



NORTHAMPTON
GATEWAY
STRATEGIC RAIL FREIGHT INTERCHANGE

EXPLANATORY MEMORANDUM

DOCUMENT 3.2

The Northampton Gateway Rail Freight Interchange Order 201X

Regulation No: 5 (2) (c)

EXPLANATORY MEMORANDUM | MAY 2018

EVERSHEDS SUTHERLAND

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ROXHILL

**THE NORTHAMPTON GATEWAY RAIL FREIGHT INTERCHANGE
ORDER 201X**

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Eversheds Sutherland

May 2018

**Pursuant to Regulation 5(2)(c) Infrastructure Planning
(Applications: Prescribed Forms and Procedure) Regulations 2009**

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1. Introduction

- 1.1 This memorandum accompanies an application for a development consent order (“the Application”) submitted on behalf of Roxhill (Junction 15) Limited (“the Applicant”). The Application seeks approval of the Draft Northampton Gateway Rail Freight Interchange Order 201X (“the DCO”).
- 1.2 As required by Regulation 5(2)(c) Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, as amended, (“the Regulations”), this memorandum explains the purpose and the effect of provisions in the draft Order. It has been prepared taking into account the guidance set out in the Advice Note 13: Preparing the Draft Order and Explanatory Memorandum (April 2012) and the DCO has been prepared taking into account the guidance set out in Advice Note 15: Drafting a Development Consent Order (October 2014).
- 1.3 The Applicant is Roxhill (Junction 15) Limited, a special purpose vehicle set up to promote and develop the development applied for. Roxhill (Junction 15) Limited is a joint venture company owned in equal shares by Roxhill Developments Holdings Limited (itself being a wholly owned subsidiary of Roxhill Developments Group Limited) and SEGRO Properties Limited, a wholly owned subsidiary of SEGRO PLC, a FTSE 100 company. Further details of the Applicant and related companies can be found in the Funding Statement (Document 4.2).
- 1.4 This Explanatory Memorandum relates to the draft DCO submitted to the Planning Inspectorate with the application for a Development Consent Order (Document 3.1).
- 1.5 The Applicant has submitted a document called ‘Guide to Application’ (Document 1.3) which provides an overview of the Application and explains each of the documents submitted.

2. The Purpose of the Order

NSIP Criteria

- 2.1 Section 3 of the Guide to Application explains that the proposed development constitutes a Nationally Significant Infrastructure Project (NSIP), being a rail freight interchange which meets the criteria set out in Section 26 of the Planning Act 2008 (as amended) (“the 2008 Act”). The purpose of the Order

is therefore to authorise the construction and use of the rail freight interchange and associated development (see below).

Scope of the proposed development

2.2 The DCO sought will permit, in summary, the following works:-

- i) An intermodal freight terminal including container storage and HGV parking, rail sidings to serve individual warehouses, and the provision of an aggregates facility as part of the intermodal freight terminal, with the capability to also provide a 'rapid rail freight' facility;
- ii) Up to 468,000 sq m (approximately 5 million sq ft) (gross internal area) of warehousing and ancillary buildings, with additional floorspace provided in the form of mezzanines;
- iii) A secure, dedicated, HGV parking area of approximately 120 spaces including driver welfare facilities to meet the needs of HGVs visiting the site or intermodal terminal;
- iv) New road infrastructure and works to the existing road network, including the provision of a new access and associated works to the A508, a new bypass to the village of Roade, improvements to Junction 15 and to J15A of the M1 motorway, the A45, other highway improvements at junctions on the local highway network and related traffic management measures;
- v) Strategic landscaping and tree planting, including diverted public rights of way;
- vi) Earthworks and demolition of existing structures on the main site.

2.3 The proposed development can be most easily appreciated by reference to the plan titled 'Components of the Proposed Development' (Document 2.13) and is more fully described in Schedule 1 of the draft DCO (Document 3.1) and in the other Application documentation, in particular the Guide to Application (Document 1.3) and Chapter 2 of the Environmental Statement (Document 5.2).

- 2.4 The draft DCO also authorises associated development (see paragraph 2.5 below). Provision for ancillary matters is made in the body of the draft DCO (see paragraph 2.7 below).

Associated Development

- 2.5 The draft DCO specifically authorises development which is not part of the NSIP itself but is associated with it as provided for by section 115(2) of the Act. This comprises Works No.s 8 to 17. Paragraphs 3.14 to 3.22 of the Guide to Application set out the details of the associated development.
- 2.6 Paragraphs 3.6 to 3.13 of the Guide to Application explain why the associated highway works, although substantial, do not constitute NSIPs in their own right.

Ancillary Matters

- 2.7 The draft DCO also deals with some ancillary matters – that is, provisions not dealing with development.
- 2.8 For example, it seeks powers for the purposes of carrying out the authorised development to acquire rights and land pursuant to section 120 of the Act and powers, under section 120 (3) and (4) and Part 1 of Schedule 5, paragraph 2, to authorise the creation, extinguishment and interference with interests in, or rights over, land (including the stopping up and diversion of public rights of way).
- 2.9 The compulsory purchase powers sought are explained within the Statement of Reasons (Document 4.1).

3. Location of the development to be authorised

- 3.1 The Application principally relates to land immediately to the west of the M1 motorway at Junction 15 and east of the Northampton Loop railway line. The location of the site can be seen on the Location Plan (Document 2.12).
- 3.2 The site for the rail freight terminal, warehouses, related infrastructure, landscaping and access is identified as the ‘main site’ in the Order and comprises the works areas for Works No.s 1 to 7. In addition there are highway mitigation works an overview of which is seen on the Highway Plans Key Plan (Document 2.4). These works include the site access off the A508, works to Junction 15A and 15 of the M1, a bypass for Roade and various

other junction improvements. These are all identified on the Works Plans (Documents 2.2A - G). The 'highway works' are defined in the draft Order as Works Nos. 8, 9 and 11 to 17. Further detail of the package of highway mitigation works is found in paragraph 2.5 of the Guide to Application and the Transport Chapter of the Environmental Statement (Chapter 12).

- 3.3 Works No. 10 comprises a foul drainage sewer and outlet serving the main site the detail of which is shown on drawing number NGW-BWB-GEN-XX-SK-C-SK13 Rev P2 contained in Appendix 7.3 of the Environmental Statement.
- 3.4 The land affected by the proposed development is referred to in the draft DCO as the 'Order limits'. The Order limits comprise approximately 290 hectares of land, of which the main site comprises approximately 219.
- 3.5 The main site, Roade Bypass and some highway works are within the administrative areas of South Northamptonshire District Council and Northamptonshire County Council. The remaining areas of the Order limits are within the administrative areas of Northampton Borough Council and Northamptonshire County Council. Administrative boundaries are shown on the Location Plan (Document 2.12).

4. Plans and Other Documents

- 4.1 The documentation submitted with the Application is described in section 6 of the Guide to Application and includes all the plans and documents required to comply with Regulation 5(2) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended).
- 4.2 The plans submitted with the Application include:
 - i) A **Location Plan** enabling the identification of the site and the administrative boundaries (Document 2.12);
 - ii) **Land Plans** (pursuant to Regulation 5(2)(i) - Documents 2.1A - F) showing the land affected by the development and the land subject to compulsory purchase powers.
 - iii) **Works Plans** (pursuant to Regulation 5(2)(j) - Documents 2.2A - G) identifying the areas for the different works which

are referred to in Schedule 1 in the Draft DCO (Document 3.1) and, where appropriate, show limits of deviation.

