

**Cambridge Waste Water Treatment Plant Relocation Project**  
Anglian Water Services Limited

# Explanatory Memorandum

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**Revision No.7**  
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**Anglian Water Services Limited**

**The Cambridge Waste Water Treatment Plant Relocation Order 202X**

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**EXPLANATORY MEMORANDUM**

**THE PLANNING ACT 2008**

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

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**REGULATION 5(2)(c)**

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## 1. Introduction

- 1.1 This Explanatory Memorandum has been prepared on behalf of Anglian Water Services Limited (“the Applicant”) to explain the purpose and effect of each Article of and Schedule to the draft The Cambridge Waste Water Treatment Plant Relocation Order (“Order”). It forms part of the application (“Application”) for a Development Consent Order (“DCO”), that has been submitted to the Secretary of State (the “SoS”) for Environment, Food and Rural Affairs under section 37 of the Planning Act 2008 (the “2008 Act”).
- 1.2 This memorandum has been updated to align with the Applicant’s final draft DCO submitted at Deadline 7 of the Examination (document reference: 2.1 (revision 09)) and explains the purpose and the effect of provisions in the final draft DCO, as required by Regulation 5(2)(c) Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (“the 2009 Regulations”).
- 1.3 The Applicant sought a direction from the SoS for Environment, Food and Rural Affairs under section 35 of the 2008 Act as to whether its proposed development would be treated as nationally significant infrastructure and which should be treated as requiring development consent. A direction was given by the Secretary of State on 18 January 2021 confirming that the proposed development is to be treated as development of national significance for which development consent is required (“the Section 35 Direction”). The Section 35 Direction is appended to the Planning Statement (Application document reference 7.5, Examination Library reference REP1-049) and states:

*THE SECRETARY OF STATE HEREBY DIRECTS that the proposed development, namely, the Cambridge Waste Water Treatment Plant Relocation Project, is to be treated as development for which development consent is required. Any development consent order application for the proposed development may also include any matters that may properly be included in a development consent order (within the meaning of section 120 of the Planning Act) including ancillary matters (section 120(3)) and associated development (within the meaning of section 115(2) of the Planning Act).*

- 1.4 The Section 35 Direction refers to the “project” as explained and defined in the request for the direction. This states:

*The Secretary of State notes that the applicant describes the proposed project as encompassing the following:*

- *a waste water treatment plant and sludge treatment centre, described as ‘integrated’;*
- *connecting tunnels to convey the waste water and the materials it contains from the existing Cambridge Waste Water Treatment Plant inlet works to the proposed project, including complex construction of new deep and large scale tunnels to be constructed under the A14 and other intervening infrastructure and the interception of existing sewerage systems to divert flows to the new works;*

- *connecting tunnels or pipes intercepting waste water from Waterbeach New Town to convey it to the proposed project;*
  - *tunnels or pipes taking treated effluent from the proposed project to a discharge point on the River Cam;*
  - *the production of bio-gas through anaerobic digestion for conversion into renewable energies for use on site and/or storage and export,*
- as set out under the “The Project” in the email<sup>1</sup>. This includes the delivery of any “associated development” (within the meaning of section 115(1)(b) of the Planning Act) and ancillary matters.*

- 1.5 As stated, the Section 35 Direction refers to the “Project” which includes the principal elements of the development but also other elements as associated development and ancillary matters, examples of which are discussed at paragraphs 1.13 and 1.14 below. The scope of what is ‘directed in’ by the Section 35 Direction therefore encompasses more than what would constitute a nationally significant infrastructure project pursuant to the terms of section 29 of the 2008 Act.
- 1.6 The Application therefore seeks development consent for the relocation of the Applicant’s existing Cambridge Waste Water Treatment Plant (“Cambridge WWTP”) from its current location on land adjoining the north eastern side of the city of Cambridge to land immediately north of the A14 and east of Horningsea Road. The authorised development (as defined in Schedule 1 to the Order) (Application document reference 2.1) will deal with the process of waste water treatment for the local catchment areas as well as completing the waste water treatment process for the wet sludge tankered in from local satellite facilities.
- 1.7 A detailed description of the authorised development is set out in the project description within the Environmental Statement submitted with the Application (Chapter 2 - Application document reference 5.2.2, Examination Library reference REP6-009).
- 1.8 It is anticipated that subject to the Order having been made by the SoS, construction work on the authorised development would commence in 2024 at the earliest with permanent operation anticipated to commence in 2028.

### **Associated Development**

- 1.9 As noted above, the proposed development is the subject of the Section 35 Direction from the SoS. The draft DCO (Application document reference 2.1) does not seek to identify or separate the constituent parts of the proposed development as forming part of the development requiring development consent pursuant to the Section 35 Direction and associated development pursuant to the 2008 Act, rather, the “authorised development” is listed in Schedule 1 as being subject to the Section 35 Direction and including “associated development” within the meaning of the 2008 Act. The Section 35 Direction includes within the list of items noted as “the project” examples of what might be

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<sup>1</sup> Reference to “the email” in the Section 35 Direction is a reference to the Applicant’s letter, sent by email, requesting a direction pursuant to section 35 of the 2008 Act.

considered to constitute “associated development” and which are included as examples of such in the Guidance<sup>2</sup> published by the Department for Communities and Local Government (as it was then) (“the Guidance”) for waste water treatment plants. The Section 35 Direction then goes on to state that the Order may include associated development.

- 1.10 This approach to the holistic inclusion of the whole of the development as the “project” rather than separately identifying associated development is consistent to the drafting of other DCO which have been the subject of section 35 directions such as the Silvertown Tunnel Order 2018<sup>3</sup>, Net Zero Teesside Order 2024<sup>4</sup>, Lake Lothing (Lowestoft) Third Crossing Order 2020<sup>5</sup> and the Aquind Interconnector DCO<sup>6</sup>. However, the Applicant is aware that the Planning Inspectorate would consider it helpful for the Applicant to identify which elements of the authorised development would typically be “associated development” within the meaning of the 2008 Act and therefore lists these below for information. It is not proposed that the Order should separately define these, for the reasons explained above.
- 1.11 Section 115(1) of the 2008 Act provides that development consent may be granted for:
- 1.11.1 Development for which development consent is required; and
  - 1.11.2 Associated development.
- 1.12 Associated development is defined in section 115(2) as:
- 1.12.1 development which is associated with the development for which development consent is required – this is addressed in the Guidance discussed below;
  - 1.12.2 does not consist of or include the construction or extension of one or more dwellings (which the authorised development does not); and
  - 1.12.3 which is carried out in one or more area as set out in section 115(3), (4), (4A). For the purposes of the authorised development, the associated development is located in England (section 115(3)(1))
- 1.13 The Guidance sets out the principles for the Secretary of State to take into account when determining whether or not development should be treated as associated development. In particular, it states:

*5...The definition of associated development....requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development or help address its impacts....*

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<sup>2</sup> Guidance on associated development applications for major infrastructure projects (April 2013)

<sup>3</sup> S. I. 2019 No. 574.

<sup>4</sup> S. I. 2024 No. 174.

<sup>5</sup> S. I. 2020 No. 474.

<sup>6</sup> Application under re-determination

*Associated development should not be an aim in itself but should be subordinate to the principal development.*

*6. It is expected that associated development will, in most cases, be typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project, for example (where consistent with the core principles above), a grid connection for a commercial power station.*

1.14 The Guidance goes on to give examples of general types of associated development, such as access arrangements, landscaping, noise barriers and working sites and examples of associated development specific to individual types of major infrastructure projects. For waste water treatment plants, the following examples are listed:

- Water transfer system, e.g., pumping station, water transfer tunnels, pipelines
- Waste water transfer systems
- Storage facilities (such as for sludge, grit, etc.)
- Sludge handling facilities, including incineration
- Power generation/distribution plant

1.15 As explained above, several of the above examples are noted in the Section 35 Direction as part of the “Project” and indeed are intrinsically part of the waste water treatment plant relocation which is the subject of the direction, such as the integrated sludge treatment centre and the transfer systems. As such, the Applicant does not consider these “associated development” for the purposes of the Order. However, as noted above, the Applicant has sought to identify in this Explanatory Memorandum the elements of the authorised development which could be categorised as associated development, to assist the Planning Inspectorate following pre-submission discussions. These are:

1.15.1 Access arrangements and highway works;

1.15.2 Parking;

1.15.3 The gateway building;

1.15.4 The workshop;

1.15.5 Public rights of way works including the new bridleway;

1.15.6 The various further works such as lighting, welfare facilities, drainage etc.

1.16 There has been discussion at Examination in respect associated development and whether certain elements of the authorised development can be so categorised (in particular the Gateway building, its parking and the workshop). The Applicant has made several submissions in this regard (see Applicant’s Response to ISH4 Actions

(Application document reference 8.25, Examination Library ref. REP6-115) and section 3 of the Applicant's Closing Submissions at Deadline 7 (Application document reference 8.33)) explaining its position and why it considers these elements satisfy the associated development criteria. In summary:

- 1.16.1 the Gateway building has been designed as an integral part of the authorised development and provides a variety of functions associated with the waste water treatment plant including office space, meeting rooms and facilities, educational facilities and plant rooms and the building as a whole has a direct relationship with the principal development;
  - 1.16.2 the parking for the Gateway building is required to serve visitors to the building and to the WWTP itself and so is directly related to those elements; and
  - 1.16.3 the Workshop supports the ongoing operation of the development.
- 1.17 In light of the above and pursuant to the Section 35 Direction, the entirety of the authorised development may be properly included in the Order pursuant to section 115(1).
- 1.18 The commentary to the Articles, where appropriate, identifies the provisions in the 2008 Act which authorise the inclusion of such powers within a DCO.

## **2. The Applicant**

- 2.1 The Applicant is Anglian Water Services Limited.

## **3. The Purpose of the Order**

- 3.1 The purpose of the Order is to grant the Applicant development consent for a Nationally Significant Infrastructure Project. In summary the authorised development will comprise:
- an integrated waste water and sludge treatment plant.
  - a shaft to intercept waste water at the existing Cambridge WWTP on Cowley Road and a tunnel/ pipeline to transfer it to the proposed WWTP and terminal pumping station. Temporary intermediate shafts to launch and recover the micro-tunnel boring machine.
  - a gravity pipeline transferring treated waste water from the proposed WWTP to a discharge point on the River Cam and a pipeline for storm water overflows.
  - a twin pipeline transferring waste water from Waterbeach to the existing Cambridge WWTP, with the option of a connection direct in to the proposed WWTP when the existing works is decommissioned.
  - on-site buildings, including - a Gateway Building with incorporated Discovery Centre, substation building, workshop, vehicle parking including electrical vehicle charging points, fencing and lighting.

- environmental mitigation and enhancements including substantial biodiversity net gain, improved habitats for wildlife, extensive landscaping, a landscaped earth bank enclosing the proposed WWTP, climate resilient drainage system and improved recreational access and connectivity.
- renewable energy generation via anaerobic digestion which is part of the sludge treatment process that produces biogas designed to be able to feed directly into the local gas network to heat homes, or as an alternative potential future option burnt in combined heat and power engines.
- renewable energy generation via solar photovoltaic and associated battery energy storage system.
- other ancillary development such as internal site access, utilities, including gas, electricity and communications and connection to the site drainage system.
- a new vehicle access from Horningsea Road including for Heavy Goods Vehicles (HGV's) bringing sludge onto the site for treatment and other site traffic.
- temporary construction works including compounds, temporary highway controls, accesses and signage, fencing and gates, security and safety measures, lighting, welfare facilities, communication control and telemetry infrastructure.
- decommissioning works to the existing Cambridge WWTP to cease its existing operational function and to facilitate the surrender of its operational permits including removal of pumps, isolation of plant, electrical connections and pipework, filling and capping of pipework, cleaning of tanks, pipes, screens and other structures, plant and machinery, works to decommission the potable water supply and works to restrict access to walkways, plant and machinery.

3.2 In addition to providing for the construction and operation of the authorised development, the Order will, in accordance with section 120(3) and Schedule 5, and section 122 of the 2008 Act, authorise the acquisition of land and rights over land, and the extinguishment of, or interference with, interests in or rights over land. The Book of Reference (Application document reference 3.3 (submitted at Deadline 7)) sets out a description of the land and interests included in the Order, and this is shown on the land plans (Application document reference 4.4, Examination Library reference REP5-018). The Order provides for the areas which can be compulsorily acquired and what rights can be acquired, and other rights and interests that will be affected. The Order and the Book of Reference should be read together with the Statement of Reasons (Application document reference 3.1(submitted at Deadline 7)) which accompanies the Application and sets out the justification for the acquisition or interference with the Order land.

3.3 The areas of land to be used temporarily will comprise, broadly, land required for construction compounds, temporary working areas, and temporary construction accesses. The details for the restoration will be approved in writing by the relevant authority pursuant to the requirements in the Order.



- 3.4 The main components of the authorised development are summarised above. A more detailed description of the authorised development is provided at Schedule 1 'Authorised development' of the draft DCO and Chapter 2 of the Environmental Statement Volume 1 (Application document reference 5.2.2, Examination Library reference REP6-009) and the areas within which each of the main components of the authorised development are to be built is identified on the Works Plans (Application document reference 4.3, Examination Library reference REP6-004).
- 3.5 The Order also provides for the provision of new public rights of way and temporary diversions as well as various powers relating to street works and traffic regulation orders. It also includes consent to remove certain identified hedgerows.

#### 4. Flexibility in the Order

- 4.1 Article 6 of the Order provides that the authorised development may be carried out within identified limits of deviation with reference to the Works Plans and sections. The Order also includes a requirement to ensure that the development is confined to the parameters assessed in the Environmental Statement (Application document reference 5.2). This flexibility is in line with the Planning Inspectorate Advice Note Nine: Rochdale Envelope<sup>7</sup>. The maximum parameters are set out in Schedule 14 (parameters) of the Order and secured by requirement 4 in Schedule 2, by reference to that parameters schedule.

#### 5. Provisions of the Order

- 5.1 Part 1 of the Order confirms how it should be referred to, when it comes into force and defines terms used.
- 5.1.1 *Article 1 (Citation and commencement)* sets out what the Order may be cited as and when it comes into force.
- 5.1.2 *Article 2 (Interpretation)* sets out the meaning of various terms used in the Order.
- 5.1.3 The following terms have been included in the Order which do not appear in the Model Provisions and which are considered to require further explanation:
- 5.1.3.1 “completion of construction” means completion of the construction of the authorised development so that the same is complete and has been commissioned pursuant to the relevant construction contract or contracts;
- 5.1.3.2 “maintain” includes inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, re-lay, demolish, replace or improve the authorised development including undertaking any associated earthworks, or drainage work and maintenance under the LERMP, unless that activity would result in a significant environmental effect not assessed in the Environmental Statement. This provides

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<sup>7</sup> Version 3: July 2018.

the undertaker with the flexibility required to carry out a range of different activities, all of which may be needed for the purposes of maintenance.

5.1.4 With regard to the LERMP in particular, this is the Landscape, Ecological and Recreational Management Plan (Application Document reference 5.4.8.14, Examination Library reference REP6-065). This details the landscape design and recreational connectivity of the authorised development and will therefore include an element of maintenance, for example, following the removal of a temporary construction compound, the site may be restored or improved in line with the LERMP. This will require an element of maintenance to ensure that the improvement is achieved.

## 5.2 Part 2 provides the principal powers for the Proposed Development

5.2.1 *Article 3 (Development consent granted by the Order)* provides the development consent for the ‘authorised development’ to be carried out within the Order limits.

5.2.2 Schedule 1 details the authorised development which is broken into ‘work numbers’ by reference to the Works Plans (Application document reference 4.3, Examination Library reference REP6-004).

5.2.3 *Article 4 (Authorisation of use)* makes provision for the use of the authorised development. Article 4 reflects the terms of the model provisions. The Article includes the reference to “use” because, although section 157 of the 2008 Act authorises the use of buildings in respect of which development consent is granted, there is no similar provision related to land.

5.2.4 The Article follows the approach taken in The Thames Water Utilities Limited (Thames Tideway Tunnel) Order<sup>8</sup> and other more recent Development Consent Orders<sup>9</sup>.

5.2.5 *Article 5 (maintenance of authorised development)* provides for the maintenance of the authorised development by the undertaker at any time. This is subject to any limitations in the Order. Its inclusion is permitted by section 120(3) of the 2008 Act which states:

*An order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted.*

Maintenance of the authorised development is clearly related to the development to be consented.

5.2.6 Article 5(1) is consistent with the drafting in The A417 Missing Link Development Consent Order 2022<sup>10</sup>, The M54 to M6 Link Road Development

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<sup>8</sup> S.I. 2014 No. 2384 (Article 4)

<sup>9</sup> The Keuper Underground Gas Storage Facility Order 2017 (S.I. 2017 No. 433) (Article 5) and The West Midlands Rail Freight Interchange Order 2020 (S.I. 2020 No. 511) (Article 5).

