u>124130-EMF-DRG-ATK-910125 (Rev: A024) (20 September 2013)23 November 2012</u>
<u>Sheet 1</u>	<u>124130-EMF-DRG-ATK-910126 (Rev: A01) (23 November 2012)</u>
<u>Sheet 2</u>	<u>124130-EMF-DRG-ATK-910127 (Rev: A024) (20 September 2013)23 November 2012</u>
<u>Sheet 3</u>	<u>124130-EMF-DRG-ATK-910128 (Rev: A024) (20 September 2013)23 November 2012</u>
<u>Sheet 4</u>	<u>124130-EMF-DRG-ATK-910129 (Rev: A01) (23 November 2012)</u>

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PART 3
STREET PLANS

<u>Drawing Title</u>	<u>Drawing Number</u>	<u>Revision</u>
Street Plans [Regulation 5(2)(k)] Key Plan	<u>124130-EMF-DRG-ATK-910045</u>	<u>A01</u>
Street Plans [Regulation 5(2)(k)] Sheet 1 of 4	<u>124130-EMF-DRG-ATK-910046</u>	<u>A01</u>
Street Plans [Regulation 5(2)(k)] Sheet 2 of 4	<u>124130-EMF-DRG-ATK-910047</u>	<u>A01</u>
Street Plans [Regulation 5(2)(k)] Sheet 3 of 4	<u>124130-EMF-DRG-ATK-910048</u>	<u>A02</u>
Street Plans [Regulation 5(2)(k)] Sheet 4 of 4	<u>124130-EMF-DRG-ATK-910049</u>	<u>A01</u>

PART 4
WORKS PLANS

<u>Drawing Title</u>	<u>Drawing Number</u>	<u>Revision</u>
Works Plans [Regulation 5(2)(j)] Key Plan 1:10000	<u>124130-EMF-DRG-ATK-910030</u>	<u>A01</u>
Works Plans [Regulation 5(2)(j)] 1:2500 Plan Sheet 1 of 4	<u>124130-EMF-DRG-ATK-910031</u>	<u>A01</u>
Works Plans [Regulation 5(2)(j)] 1:2500 Plan Sheet 2 of 4	<u>124130-EMF-DRG-ATK-910032</u>	<u>A01</u>
Works Plans [Regulation 5(2)(j)] 1:2500 Plan Sheet 3 of 4	<u>124130-EMF-DRG-ATK-910033</u>	<u>A02</u>
Works Plans [Regulation 5(2)(j)] 1:2500 Plan Sheet 4 of 4	<u>124130-EMF-DRG-ATK-910034</u>	<u>A01</u>
Works Plans [Regulation 6(2)] Track Longitudinal Sections Work No.1 – Down Slow	<u>124130-EMF-DRG-ATK-910035</u>	<u>A01</u>
Works Plans [Regulation 6(2)] Track Longitudinal Section Work No.8 – Up Norton Bridge	<u>124130-EMF-DRG-ATK-910036</u>	<u>A01</u>
Works Plans [Regulation 6(2)] Highways Longitudinal Sections	<u>124130-EMF-DRG-ATK-910037</u>	<u>A01</u>
Works Plans [Regulation 6(2)] Footpath Longitudinal Sections	<u>124130-EMF-DRG-ATK-910038</u>	<u>A02+</u>
Works Plans [Regulation 6(2)] Highways Longitudinal Sections	<u>124130-EMF-DRG-ATK-910039</u>	<u>A01</u>
Works Plans [Regulation 6(2)] Rivers Longitudinal Sections	<u>124130-EMF-DRG-ATK-910040</u>	<u>A01</u>
Fuel Pipeline Diversion Long Section (Regulation 5(2)(o)) Sheet 1 of 5	<u>BPA-7385-X-MAP</u>	<u>1</u>
Fuel Pipeline Diversion Long Section (Regulation 5(2)(o)) Sheet 2 of 5	<u>BPA-7386-X-MAP</u>	<u>A</u>
Fuel Pipeline Diversion Long Section	<u>BPA-7387-X-MAP</u>	<u>A</u>

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<u>(Regulation 5(2)(o)) Sheet 3 of 5</u>		
<u>Fuel Pipeline Diversion Long Section (Regulation 5(2)(o)) Sheet 4 of 5</u>	<u>BPA-7388-X-MAP</u>	<u>A</u>
<u>Fuel Pipeline Diversion Long Section (Regulation 5(2)(o)) Sheet 5 of 5</u>	<u>BPA-7389-X-MAP</u>	<u>A</u>
<u>Gas Pipeline Diversion, Long Sections [Regulation 5(2)(o)]</u>	<u>B1086521/9020</u>	<u>A</u>
<u>Works Plans [Regulation 6(2)] Earthworks Cross Sections 1 of 5</u>	<u>124130-EMF-DRG-ATK-910120</u>	<u>A01</u>
<u>Works Plans [Regulation 6(2)] Earthworks Cross Sections 2 of 5</u>	<u>124130-EMF-DRG-ATK-910121</u>	<u>A01</u>
<u>Works Plans [Regulation 6(2)] Earthworks Cross Sections 3 of 5</u>	<u>124130-EMF-DRG-ATK-910122</u>	<u>A01</u>
<u>Works Plans [Regulation 6(2)] Earthworks Cross Sections 4 of 5</u>	<u>124130-EMF-DRG-ATK-910123</u>	<u>A01</u>
<u>Works Plans [Regulation 6(2)] Earthworks Cross Sections 5 of 5</u>	<u>124130-EMF-DRG-ATK-910124</u>	<u>A01</u>
<u>Works Plans [Regulation 6(2)] Underbridge 1 – LEC4 / 13 Widening Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910050</u>	<u>A02</u>
<u>Works Plans [Regulation 6(2)] Underbridge 1A – Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910051</u>	<u>A01</u>
<u>Works Plans [Regulation 6(2)] Underbridge 2 – Meece Brook South Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910052</u>	<u>A02</u>
<u>Works Plans [Regulation 6(2)] Overbridge 3 – Searchlight Lane Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910053</u>	<u>A02</u>
<u>Works Plans [Regulation 6(2)] Intersection Bridge 5, WCML Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910054</u>	<u>A02</u>
<u>Works Plans [Regulation 6(2)] Overbridge 5A – WCML / B5026 Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910055</u>	<u>A02</u>
<u>Works Plans [Regulation 6(2)] Underbridges 6 & 6A – Meece Brook North Plan</u>	<u>124130-EMF-DRG-ATK-910056</u>	<u>A02</u>
<u>Works Plans [Regulation 6(2)] Underbridges 6 & 6A – Meece Brook North Sections and Elevations</u>	<u>124130-EMF-DRG-ATK-910057</u>	<u>A02</u>
<u>Works Plans [Regulation 6(2)] Overbridge 7 – Meece Road Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910058</u>	<u>A02</u>
<u>Works Plans [Regulation 6(2)] Underbridge 8 – NBS9 Widening Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910059</u>	<u>A01</u>
<u>Works Plans [Regulation 6(2)] Footbridge 9 – Mid Norton Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910060</u>	<u>A01</u>
<u>Works Plans [Regulation 6(2)] Overbridge 10A – B5026 West Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910061</u>	<u>A02</u>
<u>Works Plans [Regulation 6(2)] Underbridge 11 – Meece Brook West Plans and Elevations</u>	<u>124130-EMF-DRG-ATK-910062</u>	<u>A02</u>

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<u>Works Plans [Regulation 5(2)(j)] National Grid 1:2500 Plan Sheet 1 of 2</u>	<u>124130-EMF-DRG-ATK-910100</u>	<u>A01</u>
<u>Works Plans [Regulation 5(2)(j)] National Grid 1:2500 Plan Sheet 2 of 2</u>	<u>124130-EMF-DRG-ATK-910101</u>	<u>A01</u>
<u>Gas Pipeline Diversion, Long Sections [Regulation 5(2)(o)]</u>	<u>B1086521/9020</u>	<u>A</u>

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PART 5
TRAFFIC REGULATION ORDER PLANS

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<u>Chebsey Lane Extent of Temporary 40 mph Speed Limit (TRO)</u>	<u>NBSAIP-ASA-DRG-EHW-035315</u>	<u>B01</u>
<u>B5026 and Meece Road TRO Plan</u>	<u>NBSAIP-ASA-DRG-EHW-035360</u>	<u>A01</u>
<u>B5026 and Meece Road TRO Plan</u>	<u>NBSAIP-ASA-DRG-EHW-035361</u>	<u>A01</u>
<u>B5026 and Meece Road TRO Plan</u>	<u>NBSAIP-ASA-DRG-EHW-035362</u>	<u>A01</u>
<u>B5026 and Meece Road TRO Plan</u>	<u>NBSAIP-ASA-DRG-EHW-035363</u>	<u>A01</u>

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Network Rail Infrastructure Limited (referred to in this Order as Network Rail) to construct and operate new sections of railway in the vicinity of Norton Bridge, Staffordshire.

The railway works comprise:

- (a) a new railway, partly two track and partly single track from Little Bridgeford junction on the West Coast Main Line to a junction adjacent to Heamies Bridge on the West Coast Main Line; and
- (b) a new two track railway from the Searchlight Lane junction on the above work, passing over the West Coast Main Line, to the Yarnfield junction on the Norton Bridge to Stone branch railway,

the combined effect of which will be to remove an at-grade crossing and provide greater capacity and efficiency for trains using the West Coast Main Line.

In order to accommodate these railway works, the Order also authorises National Grid Gas plc (referred to in this Order as National Grid) to divert a high pressure gas pipe-line in one location and another high pressure gas pipe-line in two locations.

The Order would permit Network Rail to acquire, compulsorily or by agreement, land and rights in land and to use land for these purposes and National Grid to acquire compulsorily rights in land and to use land in connection with the diversions of its gas pipe-lines.

The Order also makes provision in connection with the maintenance of the new section of railway.

A copy of the plans and sections, book of reference, design brief, design drawings and environmental statement mentioned in this Order and certified in accordance with article 41 of this Order (certification of plans, etc.) may be inspected free of charge during working hours at the offices of the Company Secretary to Network Rail Infrastructure Limited at Kings Place, 90 York Way, London N1 9AG.

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201[] No.

INFRASTRUCTURE PLANNING

The Network Rail (Norton Bridge Area Improvements) Order
201[]

BIRCHAM DYSON BELL LLP
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must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed with the street authority, be maintained by and at the expense of Network Rail 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.

Paragraphs (1) and (2) do not apply in relation to the structure of any bridge or tunnel carrying a street over or under any railway of Network Rail and except as provided in those paragraphs Network Rail

liable to maintain the surface of any highway under or over which the authorised development

is constructed, or the immediate approaches to any such highway.

In any action against Network Rail 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 Network Rail 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.

For the purposes of a defence under paragraph (4), the court

must in particular have regard to the following matters—

- the character of the street and the traffic which was reasonably to be expected to use it;
- the standard of maintenance appropriate for a street of that character and used by such traffic;
- the state of repair in which a reasonable person would have expected to find the street;
- whether Network Rail 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;

where Network Rail could not reasonably have been expected to repair that part of the street before the cause of action arise, what warning notices of its condition had been displayed, but for the purposes of such a defence it is not relevant to prove that Network Rail 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 Network Rail 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.

Nothing in this article

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—
**prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways);
and Network Rail**

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is not by reason of any duty under this article to maintain a street be taken to be a street
authority in relation to that street for the purposes of Part 3 of that Act; or

**have effect in relation to the street works with regard to which the provisions of Part 3 of the
1991 Act apply.**

201[] No.

INFRASTRUCTURE PLANNING

The Network Rail (Norton Bridge Area Improvements) Order
201[]

Made - - - - ***

Coming into force - - ***

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An application has been made to the Planning Inspectorate (National Infrastructure Directorate) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a) for an Order under sections 37, 114, 115, 117(4), 120, 121 and 122 of the Planning Act 2008(b).

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Network Rail (Norton Bridge Area Improvements) Order 201[] and comes into force on [] 201[].

Interpretation

2.—(1) In this Order—

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

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

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

(a) S.I. 2009/2264

(b) 2008 c.29.

(c) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c.65). There are other amendments to the 1980 Act which are not relevant to this Order.

(d) 1965 c.56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c.34). Section 11(1) and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c.23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.

(e) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); sections 1(2), (3) and (4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted by, and section 1(3) was amended by, section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 36(2) was amended by section 4(1) of, and paragraphs 47 (a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c.71), by S.I. 2006/1177, by section 4 of and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11), by section 64(1) (2) and (3) of the Transport and Works Act 1992 (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.