- iv) **Access and Rights of Way Plans** (pursuant to Regulation 5(2)(k) - Documents 2.3A - E) which identify new and altered means of access, stopping up of streets and roads, new and diverted public footpaths, bridleways and cycle tracks.
- v) **Parameters Plan** (pursuant to Regulation 5(2)(o) - Document 2.10) which identifies the parameters with which the Works must comply. The parameters plan is the plan upon which the environmental assessment reflected in the Environmental Statement has been based. The approach taken by the parameters plan is described in more detail in section 6 below.
- vi) **Highway Plans** (pursuant to Regulation 5(2)(o) – Documents 2.4A - H, 2.4J - N and 2.4P - U). These describe the various elements of the highway mitigation on plan and also, where felt helpful, in cross section. The key plan (Document 2.4) is also intended to provide a useful overview of the entirety of the development and mitigation.
- vii) **Highway Classification Plans, Traffic Regulation Plans and Speed Limit Plans** (Documents 2.5A - D, 2.6A - C and 2.7A - D). These plans deal with the consequential changes to the regulation of the highways as a result of the highway works. They are cross referred to in the schedules in the Draft DCO specifically dealing with those measures.
- viii) **Rail Plans** - (pursuant to Regulation 5(2)(o) – Documents 2.8 and 2.9A - D). These plans illustrate the rail infrastructure for which authority is sought and the rail terminal along with the potential expansion of the terminal.
- ix) An **Illustrative Masterplan** (Document 2.11), is also provided to assist in demonstrating a form of development of the main site which would comply with the parameters which have been assessed (as shown on the Parameters Plan). It is not the basis for the environmental assessment reflected in the Environmental Statement and it identifies simply one way in

which a development may come forward in conformity with the Parameters Plan.

5. Summary of the Works

5.1 The authorised development is divided up into separate works that describe the different aspects of the proposal. The works numbers relate to areas shown on the Works Plans (Documents 2.2A - G).

5.2 The detail of the Works are set out in Schedule 1 of the draft DCO and can be further summarised as follows:

(1) The **Main Site** being:

Works Nos 1 – 6 - the SRFI including rail terminal and infrastructure and warehouses

Works No 7 – the A508 SRFI access

These works are most easily understood by referring to

- the Parameters Plan (Document 2.10) which shows the development parameters with which the development must comply; and
- the Illustrative Masterplan (Document 2.11) which shows one way in which the development might proceed in accordance with those parameters.

(2) The **Bypass Site** or **Bypass Corridor** being **Works No 13** as shown on the relevant Highway Plans (specifically, Documents 2.4D and 2.4E); and

(3) The **Highway Mitigation Works** or **Highway Mitigation Measures** being:

Works Nos 8,9 & 11 – works to Junction 15 of the M1 & the A45 (Document 2.3B); and Junction 15A of the M1 (Document 2.4F)

Works No 12 & 14 - 17 – works to the A508 Corridor (Documents 2.4C and 2.4 F) and Knock Lane (Document 2.4F)

- all as shown on the Highway Plans (Document 2.4).

(4) **Works No. 10** - the foul drainage sewer and outlet serving the Main Site the detail of which is shown on drawing number NGW-BWB-GEN-XX-SK-C-SK13 Rev P2 contained in Appendix 7.3 of the Environmental Statement.

6. The Assessment Parameters

- 6.1 The Parameters Plan is the plan which identifies the parameters of the authorised development on the main site and is the basis of the environmental assessment that has been carried out.
- 6.2 The Parameters Plan identifies the parameters that apply to each development zone. In addition to identifying the spatial extent of each use, the plan sets out the maximum zone floorspace, maximum overall floorspace, the finished floor levels and building height range and the provision of bunding. The extent of the structural green infrastructure to be provided is also identified. These provide the “Rochdale Envelope” for the purposes of the environmental assessment of the development on the site. This is in line with Advice Note 9 “Using the Rochdale Envelope”.
- 6.3 The control of the development is secured by reference to:
- articles 4 (*Parameters of authorised development*) and 45 (*Governance of requirements and protective provisions relating to highway works*);
 - the description of the works in Schedule 1;
 - the requirements in Schedule 2; and
 - the parameters on the Parameters Plan and the limits of deviation shown on the Works Plans.
- 6.4 Details over and above those shown on the parameters plan, including, for example, the precise location and height of buildings within the development zones; the detailed design of the rail infrastructure; detailed landscaping scheme and ecological mitigation details, are to be approved following the grant of the DCO and following the submission of details to the local planning authority pursuant to the requirements contained in Schedule 2 of the DCO.
- 6.5 In the case of highway works comprised in Works Nos. 7 to 9 and 11 to 17, the detailed working drawings of the works involved will be governed by Parts 2 and 3 of Schedule 13. Those designs are required to be in accordance with the Highways Plans – General Arrangements (Documents 2.4A - F).

6.6 The approved details cannot however stray outside the authorised development or beyond the parameters, as is made clear by articles 4 and 45. The approval of details subsequent to the making of the Order, and the ability to change details approved, as provided for in Article 45(2), is in accordance with paragraph 19.4 of Advice Notice 15: Drafting Development Consent Orders.

7. The Draft Order

7.1 This section of the memorandum explains the provisions of the draft Order as submitted to the Planning Inspectorate with the Application (Document 3.1). It refers to the model provisions, however, there are substantive departures from those provisions in view of the revocation of Section 38(3) of the Act 2008 and repeal of the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009. The model provisions are therefore taken only as a starting point along with articles used in other approved Development Consent Orders. In particular regard has been had to The Daventry International Rail Freight Interchange Alteration Order 2014¹, The East Midlands Gateway Rail Freight Interchange and Highway Order 2016², The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016³ and The York Potash Harbour Facilities Order 2016⁴.

7.2 The text below deals with each article and Schedule of the draft DCO submitted with the Application in turn.

PART 1

PRELIMINARY

Article 1 (Citation and commencement)

7.3 This article provides for citation and commencement of the Order.

Article 2 (Interpretation)

7.4 This article provides for the interpretation of the Order, principally comprising the definition of terms.

¹ S.I. 2014 No. 1796

² S.I. 2016 No. 17

³ S.I. 2016 No. 547

⁴ S.I. 2016 No. 772

7.5 Definitions to note are:

- i) “authorised development” has been amended from the term in the model provisions to include any works carried out pursuant to the requirements.
- ii) The terms “relevant highway authority” and “relevant street authority” have both been included as defined terms as, whilst some articles apply only to public highways (e.g. article 12 public rights of way – creation, substitution and stopping up) and therefore refer to the highway authority, the term street authority is also needed, as some articles apply to private streets such as those to be provided on the main site (e.g. article 9 power to alter layout, etc., of streets).
- iii) The definition of “undertaker” has been amended as permitted by section 156(2) of the Act to expressly refer to Roxhill (Junction 15) Limited and includes (in respect of the main site only), those persons who have the benefit of the Order in accordance with Section 156 of the Planning Act 2008. Article 7 restricts the benefit of the order in certain respects to the Roxhill (Junction 15) Limited only.
- iv) Definitions of the “main site” and “highway works” have been added to facilitate the drafting of the separate provisions relating to those elements of the development.

7.6 Article 2(2) expands the definition of rights over land to clarify that it includes rights to do, or to place and maintain, anything in on or under land or in the air-space above its surface.

7.7 Article 2(3) makes it clear that measurements are approximate to take account of marginal differences arising out of construction of the works. This allows only small tolerances since the works are still subject to the constraints imposed by Articles 4 and 45. This provision is normal and most recently

was included in The Keuper Gas Underground Storage Facility Order 2017⁵ and The M20 Junction 10a Development Consent Order 2017⁶.

- 7.8 Article 2(4) ties in references to work numbers to the works in Schedule 1 and references to requirements to the requirements listed in Schedule 2.
- 7.9 Article 2(5) provides that areas referred to in the Book of Reference (Document 4.3) are approximate – for the same reason as Article 2(3) is required.
- 7.10 Articles 2(3) - (5) are identical to those included in The East Midlands Gateway Rail Freight Interchange and Highway Order 2016⁷.
- 7.11 Article 2(6) clarifies that, where the word approximate is used prior to a quantum, that does not enable the ability to go beyond the parameters and authorise works that have not been assessed. This provision is a sensible precaution to ensure that the Rochdale Envelope is not beached and was included in the York Potash Harbour Facilities Order 2016⁸.