<sup>10</sup> S.I. 2022 No. 1248 (Article 6)

Consent Order 2022 , Great Yarmouth Third River Crossing Development Consent Order 2020 and The Thurrock Flexible Generation Plant Development Consent Order 2022 .

5.2.7 Article 5(2) confirms that the maintenance of highway works and protective provisions are not covered by Article 5 and is similar to the approach taken in The M54 to M6 Link Road Development Consent Order 2022<sup>11</sup>, Great Yarmouth Third River Crossing Development Consent Order 2020<sup>12</sup> and The Thurrock Flexible Generation Plant Development Consent Order 2022<sup>13</sup>.

5.2.8 *Article 6 (limits of deviation)* identifies the limits of deviation within which the authorised development must be constructed and maintained both laterally and vertically by reference to various plans/sections which identify those limits of deviation.

5.2.8.1 The lateral limits of deviation for the Works are as follows:

- (a) for work numbers 4, 6 and 16, a lateral deviation to the extent from the lines, situations or position shown on the Works Plans (Application document reference 4.3, Examination Library reference REP6-004) for those works; and
- (b) for Work numbers 5, 7, 8, 9, 10, 11, 12, 13, 14, 16, 20, a lateral deviation of 50 metres in any direction but only up to the inner boundary of Work number 15.

5.2.8.2 The vertical limits of deviation for the Works are as follows:

- (a) for Work number 27, 2 metres upwards or downwards from the levels shown on the Design Plan – Sewer Tunnel and Longitudinal Section (Application document reference 4.12, Examination Library reference APP-026);
- (b) for Work numbers 31, 33 and 35: not exceeding 2 metres upwards but not less than 1 metre below finished ground level excluding air valves, chambers and manholes which will be at finished ground level as shown on the relevant sections (Application document reference 4.12 and document series 4.13, Examination Library references APP-026 and APP-027 (respectively)), or downwards as may be necessary or convenient;
- (c) for Work number 32: not exceeding 0.5 metres upwards, or downwards as may be found to be necessary or convenient;
- (d) for Work number 36 outside of the boundary of the existing Cambridge Waste Water Treatment Works: not exceeding 2

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<sup>11</sup> S.I. 2022 No. 475 (Article 4)

<sup>12</sup> S.I. 2020 No. 1075 (Article 5)

<sup>13</sup> S.I. 2022 No. 157 (Article 5)

metres upwards but not less than 1 metre below finished ground level excluding air valves, chambers and manholes which will be at finished ground level, or downwards as may be found to be necessary or convenient; and

- (e) for Work number 36 inside of the boundary of the existing Cambridge Waste Water Treatment Works: not exceeding 2 metres upwards, or downwards as may be found to be necessary or convenient.

5.2.9 The Applicant requires the flexibility at Article 6(d) in order to accommodate, for example, existing services or ground conditions which may become apparent in future. Limits of deviation are addressed generally in Chapter 2 of the Environmental Statement (Project Description) (Application document reference 5.2.2, Examination Library reference REP6-009). In particular, paragraph 2.1 explains how the flexibility required has been assessed in accordance with the Rochdale Envelope principle including by reference to the limits of deviation and the parameters set out in the Chapter and in Schedule 14 of the dDCO. Therefore, materially different environmental effects from those set out in the Environmental Statement will not arise by reason of potentially adjusted locations of project elements within the limits of deviation.

5.2.10 This approach is in accordance with the guidance set out in the Planning Inspectorate's Advice Notes 9 and 15 and is accepted as an appropriate way to provide for flexibility and address uncertainty, for example, ground conditions and to allow refinement through detailed design. It would not be practical for a development of this size to fully fix its design at this stage. The design will be refined following the grant of the Order and the limits of deviation provide the necessary flexibility alongside the maximum parameters which are fixed through requirement 4 and Schedule 14. A similar approach has been adopted in made DCOs such as the Lake Lothing (Lowestoft) Third Crossing Order 2020<sup>14</sup>, the Great Yarmouth Third River Crossing Development Consent Order 2020<sup>15</sup> and the A303 Sparkford to Ilchester Dualling Development Consent Order 2021<sup>16</sup>.

5.2.11 *Article 7 (benefit of the Order)* overrides section 156(1) of the 2008 Act (which is permitted by section 156(2)) and provides that the benefit of the Order is for the undertaker, rather than anyone with an interest in the land. Given the nature of the authorised development and the fact that powers of compulsory acquisition are sought it would be impracticable and inappropriate for the Order to be 'open' as to who may implement it, as might occur without this provision. The Article confirms that the Order shall have effect solely for the benefit of Anglian Water Services Limited, subject to the transfer of benefit

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<sup>14</sup> S.I. 2020 No. 474 (Article 5)

<sup>15</sup> S.I. 2020 No. 1075 (Article 6)

<sup>16</sup> S.I. 2021 No. 125 (Article 8)

provisions in Article 8. This reflects the approach taken in The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014<sup>17</sup>.

- 5.2.12 *Article 8 (transfer of benefit of Order)* provides for the transfer of the whole or part of the benefit of the Order with the consent of the SoS, subject to certain exceptions. Consent is not required for transfer to CWRP Relocation Limited who is the appointed provider for the construction of the authorised development. Further details about this arrangement are set out in the Funding Statement (Application document reference 3.2, Examination Library reference REP6-002).
- 5.2.13 Certain powers of compulsory acquisition may not be transferred to CWRP Relocation Limited without the consent of the SoS. These are the powers in Articles 26 (compulsory acquisition of land), 28 (compulsory acquisition of rights and imposition of restrictive covenants), 29 (acquisition of subsoil only), 30 (acquisition of land limited to subsoil lying more than 7 metres beneath surface). As Anglian Water Services Limited will be the ultimate owner and operator of the authorised development, it is envisaged that any powers of permanent acquisition will remain exercisable by them.
- 5.2.14 Article 8(4) provides that where the undertaker has transferred the benefit of the Order then:
- 5.2.14.1 the transferee will be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by Anglian Water Services Limited; and
  - 5.2.14.2 the transfer will not prevent Anglian Water Services Limited benefitting from those provisions of this Order notwithstanding that those provisions may also benefit CWRP Relocation Limited, the transferee or the lessee.
- 5.2.15 Article 8(5) and (6) include a procedure to be adopted when making an application to the SoS for consent. It is considered necessary to provide certainty in the absence of any other statutory procedure for obtaining consent. The essential elements of this procedure are as follows:
- 5.2.15.1 before any application is made to the SoS the undertaker shall consult with the SoS;
  - 5.2.15.2 the undertaker must give notice to the SoS and if such transfer relates to the exercise of powers in their area, the relevant planning authority;
  - 5.2.15.3 the notice must include contract details, the date on which the transfer will take effect, the provisions to be transferred/granted

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<sup>17</sup>

S.I. 2014 No. 2384 (Article 8)

and the restrictions, liabilities and obligations that will apply to the transferee; and

- 5.2.15.4 where the provisions to be transferred or granted include any or all of the benefit of the powers of compulsory acquisition in Articles 26 (compulsory acquisition of land), 28 (compulsory acquisition of rights and imposition of restrictive covenants), 29 (acquisition of subsoil only), 30 (acquisition of land limited to subsoil lying more than 7 metres beneath surface), the notice must state confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.
- 5.2.16 These provisions have been included in a number of DCOs, including the Thames Tideway Tunnel Development Consent Order<sup>18</sup> and The Little Crow Solar Park Order 2022<sup>19</sup> and are intended to provide that the benefit is only transferred to an undertaker which is considered by the SoS to be able to benefit from the provisions whilst fulfilling the liabilities and obligations under the Order.
- 5.2.17 *Article 9 (Defence to proceedings in respect of statutory nuisance)* provides a statutory defence to any nuisance proceedings under the Environmental Protection Act 1990 in respect of any nuisance specified in Section 79(1) of that Act if:
- 5.2.17.1 in the course of carrying out construction or maintenance of the authorised development, and for which notice has been given under section 60 or consent obtained under section 61 of the Control of Pollution Act 1974 or which cannot be reasonably avoided as a consequence of the authorised development; or
- 5.2.17.2 is a consequence of complying with a requirement of the Order and it cannot be reasonably avoided; or
- 5.2.17.3 is a consequence of the construction of the authorised development before completion of construction and it cannot be reasonably avoided; or
- 5.2.17.4 relates to premises used by the undertaker for the purpose of or in connection with the operation or use of the authorised development and that nuisance is attributable to the operation and use of the authorised development which is being operated or used in compliance with a requirement of the Order.
- 5.2.18 The Article is included as authorised by section 158 of the 2008 Act. The Statutory Nuisance Statement (Application document reference 7.13,

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<sup>18</sup> S.I. 2014 No. 2384 (Article 9)

<sup>19</sup> S.I. 2022 No. 436 (Article 5)

Examination Library reference APP-212) explains the Applicant’s conclusions on the likelihood of any such nuisance arising.

- 5.2.19 The Article is similar to the corresponding contained in The Little Crow Solar Park Order 2022<sup>20</sup>, The Boston Alternative Energy Facility Order 2023<sup>21</sup> and The A38 Derby Junctions Development Consent Order 2023<sup>22</sup>.

## 6. Part 3 (Streets)

- 6.1.1 *Article 10 (Street works)* authorises the undertaker to carry out various works within the streets specified in Schedule 3 of the Order, which are within the Order limits for the purposes of the authorised development (subject to the provisions of Parts 5 and 6 of Schedule 15 of the Order (protective provisions for National Highways and local highways authorities, respectively). The right given by the Article is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the New Roads and Street Works Act 1991 and means that the undertaker will not need to obtain a separate licence from the street authority, thereby ensuring that the delivery of the authorised development is not stalled or delayed.

- 6.1.2 The Article lists the various works which may be undertaken provided they are for the purposes of carrying out the authorised development. Works to streets will be required for the delivery of the permanent site access and its connection to the existing local road network.

- 6.1.3 This Article provides a statutory right to carry out street works and its inclusion is therefore permitted by section 120(5)(a) of the 2008 Act which states that an order granting development consent may:

*“(a) apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order...”*

- 6.1.4 Similar provisions are included in other made DCOs such as The Northampton Gateway Rail Freight Interchange Order 2019<sup>23</sup>, The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014<sup>24</sup> and The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>25</sup>.

- 6.1.5 *Article 11 (Power to alter layout etc. of streets)* allows for the alteration of the layout of any street for the purposes of carrying out the authorised development, subject to obtaining the consent of the relevant highway authority. The deemed consent approach is increasingly incorporated in many DCOs, for example, see article 12(5) of the National Grid (Hinkley Point C

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<sup>20</sup> S.I. 2022 No. 436 (Article 7)

<sup>21</sup> S.I. 2023 No. 778 (Article 44).

<sup>22</sup> S.I. 2023 No. 923 (Article 43).

<sup>23</sup> S.I. 2019 No. 1358 (Article 8).

<sup>24</sup> S.I. 2014 No. 2384 (Article 8).

<sup>25</sup> S.I. 2022 No. 934 (Article 15)



Connection Project) Order<sup>26</sup>. This power is required to ensure that delivery of the authorised development is not hindered by interference with existing streets. The deemed consent only applies in circumstances where the highway authority has received an application, that application contains all relevant information and it has not made a decision within the period of 42 days. The power to prevent the deemed consent from applying is therefore in the hands of the highway authority who may refuse the application in order to ensure the deemed consent does not apply. However, this is caveated by the requirement not to unreasonably withhold consent.

- 6.1.6 The Order includes several provisions for deemed consents/approvals. These are required in order to ensure a swift and clear mechanism to delivering the development. There are safeguarding provisions to ensure the provision of sufficient information for the giving of the relevant consent or otherwise, and where this has been done, approval is deemed so that the development may continue, and is not stalled due to the need to negotiate with third parties. This deemed approval route is appropriate for the authorised development due to its national significance and the timeframe in which the undertaker is required to deliver the development.
- 6.1.7 This Article is permitted by section 120(3) of the 2008 Act as the works are related to the authorised development. This Article is not included in the Model Provisions but is included in similar form (including deeming provisions) in many other Development Consent Orders including the recent Southampton to London Pipeline Order 2020<sup>27</sup>, The Northampton Gateway Rail Freight Interchange Order 2019<sup>28</sup> and The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>29</sup>.
- 6.1.8 *Article 12 (Temporary closure of streets)* provides for the temporary closure, alteration or diversion of streets to the extent specified in Schedule 5 for the purposes of carrying out the authorised development and also, with the consent of the relevant street authority, other streets which are not specified for a reasonable time. The Article also provides for the use of any streets temporarily stopped up as a temporary working site. The undertaker must provide reasonable access for pedestrians affected by the temporary closure, alteration or diversion. It provides for compensation for the loss suffered by the suspension of any public right of way.
- 6.1.9 This power is included to temporarily reduce any conflict between the works needed to carry out the authorised development and the streets on which works may be carried out. An example of this is the delivery of the temporary construction access which interferes with a public right of way. This power enables that public right of way to be temporarily diverted.

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<sup>26</sup> S.I. 2016 No. 49

<sup>27</sup> S.I. 2020 No. 1099 (Article 10).

<sup>28</sup> S.I. 2019 No. 1358 (Article 9).

<sup>29</sup> S.I. 2022 No. 934 (Article 14).



- 6.1.10 The street authority is deemed to have provided consent to a request for temporary closure, alteration, diversion or use of a street as a temporary working site in circumstances where it does not notify the undertaker of its decision within 28 days. In making an application for consent, the undertaker must remind the street authority of the deemed consent provisions in this Article.
- 6.1.11 The Article is permitted by section 120(3) of the 2008 Act because maintenance of the highway works is related to the authorised development for which consent is sought.
- 6.1.12 The Article enables the temporary closure of some stretches of highway which are not within the Order limits (see the Access and Traffic Regulation Order Plans (Application document reference 4.7, Examination Library reference AS-154)). This is because the operation of these powers does not require physical development and therefore those stretches of highway do not need to be within the Order limits. This approach is consistent with that taken in other made DCO, for example, The Northampton Gateway Rail Freight Interchange Order 2019<sup>30</sup> the M20 Junction 10a Order 2017<sup>31</sup>, and The A57 Link Roads Development Consent Order 2022<sup>32</sup>.
- 6.1.13 *Article 13 (public rights of way - creation, temporary closure and diversion)* is included to provide the necessary powers to interfere with and create public rights of way in connection with carrying out the authorised development. The powers include temporarily closing a public right of way in circumstances where there is diversion/substitution proposed as specified in Schedule 6. This will be required in order to deliver the temporary site access which crosses a public right of way. The Article also provides for the provision of new public rights of way.
- 6.1.14 There is also a general power to allow for the provision of temporary closure for rights of way which are not detailed in the Schedule upon the Applicant providing no less than 14 days' written notice to the relevant highway authority. In this scenario, the detail will be agreed with the relevant highway authority in advance of the stopping up. The undertaker must also provide a substitute temporary right of way prior to the temporary closure of the public right of way concerned.
- 6.1.15 This Article is permitted by section 120(3), section 120(4) and paragraph 17 of Part 1 to Schedule 5 of the 2008 Act ("*The stopping up or diversion of highways.*"). Similar provisions are included in made DCOs such as The Southampton to London Pipeline Development Consent Order 2020<sup>33</sup> and The Northampton Gateway Rail Freight Interchange Order 2019<sup>34</sup>.

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<sup>30</sup> S.I. 2019 No. 1358 (see article 16 and the speed limit plans relating to that Order.

<sup>31</sup> S.I. 2017 No. 1202 (Article 14)

<sup>32</sup> S.I. 2022 No. 1206 (Article 14(4))

<sup>33</sup> S.I. 2020 No. 1099 (Article 13)

<sup>34</sup> S.I. 2019 No. 1358 (Article 12).