(f) 1984 c.27.

(g) 1990 c.8. Section 206(1) was amended by section 192(8) to, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c.29) (date in force to be appointed see section 241(3), (4)(a),(c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.

(h) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).

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

“associated development” has the same meaning as in section 115(2) of the 2008 Act;

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

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

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

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

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“defects period” means, in relation to any highway work, the period of twelve months referred to in article 10(5) during which Network Rail must remedy defects in a street;

“design brief” means the Design Brief for Landscape Proposals and Mitigation and Restoration of the Wider Landscape (Revised September 2013) as certified by the Secretary of State for the purposes of this Order;

“the design drawings” means the drawings listed in Part 1 of Schedule 11 (plans and drawings) and certified as the design drawings by the Secretary of State for the purposes of this Order;

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

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

“highway work” means any work that involves the construction of a new street or permanent change to an existing street, including changes to road layout, kerbs, signs and markings, lighting, signalling, drainage, landscaping and installation of roadside equipment;

“the land plans” means the plans listed in Part 2 of Schedule 11 (plans and drawings) and certified as the land plans by the Secretary of State for the purposes of this Order;

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

“maintain” and any of its derivatives include to inspect, test, repair, adjust, alter, remove, renew, reconstruct, replace, render unusable, protect or strengthen the authorised development and any derivative of “maintain” is to be construed accordingly;

“National Grid” means National Grid Gas plc;

“Network Rail” means Network Rail Infrastructure Limited;

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

“Order limits” means the limits of deviation shown on the works plans and the limits of land to be acquired or used shown on the lands plans;

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

“relevant planning authority” means Stafford Borough Council;

“the sections” means the sections forming part of the works plans certified by the Secretary of State for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8), 128(5) or 129(2) of the 2008 Act and for the purpose of, or in connection with, Work No. 20, includes UKOP;

(a) 2008 c.29.

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

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

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

“the street plans” means the plans listed in Part 3 of Schedule 11 (plans and drawings) and certified as the street plans by the Secretary of State for the purposes of the Order;

“the traffic regulation order plans” means the plans listed in Part 5 of Schedule 11 (plans and drawings) and certified as the traffic regulation order plans by the Secretary of State for the purposes of the Order;

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

“UKOP” means United Kingdom Oil Pipelines Limited;

“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 list in Part 4 of Schedule 11 (plans and drawings) and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to 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 Network Rail’s railway undertaking.

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

(4) All areas described in the Book of Reference are approximate.

(5) References in this Order to points identified by letters, with or without numbers, are to be construed as references to points so lettered on the works plans.

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

Incorporation of the Railways Clauses Acts

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845(a) are incorporated in this Order—

section 46 (crossing of roads—level crossings), subject to paragraph (4) and article 17 (level crossings);

section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;

section 61 (company to make sufficient approaches and fences to highways crossing on the level);

section 68 (accommodation works by company);

section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;

sections 72 and 73 (supplementary provisions relating to accommodation works);

section 77 (presumption that minerals excepted from acquisition of land);

(a) 1845 c. 20. Section 46 was amended by sections 109(1) and (3) of, and paragraph 22 of Schedule 8, and Schedule 10 to, the Courts Act 2003 (c.39). Section 58 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c.101). Section 78 was amended by section 39(3) of, and Schedule 7 to, the Compulsory Purchase Act 1968 (c.56) and articles 5(1) and (2) of, and paras 1 and 3 of Schedule 7 to, S.I. 2009/1307. Section 105 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c.101), and section 31(6) of the Criminal Law Act 1977 (c.45), and sections 37 and 49 of the Criminal Justice Act 1982 (c.48). There are other amendments to the 1845 Act not relevant to this Order.

sections 78 to 83, 85 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923(a); and

section 105 (carriage of dangerous goods on railway), except for the words from “and if any person” to “for every such offence”.

(2) The following provisions of the Railways Clauses Act 1863(b) are incorporated in this Order—

sections 5 and 7 (level crossings); and

section 12 (signals, watchmen etc.).

(3) In those provisions, as incorporated in this Order—

“the company” means Network Rail;

“goods” includes any thing conveyed on the railway authorised to be constructed by this Order;

“lease” includes an agreement for a lease;

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means any railway authorised to be constructed by this Order and any other authorised development; and

“the special Act” means this Order.

(4) In section 46 of the Railways Clauses Consolidation Act 1845(c), as incorporated in this Order, for the proviso substitute—

“Provided always that, with the consent of the highway authority and subject to such conditions as the authority may reasonably impose, the railway may be carried across a highway on the level.”.

PART 2

Principal Powers

Development consent etc. granted by the Order

4.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (Requirements) to this Order—

(a) Network Rail is granted development consent for the authorised development; and

(b) National Grid is granted development consent for Work Nos. 17, 18, 19A and 19B and any further associated development in connection with those works,

but, in relation to Work No. 19A and Work No. 19B, only one of them (not both) may be carried out.

(2) Subject to article 6 (limits of deviation) the authorised development is to be constructed in the lines and situations shown on the works plans and at the levels shown on the sections.

Maintenance of authorised development

5.—(1) Network Rail may at any time maintain the authorised development except to the extent that this Order, or an agreement made under this Order, provides otherwise.

(a) 1923 c. 20. Section 15 was amended by section 10(1) of the Decimal Currency Act 1969 (c.19).

(b) 1863 c.92.

(c) 1845 c.20.

(2) National Grid may at any time maintain Work Nos. 17, 18 and 19A or 19B and any associated development in connection with those works except to the extent that this Order, or an agreement made under this Order, provides otherwise.

Limits of deviation

6. In carrying out the authorised development for which they are granted development consent by article 4(1), Network Rail and National Grid may—

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

Benefit of Order

7.—(1) Subject to paragraphs (2) to (4) of this article and paragraph (5) of article 22 (compulsory acquisition of rights)—

- (a) the following provisions have effect for the benefit of Network Rail and National Grid—
 - (i) the development consent granted by article 4(1)(b); and
 - (ii) subject to paragraph (b), any other provisions of this Order insofar as they are applicable to, or are exercisable for the purpose of, or in connection with, the carrying out or maintenance of Work Nos. 17, 18, 19A and 19B and of any associated development in connection with those works;
and references in any of those provisions to Network Rail, where applicable, with respect to those works, are to be construed as referring also to National Grid;
- (b) the following provisions have effect for the benefit of National Grid only—
 - (i) article 22(3) and Part 2 of Schedule 7 (land in which only new rights etc., may be acquired); and
 - (ii) article 29 (temporary use of land by National Grid) and Part 2 of Schedule 9 (land of which temporary possession may be taken); and
- (c) the remainder of the provisions of this Order have effect for the benefit of Network Rail only.

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

(3) National Grid may not exercise the powers referred to in sub-paragraphs (1)(a) or (1)(b) without the written consent of, and upon such terms as may be agreed by, Network Rail.

(4) The exercise by National Grid of any benefits or rights conferred on it by this Order are subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by Network Rail.

PART 3

Streets

Power to alter layout, etc. of streets

8.—(1) Network Rail may for the purposes of the authorised development alter the layout of or carry out any works in the street specified in column (1) of Schedule 3 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2).

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

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

(3) Network Rail must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) are not to be exercised without the consent of the street authority; but such consent must not be unreasonably withheld.

Street works

9.—(1) Network Rail may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place temporary apparatus in the street;
- (d) maintain temporary apparatus in the street and permanent apparatus under the street and, in either case, 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) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act and “in” as referring to apparatus in the street means under, over, across, along or upon the street.

Construction and maintenance of new or altered streets

10.—(1) Any highway work constructed under this Order must be completed to the reasonable satisfaction of the highway authority.

(2) When Network Rail considers that a highway work has been completed, save for any minor item not affecting safety, it may apply to the highway authority in accordance with the provisions of article 44 (procedure in relation to certain approvals, etc. other than under Schedule 2) for its approval of the standard to which the work has been carried out.

(3) In the case of a new street, Network Rail must, within 28 days of receiving the approval or deemed approval of the highway authority under article 44, vest the street in the highway authority.

(4) Upon the vesting of the new street in the highway authority, the highway authority must adopt it as a highway maintainable at the public expense.

(5) Notwithstanding in the case of a new street its adoption by the highway authority, Network Rail must, for a period of 12 months beginning with the date of the highway authority's approval or deemed approval under article 44 of the standard to which a highway work has been carried out under this Order, and unless otherwise agreed with the highway authority, remedy any defect in the street resulting from the carrying out of the work.

(6) Any work by Network Rail to remedy a defect in a street under this article must be carried out to the reasonable satisfaction of the highway authority.

(7) Network Rail must apply to the highway authority for its approval of the standard to which any remedial work under this article has been carried out.

(8) Network Rail will continue to be liable for the maintenance of the structure of any bridge or tunnel carrying a street over or under any railway of Network Rail regardless of the adoption of the highway by the highway authority or the expiry of any defects period applicable to the street under this article.

(9) In any action against Network Rail in respect of loss or damage resulting from any failure by it to remedy a defect 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 Network Rail 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.

(10) For the purpose of a defence under paragraph (9), 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 Network Rail 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;
- (e) where Network Rail 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 Network Rail had arranged for a competent person to carry out or supervise the remedial work to the part of the street to which the action relates unless it is also provided that Network Rail had given the competent person proper instructions with regard to the remedial work to the street and that the competent person had carried out those instructions.

(11) Nothing in this article—

- (a) prejudices the operation of section 87 of the 1991 Act (prospectively maintainable highways); and Network Rail is not by reason of any duty under this article to remedy a defect in a street to be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to the street works with regard to which the provisions of Part 3 of the 1991 Act apply.

Stopping up of streets

11.—(1) Subject to the provisions of this article, Network Rail may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Schedule 5 (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the street plans, in column (3) of that Schedule.

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

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

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

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

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

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

(6) When a street has been stopped up under the provisions of this article, Network Rail must provide to the street authority within 28 days of the stopping up a plan to a scale of not less than 1:500 showing the extent of the stopping up.

Application of the 1991 Act

12.—(1) Works carried out 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 of the 1991 Act (street works in England and Wales) as major transport works if—

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

(2) The following provisions of the 1991 Act do not apply in relation to any works carried out under the powers conferred by this Order—

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

(3) The provisions of the 1991 Act mentioned in paragraph (4) which, together with other provisions of that Act, apply in relation to the carrying out street works and any regulations made or code of practice issued or approved under those provisions apply (with the necessary modifications) in relation to the temporary stopping up, temporary alteration or temporary diversion of a street by Network Rail under the powers conferred by article 13 (temporary

stopping up of streets) and the carrying out of works under article 9 (street works) whether or not the stopping up, alteration or diversion, or the carrying out of such works, constitutes street works within the meaning of that Act.

- (4) The provisions of the 1991 Act referred to in paragraph (3) are—
- section 54 (advance notice of certain works), subject to paragraph (5);
 - section 55 (notice of starting date of works), subject to paragraph (5);
 - section 57 (notice of emergency works);
 - section 59 (general duty of street authority to co-ordinate works);
 - section 60 (general duty of undertakers to co-operate);
 - section 68 (facilities to be afforded to street authority);
 - section 69 (works likely to affect other apparatus in the street);
 - section 76 (liability for cost of temporary traffic regulation);
 - section 77 (liability for cost of use of alternative route); and

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

(5) 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 included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Temporary stopping up of streets

13.—(1) Network Rail, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street and may for any reasonable time—

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

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

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

(4) Network Rail must not temporarily stop up, alter or divert or use as a temporary working site any street without the consent of the street authority which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld.

(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.

Access to works

14. Network Rail may, for the purposes of the authorised development and with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as Network Rail reasonably requires for the purposes of the authorised development.

Agreements with street authorities

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

- (a) the construction of any new street, including any structure carrying the street over or under a railway authorised by the Order;
- (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;

- (c) the maintenance of the structure of any bridge or tunnel carrying a street over or under any authorised railway;
 - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
 - (e) the carrying out in the street of any of the works referred to in article 9(1) (street works).
- (2) Such agreement may, without limitation on the scope of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between Network Rail and the street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Construction of bridges and tunnels

16. Any bridge or tunnel to be constructed under this Order for carrying a highway over or under a railway or a watercourse must be constructed in accordance with the plans and specifications approved by the highway authority.

Level crossings

17.—(1) Subject to paragraph (3), the level crossing specified in columns (1) and (2) of Schedule 6 (replacement and closure of level crossings) are stopped up and discontinued.