PART 2

PRINCIPAL POWERS

Article 3 (Development consent granted by the Order)

- 7.12 This article provides development consent for the authorised development to be carried out within the Order limits subject to the provisions of the Order and to the requirements. Article 3(2) also allows for some preparatory works to proceed in advance of the rest of the authorised development. This is consistent with other Orders⁹ and is a prudent provision allowing for some preparatory works to be carried out in advance of main design approval. Such an approach can either be secured in an article or by the drafting of the requirements. The need for this sub-paragraph depends therefore on the final drafting of the requirements.

⁵ S.I. 2017 No. 433

⁶ S.I. 2017 No. 1202

⁷ S.I. 2016 No. 17

⁸ S.I. 2017 No. 772

⁹ Such as The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 S.I. 2016 No. 17 (article 3(2)) and The National Grid (Hinkley Point C Connection Project) Order 2016 S.I. 2016 No. 49 (Schedule 2(1) – definition of “commencement”).

Article 4 (Parameters of authorised development)

- 7.13 This article identifies the parameters and limits of deviation with which the authorised development must comply. The Parameters Plan provides the parameters for the main site and the Works Plans provide the limits of deviation for all of the proposed development.
- 7.14 This approach is in line with the Rochdale Envelope approach and the guidance set out in Planning Inspectorate's Advice Notes 9 and 15.
- 7.15 As in recent orders, the article allows for exceptions to the application of the limits where the relevant planning authority are satisfied that it would not result in any materially new or materially worse environmental effects than those assessed in the environmental statement¹⁰. This approach was the subject of specific consideration during the Examination into the DCO for the A14 Cambridge to Huntingdon Improvement Scheme and the specific drafting of this provision was discussed and altered, as a result of which the Examining Authority made a specific finding that the proposed article was acceptable.¹¹
- 7.16 The proviso to the article referred to above is felt to be preferable to the approach contained in the East Midlands Gateway Rail Freight Interchange and Highway Order 2016¹² whereby 20 meters flexibility was allowed either side of the boundary of two numbered works irrespective of the environmental impact of that change.

Article 5 (Authorisation of Use)

- 7.17 This article authorises the operation and use of the RFI development and ensures that the concept of ancillary uses applies to the warehousing built pursuant to the DCO as it would had the warehousing been built pursuant to a planning permission. The article includes confirmation that the development of the RFI and warehousing may be used for the purposes for which it is designed. This follows the approach taken in Thames Tideway Tunnel, Article 4¹³.

¹⁰ For example Article 7 The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016 (S.I. 2016 No. 547).

¹¹ See paragraphs 8.2.15 to 8.2.21 of Examining Authority's Report.

¹² S.I. 2016 No. 17 (article 4(d)).

¹³ The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 SI 2016 No. 2384

Article 6 (Maintenance of authorised development)

- 7.18 This article is based upon article 3 of the model provisions and provides for the maintenance of the authorised development by the undertaker. The definition of maintenance is identical to that contained in the recently approved East Midlands Gateway Rail Freight Interchange and Highway Order 2016¹⁴ except that a caveat, in respect of works which would result in a likely significant environmental effect which had not been assessed, has been deleted from the definition of “maintain” and is instead in Article 6(2). This follows the advice in Advice Note 15: Drafting Development Consent Orders¹⁵ to the effect that operative provisions should not be contained in definitions (paragraph 6.1).

Article 7 (Benefit of the Order)

- 7.19 The Order will benefit the “undertaker”, as defined, which, in the case of the main site, will include all parties who qualify under section 156 of the 2008 Act. However, some powers will benefit only Roxhill (Junction 15) Limited as follows:
- (a) Part 5 (Powers of Acquisition) will be for the sole benefit of Roxhill (Junction 15) Limited to ensure that the articles relating to the exercise of compulsory acquisition powers cannot be transferred unless the Secretary of State consents; and
 - (b) only Roxhill (Junction 15) Limited have the power to carry out the highway works and deliver them in accordance with the protective provisions in Parts 2 and 3 of Schedule 13 unless the Secretary of State consents to a transfer of those powers.
- 7.20 In respect of (b) above, it is felt that the power to carry out the highway works should be restricted to the named undertaker rather than be available to all the owners of the land interests within the Order limits to ensure an orderly and comprehensive approach to the carrying out of the works.
- 7.21 Sub-paragraph 4 has been included to ensure that any works which may be carried out by other parties under the protective provisions are authorised. It

¹⁴ S.I. 2016 No. 17

¹⁵ The Planning Inspectorate, Version 1 (October 2014)

is included in other Orders such as the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016.¹⁶

PART 3

STREETS

Article 8 (Street works)

7.22 This article is broadly based on article 8 of the general model provisions. It makes provision for the undertaker to carry out the works described in article 8 (a) – (j) for the purposes of the authorised development affecting the streets specified in Schedule 3. Ordinarily the undertaker would require a street works licence pursuant to the New Roads and Street Works Act 1991 to carry out such works, however, the inclusion of this article in the Order will provide a statutory right to undertake street works within the specified streets without the need for the undertaker to obtain a separate licence from the street authority.

7.23 This article is identical to article 10 of the East Midlands Gateway Rail Freight Interchange and Highway Order 2016¹⁷ with the exception that the East Midlands Gateway Order refers to highways rather than streets and relates only to highway works affecting the public highway. The article included in this draft DCO is broader and includes private streets given the number private accesses affected and the creation of private streets on the main site.

Article 9 (Power to alter layout, etc., of streets)

7.24 This article is not contained in the model provisions but is based upon one that has precedent in other draft Development Consent Orders, for example the Heysham to M6 Link Road Order¹⁸, North Doncaster Chord Order¹⁹ and The Keuper Underground Gas Storage Facility Order²⁰. It is identical to

¹⁶ S.I. 2016 No. 863 (article 7(2))

¹⁷ S.I. 2017 No. 17

¹⁸ The Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013 S.I. 2013 No. 675

¹⁹ The Network Rail (North Doncaster Chord) Order 2012 S.I. No. 2635

²⁰ S.I. 2017 No. 433

article 9(1) of the East Midlands Gateway Rail Freight Interchange and Highway Order²¹.

- 7.25 This article is confined to the roads which will be maintained as private roads. Any alteration to those roads, although private, will still require the consent of the local highway authority who will be concerned to ensure that the arrangement of streets within the main site is acceptable. A deemed consent provision has been included to ensure there is timely a route to a decision. This deemed consent approach was incorporated in the National Grid (Hinkley Point C Connection Project) Order.²²

Article 10 (Permanent stopping up of streets)

- 7.26 This article makes provision for the stopping up of streets permanently where a substitute is to be provided. The drafting of this article largely reflects that of article 9 in the model provisions and Schedule 4 of the Order has been completed to identify the lengths of street that are to be permanently stopped up subject to this article and alternative street to be provided. These are also shown on the Access and Rights of Way Plans (Documents 2.3A - E)).
- 7.27 This article also makes provision for all rights of way (both public and private) in the stopped up streets to be extinguished and provision is made for the payment of compensation.
- 7.28 The article is in identical terms to the article contained in East Midlands Gateway Rail Freight Interchange and Highway Order²³ save that the East Midlands Gateway Order also deals with streets for which no substitute is to be provided, which is not applicable in this case.