- 6.1.16 *Article 14 (Access to works)* permits the undertaker to form new or to improve existing means of access in the locations specified in Schedule 7 of the Order for the purposes of carrying out and maintaining the authorised development. In order to construct the main site access to the authorised development, the undertake requires a temporary access. Other temporary accesses are required for the purposes of constructing and maintaining the authorised development. The proposed accesses are shown on the Access and Traffic Regulation Order Plans (Application document reference 4.7, Examination Library reference AS-154).
- 6.1.17 Other means of access can also be provided and existing accesses improved in other locations reasonably required for the authorised development with the approval of the relevant planning authority, in consultation with the relevant highway authority. A request for a new access or to improve an existing access will be deemed approved in the absence of a notification from the relevant planning authority within 28 days. As with the other Articles in Part 3, deemed approval only applies where the planning authority has not notified the undertaker of its decision. In its request for approval, the undertaker must notify the planning authority of the deeming provisions.
- 6.1.18 Works to create a permanent access which joins highway maintainable at the public expense are to be completed in accordance with the provisions of Part 6 of Schedule 15 (protective provisions).
- 6.1.19 The Article is permitted by section 120(3) of the 2008 Act because it concerns access for the purposes of carrying out and using the authorised development and is therefore related to the authorised development.
- 6.1.20 The Article is similar to others included in recent DCOs such as The Northampton Gateway Rail Freight Interchange Order 2019<sup>35</sup> and The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022<sup>36</sup>.
- 6.1.21 *Article 15 (Maintenance of highway works)* provides for the maintenance of the highway works and refers to the relevant paragraphs of the protective provisions with the relevant highway authorities (Part 5 in respect of National Highways and Part 6 in respect of local highway authorities in Schedule 15). The Article refers to the final and provisional certificates to be issued in respect of the highway works which are the triggers for which dedication of public highway and maintenance of public highway are engaged.
- 6.1.22 Similar provisions are included in The Northampton Gateway Rail Freight Interchange Order 2019<sup>37</sup> and The West Midlands Rail Freight Interchange Order 2020<sup>38</sup>.

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<sup>35</sup> S.I. 2019 No. 1358 (Article 13).

<sup>36</sup> S.I. 2022 No. 1396 (Article 12).

<sup>37</sup> S.I. 2019 No. 1358 (Article 14).

<sup>38</sup> S.I. 2020 No. 511 (Article 14).

- 6.1.23 *Article 16 (Speed limits)* This Article is based upon articles in other Development Consent Orders, for example, the M1 Junction 10(a) Order,<sup>39</sup> Houghton Regis Order<sup>40</sup> and The West Midlands Rail Freight Interchange Order 2020<sup>41</sup>. It allows the undertaker to impose temporary speed limits and one permanent, new speed limit as part of the authorised development without the need to obtain a separate order, making use of the ‘one stop shop’ approach to consenting.
- 6.1.24 With regards to temporary speed limits, the Article allows the length of the highways identified in Part 1 of Schedule 8 to be subject to new temporary speed limits as set out in that schedule during the relevant part of the authorised development, as if such restrictions were imposed by an order under the Road Traffic Regulation Act 1984.
- 6.1.25 The Article also allows for the imposition of temporary speed limits which are not specified in Part 1 of Schedule 8, if expedient or necessary for the construction operation, use or maintenance of the authorised development and subject to the consent of the relevant traffic authority.
- 6.1.26 The Article allows for one new permanent speed limit as described in Part 2 of Schedule 8. This is the reduction in the maximum speed limit on Horningsea Road from 60 mph to 40 mph between the villages of Horningsea and Fen Ditton as explained in the Transport Assessment (paragraphs 2.7.21 – 2.7.23, Application document reference 5.4.19.3, Examination Library reference REP6-075a).
- 6.1.27 This Article is permitted by section 120(3) of the 2008 Act as the regulation of speed limits is related to the provision of the highway works which form part of the authorise development.
- 6.1.28 *Article 17 (Traffic regulation)* is included within the Order to allow the undertaker to make provision for temporary traffic regulation in connection with the authorised development as detailed in Schedule 9. The Article also provides that the undertaker may:
- 6.1.28.1 revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
  - 6.1.28.2 permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
  - 6.1.28.3 authorise the use as a parking place of any road;
  - 6.1.28.4 make provision as to the direction or priority of vehicular traffic on any road; and

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<sup>39</sup> The M1 Junction 10a (Grade Separation) Order 2013 S.I. 2013 No. 2808

<sup>40</sup> The Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014 S.I. 2014 No. 2637

<sup>41</sup> S.I. 2020 No. 511

6.1.28.5 permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker. However, the consent of the traffic authority is required. Deemed approval applies only where the traffic authority has not notified the undertaker of its decision within 28 days. As with the other Articles in Part 3, the undertaker must inform the traffic authority of the deemed approval provisions when requesting consent. The undertaker must also have consulted with the police and relevant traffic authority before requesting consent. The traffic authority will therefore be on notice that the undertaker seeks to exercise its powers under the Article before a formal request is made.

6.1.29 The Article requires the provision of notice in writing to the chief officer of police and relevant traffic authority prior to exercising its powers under this Article.

6.1.30 This Article is necessary to enable the authorised development to be carried out safely, for example but also without unnecessary delay. In particular, it is proposed to use this power when delivering the satellite compounds in circumstances where there are no alternative routes for pedestrians and cyclists. Interference with the footways and cycle tracks will need to be controlled. This power will also be required when laying the effluent pipeline across Horningsea Row due to the need for signal control and lane narrowing.

6.1.31 These powers are similar to those contained in the Thames Tideway Order<sup>42</sup> and has more recently been authorised in The Southampton to London Pipeline Development Consent Order 2020<sup>43</sup> and The Sizewell C (Nuclear Generating Station) Order 2022<sup>44</sup>. Its inclusion is permitted pursuant to section 120(3) of the 2008 Act as the regulation of traffic is required in order that the authorised development may be carried out and therefore it is related to the authorised development.

6.1.32 As with Article 12, this Article includes powers over stretches of highway which are not within the Order limits. This is because the operation of these powers does not require physical development and therefore those stretches of highway do not need to be within the Order limits.

6.1.33 *Article 18 (Agreements with highways authorities)* allows the relevant highway authority and the undertaker to enter into agreements relating to highway powers in connection with the authorised development. The agreements may also make provision for the relevant highway authority to carry out a function under the Order which relates to the street in question. This is included as in some cases it may be deemed more appropriate or expedient for the highway

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<sup>42</sup> The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014 No. 2384) (article 18).

<sup>43</sup> S.I. 2020 No 1099 (article 16).

<sup>44</sup> S.I. 2022 No 853 (article 24).

authority to carry out the works itself, for example, improvement works were already planned.

- 6.1.34 This Article is permitted by section 120(3) of the 2008 Act as it permits agreements with concern the authorised development or matters ancillary to the authorised development.
- 6.1.35 The Article is similar to a provision included in several DCOs including The National Grid (Hinkley Point C Connection Project) Order 2016<sup>45</sup>, The Sizewell C (Nuclear Generating Station) Order 2022<sup>46</sup> and Great Yarmouth Third River Crossing Development Consent Order 2020<sup>47</sup>.

## 7. Part 4 (Supplemental Powers)

- 7.1.1 *Article 19 (Discharge of water)* is based on a former model provision and enables the undertaker to discharge water into any watercourse, public sewer or drain in connection with the construction, operation, use and maintenance of the authorised development with the approval of the owner of the watercourse, public sewer or drain (such approval not to be unreasonably withheld) and subject to certain other conditions. A deemed approval applies if notification is not received within 28 days, subject to the application for approval notifying the relevant person of the possibility of deemed approval.
- 7.1.2 The Order provides for protective provisions to Cambridgeshire County Council (as lead local flood authority), Cambridge Water and any relevant navigation authority and this Article should be read in conjunction with those provisions.
- 7.1.3 This Article is permitted by section 120(3), section 120(4) and paragraph 26 of Part 1 to Schedule 5 of the 2008 Act (“*The discharge of water into inland waters or underground strata*”).
- 7.1.4 The Applicant is mindful of Section 146 of the Planning Act 2008 and has not sought powers to take water pursuant to the Order.
- 7.1.5 Similar provisions are included in The A417 Missing Link Development Consent Order 2022<sup>48</sup>, The HyNet Carbon Dioxide Pipeline Order 2024<sup>49</sup> and The M54 to M6 Link Road Development Consent Order 2022<sup>50</sup>.
- 7.1.6 *Article 20 (Protective work to buildings and structures)* is based on a former model provision that allows the undertaker, at its own expense, to carry out protective works to any building or structure where it is considered necessary or expedient. Such protective works can be undertaken at any time before or

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<sup>45</sup> S.I. 2016 No. 49 (Article 15).

<sup>46</sup> S.I. 2022 No 853 (article 23).

<sup>47</sup> S.I. 2020 No 1075 (article 17).

<sup>48</sup> S.I. 2022 No 1248 (article 21).

<sup>49</sup> S.I. 2024 No 436 (article 20).

<sup>50</sup> S.I. 2022 No 475 (article 17).

during the carrying out in the vicinity of the relevant building works forming part of the authorised development. Protective works can also be undertaken after the carrying out of works forming part of the authorised development for a period of five years from the day on which that part of the authorised development first becomes operational.

- 7.1.7 In addition to the powers to undertake protective works the Article includes powers to enter any building and structure to which the power applies and any land within Order limits within its curtilage to survey to determine whether protective works are needed and there are powers to enter adjacent land to carry out any protective works. However there is a requirement, before utilising the powers in the Article, to serve notice on owners and occupiers with at least 14 days' notice of the said works. In respect of some of the powers included in the Article there is an ability for a counter notice to be served by the land owner/occupier within a period of 14 days from the day on which the notice was served.
- 7.1.8 The Article includes compensation provisions in relation to the consequences of the protective works being undertaken.
- 7.1.9 The model provision has been modified to provide that section 13 (refusal to give possession to acquiring authority) of the Compulsory Purchase Act 1965 applies to the entry onto, or possession of land under this Article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (*application of compulsory acquisition provisions*) of the 2008 Act. A similar provision is included in The Boston Alternative Energy Facility Order 2023<sup>51</sup> and The Drax Power (Generating Stations) Order 2019<sup>52</sup>.
- 7.1.10 This Article is permitted by section 120(3), 120(4) and paragraph 10 (*"The protection of the property or interests of any person"*) of Part 1 to Schedule 5 of the 2008 Act.
- 7.1.11 *Article 21 (Authority to survey and investigate the land)* is based on a former model provision and allows the undertaker to survey and investigate land, including bringing equipment onto the land and making trial pits. The power is subject to a number of conditions including a requirement for 14 days' notice to be given and is subject to the payment of compensation.
- 7.1.12 It may be necessary at times to survey land outside of the Order limits in order to assess its effects and therefore the power allows the undertaker to enter onto land within the Order limits and on any land which may be affected by the authorised development. This is common place and can be seen in the A428

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<sup>51</sup> S.I. 2023 No. 778 (Article 22).

<sup>52</sup> S.I. 2019 No. 1315 (Article 35).

Black Cat to Caxton Gibbet DCO<sup>53</sup>, The Boston Alternative Energy Facility Order 2023<sup>54</sup> and the A57 Link Roads DCO<sup>55</sup>, by way of example.

- 7.1.13 This Article provides for surveys to be carried out by drone which could reduce the need to enter onto land.
- 7.1.14 Sub paragraph (4) provides that no trial holes may be made in land forming part of a railway or land held by or in right of the Crown without the consent of Network Rail or the Crown respectively, and trial holes may not be made in a highway or private street without the consent of the highway or street works authority.
- 7.1.15 Section 13 (*refusal to give possession to acquiring authority*) of the Compulsory Purchase Act 1965 will apply in respect of entry onto, or possession of land under the Article.
- 7.1.16 This Article is permitted by section 120(3), section 120(4) and paragraph 12 of Part 1 to Schedule 5 of the 2008 Act ("*Carrying out surveys or taking soil samples*").
- 7.1.17 *Article 22 (Removal of human remains)* enables the undertaker to remove human remains from the Order limits and provides a process for notification and identification of the human remains as well as their re-internment or cremation. The undertaker would be required to pay the reasonable expenses associated with this process. Whilst it is not anticipated that any human remains will be encountered during construction works, it is possible that human remains could be found within the Order limits. Without this Article, the undertaker would require the express consent of the SoS for Justice which would risk delay to the construction programme.
- 7.1.18 The Article closely follows drafting used in The Drax Power (Generating Stations) Order 2019<sup>56</sup>, The Boston Alternative Energy Facility Order 2023<sup>57</sup> and The Little Crow Solar Park Order 2022<sup>58</sup> save that the disapplication of section 25 Burial Act 1857 is contained in Article 49.
- 7.1.19 *Article 23 (Felling or lopping of trees and removal of hedgerows)* provides that the undertaker may fell or lop or cut back the roots of any tree which is not subject to a tree preservation order or shrub to prevent it obstructing or interfering with the construction, maintenance, use and operation of the authorised development. Compensation is provided for if loss or damage is caused. The Article closely follows the drafting of The Little Crow Solar Park

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<sup>53</sup> The A428 Black Cat to Caxton Gibbet Development Consent Order 2022 (SI 2022 No. 934) (article 22)

<sup>54</sup> S.I 2023 No 778 (Article 21).

<sup>55</sup> The A57 Link Roads Development Consent Order 2022 (SI 2022 No. 1206) (article 21)

<sup>56</sup> S.I. 2019 No. 1315 (Article 18).

<sup>57</sup> S.I. 2023 No. 778 (Article 24).

<sup>58</sup> S.I. 2022 No. 436 (Article 12)



Order 2022<sup>59</sup>, The Hornsea Three Offshore Wind Farm Order 2020<sup>60</sup> and The M54 to M6 Link Road Development Consent Order 2022<sup>61</sup> save that Article 23(1) includes a carve out for trees and shrubs subject to article 24 (trees subject to tree preservation orders), or article 25 (trees in conservation areas).

- 7.1.20 The Article also provides the power to remove the hedgerows and important hedgerows specified in Schedule 16 which refers to the Hedgerow Regulations and Tree Preservation Plans (Application document reference 4.8, Examination Library reference REP6-005). Again, compensation is provided if loss or damage is caused.
- 7.1.21 Chapter 15 (Landscape and Visual Impact) of the Environmental Statement addresses the removal of trees and hedgerows in conjunction with Arboricultural Impact Assessments (Application Document reference 5.4.8.17 and 5.4.8.19, Examination Library references APP-102 and REP1-035 (respectively)). The Landscape, Ecological and Recreational Management Plan (“LERMP”) (Application Document reference 5.4.8.14, Examination Library reference REP6-065) also deals with the existing trees and hedgerows to be retained. Compliance with the LERMP is secured by DCO requirement 13.
- 7.1.22 This Article is permitted by section 120(3), section 120(4) and paragraph 13 of Part 1 to Schedule 5 of the 2008 Act (“*Cutting down, uprooting, topping or lopping trees or shrubs or cutting back their roots.*”).
- 7.1.23 *Article 24 (Trees subject to tree preservation orders)* provides that the undertaker may fell or lop or cut back the roots of any tree which is subject to a tree preservation order or shrub to prevent it from obstructing or interfering with the construction, maintenance, operation or use of the authorised development. This applies to a tree subject to a tree preservation order made before or after the date of the Order. Chapter 15 (Landscape and Visual Impact) (Application document reference 5.2.15, Examination Library reference REP6-029) of the Environmental Statement addresses the impact on trees , however, there are no trees subject to a tree preservation order at the time of submitting the application.
- 7.1.24 The effect of this Article is to ensure that the undertaker is not delayed from carrying out the authorised development by having to obtain consent. It also removes the risk of consent being refused which could frustrate the delivery of the authorised development.
- 7.1.25 This Article is permitted by section 120(3), section 120(4) and paragraph 13 of Part 1 to Schedule 5 of the 2008 Act (“*Cutting down, uprooting, topping or lopping trees or shrubs or cutting back their roots.*”).

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<sup>59</sup> S.I. 2022 No. 436 (article 16)

<sup>60</sup> S.I. 2020 No. 1656 (article 34)

<sup>61</sup> S.I. 2022 No. 475 (Article 34)



- 7.1.26 Similar provisions are included in other made DCOs such as The Hornsea Three Offshore Wind Farm Order 2020<sup>62</sup>, The East Anglia TWO Offshore Wind Farm Order 2022<sup>63</sup> and The M54 to M6 Link Road Development Consent Order 2022<sup>64</sup>.
- 7.1.27 *Article 25 (Trees in conservation areas)* provides that the undertaker may fell or lop any tree or shrub which is in a conservation area or cut back its roots if it reasonably believes it to be necessary to do so prevent obstruction or interference with the authorised development. Compensation is payable for loss or damage. The Article is similar to Article 54 of the Great Yarmouth Third River Crossing Development Consent Order 2020<sup>65</sup>, save that Article 25 only applies to trees in conservation areas rather than also to those subject to tree preservation orders.
- 7.1.28 There are several trees within the Fen Ditton and Baits Bite Lock Milton Conservation Areas. The Arboricultural Impact Assessments (Application document reference 5.4.8.17 and 5.4.8.19, Examination Library references APP-102 and REP1-035 (respectively)) detail measures required to protect trees to be retained during construction. The Assessments conclude that four of these trees might need to be felled, but this cannot be confirmed until the construction stage.
- 7.1.29 This Article is permitted by section 120(3), section 120(4) and paragraph 13 of Part 1 to Schedule 5 of the 2008 Act (*“Cutting down, uprooting, topping or lopping trees or shrubs or cutting back their roots.”*).