(2) Subject to paragraph (3), upon the stopping up and discontinuance of the level crossing referred to in paragraph (1), any right of way over it is extinguished.

(3) Paragraphs (1) and (2) do not take effect with respect to the level crossing specified in Schedule 6 until the new way to be substituted for it, which is specified in column (4) of that Schedule, has been constructed and completed to the reasonable satisfaction of the highway authority, such approval not to be unreasonably withheld and is open for use.

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

PART 4

Supplemental powers

Discharge of water

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

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

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

(4) Network Rail 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) Network Rail must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

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

(7) This article does not authorise the entry into inland fresh waters or coastal waters of any matter whose entry or discharge into those waters is prohibited by regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(a).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board, or a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

Authority to survey and investigate the land

19.—(1) Network Rail may for the purposes of this Order enter on any land shown within the Order limits and—

- (a) survey or investigate the land;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as Network Rail thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

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

(3) Any person entering land under this article on behalf of Network Rail—

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

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

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

but such consent must not be unreasonably withheld.

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

(a) S.I. 2010/675.

PART 5

Powers of acquisition

Compulsory acquisition of land

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

(2) This article is subject to paragraph (2) of article 22 (compulsory acquisition of rights), paragraph (8) of article 28 (temporary use of land by Network Rail).

Time limit for exercise of authority to acquire land compulsorily

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

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 24 (application of the Compulsory Purchase (Vesting Declarations) Act 1981)(a).

(2) The authority conferred by article 28 (temporary use of land by Network Rail) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents Network Rail remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights

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

(2) In the case of the Order land specified in column (1) of Part 1 of Schedule 7 (land in which only new rights etc., may be acquired) Network Rail's powers of compulsory acquisition are limited to the acquisition of such new rights or the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Part.

(3) In the case of the Order land specified in column (1) of Part 2 of Schedule 7 (land in which only new rights etc., may be acquired) National Grid may acquire compulsorily such new rights or impose such restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Part.

(4) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights)) where Network Rail or National Grid acquires a right over land or the benefit of a restrictive covenant under paragraphs (1) to (3) Network Rail or National Grid is not required to acquire a greater interest in that land.

(5) Schedule 8 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

(a) 1981 c.66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c.50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c.28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c.51). There are other amendments to the 1981 Act which are not relevant to this Order.

under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(6) In any case where the acquisition of new rights or the imposition of restrictive covenants under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker or of UKOP, Network Rail may, with the consent of the Secretary of State, transfer the power to acquire such rights or impose such covenants to the statutory undertaker in question or to UKOP.

(7) The exercise by a statutory undertaker or by UKOP of any power in accordance with a transfer under paragraph (6) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by Network Rail.

Private rights

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

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

whichever is the earliest.

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

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

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights over land owned by Network Rail which, being within the limits of land which may be acquired or used shown on the land plans, are required for the purposes of this Order are extinguished on the appropriation of the land by Network Rail for any of those purposes.

(4) Subject to the provisions of this article, all private rights over land of which Network Rail takes temporary possession under this Order are suspended and unenforceable for as long as Network Rail 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 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 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 31 (statutory undertakers) applies.

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

- (a) any notice given by Network Rail before—
 - (i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) Network Rail's appropriation of it;
 - (iii) Network Rail's entry onto it; or
 - (iv) Network Rail'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 Network Rail 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) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

24.—(1) The Compulsory Purchase (Vesting Declarations) Act 1981 applies as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied, has effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) there is substituted—

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

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there is substituted “(1)” and after “given” there is inserted “and published”.

(5) In that section, for subsections (5) and (6) there is substituted—

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

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

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

- (a) in subsection (1), after “publication” there is inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) is omitted.

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

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are construed as references to that Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

25.—(1) Network Rail may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in article 20(1) (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 Network Rail acquires any part of, or rights in, the subsoil of or the airspace over land under paragraph (1), Network Rail is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent article 26 (acquisition of part of certain properties) from applying where Network Rail acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Acquisition of part of certain properties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) If Network Rail agrees to take the land subject to the counter-notice, or if the tribunal determines that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which Network Rail is authorised to acquire compulsorily under this Order.

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

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

Rights under or over streets

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

(2) Subject to paragraph (3), Network Rail may exercise any power conferred by paragraph (1) in relation to a street without Network Rail 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) Network Rail must repair and make good at its own expense and to the reasonable satisfaction of the highway authority any damage caused to a street or to any highway apparatus, highway structure or street furniture in the street belonging to the highway authority by virtue of its occupation and appropriation of the subsoil of, or airspace over, the street under this article.

(5) Subject to paragraph (6), 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 Network Rail acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) Compensation is not payable under paragraph (3) to any person who is an undertaker to whom section 85 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 by Network Rail

28.—(1) Network Rail may, in connection with the carrying out of the authorised development—

(a) enter on and take temporary possession of—

- (i) the land specified in column (1) of Part 1 of Schedule 9 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of Part 1 of that Schedule relating to the part of the authorised development specified in column (3) of Part 1 of that Schedule;
- (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights

only) and no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981;

- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including, subject to the provisions of article 14, the provision of means of access) and buildings on that land; and
- (d) construct any works specified in relation to that land in column (2) of Part 1 of Schedule 9, or any other mitigation works.

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

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

- (a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of three years beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Part 1 of Schedule 9; or
- (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of three years beginning with the date of completion of the work for which temporary possession of this land was taken unless Network Rail has, before 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 Compulsory Purchase (Vesting Declaration) Act 1981.

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

- (a) replace a building removed under this article;
- (b) restore the land on which any works have been constructed under paragraph (1)(d) insofar as the element of works shown in column (4) of Part 1 of Schedule 9 is concerned; or
- (c) remove any ground strengthening works which have been placed in that land to facilitate construction of the authorised development.

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

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

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

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

- (a) acquiring new rights or imposing restrictive covenants over any part of that land under article 22 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 25 (acquisition of subsoil or airspace only).

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

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

Temporary use of land by National Grid

29.—(1) National Grid may, in connection with the carrying out of Work Nos. 17, 18, 19A and 19B and any associated development in connection with those works—

- (a) enter on and take temporary possession of the land specified in column (1) of Part 2 of Schedule 9 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of Part 2 of that Schedule relating to the part of the authorised development specified in column (3) of Part 2 of that Schedule;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including, subject to the provisions of article 14, the provision of means of access) and buildings on that land; and
- (d) construct any works specified in relation to that land in column (2) of Part 2 of Schedule 9.

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

(3) National Grid may not, without the agreement of the owners of the land, remain in possession of any land under this article 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 (3) of Part 2 of Schedule 9.

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

- (a) replace a building removed under this article;
- (b) remove any pipe-line constructed in that land; or
- (c) remove any ground strengthening works which have been placed in that land to facilitate construction of the authorised development.

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

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

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

(8) National Grid is not precluded from acquiring new rights or imposing restrictive covenants over any part of the land shown numbered 30, 30a, 33, 34, 37, 38, 56, 58, 59, 61, 65 and 67 on the land plans.

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

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

Temporary use of land for maintaining authorised development

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

- (a) enter upon and take temporary possession of any Order land if such possession is reasonably required for the purpose of maintaining the authorised development; and

(b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise Network Rail to take temporary possession of—

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

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

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

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

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

(6) Network Rail 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.

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

(8) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

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

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

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

Statutory undertakers

31. Subject to the provisions of Schedule 10 (protective provisions), Network Rail may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the limits of the land to be acquired or used and described in the book of reference;

(b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Apparatus and rights of statutory undertakers in stopped up streets

32.—(1) Where a street is stopped up under article 11 (stopping up of streets) or article 17 (level crossings) any statutory utility whose apparatus is under, in, on, over, 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 articles 11 or 17 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by Network Rail 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, Network Rail 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 execution of the 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 Network Rail, or, in default of agreement, is not determined by arbitration in accordance with article 44 (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 the existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of 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 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by Network Rail and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

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

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

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

Recovery of costs of new connections

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

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

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

is entitled to recover from Network Rail 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) In this paragraph—

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

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

PART 6

Operations

Operation and use of railways

34.—(1) Network Rail may operate and use the railways and any other elements of the authorised development as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Nothing in this Order, or in any enactment incorporated with or applied by this Order, will prejudice or affect the operation of Part 1 of the Railways Act 1993(b) (the provision of railway services).

Felling or lopping of trees

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

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

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

(b) 1993 c. 43.

(2) In carrying out any activity authorised by paragraph (1), Network Rail must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

PART 7

Miscellaneous and general

Operational land for purposes of the 1990 Act

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

Defence to proceedings in respect of statutory nuisance

37.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(**a**) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order 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 Network Rail for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974(**b**); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

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

Traffic regulation

38.—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, Network Rail may at any time, in the interests of safety and for the purposes of, or in connection with, the construction of the authorised development, regulate vehicular speed indefinitely or temporarily in the manner specified in Schedule 12 (traffic regulation) on the roads specified in column (1) by imposing the speed limit corresponding to those roads in column (2) to the extent described in column (3) of that Schedule.

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

(b) 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to this Order.

(2) Without limitation on the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent to the traffic authority in whose area the road concerned is situated, Network Rail may, in so far as ,may be expedient or necessary for the purposes of or in connection with construction of the authorised development, at any time prior to the opening of the authorised development for use—

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

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

(3) Network Rail must not exercise the powers of paragraphs (1) and (2) unless it has—

- (a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of Network Rail's intention in the case of sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by Network Rail under paragraph (1) or (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 of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 11 (traffic regulation) 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 to the Traffic Management Act 2004(a) (road traffic contraventions subject to civil enforcement).

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

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

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

Protections of Interests

39. Schedule 10 to this Order has effect.

Application of the Land Compensation Act 1973

40.—(1) Any regulations made by the Secretary of State under section 20 (sound proofing of buildings affected by public works) and 20A (power to make payments in respect of caravans and

(a) 2004 c. 18

other structures affected by noise of public works) of the Land Compensation Act 1973(a) which apply to a railway provided or used in the exercise of statutory powers apply to the railway comprised in the authorised development as if that railway was provided or used in the exercise of statutory powers.

(2) Section 28 (power to pay expenses) of the Land Compensation Act 1973 has effect as if any works comprised in the authorised development were public works for the purposes of that section.

Certification of plans etc.

41.—(1) Network Rail must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the book of reference;
- (b) the land plans;
- (c) the works plans;
- (d) the street plans;
- (e) the traffic regulation order plans;
- (f) the sections;
- (g) the design brief;
- (h) the design drawings; and
- (i) the environmental statement;

for certification that they are true copies of the 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

42.—(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 (6) to (8) by electronic transmission.

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

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(b) 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.

(a) 1973 c.26. Section 20 was amended by subsections (6) and (12) of section 146 of, and Schedule 13 to, the Road Traffic Regulation Act 1984 (c.27). Subsection (10) of section 20 was repealed by section 343(3) of, and Schedule 25 to, the Highway Act 1980 (c.66) and subsection (11) was repealed by section 155 of, and Schedule 25 to, the Rent Act 1977 (c.42). There are other amendments to the 1973 Act which are not relevant to this Order.

(b) 1978 c. 30.

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

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

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

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

43. 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 notice in writing to the other) by the President of the Institution of Civil Engineers.

Procedure in relation to certain approvals, etc. other than under Schedule 2

44.—(1) In this article “plans” includes sections, drawings, specifications and particulars (including descriptions of methods of construction).

(2) Where an application is made to the relevant planning authority, a highway authority, a street authority, a traffic authority or the owner of a sewer for any consent, agreement or approval required under any of the provisions of this Order such application must, where appropriate, be accompanied (if not already provided) by proper and sufficient plans of the proposal and such consent, agreement or approval must, if given, be in writing and may be given subject to such reasonable terms and conditions as the authority or owner may require and must not be unreasonably withheld.

(3) If, within 28 days after the application has been submitted to the authority or owner, it has not intimated its disapproval and the grounds of disapproval, it is deemed to have approved the application.

(4) In the event of any refusal or disapproval by the authority or owner, Network Rail may resubmit a revised application, or revised plans in support of the original application, and, in that event, if the authority or owner has not intimated its refusal or disapproval and the grounds of refusal or disapproval within 28 days of the revised application or of revised plans being submitted, it is deemed to have given its consent or agreement to, or its approval of, them.

(5) Network Rail must not carry out the proposal until such plans have been approved or are deemed to have been approved or have been settled by arbitration.