Article 11 (Temporary stopping up of streets)

- 7.29 This article deals with the temporary stopping up of streets for the purpose of carrying out the authorised development. It is included in the Order as it may be necessary for the undertaker to stop up streets temporarily.
- 7.30 The drafting of this article generally reflects that provided for by the model provisions, however, paragraphs 3 and 4(a) of the model provisions have not been included as it is considered that it is not necessary to specify any

²¹ S.I. 2017 No. 17

²² S.I. 2016 No. 49 (for example, articles 12, 13 and 14).

²³ S.I. 2017 No. 17

streets to be temporarily stopped up at this stage and it is drafted so that the prior consent of the street authority is required before any streets are stopped up temporarily.

- 7.31 The article is, in substance, the same as that included in the M20 Junction 10a Development Consent Order 2017²⁴, the only difference being that the earlier Order also included a restriction of use, which it is not thought necessary to include in this case.

Article 12 (Public rights of way – creation, substitution and stopping up)

- 7.32 This article is a departure from article 10 of the model provisions. It has been included in the Order to allow for the creation, substitution and stopping up of rights of way affecting land within the Order limits. It is necessary for some public rights of way to be stopped up and substitutes provided in order for the authorised development to be carried out.
- 7.33 Section 136 of the 2008 Act requires that the Order may include the stopping up of a public right of way provided that an alternative right of way will be provided, or an alternative is not required. This article makes provision for alternative public rights of way to be created for the majority of the existing public rights of way that are to be stopped up.
- 7.34 Schedule 5 of the Order identifies the public rights of way that are affected by this article. Part 1 specifies the extent of the permanent stopping up, along with the new public rights of way that are to be created. The Schedule fixes terminus points for the new rights of way to be created; however, the exact alignment of the right of way between those points is to be agreed by with the local highway authority.
- 7.35 Part 2 of Schedule 5 identifies the existing rights of way which will be permanently stopped up for which no substitute is to be provided.
- 7.36 The footpaths which it is proposed will be permanently stopped up for which no substitutes are to be provided, and the rationale, are set out in the table below:

²⁴ S.I. 2017 No. 1202 (article 14)

PROW Stopped Up	Extent of Stopping Up	Reason no substitute is provided
KZ19 (part)	Between points 12 and 13 on Document 2.3D	This short length of footpath is to be stopped up where it crosses the widening of the A508 near the roundabout with the Roade bypass. A crossing over the A508 for pedestrians will be provided as part of the highway works and therefore no formal substitute is required.
RZ3 (part)	Between points 23 and 24 on Document 2.3D	This short length of footpath is to be stopped up where it crosses the Roade bypass. A crossing over the bypass for pedestrians will be provided as part of the highway works and therefore no formal substitute is required.
RZ6 (part)	Between points 25 and 26 on Document 2.3E	A very short length of bridleway is to be stopped up where it crosses the widening of the A508 near the roundabout with the Roade bypass. The bridleway will be part of the A508

7.37 This article also provides for the creation of new public rights of way as part of the authorised development (i.e. not provided as a result of the stopping up and substitution of an existing right of way). These areas set out in Part 3 of Schedule 5.

7.38 This article is based on article 12 of The East Midlands Gateway Rail Freight Interchange and Highway Order²⁵ but with some modification to make it clearer, based on the experience of applying the East Midlands Gateway provision in practice.

Article 13 (Accesses)

7.39 The new means of access to the main site is identified in Schedule 1 and is part of the highway works covered by Schedule 13. However, to allow some flexibility, this article is included to allow for modification of the access, or other means of access to be provided. This is subject to prior agreement with the relevant highway authority or, in the case of private streets, the street authority.

7.40 Paragraph 4 provides for alterations to private means of access to be carried out (as detailed in Part 1 of Schedule 6) to enable the carrying out and use of the highway works.

7.41 Paragraph 5 refers to some private means of access which are being closed for which no substitute is to be provided. These are listed in Part 2 of Schedule 6. The reasons why no substitute is being provided are set out in the table below.

Private Means of Access	Reason why no substitute to be provided
The private means of access shaded purple and marked A on the access and rights of way plans (Document 2.3A)	There is no need for the existing farm access into the main site from Collingtree Road because the site is being developed and the use for which that access was required will cease.

²⁵ S.I. 2017 No. 17

Private Means of Access	Reason why no substitute to be provided
The private means of access shaded purple and marked B on the access and rights of way plans (Document 2.3A).	There is no need for the existing farm access into the main site from Collingtree Road because the site is being developed and the use for which that access was required will cease.
The private means of access shaded purple and marked E on the access and rights of way plans (Document 2.3B).	There is no need for a private access into the main site from this part of the A508 because the site is being developed and the use for which that access was required will cease.
The private means of access shaded purple and marked H on the access and rights of way plans (Document 2.3B).	The adjacent landowner has a nearby alternative access.
The private means of access shaded purple and marked J on the access and rights of way plans (Document 2.3C).	The existing farm access at this location on the A508 into the main site is to be removed in order to construct the new highway works. Whilst the private means of access marked M will replace this access in a similar location, the use of M (i.e. for the main site) is for different purposes to the current use by farm traffic.
The private means of access shaded purple and marked AQ on the access and rights of way plans (Document 2.3E).	Alternative and more suitable access into this land is already provided to the south.
The private means of access shaded purple and marked AW on the access and rights of way plans (Document 2.3A).	The existing farm access from Collingtree Road into the main site is not required following the development.

Private Means of Access	Reason why no substitute to be provided
The private means of access shaded purple and marked D on the access and rights of way plans (Document 2.3B).	This access serves a small area of land that will be subsumed into the improvement works for J15 M1 motorway and the A45. It is not needed for access purposes.

7.42 The article is the same as article 14 of The East Midlands Gateway Rail Freight Interchange and Highway Order²⁶ except for the following:

7.42.1 a deemed approval provision has been included at article 13(3); and

7.42.2 the stage by which the access must be closed or by which any substitute access must be provided is identified, as provided for in articles 13(4) and (6).

Article 14 (Maintenance of highway works)

7.43 This article is included to provide for the maintenance of the new and altered public highways following the completion of the relevant works. It cross refers to the process of certification of commencement of maintenance by the undertaker under the highway protective provisions in paragraph 6 of Part 2 and paragraph 6 of Part 3 of Schedule 13 (provisional certificate). The article is based on article 15 of The East Midlands Gateway Rail Freight Interchange and Highway Order²⁷ but, borne out of the experience of applying the East Midlands Gateway Order, it is more specific as to the point at which maintenance of the highway works is the responsibility of the relevant highway authority. In addition, it also cross refers to the dedication provisions contained in Schedule 13.

²⁶ S.I. 2017 No. 17

²⁷ S.I. 2017 No. 17

Article 15 (Classification of highways)

- 7.44 This drafting of this article is based on articles found in other Development Consent Orders.²⁸ It is required to make provision for the classification of new highways within the Order limits.

Article 16 (Speed limits)

- 7.45 This article is based upon articles in other Development Consent Orders, for example, the M1 Junction 10(a) Order,²⁹ and Houghton Regis Order³⁰ and The East Midlands Gateway Rail Freight Interchange and Highway Order³¹. It makes provision for the lengths of road identified in Schedule 8 to be subject to new speed limits as set out in that schedule upon completion of the relevant part of the authorised development, as if such restrictions were imposed by an order under the Road Traffic Regulation Act 1984. The article also enables temporary speed limits during construction by agreement with the relevant highway authority.
- 7.46 Part 1 of Schedule 8 provides for amendments to existing orders. The existing orders which are the subject of amendment are contained in Document 6.10.
- 7.47 Paragraph 9 of this article makes it clear that the new speed limits set by the Order may be varied in the future by the relevant traffic authority, as they could have been had they been imposed by an order under the Road Traffic Regulation Act 1984.