## 8. Part 5 (Acquisition and Possession of Land)

- 8.1.1 *Article 26 (Compulsory acquisition of land)* provides for the compulsory acquisition of such land as is required for the authorised development (or to facilitate the authorised development or is incidental to the authorised development).
- 8.1.2 The Article makes clear that it is subject to the powers and restrictions in Article 27 (time limit for exercise of authority to acquire land compulsorily), Article 28 (compulsory acquisition of rights and imposition of restrictive covenants), Article 29 (acquisition of subsoil only), Article 30 (acquisition of land limited to subsoil lying more than 7 metres beneath surface) and Article 35 (temporary use of land for carrying out the authorised development).
- 8.1.3 The Article expressly excludes the power to compulsorily acquire land in respect of the parcels of land over which only the power to extinguish private rights is required, being the land shown coloured yellow on the Land Plans. Those parcels of land are subject to the private rights powers conferred under Article 31(3) and (4).

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<sup>62</sup> S.I. 2020 No. 1656 (article 35)

<sup>63</sup> S.I. 2022 No. 433 (article 35)

<sup>64</sup> S.I. 2022 No. 475 (Article 35)

<sup>65</sup> S.I. 2020 No. 1075

- 8.1.4 *Article 27 (Time limit for exercise of authority to acquire land compulsorily)* is a model provision which imposes a time limit of five years for the exercise of powers of compulsory acquisition, beginning with the day on which the Order is made.
- 8.1.5 Near identical provision is included in The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014<sup>66</sup> and the drafting closely follows the corresponding provisions in the Lake Lothing (Lowestoft) Third Crossing Order 2020<sup>67</sup> and Great Yarmouth Third River Crossing Development Consent Order 2020<sup>68</sup>.
- 8.1.6 *Article 28 (Compulsory acquisition of rights and imposition of restrictive covenants)* entitles the undertaker to acquire rights over land and impose restrictive covenants, including rights already in existence, or to create new rights. The Article provides that in respect of the Order land specified in Schedule 10 of the Order the undertaker's powers of acquisition are limited to the acquisition of rights or imposition of restrictive covenants for the purposes specified in that same Schedule. The ability to acquire new rights ensures that the undertaker is able to seek a lesser interference with land where this is appropriate (whether in the context of new or existing rights) as the authorised development is implemented.
- 8.1.7 Sub paragraphs (5) and (6) provide, where the acquisition of new rights or the imposition of a restriction under the Order is required for a statutory undertaker, the undertaker may, with the consent of the SoS transfer the powers to the statutory undertaker.
- 8.1.8 The Article is similar to the corresponding provisions in The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>69</sup>, The A57 Link Roads Development Consent Order 2022<sup>70</sup> and The M54 to M6 Link Road Development Consent Order 2022<sup>71</sup>.
- 8.1.9 *Article 29 (Acquisition of subsoil only)* permits the undertaker to acquire only the subsoil of land which is to be compulsorily acquired (either pursuant to Article 26 or Article 28) and gives the undertaker the ability to minimise the extent of interests acquired from owners. This Article is appropriate where acquisition of the 'entire' freehold may not be required. This is based on a former model provision.
- 8.1.10 Near identical provision is included in many made DCOs such as The A38 Derby Junctions Development Consent Order 2023<sup>72</sup>, the Lake Lothing (Lowestoft)

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<sup>66</sup> S.I. 2014 No. 2384 (Article 45)

<sup>67</sup> S.I. 2020 No. 474 (Article 25)

<sup>68</sup> S.I. 2020 No. 1075 (Article 27)

<sup>69</sup> S.I. 2022 No. 934 (article 27)

<sup>70</sup> S.I. 2022 No. 1206 (article 25)

<sup>71</sup> S.I. 2022 No. 475 (article 23)

<sup>72</sup> S.I. 2023 No. 923 (Article 31)

Third Crossing Order 2020<sup>73</sup> and Great Yarmouth Third River Crossing Development Consent Order 2020<sup>74</sup> save that article 29 does not refer to airspace.

- 8.1.11 *Article 30 (Acquisition of land limited to subsoil lying more than 7 metres beneath surface)* applies to land specified in Schedule 11 only. It limits the powers of freehold compulsory acquisition in respect of the land specified in Schedule 11 to subterranean land at a depth of more than 7 metres beneath the surface. The Article has been modified from the model form to still permit the undertaker to acquire new rights or impose restrictive covenants in respect of the land above, including the surface of the land, for the purposes specified in Schedule 11, and to permit temporary possession to be taken of the surface land. As with Article 29, it gives the undertaker the ability to minimise the extent of interests acquired from owners. This Article is appropriate where acquisition of the 'entire' freehold is not required, but where restrictions or rights may be needed for the surface land, such as for the purposes of the transfer tunnel. The provision is similar to that in The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014<sup>75</sup> save that Article 30 applies to 7 rather than 9 meters.
- 8.1.12 *Article 31 (Private rights)* is based on a former model provision and has the effect of extinguishing private rights over land where: (1) land is subject to compulsory acquisition; or (2) the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (whichever is the earlier). Sub paragraph (2) permits the extinguishment of private rights in land over which new rights are acquired or restrictive covenants imposed, insofar as their continuance would be inconsistent with the exercise of the new right or compliance with the restrictive covenant. Sub paragraph (3) clarifies that the power to extinguish private rights over land owned by the undertaker includes the land owned by the applicant specified in article 26(4)(a). Sub paragraph (4) provides that all private rights over the Order land specified in article 26(3)(b) are extinguished on commencement of any activity authorised by the Order which interferes with or breaches those rights. The Article also suspends private rights and restrictive covenants over land for as long as the undertaker is in temporary possession of land under the Order.
- 8.1.13 Sub-paragraph (6) provides for compensation to any person who suffers loss by the extinguishment or suspension of a private right.
- 8.1.14 Similar provision is frequently found in other made Orders, including The A47 Wansford to Sutton Development Consent Order 2023<sup>76</sup>, The M25 Junction 28

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<sup>73</sup> S.I. 2020 No. 474 (Article 33)

<sup>74</sup> S.I. 2020 No. 1075 (Article 33)

<sup>75</sup> S.I. 2014 No. 2384 (Article 31)

<sup>76</sup> S.I. 2023 No. 218 (Article 26(9))

Development Consent Order 2022<sup>77</sup> and The Boston Alternative Energy Facility Order 2023<sup>78</sup>.

- 8.1.15 *Article 32 (Power to override easements and other rights)* this Article provides that, by virtue of section 158 of the 2008 Act, in carrying out or using the development authorised by the Order and doing anything else authorised by the Order, the undertaker (or any person deriving title from the undertaker or any contractor, servant or agent of the undertaker) may interfere with any interest or right to which the Article applies or breach any restriction as to the use of land arising by virtue of a contract.
- 8.1.16 The Article also provides that, by virtue of section 152 of the 2008 Act, compensation may be payable under section 10 of the 1965 Act for any such interference or breach.
- 8.1.17 The drafting reflects the equivalent provisions of many made DCOs such as The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>79</sup>, the Lake Lothing (Lowestoft) Third Crossing Order 2020<sup>80</sup> and Great Yarmouth Third River Crossing Development Consent Order 2020<sup>81</sup>.
- 8.1.18 *Article 33 (Modification and application of the 1981 Act)* applies the vesting procedures in the Compulsory Purchase (Vesting Declarations) Act 1981 to the exercise of powers of compulsory acquisition pursuant to the Order. It gives the undertaker the option to acquire land via the process set out under the 1981 Act, rather than the notice to treat procedure. This Article has been updated to incorporate and reflect the changes brought about by the Housing and Planning Act 2016. It has also been adapted to reflect the ability of a third party to make a general vesting declaration where consent has been given by the SoS pursuant to Article 28(5) of the Order.
- 8.1.19 This Article is in a similar for to the equivalent provisions found in other Orders such as The West Midlands Rail Freight Interchange Order 2020<sup>82</sup> and the Boston Alternative Energy Facility Order 2023<sup>83</sup>.
- 8.1.20 *Article 34 (Modification of Part 1 of the Compulsory Purchase Act 1965)* modifies the provisions Part 1 of the Compulsory Purchase Act 1965 as applied to the Order by section 125 of the 2008 Act. This provision reflects the changes introduced by the Housing and Planning Act 2016. Paragraphs (1) to (4) amend the provisions of the Compulsory Purchase Act 1965 so they are consistent with the terms of the Order and paragraph (5) makes it clear that the notice periods introduced by the Housing and Planning Act 2016 do not apply to the temporary possession or use of land under Articles 35 (temporary

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<sup>77</sup> S.I. 2022 No. 573 (Article 29(9))

<sup>78</sup> S.I. 2023 No. 778 (Article 28(9))

<sup>79</sup> S.I. 2022 No. 934 (Article 30)

<sup>80</sup> S.I. 2020 No. 474 (Article 29)

<sup>81</sup> S.I. 2020 No. 1075 (Article 30)

<sup>82</sup> S.I. 2020 No. 511 (Article 30)

<sup>83</sup> S.I 2023 No. 778 (Article 31)

use of land for carrying out the authorised development) and 36 (temporary use of land for maintaining the authorised development) of the Order.

- 8.1.21 The drafting is in a near identical form to many made DCOs such as The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>84</sup>, the Lake Lothing (Lowestoft) Third Crossing Order 2020<sup>85</sup>, A303 Sparkford to Ilchester Dualling Development Consent Order 2021<sup>86</sup> and Great Yarmouth Third River Crossing Development Consent Order 2020<sup>87</sup>.
- 8.1.22 *Article 35 (Temporary use of land for carrying out the authorised development)* allows two categories of land to be temporarily used for the carrying out of the authorised development. These are:
- 8.1.22.1 the land specified in Schedule 12 of the Order for the purposes specified in that Schedule (in which case the undertaker is limited to remain in possession of the land after the end of the period of one year beginning with the date of the end of construction work for that part of the authorised development unless the owner or lessee agrees otherwise);
- 8.1.22.2 any other land within the Order limits land where no notice of entry or general vesting declaration has been served (in which case the undertaker is limited to remain in possession of the land after the end of the period of one year beginning with the date of the end of construction work for which temporary possession of this land was taken unless the undertaker has already served a notice to treat or general vesting declaration).
- 8.1.23 In addition to the ability to enter on and take temporary possession of the Order land, Article 35(1)(b)-(h) stipulates various activities that can be undertaken pursuant to the Article.
- 8.1.24 Sub-paragraph 9 provides that the undertaker may not compulsorily acquire any of the land specified in Schedule 12 (Land of which temporary possession may be taken), except that the undertaker may carry out protective works under Article 20 (protective works to buildings and structures); or carry out a survey of that land under Article 21 (authority to survey and investigate the land).
- 8.1.25 Sub-paragraph 9 has been updated to remove references to: (a) the acquisition of new rights or the imposition of restrictive covenants over any part of the land specified in Schedule 12 under Article 28; and (b) the acquisition of any part of the subsoil of (or rights in the subsoil of) the land specified in Schedule 12 under Articles 29 or 30. As specified at Issue Specific Hearing 1, these rights are no

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<sup>84</sup> S.I. 2022 No. 934 (Article 33)

<sup>85</sup> S.I. 2020 No. 474 (Article 32)

<sup>86</sup> S.I. 2021 No. 125 (Article 29)

<sup>87</sup> S.I. 2020 No. 1075 (Article 31)

longer required because no such permanent acquisition powers are sought by the Applicant.

- 8.1.26 In addition, the Article includes several other components, including:
- 8.1.26.1 the undertaker must provide at least 28 days' notice to the relevant owner/occupiers' before entering the land;
  - 8.1.26.2 before giving up occupation of land the undertaker must remove the temporary works and restore the land to the reasonable satisfaction of the owner save that certain operations are not required to be removed; and
  - 8.1.26.3 compensation provisions are included to compensate owner/occupiers affected by their land being temporarily used for carrying out the authorised development.
- 8.1.27 The Article is similar to the equivalent provision in made DCOs such as The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>88</sup>, The M54 to M6 Link Road Development Consent Order 2022<sup>89</sup>, and The Boston Alternative Energy Facility Order 2023<sup>90</sup>.
- 8.1.28 *Article 36 (Temporary use of land for maintaining the authorised development)* provides for the temporary use of land for maintenance of the authorised development. The Article is a former model provision and allows an undertaker to take temporary possession of land within the Order limits if it is reasonably required to maintain the authorised development, and also allows temporary works and buildings to be constructed if reasonably necessary. The power is limited and cannot be exercised in respect of a house, garden or any other building where it is occupied.
- 8.1.29 The Article requires the undertaker to provide at least 28 days' notice to the relevant owner/occupiers' before taking temporary possession, and it may only retain possession for as long as is reasonably necessary to carry out the maintenance. When returning the land after the temporary possession the undertaker must remove temporary works and restore the land to the reasonable satisfaction of the owners. Compensation provisions are included.
- 8.1.30 The drafting is in a similar form to many made DCOs such as The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>91</sup>, the Lake Lothing (Lowestoft) Third Crossing Order 2020<sup>92</sup>, A303 Sparkford to Ilchester Dualling

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<sup>88</sup> S.I. 2022 No. 934 (Article 37)

<sup>89</sup> S.I. 2022 No. 475 (Article 29)

<sup>90</sup> S.I. 2023 No. 778 (Article 33)

<sup>91</sup> S.I. 2022 No. 934 (Article 38).

<sup>92</sup> S.I. 2020 No. 474 (Article 34).

Development Consent Order 2021<sup>93</sup> and The Boston Alternative Energy Facility Order 2023<sup>94</sup>.

- 8.1.31 *Article 37 (Disregard of certain interests and improvements)* this reflects section 4 (*assessment of compensation*) of the Acquisition of Land Act 1981 and provides for the Upper Tribunal (Lands Chamber) to disregard certain interests in and enhancements to the value of land for the purposes of assessing the compensation payable for the exercise of compulsory acquisition powers where the creation of the interest or the making of the improvements was designed to obtain compensation or increase compensation. Sections 120(3) and 120(5)(a) and Schedule 5 of the 2008 Act allow the application in a DCO of statutory provisions which relate to the payment of compensation.
- 8.1.32 This Article mirrors drafting that can be found in recent DCOs including The M25 Junction 28 Development Consent Order 2022<sup>95</sup>, The Lake Lothing (Lowestoft) Third Crossing Order 2020<sup>96</sup>, The A303 (Amesbury to Berwick Down) Development Consent Order 2023<sup>97</sup>, and The A47 North Tuddenham to Easton Development Consent Order 2022<sup>98</sup>.
- 8.1.33 *Article 38 (Set-off for enhancement in value of retained land)* this reflects the principles in sections 6B to 6E of the Land Compensation Act 1961 and provides that in assessing the compensation payable to any person in respect of the acquisition of land, the Upper Tribunal (Lands Chamber) shall set off against the value of the land any increase in value of the retained land belonging to that person arising out of the construction of the authorised development. Sections 120(3) and 120(5)(a) and Schedule 5 of the 2008 Act allow the application in a DCO of statutory provisions which relate to the payment of compensation.
- 8.1.34 The Article can be found in many made DCOs such as The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>99</sup>, the Lake Lothing (Lowestoft) Third Crossing Order 2020<sup>100</sup>, A303 Sparkford to Ilchester Dualling Development Consent Order 2021<sup>101</sup> and The A47 Wansford to Sutton Development Consent Order 2023<sup>102</sup>.
- 8.1.35 *Article 39 (No double recovery)* this secures the established principle that a claimant in compulsory purchase is to be compensated for no more and no less than his loss. It ensures that compensation is not payable in respect of the same loss or damage under both the Order and other compensation regimes. It is a supplementary provision and its inclusion is authorised by section 120(5)(d) of

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<sup>93</sup> S.I. 2021 No. 125 (Article 30).

<sup>94</sup> S.I. 2023 No. 778 (Article 34).

<sup>95</sup> S.I. 2022 No. 573 (Article 50).

<sup>96</sup> S.I. 2020 No. 474 (Article 38).

<sup>97</sup> S.I. 2023 No. 834 (Article 35).

<sup>98</sup> S.I. 2022 No. 911 (Article 45).

<sup>99</sup> S.I. 2022 No. 934 (Article 32).

<sup>100</sup> S.I. 2020 No. 474 (Article 39).

<sup>101</sup> S.I. 2021 No. 125 (Article 36).

<sup>102</sup> S.I. 2023 No. 218 (Article 45).



the 2008 Act as well as sections 120(3) and 120(4) and paragraph 36 of Part 1 to Schedule 5 of the 2008 Act.