Further provision as to approvals, etc. under Schedule 2

45.—(1) Where the application is for a consent, agreement or approval required by a requirement under Schedule 2, the following provisions apply, so far as they relate to a consent agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission, as if the requirement was a condition imposed on the grant of a planning permission—

- (a) sections 78 (other than paragraph (a) of subsection (2)) and 79 of the 1990 Act (right of appeal in relation to planning decisions); and
- (b) any orders, rules or regulations which make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission.

(2) For the purposes of paragraph (1), a provision relates to a consent, agreement or approval of a local planning authority required by a condition imposed on a grant of planning permission in so far as it makes provision in relation to an application for such a consent, agreement or approval, or the grant or refusal of such an application, or a failure to give notice of a decision on such an application.

Signed by authority of the []

[Date] 201[]

[Name]
[Designation]
[Department]

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

A nationally significant infrastructure project as defined in sections 14 and 25 of the 2008 Act comprising—

In the county of Staffordshire and the Borough of Stafford

Work No. 1 — A two track railway commencing at a junction with the existing West Coast Main Line railway at Little Bridgeford Junction, crossing over the diverted River Sow by means of Underbridge 1 (which is to be widened), continuing on embankment adjacent to a culvert proposed to be infilled under the existing West Coast Main Line (Underbridge 1A), then continuing on embankment over the diverted Meece Brook (Work No. 6) by means of Underbridge 2 and then passing into deep cutting to Searchlight Lane Junction, including cess and crest drainage outfalls into the diverted River Sow from the south and north (at Underbridge 1) and the diverted Meece Brook from the north (at Underbridge 2); an attenuation pond at Underbridge 2 including outfall headwall structure and parallel overflow spillway; passing under Work No. 7 at Overbridge 3; mitigation earthworks bunds; and diversion and alteration works to two distribution electricity services; then a single track railway running in cutting, passing under Work No. 11 at Overbridge 10A, then running onto embankment and crossing the diverted Meece Brook (Work No. 13) at Underbridge 11 (including cess and crest drainage from the south and outfalls into the diverted Meece Brook via an attenuation pond including outfall headwall structure and parallel overflow spillway) then in cutting past a further attenuation pool and outfalls into Meece Brook from the north, and terminating at a junction with the West Coast Main Line adjacent to Heamies Bridge at the northern end of the works including mitigation earthwork bunds along the alignment and all associated items that comprise a railway including track, cess drainage, combined troughing and walking route, overhead line electrification (new and alteration to existing), signalling, telecommunications and cutting or embankment earthworks, maintenance access track, crest drainage (where on sidelong ground) and boundary fencing;

Work No. 8 — A two track railway commencing at a junction with Work No. 1 (Searchlight Lane junction) and terminating at the Yarnfield junction with the Norton Bridge to Stone branch railway line, initially in cutting, then on embankment, crossing the West Coast Main Line by means of Intersection Bridge 5 and the diverted Meece Brook (Work No. 15) by means of Underbridge 6, then in cutting passing under the diverted Meece Road (Work No. 12) by means of Overbridge 7, including a widening of existing Underbridge 8 the replacement of the existing foot crossing at Mid Norton (Chebsey footpath 10) with a new footbridge (FB9) including track, cess drainage, combined troughing and walking route, overhead line electrification (new and alteration to existing), signalling, telecommunications, cutting and embankment earthworks, a maintenance access track, crest drainage (where on sidelong ground) and boundary fencing; and cess drainage outfalls into the diverted Meece Brook from the east and west, via attenuation ponds including outfall headwall structure and parallel overflow spillways, adjacent to the Underbridges 6 and 6A river diversion, with access tracks to both attenuation ponds from the existing B5026; and cess drainage outfalls into the unnamed watercourse at Underbridge 8, from the east.; and mitigation earthwork bunds along the alignment;

Associated development comprising—

In the county of Staffordshire and the Borough of Stafford

Work No. 2 — The formation of a right hand turn lane on the A5013, north of Great Bridgeford, and the re-modelling of its junction with Chebsey Lane, including the diversion and protection of telecommunications cables;

Work No. 3 — The remodelling of the junction of the A5013 with Chebsey Lane, including a widening of Chebsey Lane up to the bellmouth entrance to the temporary construction compound, a passing place and the diversion and protection of telecommunications cables, followed by a reinstatement to the existing width of the widened lane and remodelled junction;

Work No. 4 — A compacted stone access track with passing places from Chebsey Lane to a fenced compound adjacent to the new railway (Work No. 1) at Little Bridgeford Junction, with parking facilities, including the diversion/protection of a water main in the area of the fenced compound;

Work No. 5 — A diversion of the River Sow and a widening of the existing West Coast Main Line bridge (Underbridge 1), including earthworks on the southern side and cutting back the existing river cliff;

Work No. 6 — A diversion of the Meece Brook to provide a perpendicular crossing of the proposed railway by means of Underbridge 2;

Work No. 7 — A diversion of Searchlight Lane with the diverted road being carried over the proposed railway cutting, including new highway drainage, passing places and the diversion of existing telecommunications and water services along the new alignment, the stopping up of the old alignment where no longer required, the provision of access to adjacent land on both sides of the diverted road to the west of Overbridge 3 including parking facilities and the provision of access to adjacent land on the south side of the diverted road to the east of Overbridge 3;

Work No. 9 — A surfaced access track commencing at a compound adjacent to the new railway (Work No. 1) at Searchlight Lane junction and terminating near the diverted B5026 (Work No. 11). The compound will include a new Distribution Network Operator power supply, welfare facilities, parking facilities and water supply, a principal supply point and relocatable equipment building;

Work No. 10 — A remodelling of the junction of Scannell Lane with the diverted B5026 (Work No. 11), including new highway drainage and diversion of an existing water main and a new field access on the east side of Scannell Lane;

Work No. 11 — A diversion of the existing B5026 passing above existing ground level, in a false cutting formed by mitigation earthworks bunds, over Work No. 1 by means of Overbridge 10A, continuing east over the existing West Coast Main Line by means of railway Overbridge 5A, then running on embankment, shared with the railway, over the diverted Meece Brook (Work No. 15) by means of Underbridge 6A, then continuing on embankment, with mitigation earthwork bunds, again forming a cutting, and terminating at a new roundabout junction with the diverted Meece Road (Work No. 12), including access to adjacent land on the north side, to the west of bridge 10A, access to adjacent land on the north side of the road to the west of the West Coast Main Line Overbridge 5A (opposite the new access road junction to Searchlight Lane Junction compound (Work No. 9) and access to adjacent land in the south verge on the approach to Meece Road, the diversion to include new highway drainage and partial diversion of existing electricity, telecommunications and water services, and a stopping up of the old alignment where no longer required;

Work No. 12 — A diversion of the existing Meece Road including Overbridge 7 carrying the new highway over the proposed cutting and new highway drainage and diversion of an existing telecommunications service along the new alignment and a stopping up of the old alignment

where no longer required. Access to adjacent land will also be provided in the western verge between Overbridge 7 and the existing Meece Road roundabout;

Work No. 13 — A diversion of the existing Meece Brook to provide a perpendicular crossing of the proposed railway (Work No. 1) at Underbridge 11 and to move the current channel away from the toe of the proposed railway embankment on the west side;

Work No. 14 — A diversion of Chebsey Footpath 11 to follow the proposed boundary on the west side of Work No 1 to include a new pedestrian bridge over Meece Brook, passing onto Network Rail property continuing along the access track for the attenuation pond; then passing onto the proposed B5026 (Work No. 11), crossing bridge 10A before leaving the highway alignment turning down the Searchlight Lane maintenance compound access road and crossing over, running along the crest of a mitigation bund and then running parallel to the West Coast Main Line Intersection Bridge 5 before tying back into the existing alignment on the existing B5026 opposite the end of Station Road;

Work No. 15 — A diversion of the existing Meece Brook to provide a perpendicular crossing of the proposed railway at Underbridges 6 and 6A;

Work No. 16 — A compacted stone access track with passing places, running from the existing layby on the B5026 to a fenced compound adjacent to the new railway (Work No 8) at Yarnfield Junction, to include a new Distribution Network Operator supply;

Work No. 17 — Diversion (approximately 610 metres in length) of high pressure gas pipe-line (Feeder No. 21), beneath the railway cutting to the south of Searchlight Lane;

Work No. 18 — Diversion (approximately 266 metres in length) of high pressure gas pipe-line (Feeder No. 21), parallel to the railway cutting to the north of Searchlight Lane;

Work No. 19A — Diversion (approximately 488 metres in length) of high pressure gas pipeline (Feeder No. 4) by horizontal directional drilling beneath the railway in cutting in the vicinity of Searchlight Lane Junction;

Work No. 19B — Diversion (approximately 426 metres in length) of high pressure gas pipeline (Feeder No.4) by opencut or microtunnelling beneath the railway in cutting in the vicinity of Searchlight Lane junction;

Work No. 20 — Diversion (approximately 680 metres in length) of fuel pipe-line beneath the railway in cutting in the vicinity of Searchlight Lane junction,

and such further associated development within Order limits as may be necessary or expedient for the purposes of or in connection with the construction of those works or any of them consisting of—

- (a) demolition, site clearance, devegetation, remediation, the erection of contractors' works compounds, the erection of site offices and the erection of fencing to site boundaries;
- (b) electrical equipment and signalling works;
- (c) ramps, means of access, footpaths and bridleways;
- (d) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, wing walls, fencing and culverts;
- (e) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (f) works to alter the course of, or that otherwise interfere with, a watercourse other than a navigable watercourse;
- (g) landscaping and habitat replacement (including replacement bat accommodation) 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) works required for the strengthening, improvement, maintenance, or reconstruction of any streets and the grubbing up of any former street;

- (j) working sites and works of demolition; and
- (k) such other work as may be necessary or expedient for the purposes of or in connection with the construction of those works and which falls within the scope of the environmental impact assessment recorded in the Environmental Statement.

SCHEDULE 2

Article 4

REQUIREMENTS

Interpretation

1. In this Schedule—

“CEMP” means the Construction Environmental Management Plan to be submitted to and approved by the relevant planning authority, a draft of which is included in Appendix 6, Volume 2 (Folder 2) of the Environmental Statement; and

“Staffordshire Alliance” means the alliance formed by Network Rail with its contractors to progress and implement the works authorised by this Order.

In accordance with approved details

2. The authorised development must be carried out in accordance with the design drawings unless otherwise approved in writing by the relevant planning authority.

Construction Environmental Management Plan

3.—(1) The authorised development must not be commenced until the following aspects of the CEMP have been submitted to and approved by the relevant planning authority.

(2) The CEMP must incorporate the findings and recommendations of the Environmental Statement and the design brief.

(3) The authorised development must be carried out in accordance with the CEMP.