Article 17 (Traffic Regulation)

- 7.48 This article provides for the necessary amendments to existing traffic regulation orders consequent on the highway mitigation works. Copies of the existing orders to be amended are contained in Document 6.10. The article also makes provision for new permanent and temporary Traffic Regulation Orders to give the ability with the consent from the relevant traffic authority to impose such orders as may be necessary for the carrying out of

²⁸ e.g. the Heysham to M6 Link Road Order 2013 S.I. 2013 No. 675 and The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 S.I. No.17 (article 16)

²⁹ The M1 Junction 10a (Grade Separation) Order 2013 S.I. 2013 No. 2808

³⁰ The Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014 S.I. 2014 No. 2637

³¹ S.I. 2017 No. 17

the works. These powers are similar to those contained in the Thames Tideway Order³².

Article 18 (Clearways)

- 7.49 Article 18 provides for Clearways along lengths of the new highway works. It adopts the same approach as The East Midlands Gateway Rail Freight Interchange and Highway Order³³ save that this draft DCO does not deal with “no waiting” provisions because none are necessary. The lengths of road affected are identified in Part 2 of Schedule 9.

Article 19 (Motor Vehicle Restrictions)

- 7.50 Article 19 provides for weight limit restrictions for vehicles with a maximum gross weight exceeding 7.5 tonnes on certain roads as specified in Part 3 of Schedule 9. These areas are specified with reference to zones, which are shown on the Traffic Regulation Plan (Sheet 3) (Document 2.6C).
- 7.51 Article 19(3) imposes the restriction of no right turn into or out of the A508 Blisworth Road comprised in Works No.11, as noted in Part 4 of Schedule 9.

Article 20 (Agreements with Highway Authorities)

- 7.52 This article is included to allow the undertaker to enter into agreements with the relevant highway authority relating to the construction of a new highway, carrying out of works in the highway, stopping up, alteration or diversion of highways, maintenance of the structure of any bridge carrying a highway over or under a railway and landscaping.
- 7.53 All of the highway works will be carried out in accordance with the powers within the DCO and the relevant provisions of Parts 2 or 3 of Schedule 13; however, this article is included in the Order as a precautionary measure in relation to any agreements that might be required with the Highway Authority thus avoiding the need to find an alternative statutory authority which may not be fit for purpose. For example, s.278 of the Highways Act 1980 can authorise works to the public highway however they have to be undertaken

³² The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014 No. 2384) (article 18).

³³ S.I. 2017 No. 17 (article 19).

on behalf of the Highway Authority and be of public benefit, which would not necessarily be the case.

- 7.54 The article is in the same form as article 21 as The East Midlands Gateway Rail Freight Interchange and Highway Order³⁴ with the addition of article 20(1)(d) as a result of the experience of applying the East Midlands Gateway Order.

PART 4

SUPPLEMENTAL POWERS

Article 21 (Discharge of water)

- 7.55 This article largely reflects the drafting of article 14 in the general model provisions and is required to allow for the drainage of the land within the Order limits in connection with the carrying out and maintenance of the development. Under the provisions of this article consent is required from the person who owns the relevant watercourse, public sewer or drain but such consent may not be unreasonably withheld.
- 7.56 The drafting has been updated from the model provisions to refer to the Environmental Permitting (England and Wales) Regulations 2010 which supersede the relevant provisions of the Water Resources Act 1991.

Article 22 (Authority to survey and investigate the land)

- 7.57 This article is included to enable the undertaker to enter land within the Order limits to survey or investigate the land. This drafting broadly reflects that in article 16 of the model provisions save for an amendment to paragraph 2, so that notice need not be served on the undertaker in the event that they are the owner of the land.

PART 5

POWERS OF ACQUISITION

Article 23 (Guarantees in respect of payment of compensation)

- 7.58 The Applicant has included this article as security in respect of payment of compensation for the protection of any interests which are to be compulsorily

³⁴ S.I. 2017 No. 17

acquired. The article will ensure that no compulsory acquisition powers can be pursued until appropriate security for the liabilities of the undertaker to pay compensation in respect of that acquisition has been provided to the relevant local planning authority (being either South Northamptonshire District Council or Northampton Borough Council) depending on which administrative area the proposed acquisition is situated in.

- 7.59 The requirement to provide a form of security for potential compensation as a result of exercising compulsory acquisition powers is a generally accepted principle which has been included in various recent approved Orders³⁵. It is considered that 15 years is an appropriate time period for the relevant security to be in place, since this extends 10 years from the final date on which any compulsory acquisition may be exercised under the DCO.
- 7.60 The scope of the article is identical to that contained in the East Midlands Gateway Order. However, the specific drafting is informed by the more recent York Potash and Triton Knoll approved Orders. Article 23(3) includes a provision requiring the relevant planning authority to be furnished with relevant information when exercising its judgment on the adequacy of the proposed security which is identical to the York Potash Order. Article 23(5) is based on the Triton Knoll Order.

Article 24 (Compulsory acquisition of land)

- 7.61 This article will authorise the compulsory acquisition of land shown on the Land Plans (Document 2.1A - F) and described in the Book of Reference (Document 4.3). The Applicant is seeking acquisition of the freehold in respect of the land shown coloured pink on the Land Plans. There are also some parcels of land over which the Applicant has secured agreement relating to the freehold but where it has not been possible to guarantee termination of tenancies and therefore in respect of those parcels the Applicant seeks acquisition of leasehold/tenant rights only, and those parcels are also shown pink on the Land Plans. This is explained in further detail in the Statement of Reasons (Document 4.1).
- 7.62 This article also provides for the extinguishment of rights, trusts and incidents to which the land was previously subject.

³⁵ e.g. The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (S.I. 2016 No. 17), (article 24) The York Potash Harbour Facilities Order 2016 (S.I. 2016 No. 772) (article 23) and The Triton Knoll Electrical System Order 2016 (S.I. 2016 880) (article 37(4)).

7.63 Further detail on the rationale for this article is contained in the Statement of Reasons (Document 4.1).

Article 25 (Compulsory acquisition of rights)

7.64 This article is included to allow the compulsory acquisition of existing rights and the power to create and acquire compulsorily new rights over the land shown on the Land Plans (Document 2.1A - F), described in the Book of Reference (Document 4.3). The land in which new rights may be created is listed in Schedule 11. The article departs from article 21 of the model provisions and is based on recently approved provisions in various Development Consent Orders.³⁶ This approach ensures that compulsory purchase is limited only to the rights that are required.

7.65 The approach requires a modification to compulsory purchase and compensation provisions and these are dealt with in Schedule 12.

Article 26 (Acquisition of part of certain properties)

7.66 This article follows model provision 26 and covers an alternative procedure where the undertaker acquires only part of certain types of property, subject to the right of the owner to require the whole of the property to be acquired, in the event that part cannot be taken without material detriment to the remainder. The article replaces section 8(1) of the Compulsory Purchase Act 1965 and provides a process and timetable for the dealing of claims of material detriment. The article is based on other DCOs such as the Triton Knoll Electrical System Order 2016.³⁷

Article 27 (Private Rights)

7.67 This article is largely based on article 22 of the model provisions, with some amendments (most notably it applies to private rights and restrictions generally rather than just private rights of way). It provides that all private rights over land which is subject to compulsory acquisition (in respect of the freehold) are extinguished and in respect of compulsory acquisition of rights, are extinguished to the extent that those rights are inconsistent with the rights required for the authorised development.

³⁶ e.g. The York Potash Harbour Facilities Order 2016 (S.I. 2016 No. 772), The Triton Knoll Electrical System Order 2016 (S.I. No 2016 No. 880) and The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014 No. 2384)

³⁷ S. I. 2016 No.880

Article 28 (Power to override easements and other rights)

- 7.68 Article 28 ensures that where the works permitted by the Order interfere with existing easements or other rights, those rights shall not present an impediment to delivery. Its purpose is to provide certainty that the carrying out of the authorised development will not be prevented as a result of any unknown third party rights. It also ensures that the land is affected to the minimum extent necessary to enable delivery of the development.
- 7.69 The article provides for compensation to be payable to the beneficiary of any right that is extinguished, abrogated or discharged.