- 8.1.36 This Article mirrors drafting that can be found in recent DCOs including The M25 Junction 28 Development Consent Order 2022<sup>103</sup>, The A303 (Amesbury to Berwick Down) Development Consent Order 2023<sup>104</sup>, and The A47 North Tuddenham to Easton Development Consent Order 2022<sup>105</sup>.
- 8.1.37 *Article 40 (Compulsory acquisition of land – incorporation of the mineral code)* provides for the incorporation of Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981 to be incorporated in to the Order to exclude its application to mines and minerals under the Order limits.
- 8.1.38 The drafting is in a similar form to many made DCOs such as The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>106</sup>, the Lake Lothing (Lowestoft) Third Crossing Order 2020<sup>107</sup>, A303 Sparkford to Ilchester Dualling Development Consent Order 2021<sup>108</sup> and Great Yarmouth Third River Crossing Development Consent Order 2020<sup>109</sup>.
- 8.1.39 *Article 41 (Statutory undertakers)* provides for the acquisition of land belonging to statutory undertakers that is identified in the land plans. This includes a power to move the apparatus of those statutory undertakers and to extinguish their rights. This Article is subject to the protective provisions included at Schedule 15 of the Order.
- 8.1.40 Similar drafting can be found in recent DCOs including The M25 Junction 28 Development Consent Order 2022<sup>110</sup>, The A303 (Amesbury to Berwick Down) Development Consent Order 2023<sup>111</sup>, The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>112</sup> and The A57 Link Roads Development Consent Order 2022<sup>113</sup>.
- 8.1.41 *Article 42 (Recovery of costs of new connections)* provides that persons who have to create a new connection following the exercise of powers under Article 41 may recover the costs of new connections from the undertaker.
- 8.1.42 This Article is taken from Article 33 of the Model Provisions and has been included in DCOs such as The A1 Birtley to Coal House Development Consent

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<sup>103</sup> S.I. 2022 No. 573 (Article 49)  
<sup>104</sup> S.I. 2023 No. 834 (Article 37)  
<sup>105</sup> S.I. 2022 No. 911 (Article 44)  
<sup>106</sup> S.I. 2022 No. 934 (Article 33)  
<sup>107</sup> S.I. 2020 No. 474 (Article 24)  
<sup>108</sup> S.I. 2021 No. 125 (Article 24)  
<sup>109</sup> S.I. 2020 No. 1075 (Article 26)  
<sup>110</sup> S.I. 2022 No. 573 (Article 26)  
<sup>111</sup> S.I. 2023 No. 834 (Article 31)  
<sup>112</sup> S.I. 2022 No. 934 (Article 25)  
<sup>113</sup> S.I. 2022 No. 1206 (Article 33)



Order 2021<sup>114</sup>, The A57 Link Roads Development Consent Order 2022<sup>115</sup>, A12 Chelmsford to A120 Widening Development Consent Order 2024<sup>116</sup>, The Boston Alternative Energy Facility Order 2023<sup>117</sup>, The Portishead Branch Line (MetroWest Phase 1) Order 2022<sup>118</sup> and The Awel y Môr Offshore Wind Farm Order 2023<sup>119</sup>.

- 8.1.43 *Article 43 (Rights under or over streets)* is a former model provision which allows the undertaker to enter on and appropriate interests within streets where required for the purpose of the authorised development without being required to acquire that land. Provision is made for the payment of compensation in certain circumstances.
- 8.1.44 The Article follows the approach taken in The Thames Water Utilities Limited (Thames Tideway Tunnel) Order <sup>120</sup> and is similar to the corresponding provisions in more recent Orders such as The A38 Derby Junctions Development Consent Order 2023<sup>121</sup>, The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>122</sup> and The A57 Link Roads Development Consent Order 2022<sup>123</sup> save that Article 43 imposes notification requirements on the Applicant.

## 9. Part 6 (Miscellaneous and general)

- 9.1.1 *Article 44 (Rights on the river Cam)* enables the temporary suspension of rights of navigation and any other rights over the River Cam as identified on sheet 2 of the Rights of Way Plans (Application document reference 4.6, Examination Library references REP1-018) and the permanent extinguishment of rights of navigation and any other rights on any part of the river Cam identified with the label 19a on sheet 2 of the land plans (Application document reference 4.4.2, Examination Library reference REP5-018) acquired in connection with Work number 32. The Applicant must give at least 42 days' notice to the navigation authority before exercising the above rights, in addition to first advertising its intention to exercise the rights by way of notice within the locality and in a locally circulated newspaper.
- 9.1.2 The Article also permits the temporarily suspension of any rights of navigation on any other part of the River Cam with the written consent of the relevant navigation authority.

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<sup>114</sup> S.I. 2021 No. 74 (Article 36)  
<sup>115</sup> S.I. 2022 No. 1206 (Article 35)  
<sup>116</sup> S.I. 2024 No. 60 (Article 35)  
<sup>117</sup> S.I. 2023 No. 778 (Article 51)  
<sup>118</sup> S.I. 2022 No. 1194 (Article 41)  
<sup>119</sup> S.I. 2023 No. 1033 (Article 42)  
<sup>120</sup> S.I. 2014 No. 2384 (Article 48)  
<sup>121</sup> S.I. 2023 No. 923 (Article 32)  
<sup>122</sup> S.I. 2022 No. 934 (Article 36)  
<sup>123</sup> S.I. 2022 No. 1206 (Article 30)

- 9.1.3 The Article specifically disapplies the following in so far their continuance is inconsistent with the construction, operation, use and maintenance of the authorised development:
- 9.1.3.1 the River Cam Navigation Act 1851: amongst other powers, this provides for the continuance of the powers for the Cam Conservancy, as navigation authority, in respect of maintaining navigation on the River Cam within the Conservators limits of jurisdiction. In particular, it empowers the Conservators to remove impediments which may hinder the passage of navigation on the River Cam;
  - 9.1.3.2 the River Cam Conservancy Act 1922 – this empowers the Cam Conservancy to maintain and improve the River Cam which includes the power to remove impediments which may hinder navigation; and
  - 9.1.3.3 the Cambridge City Council Act 1985; and
  - 9.1.3.4 River Cam Byelaws 1966 – amongst other prohibitions, the byelaws prohibit the use of vehicles on towpaths and interference with navigation.
- 9.1.4 These powers are required in order to ensure the safe delivery of the works and to ensure that they are not inconsistent with any of those legislative provisions or bylaws. The permanent extinguishment of rights is limited to the area of land, if any, acquired permanently by the undertaker for the outfall (Work number 32).
- 9.1.5 This Article is permitted by:
- 9.1.5.1 section 120(3);
  - 9.1.5.2 section 120(4) and paragraph 2 (*“The creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement”*) of Part 1 to Schedule 5; and
  - 9.1.5.3 section 120(5)(b) (*“make such amendments, repeals or revocations of statutory provisions of local application as appear to the Secretary of State to be necessary or expedient in consequence of a provision of the order or in connection with the order”*),
- of the 2008 Act.
- 9.1.6 *Article 45 (Application of landlord and tenant law)* is based on a former model provision which would override landlord and tenant law so far as it would prejudice the operation of any agreement for leasing the whole of the authorised development or the right to operate the same or any agreement

entered into by the undertaker for the construction, maintenance, use or operation of the authorised development.

- 9.1.7 This Article is permitted by section 120(5)(a) of the 2008 Act.
- 9.1.8 This Article is included in many made DCOs including as Great Yarmouth Third River Crossing Development Consent Order 2020<sup>124</sup> and The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>125</sup>.
- 9.1.9 *Article 46 (Operational land for purposes of the 1990 Act)* is based on a former model provision which has the effect of ensuring that the land on which the authorised development is constructed will be “operational land” under section 263 of the Town and Country Planning Act 1990.
- 9.1.10 “Operational land” is land which is used by statutory undertakers for the purpose of carrying on their undertaking any land in which an interest is held for that purpose. Sections 264(3) and (4) of the 1990 Act provide that land is operational land if:
- 9.1.10.1 there is, or at some time has been, in force with respect to it a specific planning permission for its development; and
- 9.1.10.2 that development, if carried out, would involve or have involved its use for the purpose of the carrying on of the statutory undertakers’ undertaking.
- 9.1.11 The inclusion of this Article means that development will benefit from the appropriate permitted development rights afforded to statutory undertakers. This Article mirrors Article 36 of the Model Provisions and has been included in a number of DCOs including The Drax Power (Generating Stations) Order 2019<sup>126</sup> and The Boston Alternative Energy Facility Order 2023<sup>127</sup>.
- 9.1.12 This Article is permitted by section 115 and section 120(3) of the 2008 Act.
- 9.1.13 *Article 47 (Protective provisions)* introduces Schedule 15 to the Order which protects the interests of certain statutory undertakers, to have effect.
- 9.1.14 *Article 48 (Discharge of requirements and other approvals etc.)* is included to ensure the application of Part 2 of Schedule 2 (requirements) to applications and appeals in respect of the requirements. The Article also ensures that any consent, approval, agreement etc required from any party under the Order is given in a reasonable fashion. The inclusion of these provisions are necessary so that the authorised development and consents and approvals required to implement it can be delivered swiftly and more particularly, with regard to requirements, provide a route to the obtaining of the relevant approvals.

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<sup>124</sup> S.I. 2020 No. 1075 (Article 57)

<sup>125</sup> S.I. 2022 No. 934 (Article 44)

<sup>126</sup> S.I. 2019 No. 1315 (Article 38)

<sup>127</sup> S.I. 2023 No. 778 (Article 42(2))

- 9.1.15 The Article follows the approach taken in The Thames Water Utilities Limited (Thames Tideway Tunnel) Order <sup>128</sup>.
- 9.1.16 *Article 49 (application, disapplication and modification of legislative provisions)* gives effect to Schedule 17 which applies, modifies and excludes specific legislative provisions where those provisions would be inconsistent with the powers sought under the Order or require further consents, which are already within the Order or the need for which has been disapplied.
- 9.1.17 This Article is permitted by section 120(5) of the 2008 Act.
- 9.1.18 *Article 50 (Crown rights)* prevents the undertaker from acquiring any Crown land (as defined in the 2008 Act), or from otherwise interfering with such land without the written consent of the relevant Crown authority. This Article reflects the provisions of section 135 of the 2008 Act. Crown land within the Order limits is identified on the Crown Land Plans (Application document reference 4.5, Examination Library reference REP4-019). The Crown Land Plans are not referenced in Schedule 18 (Certification of Plans and Documents) because they are not specifically referred to in the Order, nor do they need to be.
- 9.1.19 This Article is in a similar form to the corresponding provisions in several made Orders such as The A38 Derby Junctions Development Consent Order 2023<sup>129</sup>, The A47 Wansford to Sutton Development Consent Order 2023<sup>130</sup> and The Boston Alternative Energy Facility Order 2023<sup>131</sup>.
- 9.1.20 *Article 51 (Certification of plans, etc)* requires the submission of various documents referred to in Schedule 18 for certification as true copies.
- 9.1.21 This Article follows the drafting of many made Orders such as The Longfield Solar Farm Order 2023<sup>132</sup>, The A38 Derby Junctions Development Consent Order 2023<sup>133</sup> and The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>134</sup>.
- 9.1.22 *Article 52 (Arbitration)* provides a procedure for arbitration in respect of any differences arising under the Order. The process provides certainty to all parties. It applies Schedule 19 of the Order and provides for the process set out therein to be applied to differences under the Order unless another means of resolving a dispute is provided for in the Order. The arbitrator will be appointed by the parties within 14 days of receipt of a notice of arbitration or

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<sup>128</sup> S.I. 2014 No. 2384 (Article 54)  
<sup>129</sup> S.I. 2019 No. 1358 (Article 45)  
<sup>130</sup> S.I. 2023 No. 218 (Article 50)  
<sup>131</sup> S.I. 2023 No. 778 (Article 46)  
<sup>132</sup> S.I. 2023 No. 734 (Article 38)  
<sup>133</sup> S.I. 2023 No. 923 (Article 46)  
<sup>134</sup> S.I. 2022 No. 934 (Article 48)

failing agreement within this time period then by the SoS following application by one of the parties.

9.1.23 This Article is permitted by sections 120(3), 120(4) and paragraph 37 (“*The submission of disputes to arbitration*”) of Part 1 to Schedule 5 of the 2008 Act.

9.1.24 *Article 53 (Service of notices)* sets out how a notice or other documents required or authorised to be served for the purposes of the Order may be served. The three methods are (a) by post (b) by delivering it to the person on whom it is to be served or (c) by electronic transmission (subject to the requirements of the article being fulfilled). The Article also addresses service on an unknown landowner.

9.1.25 This Article follows frequently adopted standard drafting as can be seen in other orders such as The Northampton Gateway Rail Freight Interchange Order 2019<sup>135</sup> and The A428 Black Cat to Caxton Gibbet Development Consent Order 2022<sup>136</sup>.

## 10. Schedules

10.1 *Schedule 1 (authorised development)* describes the authorised development in detail, split into 'work numbers' by reference to the Works Plans (Application document reference 4.3, Examination Library reference REP6-004), each of which represents a different element of the authorised development.

Work No.	Development
<b>1 – Highway Works</b>	<p>Highway works the general arrangement of which is shown on sheet 1 of the highways plans including—</p> <ul style="list-style-type: none"> <li>(a) reconfiguration of the existing signalised junction of B1047 Horningsea Road and A14 Junction 34 eastbound slip road to provide a signalised four-arm junction facilitating access to Work No. 2;</li> <li>(b) widening of and improvements to the existing footway/cycleway on the western side of the B1047 Horningsea Road and Horningsea Road between the westbound on-slip at A14 Junction 34 and Low Fen Drove Way including the provision of a verge between the footway/cycleway and the main carriageway;</li> <li>(c) provision of a new central island on Horningsea Road to facilitate pedestrian and cyclist crossing to new footpaths</li> </ul>

<sup>135</sup> S.I. 2019 No. 1358 (Article 47)

<sup>136</sup> S.I. 2022 No. 934 (Article 49)

Work No.	Development
	<p>and cycleways to be provided as part of Work No. 23 and the new footway/cycleway to be provided at (d);</p> <p>(d) a new footway/cycleway on the eastern side of Horningsea Road between Low Fen Drove Way and the new central island to be provided at (c) and connecting to new footpaths and cycleways to be provided as part of Work No. 23;</p> <p>(e) replacement of the parapet on the A14 overbridge on the B1047 Horningsea Road and associated highway layout alterations;</p> <p>(f) improvements to the existing pedestrian and cycle crossings at the junction of the A14 Junction 34 on and off slips on the B1047 Horningsea Road;</p> <p>(g) alterations to the B1047 Horningsea Road and Horningsea Road;</p> <p>(h) street lighting, signage and associated electrical equipment;</p> <p>(i) reconfiguration of kerb lines; and</p> <p>(j) connections to Work No. 2.</p>
<p><b>2 – Permanent access road</b></p>	<p>A new two-lane road access to the waste water treatment plant from the reconfigured A14 Junction 34/B1047 Horningsea Road junction the general arrangement of which is shown on sheet 1 of the highways plans including—</p> <p>(a) landscaping;</p> <p>(b) drainage;</p> <p>(c) a weighbridge;</p> <p>(d) automatic number plate recognition cameras;</p> <p>(e) signage;</p> <p>(f) street lighting at the junction with Work No. 1; and</p> <p>(g) connections to Work No. 1 and Work No. 3 and to the access and circulation roads to be constructed within the inner boundary of Work No. 15.</p>

Work No.	Development
<b>3 – Visitor Parking</b>	Visitor parking, cycle storage including landscaping, lighting, pathways and electric vehicle charging points and connections to Work No. 2.
<b>4 – Inlet Works &amp; Preliminary Treatment</b>	<p>Inlet works structure to receive flows from Work No. 8, Work No. 16 and Work No. 35 and imported liquors including—</p> <ul style="list-style-type: none"> <li>(a) two screenings handling plants;</li> <li>(b) screen channel;</li> <li>(c) grit removal chambers;</li> <li>(d) flow measurement channel;</li> <li>(e) grit handling plant;</li> <li>(f) two odour control units and exhaust stacks;</li> <li>(g) skip storage area;</li> <li>(h) cess and septic discharge point; and</li> <li>(i) connections to Work No. 6, Work No. 8, Work No. 13, Work No. 16 and Work No. 35.</li> </ul>
<b>5 – Electrical Supply and Power Generation</b>	Electricity substations, ring main units, transformers, high-voltage kiosk, low voltage switch board, low voltage kiosk, stand-by generators and fuel storage.
<b>6 – Primary Treatment &amp; Chemical Dosing</b>	<p>Primary treatment works including—</p> <ul style="list-style-type: none"> <li>(a) chemical storage and ferric dosing plant;</li> <li>(b) up to 6 primary settlement tanks including sludge management system;</li> <li>(c) sludge return pumps;</li> <li>(d) sludge transfer pumping station;</li> <li>(e) distribution chamber; and</li> <li>(f) connections to Work No. 4, 8, 10, 11 and 13.</li> </ul>
<b>7 - Workshop &amp; Parking</b>	<p>A workshop building and parking including—</p> <ul style="list-style-type: none"> <li>(a) workshop building;</li> </ul>