(4) The CEMP must incorporate the following plans and programmes—

(a) External Communications Management Plan—

- (i) External communications programme
- (ii) External complaints procedure;

(b) Pollution Incident Prevention and Control Plan—

- (i) Identification of potential pollution source, pathway and receptors;
- (ii) Control measures to prevent pollution release to water, ground, and air (including detail of the surface/ground water management plan);
- (iii) Control measures for encountering potential contaminated land;
- (iv) Monitoring regime;
- (v) Emergency environmental incident response plan;
- (vi) Incident investigation and reporting;
- (vii) Review/change management and stakeholder consultation;

- (c) Site Waste Management Plan (SWMP)—
 - (i) Management of excavated material and other waste arising;
 - (ii) Waste minimisation;
 - (iii) Material re-use;
- (d) Materials Management Plan (MMP)—
 - (i) Material classification;
 - (ii) On site re-use criteria and measures;
 - (iii) Hazardous waste management;
 - (iv) Disposal measures;
- (e) Traffic Management Plan—
 - (i) Roles and responsibilities;
 - (ii) Permitted and banned construction traffic routes and the mechanisms to be put in place by Network Rail and its contractors to enforce their compliance;
 - (iii) Procedures for working on the highway;
 - (iv) Road signage plans;
 - (v) Monitoring and reporting measures;
 - (vi) Access strategy and traffic management at the access off the roadside lay-by (off the B5026 between the roundabout and Stone);
 - (vii) The interfaces between the haul road and public highway (the crossing points at Searchlight Lane and the B5026);
- (f) Travel Plan—
 - (i) Measures to manage contractor travel to the site compounds such as on-site or remote car parking management, car sharing, works shuttle bus etc;
 - (ii) Mechanisms for reviewing and monitoring;
- (g) Nuisance Management Plan (Noise Vibration, Dust, Air Pollution and Lighting)—
 - (i) Roles and responsibilities;
 - (ii) Specific risk assessment – identification of sensitive receptors and predicted impacts;
 - (iii) Standards and codes of practice;
 - (iv) Specific control and mitigation measures;
 - (v) Details of any section 61 consent;
 - (vi) Monitoring regime – dust and noise;
 - (vii) Review/change management and stakeholder consultation;
 - (viii) Notification of working hours;
- (h) Landscape and Ecology Management Plan (LEMP)—
 - (i) Roles and responsibilities;
 - (ii) Protection controls for retained landscape features, habitats and species;
 - (iii) Controls for protection of Doxey and Tillington Marshes SSSI;
 - (iv) Detailed mitigation for Meece Brook and Yelds Rough SBI;
 - (v) Detailed plans and specifications for ecological and landscape mitigation;
 - (vi) 5 year establishment, maintenance and monitoring plans for planting, ecology and geomorphology;
 - (vii) Aftercare and maintenance plans for habitats on Network Rail land (post 5 years);
 - (viii) Aftercare and maintenance guidelines for habitats on SCC Highways land (post 5 years);

- (ix) Aftercare and maintenance guidelines for habitats on other land (post 5 years);
- (x) Habitat and protected species monitoring plans (to include scope, methods and reporting mechanism);
- (xi) Bat roost replacement plans;
- (xii) Soil Management Plan interface strategy;
- (xiii) Change control, review and consultation processes;
- (xiv) Tree survey validation and tree protection plan in accordance with BS 5837: 2012 (Trees in relation to design, demolition and construction);
- (i) Archaeological management plan—
 - (i) Roles and responsibilities;
 - (ii) Review/change management and stakeholder consultation protocols;
 - (iii) Procedures for dealing with unexpected significant archaeological discoveries;
 - (iv) Programme of archaeological mitigation;
 - (v) Post excavation reporting and archiving;
- (j) Soil Management Plan—
 - (i) Soil resource survey;
 - (ii) Soil resource plan – including protection of in situ soils, handling and storage codes of practice;
 - (iii) On site re-use criteria and measures;
 - (iv) Hazardous waste management;
 - (v) Strategy for interface with LEMP.
- (5) The CEMP must require—
 - (a) adherence to the relevant Environment Agency Pollution Prevention Guidelines PPG1, PPG5, PPG6, PPG21 and PPG22; and
 - (b) adherence to working hours of 7am to 7pm on Mondays to Fridays and 7am to 1pm on Saturdays save that:
 - (i) work on or adjacent to the operational railway may be carried out at other times if it would otherwise interfere with the operation of the railway; and
 - (ii) work may be carried out on Sundays, Bank Holidays and Public Holidays and after 1pm on Saturdays after prior notification to the relevant planning authority and affected residents in accordance with an agreed notification procedure.

Landscaping and habitat replacement

4.—(1) No authorised development may commence in any geographic area, those areas to be identified on a plan previously submitted to the relevant planning authority, unless and until a written landscaping and habitat replacement scheme for that area has been submitted to and approved by the relevant planning authority.

- (2) The submitted scheme must incorporate—
- (a) the mitigation measures described in section 8 (Mitigation) of Technical Appendix Report 8 (Landscape and Visual Technical Report) to Volume 3 of the Environmental Statement and in the design brief; and
 - (b) details of—
 - (i) location, number, species, size, planting density and planting method and protection of any proposed planting;
 - (ii) cultivation, other amelioration where appropriate, importing of materials and other operations to ensure plant establishment;
 - (iii) implementation timetables for all landscaping and habitat replacement;

- (iv) temporary fencing that complies with best practice to protect trees and hedgerows adjacent to the works; and
- (v) a 5 year aftercare programme including weed control and pruning, if required, to promote establishment and timely rectification of defects.

Implementation and maintenance of landscaping and habitat replacement

5.—(1) All landscaping and habitat replacement work must be carried out in accordance with the scheme and implementation timetable approved under requirement 4.

(2) Any tree or shrub or other habitat replacement planted as part of an approved landscaping and habitat replacement scheme or ecological management plan that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, or has failed to become established, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

Highways works

6. Prior to and during the carrying out of any highway work and during any defects period applicable to that work, Network Rail must afford the highway authority the opportunity to inspect, monitor, survey, and comment upon the carrying out of the work and the remedying of any defects resulting from the work and to approve the standard to which such work (including the remedying of any defects) is carried out, by—

- (a) using the quality processes of the Staffordshire Alliance, as agreed from time to time by Network Rail, including inspection and test plans for all elements of the works under which the highway authority will be an inspection authority;
- (b) providing shared working facilities, including access to welfare and office facilities, for the highway authority at the Chebsey Lane works compound and the B5026/Meece Road works compound;
- (c) giving the highway authority access to the documents in the Staffordshire Alliance's electronic document management system that relate to the highway works authorised by this Order; and
- (d) allowing the highway authority such access to any highway work as it may reasonably require.

7. Network Rail must have carried out stage 2, 3 and 4 road safety audits of the highway works authorised by this Order in accordance with the Standard HD 19/03 of the Department for Transport's Design Manual for Roads and Bridges or in accordance with any standard that supersedes that Standard and must remedy to the reasonable satisfaction of the highway authority any defects identified in any such road safety audits.

Alteration, reconstruction or replacement of buildings

8. No alteration, reconstruction or replacement of a building or bridge is to be carried out under article 5 (maintenance of authorised development) except in accordance with plans and specifications approved by the relevant planning authority.

Amendments to approved details

9. With respect to any requirement which requires the authorised development to be carried out in accordance with details approved by the relevant planning authority, the approved details are taken to include any amendments that may subsequently be approved in writing by the relevant planning authority.

SCHEDULE 3

Article 8

STREETS SUBJECT TO ALTERATION OF LAYOUT

In the County of Staffordshire and the Borough of Stafford

<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
B5026	Construction of turning head where B5026 is to be stopped up at point W on the street plans
Station Road/B5026	Change in road markings/right of way designation between points X and Y on the street plans

SCHEDULE 4

Article 9

STREETS SUBJECT TO STREET WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to street works</i>
County of Staffordshire, Borough of Stafford	Eccleshall Road A5013 Chebsey Lane Worston Lane Searchlight Lane Station Road Scannell Lane Stone Road B5026 Eccleshall Road B5026 Meece Road

SCHEDULE 5

Article 11

STREETS TO BE STOPPED UP

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
County of Staffordshire, Borough of Stafford	B5026 (Stone Road)	Stopping up of highway between points R and S and V and W	Provision of new highway between points M and Q
County of Staffordshire, Borough of Stafford	Searchlight Lane	Stopping up of Searchlight Lane between points H and K	Provision of new access over highway between points H and L
County of Staffordshire, Borough of Stafford	Meece Road	Stopping up of Meece Road between points AA and Z and BA and CA	Provision of new access over highway between points AA and EA
County of Staffordshire, Borough of Stafford	Footpath 11	Stopping up of Chebsey Footpath 11 between points 1 and 8	New footpath to be created between points 1 and 8 via points 9A to 22
County of Staffordshire, Borough of Stafford	Footpath 10	Stopping up of Chebsey Footpath 10 between points 26, 27, 28 and 29	New footpath to be created between points 26 to 29 via point 30, then over new footbridge and then via point 31

SCHEDULE 6

Article 17

REPLACEMENT AND CLOSURE OF LEVEL CROSSINGS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Level crossing to be discontinued</i>	<i>(3)</i> <i>Street to be stopped up</i>	<i>(4)</i> <i>New street to be substituted</i>
County of Staffordshire, Borough of Stafford	Footpath 10 across the Stone railway line at Mid Norton	Between points 27 and 28 on the street plans	A new footbridge 15 metres from existing level crossing

SCHEDULE 7

Article 22

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

PART 1

NETWORK RAIL

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights may be acquired</i>
11a, 29a, 30a, 42, 52a, 55, 130a, 141, 156a, 170, 174, 175, 178a and 211	Vehicular access
210a and 212	Vehicular access and power supply

PART 2

NATIONAL GRID

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights may be acquired</i>
30, 30a, 33, 34, 37, 38, 56, 58, 59, 61, 65, 67 and 71	Construction and maintenance of pipe-line

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

Compensation enactments

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

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

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

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

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

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

Application of the 1965 Act

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

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

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

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

(a) 1973 c.26.

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

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

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

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

the Network Rail (Norton Bridge Area Improvements) Order 201[](a) (“the Order”), in relation to that person, ceases to authorise the purchase of the right and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

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

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

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

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) 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);

(a) S.I. 201[X].

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

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

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) 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.

9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 9

Article 28

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

PART 1

NETWORK RAIL

In the County of Staffordshire and the Borough of Stafford

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>	<i>(4)</i> <i>Element of Work in respect of which land is not required to be re-instated</i>
1	A5013 signage Access to works	Work No.2 Work Nos. 17, 18, 19A and 19B	
2	A5013 improvement Access to works	Work No.2 Work Nos. 17, 18, 19A and 19B	
4	Storage and overspill parking	Work Nos. 2 and 3	
5	Road widening	Work No.3	
6	Access to works	Work No.3	
7	Vehicle passing place Access to works	Work No.3 Work Nos. 17, 18, 19A and 19B	
8	Works compound Access to works	Work Nos. 3 and 4 Work Nos. 17, 18, 19A and 19B	
9	For West Coast Main Line connection	Work No.1	
11a	Part of compound Access to works	Work No.4 Work Nos. 17, 18, 19A and 19B	Access for maintenance vehicles
12, 14, 21	River diversion	Work No.5	Diverted river and earthworks
13	Works compound Access to works	Work Nos. 4 and 5 Work Nos. 17, 18, 19A and 19B	
15	Access to works	Work Nos. 3 and 4	
16	Part of compound	Work Nos. 1 and 3	
19	Access to works Access to works	Work No.1 Work Nos. 17, 18, 19A and 19B	
20	Part of compound	Work Nos. 1 and 3	
22, 47	Access to works	Work No.1	
24, 28	River diversion	Work No.6	Diverted river and earthworks

<i>(1) Number of land shown on land plans</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
29	Access to works	Work Nos. 1 and 6	
29a	Access to works	Work No.1	Access track
30	Access to works Access to works	Work No.1 Work Nos. 17, 18, 19A and 19B	
30a	Access to works	Work Nos. 1, 17, 18, 19A and 19B	Access track and backfill of marl pit to support access track
33, 34, 38	Construction and maintenance of pipe-line	Work No.17	Pipe-line
34a, 36	Tree planting	Work No.1	Replacement woodland
35	Working area for tree planting	Work No.1	
37a	Works compound Access to works	Work No. 1 Work Nos. 17, 18, 19A and 19B	
40	Access to works	Work No.1	Access track and fencing
42	Access to works Access to works	Work No.1 Work Nos. 17, 18, 19A and 19B	Access track
43, 51	Road works	Work No.7	Roadway
52	Road works Access to works	Work No.7 Work Nos. 17, 18, 19A and 19B	
52a	Access to works	Work Nos.17, 18, 19A and 19B	Access track
53, 55	Access to works Access to works	Work No.7 Work Nos. 17, 18, 19A and 19B	
56	Works compound and construction of pipe-line	Work Nos. 1, 18, 19A and 19B	Pipe-line and access road
57	Grub up highway	Work No.7	Removal of road surface
59	Access to works	Work Nos. 1, 18, 19A and 19B	Pipe-line
61, 65, 67	Construction of pipe-line	Work Nos. 19A and 19B	Pipe-line
62, 63	Access to Works	Work No.1	
64	Environmental mitigation	Work No.1	Replacement newt habitat
71	Access to works	Work No.19A	
72, 73, 82, 82a, 84	Access to works	Work No.20	
77	Access to works	Work Nos. 1, 19A and 19B	