Article 29 (Compulsory acquisition of land – incorporation of the mineral code)

- 7.70 By incorporating the 'mineral code' this article exempts the existing minerals under land being automatically acquired pursuant to the exercise of compulsory acquisition. It also addresses the situation where an owner wishes to work existing minerals and provides the undertaker with the ability to compensate the owner for any inability to do so as a result of the development.

Article 30 (Time limit for exercise of authority to acquire land and rights compulsorily)

- 7.71 This article imposes a time limit of five years from the date the Order comes into force for the exercise of compulsory acquisition powers.

Article 31 (Application of Part 1 of the Compulsory Purchase Act 1965)

- 7.72 This article modifies the provisions of Part 1 of the Compulsory Purchase Act 1965 as applied to the DCO by section 125 of the Planning Act 2008.
- 7.73 The article deals with amendments required to the Compulsory Purchase Act 1965 as a result of the Housing and Planning Act 2016, to ensure consistency with the DCO.

Article 32 (Application of the Compulsory Purchase (Vesting Declarations) Act 1981)

- 7.74 This article follows article 23 of the model provisions to apply for the application of the vesting declaration procedure to the compulsory acquisition under the Order. Some of those provisions are changed to clarify that the “undertaker” will be a “public authority” under the Compulsory Purchase (Vesting Declarations) Act 1981. It also departs from the model provisions to reflect the recently enacted amendments to the Compulsory Purchase (Vesting Declarations) Act 1981 made by the Housing and Planning Act 2016.

Article 33 (Statutory Undertakers)

- 7.75 This article allows the undertaker to extinguish rights of statutory undertakers and to replace, renew, reposition, alter and/or supplement apparatus belonging the statutory undertakers within the Order limits.

Article 34 (Rights under or over streets)

- 7.76 Article 34 gives the Applicant the power to occupy land above or below streets within the Order limits without having to acquire that land. Compensation is payable for any loss or damage to structures along the relevant street.

Article 35 (Temporary use of land for carrying out the authorised development)

- 7.77 This article allows the Applicant to occupy the land specified in Schedule 10 temporarily while the works are carried out, and also any of the land identified for the permanent acquisition that has not yet been acquired.
- 7.78 The article also makes provision for the time limit for return of the land, restoration and payment of compensation.
- 7.79 Paragraph (10) incorporates section 13 of the Compulsory Purchase Act 1965 and applies it to the temporary use of the land specified in Schedule 12 and shown coloured yellow on the Land Plans (Documents 2.1A - F). Section 13, which allows enforcement of possession, is automatically applied to the powers in articles 23 – 38 by virtue of Section 125 of the 2008 Act. The power is required in relation to the temporary use of land to ensure that the undertaker will be able to enforce the taking of temporary possession of the

land to carry out the relevant works in the event that the owner or occupier refuses to allow possession.

Article 36 (Temporary use of land for maintaining authorised development)

- 7.80 This article allows the undertaker to take temporary possession of land within the Order limits to maintain the authorised development during the 5 year maintenance period (being the five years from when the development is first brought into use).

Article 37 (Apparatus and rights of statutory undertakers in stopped up streets)

- 7.81 The article follows article 32 of the model provisions and protects statutory undertakers' rights where their apparatus is under, in, along or across a street which has been stopped up under the Order.

- 7.82 The article provides that a statutory undertaker must remove/relocate the apparatus at the reasonable request of the undertaker (the undertaker bearing the cost of that relocation).

Article 38 (No double recovery)

- 7.83 This article is based on other recent DCOs³⁸ and secures the established principle that a claimant in compulsory purchase is to be compensated for no more and no less than his loss. The article ensures that compensation is not payable in respect of the same loss or damage under both the Order and other compensation regimes.

PART 6

MISCELLANEOUS AND GENERAL

Article 39 (Operation and Use of Railways)

- 7.84 This article is based on the article contained within Schedule 2 of the model provisions (model provisions for Railways). It is included as part of the authorised development comprises the provision of a railway. This article has been amended from the article in the model provisions for Railways to allow

³⁸ e.g. The Triton Knoll Electrical System Order 2016 (S.I. 2016 880) article 28

only for the carriage of goods as the authorised development will not be used for the transport of passengers.

Article 40 (Operational land for the purposes of the 1990 Act)

- 7.85 This article declares that land within the Order Limits utilised for the highway works shall be treated as operational land of a statutory undertaker for the purposes of the Town and Country Planning Act 1990.

Article 41 (Charges)

- 7.86 This article is based on an article at Schedule 2 of the model provisions (model provisions for Railways). It is included to allow the undertaker to impose charges for the carrying of goods on the railway, or for other services or facilities connected to its operation. The article has been amended from the article contained in the model provisions, as the proposed railway is to be used for the carriage of goods only.

Article 42 (Defence to proceedings in statutory nuisance)

- 7.87 This article is based upon an article in the model provisions and appears in a number of approved Development Consent Orders. It provides a defence in the circumstances specified to proceedings brought in relation to a nuisance caused by noise or vibration.

Article 43 (Felling or lopping of trees and removal of hedgerows)

- 7.88 This article is based upon an article in the model provisions. It is included to enable the undertaker to fell or lop any tree hedgerow or shrub near the authorised development, or cut back its roots, where it believes that it is necessary to prevent the tree hedgerow or shrub from interfering with the authorised development, but subject to some exceptions.
- 7.89 The article makes provision for compensation to be payable for any loss or damage arising.
- 7.90 The article also allows for the felling, lopping or cutting back of trees subject to a tree preservation order, with the consent of the relevant planning authority.

Article 44 (Protective Provisions)

- 7.91 The article gives effect to the protective provisions which are contained in Schedule 13 referred to further below.

Article 45 (Governance of requirements and protective provisions relating to highway works)

- 7.92 The article addresses the tension between a desire to maintain flexibility on details to be approved pursuant to requirements (and in the case of the highway works, protective provisions) and the need to ensure that any details approved do not take the development outside the scope of the authorised development or beyond the scope of what has been environmentally assessed.
- 7.93 Paragraph (1), for the avoidance of doubt, makes it clear that all initial approvals under the requirements and Part 2 and 3 of Schedule 13 are governed by Article 4 and prevents details being approved which lead to a form of development outside the scope of that which has been assessed. Paragraph (2) then follows the advice in paragraph 19.4 of Advice Note Fifteen: Drafting Development Consent Orders and makes it clear that approvals may subsequently be amended but any changes to approved details must not stray outside the parameters of what has been assessed.
- 7.94 The approaches taken to the governance of approval of details and subsequent amendments vary considerably in approved orders.
- 7.95 Paragraphs (1) and (2) are identical to Article 42 of The East Midlands Gateway Rail Freight Interchange and Highway Order 2016³⁹, and are consistent with the approaches taken in requirement 34 of The White Moss Landfill Order 2015, S.I. 2015 No.1317 and requirement 35 of The Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015⁴⁰.
- 7.96 It is felt preferable that an overarching provision such as that contained in article 45 should be within an article rather than in the requirements. This is particularly so in this case since the paragraphs (1) and (2) cover Schedule 13, in addition to the requirements in Schedule 2.

³⁹ S.I. 2016 No. 17

⁴⁰ S.I. 2015 No.1347

7.97 It is very important that the flexibility that is allowed for is retained. If no provision is made for details to be approved subsequently and varied (within the constraints referred to) then this development will be substantially disadvantaged in comparison to other large scale distribution sites and its ability to compete with other sites for footloose occupiers would be adversely affected.

7.98 The opportunity is taken in this article to make it absolutely clear that the requirements are, unless otherwise stated, all to be enforced by the relevant planning authority.