Work No.	Development
	<ul style="list-style-type: none"> <li>(b) innovation area;</li> <li>(c) welfare facilities;</li> <li>(d) liquified natural gas (LNG) storage and filling point;</li> <li>(e) vehicle parking including HGV parking;</li> <li>(f) electric vehicle charging points; and</li> <li>(g) rooftop solar photovoltaic panels.</li> </ul>
<p><b>8 – Sludge Treatment Centre</b></p>	<p>A sludge treatment centre comprising—</p> <ul style="list-style-type: none"> <li>(a) sludge reception facilities for imported primary settled sludge and surplus activated sludge;</li> <li>(b) up to 2 imported and indigenous primary sludge tanks;</li> <li>(c) up to 3 unthickened sludge tanks;</li> <li>(d) screens;</li> <li>(e) up to 2 odour control units with vent stacks;</li> <li>(f) thickening building including a sludge blending tank;</li> <li>(g) up to two anaerobic sludge digesters;</li> <li>(h) up to 2 post digestion storage tanks and vacuum de-gassing units;</li> <li>(i) a heating, pasteurisation and hydrolysis process heating tank;</li> <li>(j) up to 2 heating, pasteurisation and hydrolysis process pasteurisation tanks;</li> <li>(k) a heating, pasteurisation and hydrolysis process hydrolysis tank;</li> <li>(l) up to 2 dewatering centrifuges/volutes;</li> <li>(m) cake storage barn and silo area;</li> <li>(n) either— <ul style="list-style-type: none"> <li>(i) a liquor treatment plant including a reactor, a stilling tank and a settlement tank; and/or</li> </ul> </li> </ul>



Work No.	Development
	<ul style="list-style-type: none"> <li>(ii) a nutrient recovery plant including three stripping/scrubbing columns and a feed pumping station; or</li> <li>(iii) a hybrid liquor treatment plant and nutrient recovery plant;</li> <li>(o) biogas handling equipment including up to 2 gas holders and a flare stack;</li> <li>(p) boiler building and boiler stack;</li> <li>(q) final effluent heat recovery and treatment plant;</li> <li>(r) chemical storage and dosing plant;</li> <li>(s) aviation obstruction lighting; and</li> <li>(t) connections to Work Nos. 4, 6, 9, 10, 11 and 13.</li> </ul>
<b>9 – Gas to Grid or Combined Heat and Power (CHP)</b>	A gas-to-grid injection unit including propane storage or a combined heat and power engine including connections to Work No. 8 and connections to the gas and/or electricity networks.
<b>10 – Secondary Treatment Membrane Aerated Biofilm Reactor (MABR)</b>	Secondary treatment works including— <ul style="list-style-type: none"> <li>(a) up to 4 activated sludge process tanks;</li> <li>(b) mixing and conditioning tank;</li> <li>(c) building to house mechanical blower system;</li> <li>(d) submerged air distribution pipework;</li> <li>(e) mixing and conditioning chamber;</li> <li>(f) interstage pumping station; and</li> <li>(g) connections to Work No. 6 and Work No. 11.</li> </ul>
<b>11 – Secondary Treatment (Settlement)</b>	Final settlement including— <ul style="list-style-type: none"> <li>(a) up to 8 final settlement tanks including sludge management system;</li> <li>(b) return activated sludge pumps including chambers;</li> <li>(c) surplus activated sludge pumps including chambers;</li> </ul>

Work No.	Development
	<ul style="list-style-type: none"> <li>(d) pumping station;</li> <li>(e) chemical storage and ferric dosing plant;</li> <li>(f) distribution chamber; and</li> <li>(g) connections to Work Nos. 6, 8, 10 and 13.</li> </ul>
<b>12 – Treated Water Collection Chamber</b>	Treated water collection chamber and connections to Work No. 13, Work No. 14 and Work No. 31.
<b>13 – Tertiary Treatment</b>	Tertiary treatment works including— <ul style="list-style-type: none"> <li>(a) filtration plant;</li> <li>(b) wash-water pump sets;</li> <li>(c) airlift pumps;</li> <li>(d) sand washing system;</li> <li>(e) backwash pumps;</li> <li>(f) chemical storage and ferric dosing plant; and</li> <li>(g) connections to Work Nos. 4, 6, 8, 11, and 12.</li> </ul>
<b>14 – Stormwater Management</b>	Storm management plant for stormwater storage and treatment including— <ul style="list-style-type: none"> <li>(a) pumping station;</li> <li>(b) storm tanks;</li> <li>(c) stormwater storage facility;</li> <li>(d) discharge overflow pipework;</li> <li>(e) screens; and</li> <li>(f) connections to Work No. 16 and Work No. 12.</li> </ul>
<b>15 – Earth Bund and Solar Photovoltaic (PV)</b>	Landscaping and earthworks including— <ul style="list-style-type: none"> <li>(a) solar photovoltaic panels and associated mounting structures, inverters, transformers and cabling;</li> <li>(b) security fencing; and</li> </ul>

Work No.	Development
	(c) closed circuit television cameras.
<b>16 – Terminal Pumping Station</b>	<p>A terminal pumping station including a shaft and including the following—</p> <ul style="list-style-type: none"> <li>(a) dry weather flow pumps;</li> <li>(b) storm pumps;</li> <li>(c) valve chamber and control building;</li> <li>(d) dewatering; and</li> <li>(e) connections to Work Nos. 4, 14,27 and 35.</li> </ul>
<b>17 – Existing Rising and Gravity Main Diversions</b>	<p>Works to divert existing rising and gravity mains to Work No.18 comprising—</p> <ul style="list-style-type: none"> <li>(a) cuttings into existing mains in under or adjacent to Cowley Road;</li> <li>(b) connections from existing mains to new 750mm gravity main;</li> <li>(c) provision of manholes;</li> <li>(d) installation of new 750mm gravity main;</li> <li>(e) associated diversion works for existing utilities including the Fen Ditton rising main; and</li> <li>(f) decommissioning works to redundant mains;</li> </ul>
<b>18 – Interception Shaft</b>	<p>Interception shaft to intercept incoming waste water flows from the existing Riverside tunnel and receive flows from a new 750mm gravity main within Work No. 17 with an internal diameter of up to 12.5 metres and with a depth of up to 20 metres including—</p> <ul style="list-style-type: none"> <li>(a) ventilation stack extending up to 10 metres above the proposed ground level;</li> <li>(b) vortex drop pipe;</li> <li>(c) odour control unit comprising small roadside boxes housing carbon filters and local panels;</li> <li>(d) welfare and laydown area, hard standing and storage area;</li> </ul>

Work No.	Development
	<ul style="list-style-type: none"> <li>(e) dewatering;</li> <li>(f) security fencing;</li> <li>(g) soil handling;</li> <li>(h) crane working space;</li> <li>(i) decommissioning works to redundant mains;</li> <li>(j) local control panels;</li> <li>(k) kiosks;</li> <li>(l) closed circuit television cameras and columns;</li> <li>(m) lightning protection infrastructure including masts, finials, earth mats and bonding;</li> <li>(n) chemical storage and dosing plant;</li> <li>(o) a temporary shaft associated with the construction of Work No, 27; and</li> <li>(p) connections to Work Nos. 17, 26 and 27.</li> </ul>
<b>19 – Gateway Building</b>	<p>Gateway building including -</p> <ul style="list-style-type: none"> <li>(a) office space;</li> <li>(b) welfare facilities;</li> <li>(c) discovery centre;</li> <li>(d) rooftop solar photovoltaic panels;</li> <li>(e) refuse bins;</li> <li>(f) associated plant; and</li> <li>(g) bicycle storage.</li> </ul>
<b>20 - Temporary Compound Area</b>	Temporary compound area including welfare facilities.
<b>21 - Temporary Site Establishment</b>	Temporary site establishment and construction works to support construction of Work Nos. 1 to 16, 27, 31, 33, 35 and 36 including—

Work No.	Development
	<ul style="list-style-type: none"> <li>(a) temporary site access works from Horningsea Road and to Low Fen Drove Way;</li> <li>(b) working area compound;</li> <li>(c) concrete batching plant;</li> <li>(d) temporary lined lagoon; and</li> <li>(e) hard standing, laydown and storage.</li> </ul>
<b>22 – Waste Water Treatment Plant Construction Works</b>	Construction and material storage area during construction of Work Nos. 1 to 16, 27, 31, 33, 35 and 36.
<b>23 - Landscaping and Ecological Works</b>	Permanent landscaping and ecological works, including— <ul style="list-style-type: none"> <li>(f) planting;</li> <li>(g) earthworks and ground re-profiling;</li> <li>(h) drainage works; and</li> <li>(i) creation of footpaths.</li> </ul>
<b>24 - Landscaping and Ecological Works Temporary Work</b>	Temporary access and working area to support and facilitate the landscaping and ecological works in Work No. 23.
<b>25 - Temporary Working Area Compound</b>	Temporary working area compound including welfare facilities.
<b>26 – Diversion of Riverside Tunnel</b>	Works to divert the existing Riverside sewer to connect to Work No. 18 comprising— <ul style="list-style-type: none"> <li>(a) temporary diversion works including a temporary shaft/pit and temporary overground pipes, underground pipework to connect the Riverside sewer to Work No. 18;</li> <li>(b) installation of temporary pumps and power supply including generators and fuel storage;</li> <li>(c) removal of temporary works; and</li> <li>(d) decommissioning works to the redundant sewer.</li> </ul>

Work No.	Development
<b>27 – Transfer Tunnel</b>	<p>An underground transfer tunnel between Work No. 18 and Work No. 16 installed using pipe jacking and including—</p> <ul style="list-style-type: none"> <li>(a) a temporary construction shaft within each of the areas to which Work No. 27 overlaps with Work No. 28; and</li> <li>(b) connections to Work Nos. 16 and 18.</li> </ul>
<b>28 – Transfer Tunnel Construction Area Temporary Compounds</b>	<p>Temporary working area compounds associated with Work No. 27, including—</p> <ul style="list-style-type: none"> <li>(a) welfare and laydown areas;</li> <li>(b) crane working space;</li> <li>(c) hard standing;</li> <li>(d) dewatering;</li> <li>(e) security fencing;</li> <li>(f) mud and soil handling; and</li> <li>(g) storage area.</li> </ul>
<b>29 – Temporary Access Works to Works 28, 34 &amp; 36 (West of Horningsea Road)</b>	<p>Temporary access works from Horningsea Road to Work Nos. 28, 34 and 36 between Green End and Horningsea Road, with provision for early works access off Poplar Hall private access to facilitate creation, from the field to the west, of the new haul route access off the West side of B1047 Horningsea Road.</p>
<b>30 – Network Rail Monitoring Works</b>	<p>Temporary access and monitoring of ground movement at varying depths to railway tracks on Network Rail land and other monitoring due to pipeline and tunnel crossings under the Cambridge to King’s Lynn railway line.</p>
<b>31 – Final Effluent &amp; Storm Pipeline</b>	<p>Two outfall pipes to be laid below ground for final effluent and storm water connecting Work No. 12 to Work No. 32 together with associated access and venting manholes and access works from Horningsea Road.</p>
<b>32 - Outfall</b>	<p>Outfall works in connection with the discharge of final effluent and storm water to the river Cam comprising—</p> <ul style="list-style-type: none"> <li>(a) two outfall pipes to be laid below ground for final effluent and storm water connecting to Work No. 31;</li> <li>(b) ditch crossing, diversion and associated protection works;</li> </ul>

Work No.	Development
	<ul style="list-style-type: none"> <li>(c) temporary access track;</li> <li>(d) temporary working area compound;</li> <li>(e) temporary cofferdam;</li> <li>(f) outfall structure and associated fittings;</li> <li>(g) river bed and embankment reinforcement works including dredging and scour protection measures; and</li> <li>(h) temporary public right of way diversion and restoration works.</li> </ul>
<p><b>33 – Waterbeach Pipeline North</b></p>	<p>Up to two waste water pipelines laid underground between a point of connection with waste water infrastructure to be provided as part of the Waterbeach New Town development and Work No. 35 and Work No. 36, including—</p> <ul style="list-style-type: none"> <li>(a) crossings of the river Cam, King’s Lynn railway line and Low Fen Drove Way using horizontal directional drilling technique in accordance with the code of construction practice, but otherwise laid using either open cut trenching or horizontal directional drilling technique;</li> <li>(b) new accesses and access improvements;</li> <li>(c) temporary shafts;</li> <li>(d) horizontal directional drilling launch and exit pits;</li> <li>(e) welfare, storage and laydown areas;</li> <li>(f) temporary haul roads;</li> <li>(g) dewatering, drainage works and restoration of existing land drainage;</li> <li>(h) ditch crossing, diversion and associated protection works;</li> <li>(i) mud and soil handling;</li> <li>(j) associated infrastructure including air valves and other pipework fittings and fixtures;</li> <li>(k) permanent accesses for future maintenance and replacement of the pipelines; and</li> </ul>

Work No.	Development
	(l) connections to Work No. 35 and Work No. 36.
<b>34 – Waterbeach Pipeline Construction Area and Compounds</b>	Temporary construction compounds, welfare, storage and laydown areas and temporary haul roads in connection with Work Nos. 33, 35 and 36.
<b>35 – Waterbeach Pipeline Spur to Terminal Pumping Station</b>	<p>Up to two waste water pipelines laid underground between Work No. 33 or 36 and Work No. 16 to facilitate a connection between the waste water infrastructure to be provided as part of the Waterbeach New Town development and Work No. 16 including—</p> <ul style="list-style-type: none"> <li>(a) crossings using either pipe-jacking or horizontal directional drilling technique but otherwise laid using either open cut trenching or horizontal drilling technique;</li> <li>(b) new accesses and access improvements;</li> <li>(c) temporary shafts;</li> <li>(d) horizontal directional drilling launch and exit pits;</li> <li>(e) welfare, storage and laydown areas;</li> <li>(f) temporary haul roads;</li> <li>(g) construction compounds;</li> <li>(h) dewatering, drainage works and restoration of existing land drainage;</li> <li>(i) ditch crossing, diversion and associated protection works;</li> <li>(j) mud and soil handling;</li> <li>(k) associated infrastructure including air valves and other pipework fittings and fixtures;</li> <li>(l) permanent accesses for future maintenance and replacement of the pipelines; and</li> <li>(m) connections to Work No. 16 and Work Nos. 33 and/or 36.</li> </ul>
<b>36 – Waterbeach Pipeline South</b>	<p>The provision of the Waterbeach pipeline south works as follows:</p> <ul style="list-style-type: none"> <li>(a) up to two waste water pipelines laid between Work No. 33 and the boundary of the existing Cambridge Waste Water</li> </ul>



Work No.	Development
	<p>Treatment Works, including crossings of the river Cam, the A14, Horningsea Road, Fen Road and King's Lynn railway line using horizontal directional drilling technique in accordance with the code of construction practice, but otherwise laid using either open cut tracking or horizontal directional drilling technique;</p> <p>(b) up to two waste water pipelines laid underground and above ground within the existing Cambridge Waste Water Treatment Works;</p> <p>(c) new accesses and access improvements;</p> <p>(d) temporary shafts;</p> <p>(e) horizontal directional drilling launch and exit pits;</p> <p>(f) welfare, storage and laydown areas;</p> <p>(g) temporary haul roads;</p> <p>(h) dewatering, drainage works and restoration of existing land drainage;</p> <p>(i) ditch crossing, diversion and associated protection works;</p> <p>(j) mud and soil handling;</p> <p>(k) associated infrastructure including air valves and other pipework fittings and fixtures;</p> <p>(l) permanent accesses for future maintenance and replacement of the pipelines;</p> <p>(m) connections to Work Nos. 33 and 35 and at the existing Cambridge Waste Water Treatment Works; and</p> <p>(n) decommissioning of all or part of this Work.</p>
<b>37 – Temporary Access Works for Work Nos. 33 &amp; 34</b>	Temporary access works associated with Work Nos. 33 and 34 including temporary construction and commissioning dewatering and drainage works and works to facilitate discharge into the watercourses adjacent to Bannold Drove, Burgess's Road and Bannold Road.
<b>38 – New Bridleway</b>	Works relating to the provision of a new bridleway including street apparatus, gates and signage.