<i>(1) Number of land shown on land plans</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
78, 83, 103, 107, 107a, 108	Earthworks	Work No.1	Earthworks and landscaping
85, 91, 92	Earthworks	Work Nos. 1 and 8	Earthworks and landscaping
94, 116, 121, 122	Works compound	Work Nos. 1, 8 and 9	Earthworks and landscaping
97, 99, 176, 201	Access to works	Work No.8	
98	Earthworks	Work No.1	Earthworks, landscaping and replacement bat accommodation
102	Drainage works	Work No.1	Drainage
105, 105a	Junction remodelling	Work No.10	Roadway
110	Remodel B5026	Work No.8	Roadway and turning head
114, 120	Grub up highway	Work Nos. 1 and 8	Removal of road surface
115	Works compound	Work Nos. 1, 8 and 9	
127	Grub up highway	Work No.11	Removal of road surface
128	Roadworks	Work No.11	Roadway
130a, 141	Access to works	Work No.1	Access track
131, 132	Works compound	Work No.1	Earthworks and landscaping
133, 136	Access to works	Work Nos. 1 and 13	
134	Mitigation work and river diversion	Work Nos. 1 and 13	Fen and swamp habitat replacement and diverted river
140, 142	Access to works	Work No.1	
143	Access to works	Work Nos. 1, 13 and 14	
144, 145	Working area for earthworks	Work Nos. 8 and 11	
149	Remodel Station Road junction	Work No.8	Roadway
151	Road works	Work Nos. 8 and 11	
152	Works to utilities	Work Nos. 8 and 11	Landscaping
153, 154	Access to compounds and works	Work No.8	
155	Works compound	Work No.8	Landscaping

<i>(1) Number of land shown on land plans</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
156a	Access to works	Work No.8	Access track
162, 163	Access to works	Work Nos. 11 and 15	Habitat creation
164	Access to works and river diversion	Work Nos. 11 and 15	Diverted river and habitat creation
170, 171	Access to works	Work Nos. 8 and 15	Access
172, 173	Access to works	Work Nos. 8 and 15	
174, 175, 178a	Access to works	Work No.8	Access track
177	Works compound and formation of access	Work Nos. 8 and 11	Earthworks landscaping, access and access track
179	Access to works	Work Nos. 8, 11 and 15	
180, 182	Earthworks	Work Nos. 8 and 11	Earthworks and landscaping
181	Works to utilities	Work Nos. 8 and 11	
184, 193, 194, 195	Road works	Work No.12	Roadway
186	Works compound	Work No.12	
187	Grub up highway	Work No.12	Removal of road surface
189	Earthworks	Work Nos. 8, 11 and 12	Earthworks and landscaping
192, 196, 199	Earthworks	Work No.12	Earthworks and landscaping
198	Access to severed land	Work No.12	Access to severed land
203	Fencing	Work Nos. 8 and 12	
204, 206, 208	Access to works	Work No.8	
209	Access to works	Work No.16	
210a, 212	Access to works and installation of power supply	Work No.16	Power cables
211	Access to works	Work No.16	Access track

PART 2
NATIONAL GRID

In the County of Staffordshire and the Borough of Stafford

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
1, 2, 3, 5, 7, 8, 11, 11a, 13, 19, 30, 30a, 37a, 42, 49, 50, 54, 55	Worksites and access to works	Work Nos. 17, 18, 19A and 19B
33, 34, 37, 38	Construction and maintenance of pipe-line	Work No.17
34a (part)	Construction of pipe-line	Work No.17
52, 52a	Worksites and access to works	Work Nos. 17, 18, 19A and 19B
56	Construction of pipe-line	Work Nos. 18, 19A and 19B
57	Worksites and access to works	Work Nos. 18, 19A and 19B
58, 59, 65, 67	Construction of pipe-line	Work Nos. 19A and 19B
61, 66, 77	Worksites and access to works	Work Nos. 19A and 19B
71	Construction of pipe-line	Work No.19A
76, 80, 87, 90, 96	Worksites and access to works	Work Nos. 18, 19A and 19B

PROTECTIVE PROVISIONS

PART 1

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE
UNDERTAKERS

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

2. In this Part of this Schedule—

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

“apparatus” means—

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

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

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

“undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(c);
- (c) a water undertaker within the meaning of the Water Industry Act 1991;
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991; and

(a) 1989 c.29.

(b) 1991 c.56.

(c) 1986 c.44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c.27).

(e) UKOP,

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

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

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

5.—(1) If, in the exercise of the powers conferred by this Order, Network Rail acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of an 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 undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, Network Rail requires the removal of any apparatus placed in that land, it must give to the undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) Network Rail must, subject to sub-paragraph (3), afford to the undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of Network Rail 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 Network Rail, or Network Rail 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 undertaker in question must, on receipt of a written notice to that effect from Network Rail, 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 Network Rail under this Part of this Schedule is to be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and Network Rail or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(5) The undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 42, and after the grant to the 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 Network Rail to be removed under the provisions of this Part of this Schedule.

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

(7) Nothing in sub-paragraph (6) authorises Network Rail 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.

6.—(1) Where, in accordance with the provisions of this Part of this Schedule, Network Rail affords to an undertaker facilities and rights for the construction and maintenance in land of Network Rail 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 Network

Rail and the undertaker in question or in default of agreement settled by arbitration in accordance with article 42 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along any railway of Network Rail, the arbitrator must—

- (a) give effect to all reasonable requirements of Network Rail for ensuring the safety and efficient operation of the railway and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of Network Rail or the traffic on the railway; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the railway for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by Network Rail 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 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 Network Rail to that undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

7.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by Network Rail under paragraph 5(2), Network Rail must submit to the undertaker in question a plan, section and description of the works to be executed.

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

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

(4) If an undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by Network Rail, reasonably requires the removal of any apparatus and gives written notice to Network Rail of that requirement, paragraphs 1 to 6 apply as if the removal of the apparatus had been required by Network Rail under paragraph 5(2).

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

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

8.—(1) Subject to the following provisions of this paragraph, Network Rail must repay to an undertaker the reasonable expenses incurred by that undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus (including costs or compensation payable in connection with the acquisition of land for that purpose) which may be required in consequence of the execution of any such works as are referred to in paragraph 5(2).

(2) The value of any apparatus removed under the provisions of this Part of the Schedule is to 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,

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 Network Rail or, in default of agreement, is not determined by arbitration in accordance with article 42 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

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

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

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) 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 undertaker 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.

9.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of an undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any undertaker, Network Rail must—

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

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

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

(3) An undertaker must give Network Rail reasonable notice of any such claim or demand and no settlement or compromise may be made without the consent of Network Rail which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

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

PART 2

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

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

(2) In this Part of this Schedule—

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

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

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act^(a);

“electronic communications code network” means—

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

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

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

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

2. The exercise of the powers of article 31 (statutory undertakers) are subject to paragraph 23 of Schedule 2 to the Telecommunications Act 1984^(b).

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

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

(b) there is any interruption in the supply of the service provided by an operator, Network Rail must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must—

(i) make reasonable compensation to an operator for loss sustained by it; and

(ii) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on Network Rail 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 Network Rail reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand must be made without the consent of Network Rail which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(a) See section 106.

(b) 1984 c.12.

(4) Any difference arising between Network Rail and the operator under this paragraph must be referred to and settled by arbitration under article 42 (arbitration).

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

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

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

SCHEDULE 11

Article 2

PLANS AND DRAWINGS

PART 1

DESIGN DRAWINGS

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Design Drawings [Regulation 5(2)(o)] Key Plan	124130-EMF-DRG-ATK-910001	A01
Design Drawings [Regulation 5(2)(o)] Works Overview Sheet 1 of 4	124130-EMF-DRG-ATK-910002	A02
Design Drawings [Regulation 5(2)(o)] Works Overview Sheet 2 of 4	124130-EMF-DRG-ATK-910003	A02
Design Drawings [Regulation 5(2)(o)] Works Overview Sheet 3 of 4	124130-EMF-DRG-ATK-910004	A03
Design Drawings [Regulation 5(2)(o)] Works Overview Sheet 4 of 4	124130-EMF-DRG-ATK-910005	A02
Design Drawings [Regulation 5(2)(o)] Track Longitudinal Sections Down Slow	124130-EMF-DRG-ATK-910006	A01
Design Drawings [Regulation 5(2)(o)] Track Longitudinal Section Up Norton Bridge	124130-EMF-DRG-ATK-910007	A01
Design Drawings [Regulation 5(2)(o)] Highways Longitudinal Sections	124130-EMF-DRG-ATK-910008	A01
Design Drawings [Regulation 5(2)(o)] Highways Longitudinal Sections	124130-EMF-DRG-ATK-910014	A01
Design Drawings [Regulation 5(2)(o)] Footpath Longitudinal Sections	124130-EMF-DRG-ATK-910009	A02
Design Drawings [Regulation 5(2)(o)] Typical Earthworks Cross Sections Sheet 1 of 4	124130-EMF-DRG-ATK-910010	A01
Design Drawings [Regulation 5(2)(o)] Typical Earthworks Cross Sections Sheet 2 of 4	124130-EMF-DRG-ATK-910011	A01
Design Drawings [Regulation 5(2)(o)] Typical Earthworks Cross Sections Sheet 3 of 4	124130-EMF-DRG-ATK-910012	A01
Design Drawings [Regulation 5(2)(o)] Typical Earthworks Cross Sections Sheet 4 of 4	124130-EMF-DRG-ATK-910013	A01
Design Drawings [Regulation 5(2)(o)] Underbridge 1 – LEC4 / 13 Widening Plans and Elevations	124130-EMF-DRG-ATK-910015	A02
Design Drawings [Regulation 5(2)(o)] Underbridge 1A Plans and Elevations	124130-EMF-DRG-ATK-910016	A01
Design Drawings [Regulation 5(2)(o)] Underbridge 2 – Meece Brook South Plans and Elevations	124130-EMF-DRG-ATK-910017	A02

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Design Drawings [Regulation 5(2)(o)] Overbridge 3 – Searchlight Lane Plans and Elevations	124130-EMF-DRG-ATK-910018	A02
Design Drawings [Regulation 5(2)(o)] Intersection Bridge 5, WCML Plans and Elevations	124130-EMF-DRG-ATK-910020	A02
Design Drawings [Regulation 5(2)(o)] Overbridge 5A – WCML / B5026 Plans and Elevations	124130-EMF-DRG-ATK-910021	A02
Design Drawings [Regulation 5(2)(o)] Underbridges 6 & 6A – Meece Brook North Plan	124130-EMF-DRG-ATK-910022	A02
Design Drawings [Regulation 5(2)(o)] Underbridges 6 & 6A – Meece Brook North Sections and Elevations	124130-EMF-DRG-ATK-910023	A02
Design Drawings [Regulation 5(2)(o)] Overbridge 7 – Meece Road Plans and Elevations	124130-EMF-DRG-ATK-910024	A02
Design Drawings [Regulation 5(2)(o)] Underbridge 8 – NBS/9 Widening Plans and Elevations	124130-EMF-DRG-ATK-910025	A01
Design Drawings [Regulation 5(2)(o)] Footbridge 9 – Mid Norton Plans and Elevations	124130-EMF-DRG-ATK-910026	A01
Design Drawings [Regulation 5(2)(o)] Overbridge 10A – B5026 West Plans and Elevations	124130-EMF-DRG-ATK-910027	A02
Design Drawings [Regulation 5(2)(o)] Underbridge 11 – Meece Brook West Plans and Elevations	124130-EMF-DRG-ATK-910028	A02
Design Drawings [Regulation 5(2)(o)] Earthworks Cross Sections Sheet 1 of 5	124130-EMF-DRG-ATK-910115	A01
Design Drawings [Regulation 5(2)(o)] Earthworks Cross Sections Sheet 2 of 5	124130-EMF-DRG-ATK-910116	A01
Design Drawings [Regulation 5(2)(o)] Earthworks Cross Sections Sheet 3 of 5	124130-EMF-DRG-ATK-910117	A01
Design Drawings [Regulation 5(2)(o)] Earthworks Cross Sections Sheet 4 of 5	124130-EMF-DRG-ATK-910118	A01
Design Drawings [Regulation 5(2)(o)] Earthworks Cross Sections Sheet 5 of 5	124130-EMF-DRG-ATK-910119	A01
Highway Diversion and Maintenance Access Key Plan	124130-ECV-DRG-ATK-038101	B03
B5026 Diversion Plan and Longsection Sheet 1 of 8	124130-ECV-DRG-ATK-038311	B03
B5026 Diversion Plan Sheet 2 of 8	124130-ECV-DRG-ATK-038312	B03
B5026 Diversion Plan Sheet 3 of 8	124130-ECV-DRG-ATK-038313	B03
B5026 Long Section Sheet 4 of 8	124130-ECV-DRG-ATK-038314	B03