Article 46 (Disapplication, application and modification of legislative provisions)

7.99 This article seeks, as permitted by section 120(5) of the 2008 Act, to incorporate and modify legislative provisions which are necessary for carrying out the authorised development.

7.100 Articles 46(1) and (2) apply conventional appeal arrangements to any refusal by the relevant planning authority of an application for approval pursuant to the provisions of a requirement, as if such approval was being sought in respect of a planning condition. This is required to resolve any dispute since there is no other statutory mechanism. This is also applied to the other authorities whose approval of details is needed pursuant to the requirements.

7.101 Article 46(3) dis-applies the need for some additional consents to make use of the “one stop shop” and avoid the need to obtain a separate consent governing the same development.

7.102 Article 46(5) provides that the provisions in the Neighbourhood Planning Act 2017 relating to temporary possession do not apply to the temporary possession of land under articles 35 and 36 of the DCO. The rationale for this is that the provisions relating to temporary possession in the Neighbourhood Planning Act 2017 have not yet come into force. It is therefore considered appropriate to apply the temporary possession regime which has been included in numerous DCOs and Orders made under the Transport and Works Act 1992 to date. It is noted that this approach has also been taken in the draft DCOs submitted in respect of the applications for Tilbury 2, Millbrook Power (Gas Fired Power Station) and The A19/A184 Testos Junction Improvement.

- 7.103 Article 46(6) provides that development carried out pursuant to a planning permission following implementation of the DCO would not be in breach of the DCO, ensuring no risk of criminal liability pursuant to section 161 of the 2008 Act. The sub paragraph encompasses any development authorised by a general development order as well as an express planning permission. This follows Article 5 (2) of The East Midlands Gateway Rail Freight Interchange and Highway Order 2016⁴¹.
- 7.104 Article 46(7) dis-applies Regulation 4 of the Town and country Planning (Control of Advertisements)(England) Regulation 2007 in respect of advertisements located in the locations shown on the Parameters Plan (Document 2.10). It obviates the need to obtain a further consent for the totems and sign boards required for the development.
- 7.105 Article 46(8) dis-applies the CIL provisions to ensure there are no, unforeseen, liabilities on the undertaker arising from any CIL yet to be introduced. It is common for CIL to be dis-applied in DCO.⁴²
- 7.106 Article 46(9) - Schedule 14 refers to miscellany of controls and applies/modifies and/or amends them as appropriate to ensure they facilitate, and do not constrain, the development. This is based on the approach taken in the Thames Tideway Tunnel Order.⁴³
- 7.107 Article 46(10) is a general provision which will ensure that the development is not frustrated or constrained by, as yet unidentified, statutory constraint. This provisions is identical to that contained in Article 5(2) of the A14 Order.⁴⁴
- 7.108 Article 46(11) ensures that anything permitted as a result of the provisions of article 46 does not prevent the operation of the 2017 EIA Regulations, as suggested in Advice Note 15: Drafting Development Consent Orders.

Article 47 (Certification of plans and documents)

- 7.109 This article reflects the drafting of the model provisions and specifies with reference to Schedule 15 the plans and documents that must be submitted,

⁴¹ S.I. 2016 No. 17

⁴² See for example Thames Tideway Tunnel, Article 14 DCO and National Grid Hinckley Point C Connection

⁴³ SI 2014 No. 2384

⁴⁴ The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016 S.I. No. 547

as soon as practicable following the making of the order, to the decision maker to be certified as a true copy.

Article 48 (Service of Notices)

- 7.110 This article is a departure from the model provisions. It is included to ensure certainty regarding the procedure for service of any notice required by the Order, for example, under article 22 (Authority to survey and investigate the land).

Article 49 (Arbitration)

- 7.111 This article reflects that contained in the model provisions and is included in case of any dispute regarding the provisions of this Order, subject to it being expressly dis-applied, as it is in the case of some of the protective provisions which provide for their own dispute resolution mechanisms. The Lands Chamber of the Upper Tribunal has been inserted as the appropriate body for which any dispute should be referred to.

SCHEDULES

Schedule 1 (Authorised Development)

- 7.112 This schedule describes the authorised development for which Development Consent is sought, including associated development. The NSIP and Associated Development are identified separately.
- 7.113 The Works are summarised as follows:

NSIP

Works No 1

This is the new rail infrastructure works from the existing Northampton Loop line to connect to the new rail terminal to be provided in Works No 2. This includes the alteration of some of the existing rail track and the provision of additional rail infrastructure.

Works No 2

This is the construction of the new rail freight terminal and rail tracks to connect with Works No 1. It includes the provision of freight storage areas, rail sidings, refuelling and maintenance areas, earthworks and other administrative buildings etc.

Works No 3

This is the construction of a new railway line to serve the warehousing to be constructed within Works No. 4.

Works No 4

This is the construction of the rail served warehousing along with development such as ancillary buildings, service yards, storage areas and infrastructure to serve. It also provides for rail infrastructure for rail connected units within Zones A1 – A4 as shown on the parameters plan.

Works No 5

This comprises the principal road infrastructure on the main site including internal estate (private) roads, footpaths and cycle tracks, vehicle lay-bys and bus stops.

Works No 6

This comprises structural landscaping surrounding the built development on the main site including earthworks, bunding, flood alleviation and surface water attenuation, boundary treatments and habitat creation. It also provides for the continuing agricultural use of some of the land within the main structural landscaping area.

Works No 7

This comprises works to create a roundabout access to the main site off the A508 along with the dualling of a length of the A508 between the access to the main site and Junction 15 of the M1 motorway. The general arrangement of these works is shown on Document 2.4B.

Associated development**Works No 8**

These works relate to roads under the jurisdiction of Highways England and comprise works to J15 of the M1 motorway to improve the function of that junction and improvement works to the A45 northwards towards Northampton. The general arrangement of these works is shown on Document 2.4B.

Works No 9

These comprise works to Saxon Avenue and Watering Lane including the interface with Works No 7. The general arrangement of these works is shown on Document 2.4B.

Work No 10

These works involve the construction of new sewers and improvements and alterations to existing sewers required to accommodate the end of the foul drainage outfall / rising main from the main site.

Works No 11

These are works to improve the function of J15A of the M1 motorway which is under the jurisdiction of Highways England. The general arrangement of these works is shown on Document 2.4F.

Works No 12

These are works to deal with movements at the junction between the A508 and Blisworth Road intended both to address an existing difficulty with turning movements at the junction and to address the impact of the development traffic. The general arrangement of these works is shown on Document 2.4C.

Works No 13

Works No 13 comprises works to create a Roade Bypass connecting the A508 Northampton Road to the A508 Stratford Road via land to the north of Roade including a bridge over the railway line, roundabout junctions at each end of the bypass and at the junction with Blisworth Road and associated landscaping and related works. The general arrangement of these works is shown on Documents 2.4C and 2.4D.

Works No 14

These works comprise the improvement of the junction between the A508 and C26 near Stoke Bruerne. The works comprise the realignment of the A508 and provision of ghost island right turn junctions between the A508 and C26 Rookery Lane and the A508 and C26 Ashton Road. The general arrangement of these works is shown on Document 2.4E.

Works No 15

These works involve the improvement of the A508 at its junction with the C85 Pury Road involving the provision of a ghost island and right turn lane. The general arrangement of these works is shown on Document 2.4F.

Works No 16

These works comprise improvements to the junction of Knock Lane and C27 Stoke Road. The general arrangement of these works is shown on Document 2.4F.

Works No 17

These works comprise the provision of a pedestrian refuge on the A508, alteration to lay-by provision and a ghost island right turn junction at Church Lane. The general arrangement of these works is shown on Document 2.4F.