Work No.	Development
<b>39 – Ecological Mitigation Area</b>	Ecological mitigation works, including— <ul style="list-style-type: none"> <li>(a) earthworks and ground re-profiling;</li> <li>(b) creation of natural drainage ditches, wetland habitat and ponds;</li> <li>(c) creation of connections to or culverts/bridges over existing drainage ditches;</li> <li>(d) creation of maintenance access routes; and</li> <li>(e) temporary welfare and laydown areas and haul roads.</li> </ul>
<b>40 – Decommissioning of the existing Cambridge Waste Water Treatment Plant</b>	Works to the existing Cambridge Waste Water Treatment Works to cease its existing operational function and to facilitate the surrender of its operational permits including: <ul style="list-style-type: none"> <li>(a) removal of pumps;</li> <li>(b) isolation of plant;</li> <li>(c) isolation of electrical connections;</li> <li>(d) isolation, filling and capping of pipework;</li> <li>(e) cleaning of tanks, pipes, screens and other structures, plant and machinery;</li> <li>(f) works to decommission the potable water supply; and</li> <li>(g) works to restrict access to walkways, plant and machinery</li> </ul>
<b>Further Works</b>	In connection with Work Nos 1 - 40 above and to the extent that they do not form any part of such work, further associated development within the Order limits comprising such other works as may be necessary or expedient for the purpose of or in connection with the relevant part of the authorised development and which fall within the scope of work assessed by the environmental statement including- <ul style="list-style-type: none"> <li>(1) In connection with Work Nos. 1 - 37, 39 and 40-               <ul style="list-style-type: none"> <li>(a) highways works, including diversions, kerb alterations, white lining, road markings, re-surfacing, laybys, traffic calming, vegetation clearance, traffic management and turning areas;</li> </ul> </li> </ul>

Work No.	Development
	<ul style="list-style-type: none"> <li data-bbox="687 271 1054 300">(b) road and traffic signage;</li> <li data-bbox="687 338 874 367">(c) footpaths;</li> <li data-bbox="687 405 1449 479">(d) fencing, security and safety measures including closed-circuit television (CCTV) cameras and columns;</li> <li data-bbox="687 517 906 546">(e) access gates;</li> <li data-bbox="687 584 1449 770">(f) drainage including attenuation tanks, manholes, highway drainage and internal road drainage, land drainage restoration and diversion, ground and surface water treatment facilities, soakaways and swales and other sustainable drainage systems;</li> <li data-bbox="687 808 1086 837">(g) chemical dosing pipework;</li> <li data-bbox="687 875 1299 904">(h) operational and maintenance task lighting;</li> <li data-bbox="687 943 1299 972">(i) communication and control infrastructure;</li> <li data-bbox="687 1010 1347 1039">(j) telemetry infrastructure including outstations;</li> <li data-bbox="687 1077 1082 1106">(k) hard and soft landscaping;</li> <li data-bbox="687 1144 1070 1173">(l) vehicle restraint systems;</li> <li data-bbox="687 1211 1449 1464">(m) works within the existing sewers, chambers and culverts and other structures that comprise the existing sewerage network for the purposes of enabling the authorised development, including reconfiguring, modifying, altering, repairing, strengthening or reinstating the existing network;</li> <li data-bbox="687 1503 1449 1800">(n) works within new and existing pumping stations including structural alterations to the interior fabric of the pumping station(s), works to reconfigure existing pipework, provision of new pipework, new penstock valves and associated equipment, modification of existing electrical, mechanical and control equipment, and installation or provision of new electrical, mechanical and control equipment;</li> <li data-bbox="687 1839 1449 1980">(o) installation of electrical, mechanical and control equipment in other buildings and kiosks and modification to existing electrical, mechanical and control equipment in such buildings and kiosks;</li> </ul>

Work No.	Development
	<p>(p) installation of pumps in chambers and buildings;</p> <p>(q) works to trees and landscaping works not comprising development;</p> <p>(r) works associated with monitoring of buildings and structures;</p> <p>(s) works required for the strengthening, improvement, maintenance or reconstruction of any street;</p> <p>(t) works to place, alter, remove or maintain street furniture or apparatus in a street, or apparatus in other land, including mains, sewers, drains, soakaways, pipes, cables and ducts; and</p> <p>(u) works to install, divert, repair, replace, maintain and decommission gas, potable water, waste water, electricity and telecommunications services and apparatus;</p> <p>(2) In connection with Work Nos. 1 - 40, temporary works relating to construction including-</p> <p>(a) lighting;</p> <p>(b) ramps, accesses, non-motorised links, and crossing facilities;</p> <p>(c) welfare facilities including generators; and</p> <p>(d) security measures including fencing and CCTV.</p> <p>(3) Within the area of such works which are 30 metres in any direction from the river Cam, works relating to the suspension of existing moorings and the relocation of boats/vessels including works to attach mooring structures and equipment to the boats/vessels.</p> <p>(4) Within the inner boundary of Work No. 15-</p> <p>(a) internal access and circulation roads, turning areas, hardstanding, and parking;</p> <p>(b) air, steam and hot water distribution infrastructure;</p> <p>(c) motor control centres (MCC);</p>

Work No.	Development
	<ul style="list-style-type: none"> <li>(d) local control panels (LCP);</li> <li>(e) programmable logic controllers (PLC);</li> <li>(f) HV Switchgears and transformers;</li> <li>(g) solar photovoltaic panels;</li> <li>(h) switchgear buildings, battery storage buildings and associated connections to the solar PV panels installed in connection with Work Nos. 7, 15 and 19;</li> <li>(i) kiosks;</li> <li>(j) gas infrastructure;</li> <li>(k) closed-circuit television cameras and columns;</li> <li>(l) odour ducting and treatment; and</li> <li>(m) lightning protection infrastructure including masts, finials, earth mats and bonding.</li> </ul> <p>(5) Works associated with decommissioning the existing Cambridge Waste Water Treatment Works including the existing outfall north of the A14 and assets in Cowley Road, and the existing Waterbeach Wastewater Treatment Works and diversions of existing utilities and services.</p>

10.2 With regard to the “Further Works” listed within Schedule 1, the Applicant has specified where appropriate and reasonable the relevant works listed might be carried out, or in connection with which particular Work package. This is consistent with many other made Orders such as The Sizewell C (Nuclear Generating Station) Order 2022 and The Portishead Branch Line (MetroWest Phase 1) Order 2022. The Further Works are not fixed to a particular work package but relate to several or generally are ancillary type works related to the detailed descriptions of the Works. Where possible, however, the Applicant has sought to draft the works as narrow as is reasonable and appropriate, for example a number of these works can be excluded from Work No. 38 and works to suspend river moorings have been limited to works within a particular distance from the river as opposed to any work within the Order limits.

10.3 The Applicant would also highlight that the works are clearly limited to those within the scope of the environmental statement

- 10.4 *Schedule 2 (Requirements)* sets out the requirements which apply to the carrying out of and operation of the authorised development under the Order. The requirements closely relate to the mitigation set out in the Environmental Statement (Application document reference 5.2) and other relevant Application documentation. Where a requirement provides details to be submitted for approval, the requirement also requires the Applicant to carry out the authorised development in accordance with the approved details.
- 10.5 Part 2 of Schedule 2 is based on Planning Inspectorate Advice Note 15 which sets out the procedure in relation to the discharge of requirements.
- 10.6 A summary of each requirement and the reasoning for its inclusion is set out in the table below:

Requirement (Number and topic)	Explanation
2 - Time limit	This requires that the authorised development must not commence after the expiry of five years from the date on which the Order comes into force. This is based on the model provisions as per requirement 2.
3 - Phasing	<p>This requirement provides that save for the enabling phase, the authorised development must not be commenced until a written scheme setting out the phases of construction has been approved by the relevant planning authority.</p> <p>This is based on the model provisions, save that it does not apply to the enabling phase which is defined in paragraph 1 of Schedule 2.</p>
4 - Parameters	This requirement provides that the elements of the authorised development listed in Schedule 14 (parameters) must not exceed the maximum dimensions and heights set out in that same schedule. This ensures that the development will be brought forward within the environmental parameters of assessment.
5 - Requirement for written approval	This requirement manages how approval by a planning authority or any other person is to be provided. It must be given in writing and where approval relates to more than one phase, the Applicant is not required to seek multiple approvals for the same details. This requirement is needed in order to give certainty as to what has been agreed and in order to minimise the risk of delay for the Applicant.

Requirement (Number and topic)	Explanation
6 - Approved details and amendments to them	<p>Where any requirement requires details to be submitted in accordance with a document, the relevant planning authority may approve an amendment or variation. However, any amendments or variations must be in accordance with the principles and assessment set out in the Environmental Statement. This ensures that the authorised development remains within the assessed parameters.</p>
7 - Detailed design	<p>This requirement provides that no phase of the authorised development is to commence until specified details have been approved. In order to assist the relevant planning authority in its approval, the details submitted must accord with the design code. The design code was provided at deadline 4.</p> <p>This drafting is required as due to the scale of the authorised development, detailed design will not be settled at the time the Order is made.</p> <p>An addition has been made to sub-paragraph 7(1) to confirm that details of water conservation in the Gateway Building design will be submitted as part of detailed design approval.</p> <p>Sub-paragraph 7(2) provides that no phase incorporating Work Nos. 4 and 8 is to commence until details of the odour control unit locations and an updated odour assessment have been submitted demonstrating that:</p> <p>(a) odour concentrations at receptor locations 1 – 6, 8 and 9 listed in Table 4.7 in the odour impact assessment (Document number 5.4.18.2, Examination Library reference AS-203) and identified as discrete receptors 1 – 6, 8 and 9 on Figure 4.1 of chapter 18 (odour) of the environmental statement (Document number 5.2.18, Examination Library reference REP6-035) will be less than 1.5 of the modelled predicted odour exposure levels of C98 OUE/m<sup>3</sup>; and</p> <p>(b) odour concentrations at receptor location 7 listed in Table 4.7 in the odour impact assessment and identified as discrete receptor 7</p>

Requirement (Number and topic)	Explanation
	<p>on Figure 4.1 of chapter 18 (odour) of the environmental statement (Document 5.2.18, Examination Library reference REP6-035) and at the footpaths to be created by Work No. 23(d) will be less than 1.5 of the modelled predicted odour exposure levels of C98 OUE/m<sup>3</sup>.</p> <p>This is to ensure that the odour concentrations remain within the assessed levels.</p> <p>In respect of operational lighting, paragraph 3 of this requirement provides that the details submitted must accord with the details in the lighting design strategy.</p>
8 - Code of Construction Practice	<p>Pursuant to this requirement, each phase of the authorised development must be carried out in accordance with the code of construction practice.</p>
9 - Construction Environmental Management Plan	<p>This requirement provides that no phase of the authorised development is to commence until a construction environmental management plan for that phase has been submitted to and approved by the relevant planning authority.</p> <p>Any such plan submitted for approval must incorporate the measures in the code of construction practice (where relevant).</p> <p>The requirement provides for specified details to be submitted, depending upon whether the plan relates to an enabling phase or any other phase.</p> <p>The plan for each phase is to be kept under review and updated if necessary as construction proceeds. Any updates must be approved pursuant to requirement 6.</p>
10 - Outfall	<p>This requirement ensures that that no construction of that part of the authorised development comprising works within the area of Work No. 32 is to commence until a detailed construction outfall management and monitoring plan has been approved by the relevant planning authority in consultation with</p>



Requirement (Number and topic)	Explanation
	<p>Natural England, the Environment Agency and the relevant navigation authority. The detailed construction outfall management and monitoring plan must accord with the measures in the outline outfall management and monitoring plan relating to construction.</p> <p>Requirement 10(4) ensure that the outfall forming part of Work No. 32 must be carried out in accordance with the approved detailed construction and outfall management and monitoring plan.</p> <p>Requirement 10(5) also ensures that the outfall forming part of Work No.32 must not be brought into operational use until a detailed operational outfall management and monitoring plan has been submitted to and approved by the relevant planning authority in consultation with Natural England, the Environment Agency and the relevant navigation authority. The detailed operational outfall management and monitoring plan must accord with the measures set out in the outline outfall management and monitoring plan relating to the operation of the outfall, and must be implemented upon commencement of operation of the outfall.</p>
11 - Landscape, Ecological and Recreational Management Plan	No phase of the authorised development is to commence until a detailed landscape, ecological and recreational management plan (“detailed LERMP”) has been approved by the relevant planning authority in consultation with Natural England and the Environment Agency.
12 - Operational Workers Travel Plan	<p>In accordance with this requirement, the Applicant must submit for approval a detailed operational workers travel plan prior to the operation of the authorised development.</p> <p>The details must accord with the operational workers travel plan which is a certified document for the purposes of Schedule 18.</p>

Requirement (Number and topic)	Explanation
	The plan may be revised from time to time in accordance with requirement 6.
13 - Archaeological Investigation Mitigation Strategy	<p>This requirement provides that no phase of the authorised development is to commence until:</p> <p>(a) a detailed archaeological investigation mitigation strategy; and</p> <p>(b) where required by the framework archaeological investigation mitigation strategy, a written scheme of investigation</p> <p>for that phase has been submitted to and approved in writing by the relevant planning authority</p> <p>Each detailed archaeological investigation mitigation strategy must accord with the measures set out in the framework archaeological investigation mitigation strategy</p>
14 - Construction lighting	In accordance with this requirement, no phase of the authorised development is to be commenced until a detailed construction lighting design strategy has been submitted and approved by the relevant planning authority.
15 - Drainage	Pursuant to this requirement, no phase (save for the enabling phase) is to be commenced until a detailed drainage strategy for that phase setting out the permanent drainage measures to be provided as part of that phase has been submitted to and approved in writing by the relevant planning authority. Each detailed drainage strategy must accord with the measures in the drainage strategy insofar as they apply to the works in the relevant phase.
16 - Contamination risk	This requirement addresses how contamination which is discovered during construction should be dealt with. In summary, construction must cease and the contamination must be reported

Requirement (Number and topic)	Explanation
	<p>to the relevant planning authority. Prior to recommencing construction, a suitable investigation and risk based land contamination assessment must be approved by the relevant planning authority in consultation with the Environment Agency. Any remedial measures must also be approved.</p> <p>This is based on model requirement 15 and aligns with the commitment in the code of construction practice.</p>
17 - Decommissioning	<p>This requirement deals with the decommissioning of the existing WWTP and ensures that it must commence no later than 3 months following the completion of commissioning of the new WWTP or such longer date as may be agreed with the relevant planning authority.</p>
18 - Asset Management Plan	<p>This requirement requires the Applicant, as mentioned in chapter 6 (climate resilience) of the environmental statement, to submit and agree an operational asset management plan before the authorised development is operational.</p> <p>That plan must incorporate the measures set out in the asset management plan.</p>
19 - Operational Logistics Travel Plan	<p>This requirement provides that prior to the operation of the authorised development an operational logistics traffic plan must be submitted to and approved in writing by the relevant planning authority. The operational logistics traffic plan must set out details of HGV delivery times and HGV routeing and monitoring proposals.</p>
20 - Odour Management Plan	<p>This requirement ensures that no commissioning is to take place until a detailed odour management plan has been submitted and approved by the relevant planning authority. The detailed odour management plan must be in accordance with the measures in the preliminary odour management plan and the principles and</p>

Requirement (Number and topic)	Explanation
	assessments set out in the relevant part of the environmental statement.
21 - Carbon Management Plan	<p>The Applicant is required to submit to and secure the agreement of the relevant planning authority to a detailed carbon management plan for the authorised development prior to the operation of the authorised development.</p> <p>The detailed carbon management plan must accord with the measures set out in the outline carbon management plan and must detail how the operation of the authorised development achieves carbon net zero.</p>
22 – Operational water quality monitoring plan	<p>This requires the Applicant to submit to and secure the approval of the relevant planning authority of a detailed operational water quality monitoring plan prior to the authorised development being brought into operation.</p> <p>The detailed operational water quality monitoring plan must accord with the measures set out in the outline water quality monitoring plan and must incorporate measures to monitor water quality.</p>
23 – Discovery centre	<p>This requires the Applicant to submit to and secure the approval of the relevant planning authority of a scheme for the operation of the discovery centre to be provided as part of the propose development prior to the discovery centre being brought into operation.</p> <p>The scheme must incorporate measures for (a) attendance by appointment only; (b) an education programme; (c) scheduled opportunities for local schools and groups; and (d) management of visitor parking arrangements.</p> <p>The discovery centre must be operated in accordance with the approved scheme.</p> <p>Requirement 23 limits the discovery centre to how it is intended to operate in accordance with</p>

Requirement (Number and topic)	Explanation
	the project description chapter in the Environmental Statement (document reference number 5.2.2, Examination Library reference REP6-009)
24 – Operational Wildlife Hazard Management Plan	This requires the submission and approval of a detailed operational wildlife hazard management plan. This must accord with the measures set out in the wildlife hazard management plan (document reference number 5.4.8.18, Examination Library reference REP5-064) relating to the operation of the authorised development.
25 – Biodiversity Net Gain	<p>This requires the submission of an updated biodiversity net gain report to the local planning authority prior to the commencement of any phase. The submitted report must detail:</p> <ul style="list-style-type: none"> <li>(a) how the measures contained within it deliver and secure twenty percent biodiversity net gain for the whole of the authorised development excluding any biodiversity net gain to be provided as river units;</li> <li>(b) details of measures to deliver and secure twenty percent biodiversity net gain comprising river units within or outside of the Order limits;</li> <li>(c) details of the habitat management and monitoring of the biodiversity net gain for the whole of the authorised development; and</li> <li>(d) an updated biodiversity metric calculation or an explanation of why a biodiversity metric calculation is not necessary.</li> </ul> <p>'Biodiversity metric calculation' means a calculation in accordance with the metric in Appendix D of the biodiversity net gain report.</p>
26 – Temporary closure of public rights of way	This requires the Applicant not to commence any phase of the authorised development which includes a temporary closure to a public right of

Requirement (Number and topic)	Explanation
	way until the Applicant has provided the relevant highway authority with a programme of closures of the public rights of way.
27 – Bridleway	<p>This requires the Applicant not to commence Work No. 38 (New Bridleway) until a scheme for the bridleway gates and signage has been submitted to and approved in writing by the relevant planning authority.</p> <p>Work No. 38 must be carried out in accordance with the approved scheme.</p>

- 10.7 *Schedule 3 (Streets subject to street works)* sets out the streets that would be subject to street works (including reference to the location and the specific street).
- 10.8 *Schedule 4 (Streets subject to alteration of layout)* sets out the streets that would be subject to an alteration of layout (including a description of the alteration) as shown on the Highways Plans (Application document reference 4.11, Examination Library reference REP6-006).
- 10.9 *Schedule 5 (Streets to be temporarily)* identifies streets which may be temporarily closed and the extent of the closure with reference to the Access and Traffic Regulation Order Plans (Application document reference 4.7, Examination Library reference AS-154).
- 10.10 *Schedule 6 (Public rights of way)* Part 1 identifies public rights of way that are to be temporarily closed and the extent of the closure, and specifies the stage of the authorised development at which the closure will occur with reference to the Rights of Way Plans (Application document reference 4.6, Examination Library reference REP1-018). Part 2 details the new public rights of ways to be created as shown indicatively on the Rights of Way Plans.
- 10.11 *Schedule 7 (Access to works)* sets out those accesses that will be created in order to construct, operate and maintain the authorised development or in some instances, created for construction, operation and maintenance. The accesses are identified on the Access and Traffic Regulation Order Plans (Application document reference 4.7, Examination Library reference AS-154) with a yellow label as follows:
- 10.11.1 CA refers to a construction access;
  - 10.11.2 COA refers to an access for construction and operational purposes; and
  - 10.11.3 OA refers to an operational access.