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
B5026 Diversion Plan and Long Section Sheet 5 of 8	124130-ECV-DRG-ATK-038315	B03
B5026 Diversion Plan and Long Section Sheet 6 of 8	124130-ECV-DRG-ATK-038316	B03
B5026 Diversion Plan and Long Section Sheet 7 of 8	124130-ECV-DRG-ATK-038317	B03
B5026 Diversion Plan and Long Section Sheet 8 of 8	124130-ECV-DRG-ATK-038318	B04
Searchlight Lane Diversion Plan and Long Section Sheet 1 of 2	124130-ECV-DRG-ATK-038319	B04
Searchlight Lane Diversion Plan and Long Section Sheet 2 of 2	124130-ECV-DRG-ATK-038320	B04
Searchlight Lane Junction Maintenance Compound General Arrangement	124130-ECV-DRG-ATK-038386	B03
Yarnfield Junction Maintenance Compound General Arrangement	124130-ECV-DRG-ATK-038387	B03
Little Bridgeford Maintenance Compound General Arrangement	124130-ECV-DRG-ATK-038388	B03
Highway Standard Details	124130-ECV-DRG-ATK-038001	B03
B5026 Diversion Fencing and Road Restraint Systems	124130-ECV-DRG-ATK-038341	B03
B5026 Diversion Fencing and Road Restraint Systems	124130-ECV-DRG-ATK-038342	B03
B5026 Diversion Fencing and Road Restraint Systems	124130-ECV-DRG-ATK-038343	B03
B5026 Diversion Fencing and Road Restraint Systems	124130-ECV-DRG-ATK-038344	B03
Searchlight Lane Fencing and Road Restraint Systems	124130-ECV-DRG-ATK-038345	B04
B5026 Diversion Pavement, Footways and Paved Areas Sheet 1 of 4	124130-ECV-DRG-ATK-038351	B03
B5026 Diversion Pavement, Footways and Paved Areas Sheet 2 of 4	124130-ECV-DRG-ATK-038352	B03
B5026 Diversion Pavement, Footways and Paved Areas Sheet 3 of 4	124130-ECV-DRG-ATK-038353	B03
B5026 Diversion Pavement, Footways and Paved Areas Sheet 4 of 4	124130-ECV-DRG-ATK-038354	B03
Searchlight Lane Diversion Pavement, Footways and Paved Areas	124130-ECV-DRG-ATK-038355	B04
B5026 Diversion Kerbs Sheet 1 of 4	124130-ECV-DRG-ATK-038361	B03
B5026 Diversion Kerbs Sheet 2 of 4	124130-ECV-DRG-ATK-038362	B03
B5026 Diversion Kerbs Sheet 3 of 4	124130-ECV-DRG-ATK-038363	B03
B5026 Diversion Kerbs Sheet 4 of 4	124130-ECV-DRG-ATK-038364	B03
Searchlight Lane Kerbs	124130-ECV-DRG-ATK-038365	B04
B5026 Diversion Traffic Signs & Road Markings	124130-ECV-DRG-ATK-038371	B03

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
B5026 Diversion Traffic Signs & Road Markings	124130-ECV-DRG-ATK-038372	B03
B5026 Diversion Traffic Signs & Road Markings	124130-ECV-DRG-ATK-038373	B03
Searchlight Lane Traffic Signs & Road Markings	124130-ECV-DRG-ATK-038375	B04
B5026 Diversion Traffic Signs Details	124130-ECV-DRG-ATK-038003	B03
B5026 Diversion Traffic Signs Details	124130-ECV-DRG-ATK-038004	B03
B5026 Diversion Traffic Signs Details	124130-ECV-DRG-ATK-038005	B03
B5026 Diversion Traffic Signs Details	124130-ECV-DRG-ATK-038006	B03
B5026 Diversion Traffic Signs Details	124130-ECV-DRG-ATK-038007	B03
B5026 Diversion Proposed Street Lighting Layout	124130-ECV-DRG-ATK-038381	B03
B5026 Diversion Proposed Street Lighting Wiring Diagram	124130-ECV-DRG-ATK-038382	B03
Scannell Lane Sections	124130-ECV-DRG-ATK-038395	B03
Drainage Key Plan	124130-ECV-DRG-ATK-020100	B03
Drainage Network Layout Sheet 1 of 2	124130-ECV-DRG-ATK-020150	B03
Drainage Network Layout Sheet 2 of 2	124130-ECV-DRG-ATK-020151	B03
B5026 Diversion Drainage Sheet 1 of 4	124130-ECV-DRG-ATK-028311	B03
B5026 Diversion Drainage Sheet 2 of 4	124130-ECV-DRG-ATK-028312	B03
B5026 Diversion Drainage Sheet 3 of 4	124130-ECV-DRG-ATK-028313	B03
B5026 Diversion Drainage Sheet 4 of 4	124130-ECV-DRG-ATK-028314	B03
Searchlight Lane Drainage	124130-ECV-DRG-ATK-028315	B04
Chebsey Lane General Arrangement (Temporary Situation)	NBSAIP-ASA-DRG-EHW-035310	B01
Chebsey Lane Fencing, Pavement & Kerbs (Temporary Situation)	NBSAIP-ASA-DRG-EHW-035311	B01
Chebsey Lane Lighting (Temporary Situation)	NBSAIP-ASA-DRG-EHW-035312	B01
Chebsey Lane Drainage	NBSAIP-ASA-DRG-EHW-035313	B01
Chebsey Lane Traffic Signs, Road Markings & Signals (Temporary Situation)	NBSAIP-ASA-DRG-EHW-035314	B01
Chebsey Lane Extent of Temporary 40 mph Speed Limit (TRO)	NBSAIP-ASA-DRG-EHW-035315	B01
Chebsey Lane General Arrangement (Permanent Situation)	NBSAIP-ASA-DRG-EHW-035320	B01
Chebsey Lane Pavement And Kerbing (Permanent Situation)	NBSAIP-ASA-DRG-EHW-035321	B01
Chebsey Lane Traffic Signs, Road Markings & Signals (Permanent Situation)	NBSAIP-ASA-DRG-EHW-035323	B01
Chebsey Lane Traffic Signals Layout (Temporary Situation)	NBSAIP-ASA-DRG-EHW-035354	B01
Chebsey Lane Traffic Signals Ducting Layout (Temporary Situation)	NBSAIP-ASA-DRG-EHW-035355	B01

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
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Lighting and Electrical Standard Details Sheet 2 of 2 (Chesbey Lane / A5013 Eccleshall Road Junction)	124130-ECV-DRG-ATK-038394	B03

PART 2
LAND PLANS

<i>Drawing Title</i>	<i>Reference</i>
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Key Plan	30 August 2013 (Revision B)
Sheet 1	29 November 2012
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Sheet 3	29 November 2012
Sheet 4	29 November 2012
Sheet 5	29 November 2012
Sheet 6	29 November 2012
Sheet 7	30 August 2013 (Revision C)
Sheet 8	29 November 2012
Sheet 9	29 November 2012
Sheet 10	29 November 2012
Sheet 11	29 November 2012
Land Affected Plans	
Key Plan	124130-EMF-DRG-ATK-910125 (Rev: A02) (20 September 2013)
Sheet 1	124130-EMF-DRG-ATK-910126 (Rev: A01) (23 November 2012)
Sheet 2	124130-EMF-DRG-ATK-910127 (Rev: A02) (20 September 2013)
Sheet 3	124130-EMF-DRG-ATK-910128 (Rev: A02) (20 September 2013)
Sheet 4	124130-EMF-DRG-ATK-910129 (Rev: A01) (23 November 2012)

PART 3
STREET PLANS

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Street Plans [Regulation 5(2)(k)] Key Plan	124130-EMF-DRG-ATK-910045	A01
Street Plans [Regulation 5(2)(k)] Sheet 1 of 4	124130-EMF-DRG-ATK-910046	A01
Street Plans [Regulation 5(2)(k)] Sheet 2 of 4	124130-EMF-DRG-ATK-910047	A01
Street Plans [Regulation 5(2)(k)] Sheet 3 of 4	124130-EMF-DRG-ATK-910048	A02
Street Plans [Regulation 5(2)(k)] Sheet 4 of 4	124130-EMF-DRG-ATK-910049	A01

PART 4
WORKS PLANS

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Works Plans [Regulation 5(2)(j)] Key Plan 1:10000	124130-EMF-DRG-ATK-910030	A01
Works Plans [Regulation 5(2)(j)] 1:2500 Plan Sheet 1 of 4	124130-EMF-DRG-ATK-910031	A01
Works Plans [Regulation 5(2)(j)] 1:2500 Plan Sheet 2 of 4	124130-EMF-DRG-ATK-910032	A01
Works Plans [Regulation 5(2)(j)] 1:2500 Plan Sheet 3 of 4	124130-EMF-DRG-ATK-910033	A02
Works Plans [Regulation 5(2)(j)] 1:2500 Plan Sheet 4 of 4	124130-EMF-DRG-ATK-910034	A01
Works Plans [Regulation 6(2)] Track Longitudinal Sections Work No.1 – Down Slow	124130-EMF-DRG-ATK-910035	A01
Works Plans [Regulation 6(2)] Track Longitudinal Section Work No.8 – Up Norton Bridge	124130-EMF-DRG-ATK-910036	A01
Works Plans [Regulation 6(2)] Highways Longitudinal Sections	124130-EMF-DRG-ATK-910037	A01
Works Plans [Regulation 6(2)] Footpath Longitudinal Sections	124130-EMF-DRG-ATK-910038	A02
Works Plans [Regulation 6(2)] Highways Longitudinal Sections	124130-EMF-DRG-ATK-910039	A01
Works Plans [Regulation 6(2)] Rivers Longitudinal Sections	124130-EMF-DRG-ATK-910040	A01
Fuel Pipeline Diversion Long Section (Regulation 5(2)(o)) Sheet 1 of 5	BPA-7385-X-MAP	1
Fuel Pipeline Diversion Long Section (Regulation 5(2)(o)) Sheet 2 of 5	BPA-7386-X-MAP	A
Fuel Pipeline Diversion Long Section	BPA-7387-X-MAP	A

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
(Regulation 5(2)(o)) Sheet 3 of 5		
Fuel Pipeline Diversion Long Section (Regulation 5(2)(o)) Sheet 4 of 5	BPA-7388-X-MAP	A
Fuel Pipeline Diversion Long Section (Regulation 5(2)(o)) Sheet 5 of 5	BPA-7389-X-MAP	A
Gas Pipeline Diversion, Long Sections [Regulation 5(2)(o)]	B1086521/9020	A
Works Plans [Regulation 6(2)] Earthworks Cross Sections 1 of 5	124130-EMF-DRG-ATK-910120	A01
Works Plans [Regulation 6(2)] Earthworks Cross Sections 2 of 5	124130-EMF-DRG-ATK-910121	A01
Works Plans [Regulation 6(2)] Earthworks Cross Sections 3 of 5	124130-EMF-DRG-ATK-910122	A01
Works Plans [Regulation 6(2)] Earthworks Cross Sections 4 of 5	124130-EMF-DRG-ATK-910123	A01
Works Plans [Regulation 6(2)] Earthworks Cross Sections 5 of 5	124130-EMF-DRG-ATK-910124	A01
Works Plans [Regulation 6(2)] Underbridge 1 – LEC4 / 13 Widening Plans and Elevations	124130-EMF-DRG-ATK-910050	A02
Works Plans [Regulation 6(2)] Underbridge 1A – Plans and Elevations	124130-EMF-DRG-ATK-910051	A01
Works Plans [Regulation 6(2)] Underbridge 2 – Meece Brook South Plans and Elevations	124130-EMF-DRG-ATK-910052	A02
Works Plans [Regulation 6(2)] Overbridge 3 – Searchlight Lane Plans and Elevations	124130-EMF-DRG-ATK-910053	A02
Works Plans [Regulation 6(2)] Intersection Bridge 5, WCML Plans and Elevations	124130-EMF-DRG-ATK-910054	A02
Works Plans [Regulation 6(2)] Overbridge 5A – WCML / B5026 Plans and Elevations	124130-EMF-DRG-ATK-910055	A02
Works Plans [Regulation 6(2)] Underbridges 6 & 6A – Meece Brook North Plan	124130-EMF-DRG-ATK-910056	A02
Works Plans [Regulation 6(2)] Underbridges 6 & 6A – Meece Brook North Sections and Elevations	124130-EMF-DRG-ATK-910057	A02
Works Plans [Regulation 6(2)] Overbridge 7 – Meece Road Plans and Elevations	124130-EMF-DRG-ATK-910058	A02
Works Plans [Regulation 6(2)] Underbridge 8 – NBS9 Widening Plans and Elevations	124130-EMF-DRG-ATK-910059	A01
Works Plans [Regulation 6(2)] Footbridge 9 – Mid Norton Plans and Elevations	124130-EMF-DRG-ATK-910060	A01
Works Plans [Regulation 6(2)] Overbridge 10A – B5026 West Plans and Elevations	124130-EMF-DRG-ATK-910061	A02
Works Plans [Regulation 6(2)] Underbridge 11 – Meece Brook West Plans and Elevations	124130-EMF-DRG-ATK-910062	A02