- 7.114 Schedule 1 also includes “**Further Works**” being diverse items the precise locations of which it is not possible to identify at this stage. These “Further Works” are not location specific because they relate to items the precise location of which is not ascertainable at this stage such as the location of substations, which is subject to more detailed engineering design, or are items where their location may change, such as temporary concrete batching plants⁴⁵.
- 7.115 These works have been divided into three separate sections of further works. These apply additional, further, works to firstly, Works Nos. 1 to 5 being the rail infrastructure, rail terminal, warehouses and on site road infrastructure; secondly, Works Nos. 1 to 6, being the above and the landscaping on the main site, and, thirdly, Works Nos. 7 to 9 and 11 to 17, being the highway mitigation works.
- 7.116 All the “Further Works” are subject to the provisos contained in the schedule that they do not give rise to any new or materially worse significant environmental effects not assessed in the environmental statement.

Schedule 2 (Requirements)

- 7.117 As permitted by section 120 of the 2008 Act, the DCO also includes, at Schedule 2, requirements to govern the authorised development. These have had regard to the drafting of conditions in planning permissions granted for similar schemes and also the requirements contained in The Daventry

⁴⁵ This approach is consistent with other approved DCO e.g. The Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013 (S.I. 2013 No. 675), The Daventry International Rail Freight Interchange Order (S.I. 2014 No. 1796) and The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (S.I. No. 17).

International Rail Freight Interchange Alteration Order 2014⁴⁶ and The East Midlands Gateway Rail Freight Interchange and Highway Order 2016⁴⁷. They are, however, bespoke for the particular development proposed. The objective of these requirements is self-explanatory. They are intended to evolve through discussions, particularly with the local authorities and other statutory agencies.

7.118 The topics covered by the requirements are set out below, along with an explanation, where helpful:

- **Time limit for commencing the authorised development** (Requirement 2)
- **Components of development and phasing** (Requirement 3)
Notable in this requirement is a commitment on the undertaker to construct and make available a rail terminal capable of handling at least 4 goods trains per day prior the occupation of any the warehousing. This requirement is a positive response to the concerns raised in the report of the Examining Authority to the Secretary of State in relation to the East Midlands Gateway Rail Freight Interchange and Highway Order 2016⁴⁸ in which concern was expressed to the delivery of the terminal. In the East Midlands Gateway Order, 260,000 square metres of warehousing can be occupied prior to the terminal being delivered.
- **Sustainable Transport** (Requirement 4)
- **Design and phasing of highways works** (Requirements 5 and 6)
- **Highway Alternatives** (Requirement 7)
This requirement addresses a situation in the event that the Smart Motorway Works, which are programmed to be carried out in the vicinity of Junction 15, do not proceed as envisaged. The consequence is that a different highway interface between the M1 Motorway and the works to Junction 15 would be required and that interface is as shown on the alternative plans. Those alternative plans can only be implemented if the Smart Motorway Project is halted or significantly delayed.

⁴⁶ S.I. 2014 No. 1796

⁴⁷ S.I. 2016 No. 17

⁴⁸ S.I. 2017 No. 17

- **Detailed design approval** (Requirements 8 and 9)
- **Provision of Landscaping** (Requirement 10)
- **Landscape and Biodiversity Management Plan** (Requirement 11)
- **Construction Environmental Management Plan** (Requirement 12)
- **Earthworks** (Requirement 13)
- **Archaeology** (Requirement 14)
- **Lighting details** (Requirement 15)
- **Building Sustainability** (Requirement 16)
- **Flood risk and surface water drainage** (Requirements 17 and 18)
- **Foul water drainage** (Requirement 19)
- **Construction Hours** (Requirement 20)
- **Construction Noise** (Requirement 21)
- **Noise during the operational phase** (Requirement 22)
- **Contamination** (Requirement 23)
- **Waste management during the operational phase** (Requirement 24)

Schedule 3 (Streets subject to Street Works)

7.119 This Schedule lists the streets within the Order limits which are to be subject to the street works pursuant to article 8.

Schedule 4 (Streets to be permanently stopped up for which a substitute is to be provided)

- 7.120 This Schedule lists the length of streets which are to be stopped up pursuant to article 10 and details of the substitute for those streets with reference to the Access and Rights of Way Plans (Document 2.3).

Schedule 5 (Public Rights of Way)

Part 1 - Public Rights of Way to be Stopped Up for which a substitute is to be provided

- 7.121 This Part details the public rights of way which are to be stopped up with substitute to be provided pursuant to article 12 with reference to the Access and Rights of Way Plan (Document 2.3).

Part 2 – Public Rights of Way to be stopped up for which no substitute is to be provided

- 7.122 This Part details the public rights of way which are to be stopped up with no substitute pursuant to article 12 with reference to the Access and Rights of Way Plan (Document 2.3).

Part 3 – New Public Rights of Way to be Created

- 7.123 This Part sets out the new public rights of way which are to be provided.

Schedule 6 (Private Means of Access)

Part 1 – Private Means of Access to be Replaced

- 7.124 This Part details the private means of access which are to be stopped up and replaced pursuant to article 13 with reference to the Access and Rights of Way Plan (Document 2.3).

Part 2 – Private Means of Access to be Closed for which no Substitute is to be Provided

- 7.125 This Part details the private means of access which are to be stopped up pursuant to article 13 and not replaced, with reference to the Access and Rights of Way Plan (Document 2.3).

Part 3 – New private means of Access Created

- 7.126 This Part sets out the new private means of access which are to be provided.

Schedule 7 (Classification of Highways)

Part 1 – New Highways

- 7.127 This Part sets out the classification of the new lengths of highways created as a result of the highway works.

Part 2 – Existing Highways

- 7.128 This Part sets out the change in classification of the existing lengths of highways created as a result of the highway works.

Schedule 8 (Speed Limits)

- 7.129 This schedule sets out the new speed limits which will apply following the completion of the works and also revokes existing orders which conflict with those limits.

Schedule 9 (Traffic Regulation)

Part 1 – Amendments to Existing Orders

- 7.130 This Part deals with any necessary amendments to existing traffic regulation orders.

Part 2 (Clearways)

- 7.131 This Part describes the lengths of road to be subject to a new order for clearways.

Part 3 (Environmental Weight Limit)

- 7.132 This Part deals with the weight restriction orders required as a result of the highway works.

Part 4 (Prohibited Movements)

- 7.133 This Part deals with the no right turn into and out of the A508 Blisworth Road.

Schedule 10 (Land for temporary possession)

- 7.134 This Schedule sets out the land of which temporary position may be taken as referred to in article 35.

Schedule 11 (Land in which new rights may be created)

- 7.135 This Schedule lists the parcels of land in which new rights may be created.

Schedule 12 (Modification of compulsory purchase enactments)

- 7.136 This Schedule modifies provisions for compensation following the creation of new rights.

Schedule 13 (Protective provisions)

- 7.137 Schedule 13 includes provisions to protect the interests of various bodies whose assets may be affected by the proposed development. These include:

Part 1: Network Rail

Part 2: Highways England

Part 3: Northamptonshire County Council

Part 4: Cadent Gas Limited (as Gas Undertaker)

Part 5: Anglian Water Limited

Part 6: General provisions for the protection of Electricity Undertakers

Part 7: General provisions for the protection of operators of the Electronic Communications Code Networks

- 7.138 Of particular note are Parts 2 and 3 of Schedule 13 which contain protective provisions to protect the interests of the highway authorities, being Highways England and Northamptonshire County Council. These provisions govern the carrying out of the highway works and obviate the need for any agreements pursuant to s.38 and s.278 of the Highways Act 1980 which would be the usual manner of governing off site highway works.

Schedule 14 (Miscellaneous Controls)

- 7.139 This Schedule sets out various legislative provisions which are modified or excluded from application to the DCO.

Schedule 15 (Certification of Plans and Documents)

- 7.140 This Schedule lists the various plans and documents that are to be certified by the Secretary of State for the purposes of the DCO. The documents listed are those referred to in the draft Order.

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