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Works Plans [Regulation 5(2)(j)] National Grid 1:2500 Plan Sheet 1 of 2	124130-EMF-DRG-ATK-910100	A01
Works Plans [Regulation 5(2)(j)] National Grid 1:2500 Plan Sheet 2 of 2	124130-EMF-DRG-ATK-910101	A01
Gas Pipeline Diversion, Long Sections [Regulation 5(2)(o)]	B1086521/9020	A

PART 5

TRAFFIC REGULATION ORDER PLANS

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Chebsey Lane Extent of Temporary 40 mph Speed Limit (TRO)	NBSAIP-ASA-DRG-EHW-035315	B01
B5026 and Meece Road TRO Plan	NBSAIP-ASA-DRG-EHW-035360	A01
B5026 and Meece Road TRO Plan	NBSAIP-ASA-DRG-EHW-035361	A01
B5026 and Meece Road TRO Plan	NBSAIP-ASA-DRG-EHW-035362	A01
B5026 and Meece Road TRO Plan	NBSAIP-ASA-DRG-EHW-035363	A01

SCHEDULE 12

Article 38

TRAFFIC REGULATION

Imposition of speed limit

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Speed limit (miles per hour (mph))</i>	<i>(3)</i> <i>Extent</i>
A5013	40 mph	The area hatched red on traffic regulation order (TRO) plan NBSAIP-ASA-DRG-EHW-035315 (Rev. B01)
Chebsey Lane	40 mph	The area hatched red on traffic regulation order (TRO) plan NBSAIP-ASA-DRG-EHW-035315 (Rev. B01)
Worston Lane	40 mph	The area hatched red on traffic regulation order (TRO) plan NBSAIP-ASA-DRG-EHW-035315 (Rev. B01)
B5026	50 mph	The area hatched red on traffic regulation order (TRO) plans NBSAIP-ASA-DRG-EHW-035360 (Rev. A01) to NBSAIP-ASA-DRG-EHW-035363 (Rev. A01)
Meece Road	50 mph	The area hatched red on traffic regulation order (TRO) plans NBSAIP-ASA-DRG-EHW-035360 (Rev. A01) to NBSAIP-ASA-DRG-EHW-035363 (Rev. A01)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Network Rail Infrastructure Limited (referred to in this Order as Network Rail) to construct and operate new sections of railway in the vicinity of Norton Bridge, Staffordshire.

The railway works comprise:

- (a) a new railway, partly two track and partly single track from Little Bridgeford junction on the West Coast Main Line to a junction adjacent to Heamies Bridge on the West Coast Main Line; and
- (b) a new two track railway from the Searchlight Lane junction on the above work, passing over the West Coast Main Line, to the Yarnfield junction on the Norton Bridge to Stone branch railway,

the combined effect of which will be to remove an at-grade crossing and provide greater capacity and efficiency for trains using the West Coast Main Line.

In order to accommodate these railway works, the Order also authorises National Grid Gas plc (referred to in this Order as National Grid) to divert a high pressure gas pipe-line in one location and another high pressure gas pipe-line in two locations.

The Order would permit Network Rail to acquire, compulsorily or by agreement, land and rights in land and to use land for these purposes and National Grid to acquire compulsorily rights in land and to use land in connection with the diversions of its gas pipe-lines.

The Order also makes provision in connection with the maintenance of the new section of railway.

A copy of the plans and sections, book of reference, design brief, design drawings and environmental statement mentioned in this Order and certified in accordance with article 41 of this Order (certification of plans, etc.) may be inspected free of charge during working hours at the offices of the Company Secretary to Network Rail Infrastructure Limited at Kings Place, 90 York Way, London N1 9AG.

STATUTORY INSTRUMENTS

201[] No.

INFRASTRUCTURE PLANNING

The Network Rail (Norton Bridge Area Improvements) Order
201[]

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**APPENDIX G – REPORT ON THE IMPLICATIONS FOR
EUROPEAN SITES**



REPORT on the IMPLICATIONS for EUROPEAN SITES Norton Bridge Area Improvements

An Examining Authority report prepared with the
support of the Planning Inspectorate Secretariat

August 2013



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1. INTRODUCTION

- 3.1 The Secretary of State is a competent authority (CA) for the purposes of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive) and The Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) for applications submitted under the Planning Act 2008 regime (as amended).
- 3.2 This report compiles, documents and signposts information received during the examination of the DCO application by Network Rail for Norton Bridge Area Improvements (the project) and will be issued for consultation, including consultation with Natural England and may be replied upon for the purposes of Regulation 61(3) of the Habitats Regulations.
- 3.3 This report is an Examining Authority report which has been prepared with the support of the Planning Inspectorate Secretariat.
- 3.4 The report contains a screening matrix for the European (Natura 2000) site that might potentially be affected by the project. The matrix collates evidence on whether the project is likely to have significant effects on the key features of the European site. It acknowledges that the applicant and Natural England have agreed that there are no likely significant effects on the European site.



2.0 SCREENING FOR LIKELY SIGNIFICANT EFFECTS

- 3.5 The project is not connected with or necessary to the management for nature conservation of any of the European sites considered within the assessment. The project has been assessed by the applicant as not likely to have a significant effect on European sites within its vicinity, either alone or in combination with other projects. It has been subject to a screening exercise by the applicant for likely significant effects of the project in relation to all the sites potentially affected.
- 3.6 The applicant submitted the Report Identifying the Effects on European and/or Ramsar Sites (the HRA Report) (Document 4.6 dated 13 December 2012) with the Development Consent Order (DCO) application. The report identified the following site for inclusion within the assessment:
 - Midlands Meres & Mosses Ramsar Site (Phase 2)

Potential Impacts

- 3.7 Potential impacts upon the Natura 2000 site identified above which was considered within the applicant’s report are provided in the table below.

Impacts considered within the screening matrix

Designated site(s)	Impacts in submission information	Presented in screening Matrices as
Midlands Meres & Mosses Ramsar Site (Phase 2)	Potential for groundwater drawdown resulting from construction of new rail cutting below the water table	Groundwater drawdown

In-combination impacts

- 3.8 The applicant’s HRA Report has not specifically addressed in-combination assessment. Consequently it does not state if there are any other developments in the vicinity of the proposed development with the potential for in-combination effects.



3.0 SCREENING MATRIX

- 3.1 The European Site included within the applicant's assessment and the likely significant effects on their qualifying features are detailed within the screening matrix below.
- 3.2 Under each table a set of evidence footnotes is provided which outline the evidence on which the decision of likely significant effect have been based. This evidence has come from the DCO application submitted by the applicant, Natural England's (NE) relevant representation (dated 19 February 2013), NE's written representation (dated 30 May 2013) and the Statement of Common Ground (SoCG) on ecology and nature conservation between Network Rail, Staffordshire County Council (SCC), Stafford Borough Council (SBC), the Environment Agency (EA) and NE (dated 12 June 2013).

Matrix Key:

- ✓ = Likely significant effect cannot be excluded
- ✗ = Likely significant effect can be excluded
- C = construction
- O = operation
- D = decommissioning

Matrix 1: Midlands Meres & Mosses Ramsar Site (Phase 2)

European Site: Midlands Meres & Mosses Ramsar Site (Phase 2)						
Distance to NSIP: 5.3km						
European site feature	Likely Effects of NSIP (phase of development)					
	<i>Groundwater drawdown</i>			<i>In-combination</i>		
	<i>C</i>	<i>O</i>	<i>D</i>	<i>C</i>	<i>O</i>	<i>D</i>
<i>Meres (open water bodies associated with shallow depressions in underlying glacial drift)</i>	✗ ^{a, b, d}	✗ ^{a, b, d}	✗ ^{a, b, d}	✗ ^{b, c, d}	✗ ^{b, c, d}	✗ ^{b, c, d}
<i>Mosses (nutrient poor peat bogs on fringes of meres or in shallow basins in underlying glacial drift)</i>	✗ ^{a, b, d}	✗ ^{a, b, d}	✗ ^{a, b, d}	✗ ^{b, c, d}	✗ ^{b, c, d}	✗ ^{b, c, d}

Evidence:

- a. The hydrological assessment concludes that there is the potential for localised drawdown of ground water where the proposed railway is in cutting through areas of high ground at a depth below the level of the water table (Environmental Statement (ES) Volume 3 'Water, Hydrology and Hydrogeology Technical Report' summary box (page 5), paragraphs 5.5.3, 8.3.10 and Table 6.4). The Site Overview Map Figure 2 (ES Volume 4 Figures) identifies the locations of cuttings; however the locations of the cuttings that are below the water table have not specifically been identified within the ES. Paragraph 4.2.1 of Appendix 5 of the HRA report states that the zone of ground water drawdown would not extend to Cop Mere SSSI (the nearest component SSSI of the Ramsar site), although this is not explicitly stated within the ES. NE's written representation (dated 30 May 2013) agrees that any groundwater drawdown would be localised and affect ground water levels in the immediate vicinity of the project only.
- b. In a letter to the developer dated 23 May 2012 (contained within Appendix 3 of the HRA Report), NE state that '*either alone or in combination with other plans or projects, the scheme would not be likely to have significant*



effect on the important interest features of the West Midlands Meres and Mosses (Phase) Ramsar site'. This is concluded on the basis of 'the nature of the predicted effects and their distance from the Ramsar/SSSI' and NE's 'consideration of the SSSI's hydrological and hydrogeological (groundwater) characteristics'. NE's relevant representation (dated 19 February 2013) also states that 'satisfactory information has been submitted with regard to Habitats Regulations Assessment (HRA) to allow Natural England to advise the Secretary of State that the proposal will have no likely significant effect upon either this Ramsar site or the SSSI in its own right'. This position is confirmed in NE's written representation (dated 30 May 2013).

- c. The applicant has not undertaken an in-combination assessment, however neither NE, EA or SBC have identified any in-combination effects and there is no indication that any other development would interact with the groundwater regime to the extent that significant effects are likely to occur.
- d. The Statement of Common Ground (SoCG) on ecology and nature conservation between Network Rail, SCC, SBC, the EA and NE (dated 12 June 2013) states *'there is agreement that the scheme will not have significant effects on European designated or Ramsar sites, such as the Midlands and Mosses Ramsar Site (Phase 2), either alone or in combination with other schemes'*.



On the basis of the evidence available the applicant's report considered that there will be no likely significant effects on the Natura 2000 site included within the screening assessment. This conclusion has been agreed with SCC, SBC, NE and the EA.

Appendix H - Other Consents Required

Legislation	Detail	Progress
Railway Act 1993	Network changes under Part G to the Network Code	Submissions made
Habitats Regulations 2010	Protected species licences	Licences granted by NE for GCN (Document EV-102). Letters of comfort issued by NE for Bats and Otters (Documents REP-020 and REP-021).
Environmental Permitting (England and Wales) Regulations 2010	Consent required from EA if contaminated material found during earthworks	Application will be made if required
Planning (Hazardous Substances) Act 1990	Hazardous Substances Consent required for storage of substances on site	Construction site will be registered for storage of hazardous substances pre-commencement of works.
Protection of Badgers Act 1992	Licence required under section 10	Badger mitigation licence application made and NE has issued the equivalent of a letter of comfort (Document REP-019).
Electricity Act 1989	Wayleave/s under section 10 and Schedule 4	WPD has issued wayleave requests for the statutory diversion works and BPA compound supply.
Control of Pollution Act 1974	Application under S61	To be made pre-commencement on site
Water Resources Act 1991 as amended by Flood and Water Management Act 2010	EA consents required for permanent and temporary works in the main rivers	Consents issued by EA for all new outfall structures. Applications to be made for further consents (Document PD-046 page 6).
Land Drainage Act 1991 as amended by the Flood and Water Management Act 2010	Internal Drainage Board/Lead Local Flood Authority consents for permanent and temporary works to an ordinary river	Consents granted by SCC (see Document PD-046 pages 6/7).

Party Wall Act 1996	Party wall agreement required	Party wall surveyor to be appointed pre-commencement
Abstraction consent	Surface water abstraction consent may be required for use in construction activities, including dust control.	Application will be made if required.