- 10.12 *Schedule 8 (Speed limits)* concerns new speed limits. Part 1 details those highways where temporary speed limit orders are to be imposed and the duration of the temporary speed limited.
- 10.13 Part 2 sets out a new permanent speed limit along Horningsea Road to commence on completion of the authorised development.
- 10.14 *Schedule 9 (Traffic regulation)* details the highways to which traffic regulation works are to be applied as identified on the Access and Traffic Regulation Order Plans (Application document reference 4.7, Examination Library reference AS-154). Part 2 details the prohibited movements. There are three prohibited movements, each of which commence from the date the new site access becomes operational and are required to deter vehicles from using either Fen Ditton or Horningsea villages, to keep construction vehicle movements to the agreed site access routes and to deter certain turning movements. The restrictions are:
- 10.14.1 No right turn from the proposed waste water treatment plant new site access onto the B1047 and Horningsea Road northbound;
- 10.14.2 No left turn for HGVs into the proposed waste water treatment plant access from the B1047 and Horningsea Road southbound; and
- 10.14.3 No right turn into the proposed waste water treatment plant access from the B1047 and Horningsea Road northbound.
- 10.15 *Schedule 10 (Land in which only new rights etc. may be acquired)* details the land where new rights may be acquired and the purpose for which those rights may be acquired, for example, rights for the purposes of construction, operational and maintenance access. The rights have been drafted in particular packages so that for any parcel of land, the appropriate rights can be sought and applied accordingly.
- 10.16 *Schedule 11 (Land in which only subsoil more than 7 metres beneath the surface may be acquired)* details the land where subsoil lying more than 7 metres beneath the surface may be acquired, pursuant to Article 30. Column (3) of the Schedule also identifies the purposes for which rights may be acquired or restrictive covenants imposed over that land in accordance with the powers in Article 30.
- 10.17 *Schedule 12 (Land of which temporary possession only may be taken)* sets out the land of which only temporary possession may be taken for the purposes of the construction of the authorised development pursuant to Article 35 with reference to the appropriate purposes for which temporary possession may be taken.
- 10.18 *Schedule 13 (Modification of compensation and compulsory purchase enactments for creation of new rights)* modifies existing compensation legislation including the Land Compensation Act 1973 and the Compulsory Purchase Act 1965. This has been updated to reflect any necessary changes arising as a result of the Housing and Planning Act 2016.
- 10.19 *Schedule 14 (Parameters)* sets out the design envelope parameters for specific parts of infrastructure which will form the authorised development. They are secured through requirement 4 and fix the maximum parameters within which the relevant parts of the

authorised development must be carried out. These parameters have been used as the basis of the environmental assessment in the Environmental Statement.

10.20 *Schedule 15 (Protective Provisions)* provides protection for statutory undertakers generally and for specific undertakers. These include:

Part	For the benefit of	Status at the time of deadline seven
1	Electricity And Gas Undertakers	These are intended to cover apparatus which is not owned by Cadent Gas Limited or Eastern Power Networks Plc and therefore has not been negotiated with a specific statutory undertaker. This drafting has not changed since submission of the application.
2	Eastern Power Networks Plc as Electricity Undertaker	The Applicant and Eastern Power Networks Plc have agreed protective provisions.
3	Cadent Gas Limited as Gas Undertaker	The protective provisions are agreed with Cadent Gas Limited.
4	Network Rail as Railway Undertaker	<p>The Applicant has received draft provisions from Network Rail and has been negotiating these with Network Rail during the course of the examination.</p> <p>The following points of difference remain between the Applicant and Network Rail:</p> <p><u>The definition of ‘asset protection agreement’</u></p> <p>The Applicant sought a copy of Network Rail’s standard asset protection agreement (“APA”) as it considered it important to understand the relationship between the protective provisions and the APA, particularly because Network Rail’s standard protective provision wording requires the Applicant to enter into an APA, if required by Network Rail. A copy of the APA was not received until 3 April 2024.</p> <p>The APA contained terms over and above what the Applicant has agreed with Network Rail in the ordinary course of business and in light of this, the Applicant considers it appropriate to retain some flexibility around the form of the APA. As a result, the definition has been amended to provide that the APA is to be in a form ‘agreed’ between the parties, rather than prescribed by Network Rail. The APA must also accord</p>



Part	For the benefit of	Status at the time of deadline seven
		<p>with the basic APA which has been agreed for use between the Applicant and Network Rail.</p> <p><u>Paragraph 37</u> (paragraph of Network Rail's standard protective provisions) (set out below in italics). The Applicant cannot agree to the wording proposed by Network Rail which provides that the undertaker must not exercise the following powers:</p> <ul style="list-style-type: none"> <li>(a) <i>article 3 (development consent etc. granted by the Order);</i></li> <li>(b) <i>article 4 (maintenance of authorised development);</i></li> <li>(c) <i>article 19 (discharge of water);</i></li> <li>(d) <i>article 21 (authority to survey and investigate the land);</i></li> <li>(e) <i>article 25 (compulsory acquisition of land);</i></li> <li>(f) <i>article 28 (compulsory acquisition of rights and imposition of restrictive covenants);</i></li> <li>(g) <i>article 33 (acquisition of subsoil or airspace only);</i></li> <li>(h) <i>article 35 (temporary use of land for carrying out the authorised development);</i></li> <li>(i) <i>article 36 (temporary use of land for maintaining the authorised development);</i></li> <li>(j) <i>article 37 (statutory undertakers);</i></li> <li>(k) <i>article 29 (private rights over land);</i></li> <li>(l) <i>article 23 (felling or lopping of trees and removal of hedgerows);</i></li> <li>(m) <i>article 24 (trees subject to tree preservation orders);</i></li> <li>(n) <i>the powers conferred by section 11(3) (power of entry) of the 1965 Act;</i></li> </ul>

Part	For the benefit of	Status at the time of deadline seven
		<p>(o) <i>the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;</i></p> <p>(p) <i>the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;</i></p> <p>(q) <i>any powers under in respect of the temporary possession of land under the Neighbourhood Planning Act 2017;</i></p> <p><i>in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.</i></p> <p><i>(2) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 37 (statutory undertakers), or article 29 (private rights over land), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.</i></p> <p><i>(3) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.</i></p> <p>The restriction on the use of the above powers without Network Rail’s consent cannot be agreed since the Applicant has not been able to agree voluntary terms with Network Rail at this stage, and the restriction therefore presents an unacceptable risk to certainty of deliverability which is clearly not appropriate for nationally significant infrastructure delivery.</p> <p>The Applicant first wrote to Network Rail in August 2022 explaining that in order to facilitate the construction of the Proposed Development, the Applicant would need to acquire land and rights over land in which Network Rail has an interest. Whilst discussions were then had with Network Rail, the Asset Protection Team at Network Rail were instructed not</p>

Part	For the benefit of	Status at the time of deadline seven
		<p>to engage with the Applicant until the protective provisions were finalised.</p> <p>From the Applicant’s perspective, it cannot agree to forgo the use of the powers listed above without the security of any completed land agreements between it and Network Rail for the rights it needs to carry out the Proposed Development.</p> <p><u>Paragraph 48</u></p> <p>Paragraph 48 of the protective provisions contain an indemnity from the Applicant to Network Rail as a result of losses caused by the Proposed Development. The Applicant has added in a new paragraph 48(5) which does not appear in Network Rail’s standard protective provisions and which reads as follows:</p> <p><i>In no circumstances shall the undertaker be liable to Network Rail under this paragraph 48 for any indirect or consequential loss (including, without limitation, loss of profit) howsoever arising, nor for any direct or indirect loss that may have been caused by a specified work or the carrying out of the authorised development more than six years after any specified work or the relevant part of the authorised development has been completed.</i></p> <p>The Applicant has included this as it reflects an agreed principle between the parties. Further, the Applicant is keen to ensure that there is no conflict between the protective provisions and the documents which will sit alongside those and which will also require compliance when the Proposed Development is constructed, used, maintained and operated as this has the potential to lead to disputes.</p> <p>The parties have agreed to continue to work together to try and resolve the points of difference and will update the ExA and/or SoS in this regard as appropriate.</p>
5	National Highways as Highways Authority	The authorised development requires works to land in which National Highways is the highway authority and in which Cambridgeshire County Council is the highway authority. These provisions govern the carrying out of the highway works and obviate the

Part	For the benefit of	Status at the time of deadline seven
		<p>need for any agreements pursuant to the Highways Act 1980, although they still require details to be approved by the highways authorities before specified works may commence.</p> <p>The provisions included in the draft DCO at the time of submission had been the subject of discussion with National Highways over many months. The approach to the drafting was to cover the works on the highway including traffic regulation, and separately to govern the protection of National Highways' infrastructure (the A14) during the installation and maintenance of the transfer tunnel and Waterbeach pipeline. At the time of the application submission, the provisions had almost been agreed, with only a few outstanding points between the parties, however National Highways has revised its approach to protective provisions and requires its standard version to be included in the DCO with any project specific provisions to be negotiated and included in a side agreement.</p> <p>The Applicant has made significant efforts to agree the new protective provisions with National Highways but is not able to agree their request in respect of land acquisition arrangements, namely the policy of National Highways not to agree to freehold acquisition of the subsoil. This has been the subject of substantial representations during the Examination and the Applicant's final position is set out in the Applicant's Closing Submissions (Application document reference 8.33, submitted at Deadline 7) as well as paragraph 3.5 of Applicant's comments on Deadline 5 Submissions (Application document reference 8.24 [REP6-115]). In the absence of any agreement to the acquisition or use of the land, the Applicant cannot agree to restrict its powers of compulsory acquisition to only be exercised with the consent of National Highways.</p> <p>As is reflected in the signed Statement of Common Ground (Application document reference 7.14.7, Examination Library reference updated at Deadline 7), the protective provisions in the Applicant's final dDCO are agreed with NH, save for paragraph 19 relating to the land interests (National Highways' proposed wording for this paragraph is paragraph 20 of its standard protective provisions, a copy of which is</p>

Part	For the benefit of	Status at the time of deadline seven
		<p>appended to the Statement of Common Ground). This was the position presented by NH orally at ISH4.</p>
6	Local Highway Authorities	<p>As above, these provisions govern the carrying out of the highway works on the local highway network and obviate the need for any agreements pursuant to the Highways Act 1980, although they still require details to be approved by the highways authority before specified works may commence.</p> <p>The local highway authority submitted at Issue Specific Hearing 1 that its preference was to use standalone section 278 agreements rather than have the benefit of protective provisions. As the Applicant confirmed it would, the Applicant reviewed the local highway authority precedent section 278 agreement and converted these in the format of protective provisions for review by the local highway authority.</p> <p>Minor progress was made between the parties between Deadlines 1 and 4; however, the local highway authority's position during that period remained that its preference would be to use standalone section 278 agreements.</p> <p>Following Deadline 5, the local highway authority's position changed when it advised it would not object to protective provisions if they could be agreed in line with an updated version the local highway authority had prepared.</p> <p>The Applicant has made significant effort and substantial concessions to seek to agree and finalise the provisions with the local highway authority.</p> <p>The protective provisions have now been agreed save for one point which relates to the timing at which deeming provisions 'kick in':</p> <p>Paragraph 103 of the protective provisions ("agreement fee") provides:</p> <p><i>"103—(1) The undertaker will pay to the local highway authority upon technical submission an amount being 50% of the undertaker's reasonable calculation of the agreement fee.</i></p>

Part	For the benefit of	Status at the time of deadline seven
		<p><i>(2) The undertaker and the local highway authority will agree the works estimate prior to the issuing of technical approval by the local highway authority.</i></p> <p><i>(3) The undertaker will pay to the local highway authority the remaining balance of the agreement fee (as established following the agreement of the works estimate pursuant to sub-paragraph (2)) prior to the issuing of technical approval by the local highway authority.</i></p> <p><i>(4) The deeming provisions to which paragraph 79(2) of this Part of this Schedule refers shall not apply to the technical submission to which sub-paragraph (1) refers unless and until the undertaker has paid the agreement fee in full to the local highway authority in accordance with this paragraph 103 provided that this sub-paragraph does not affect such deeming provisions insofar as they relate to approval of the works estimate (or any other approval required to be given) by the local highway authority."</i></p> <p>In relation to sub-paragraph (4), the local highway authority requires the payment to have been received by them (as opposed to it only having been paid by the undertaker) before the time period for the deeming provisions in paragraph 79(2) commences.</p> <p>Paragraph 79(2) states:</p> <p><i>"If within 40 working days after each and every submission of the details for each and every part of the specified works required to be submitted for approval pursuant to sub-paragraph (1) by the undertaker the local highway authority has not approved or refused them, it is deemed to have approved the details as submitted."</i></p> <p>One of the key reasons that deeming provisions are required is to ensure that administrative processes or delays at the Council does not prevent or stall progress the development and therefore the Applicant is not able to agree to the Council's request. The Applicant considers this to be a reasonable and justified position.</p>
7	Cam Conservancy as the relevant	Since Deadline 1, the Applicant and the Cam Conservancy ("the Conservators") have agreed several

Part	For the benefit of	Status at the time of deadline seven
	navigation authority	<p>drafting changes. The draft DCO was amended at the following deadlines to address changes agreed with the Conservators or changes proposed by the Applicant to address issues raised by the Conservators, although negotiations have been ongoing throughout examination:</p> <p>At Deadline 1 to amend the definitions of ‘river work’ and ‘temporary work’ to add additional clarity, as sought by the Conservators in direct negotiations between the parties and to add a requirement for the Applicant to give notice of its intention to commence Work No. 31 and Work No. 32;</p> <p>At Deadline 5 to add a new paragraph 3(2) which provided an ability for the Conservators to comment on plans submitted pursuant to paragraph 3(1) of the protective provisions and to amend paragraph 4 to widen the scope in which the Conservators can provide comments on details submitted for approval</p> <p>The Applicant has not been able to agree the protective provisions in full and the following points are outstanding:</p> <p><u>River works (paragraph 3(2))</u></p> <p>Paragraph 3(2) of the protective provisions provides that the relevant navigation authority must provide any comments on the plans submitted pursuant to paragraph 3(1)(a) (plans of the river work) within 28 days of receipt and the undertaker must have ‘reasonable regard to those comments insofar as they relate to the maintenance of the safe movement of traffic on the River Cam’.</p> <p>The Conservators propose that this is extended so that its comments may be made in respect of its ‘functions and duties in its capacity as the relevant navigation authority’. The Conservators have not proposed specific drafting but the Applicant considers that comments should only reasonably relate to the safe movement of river traffic in this regard. It is the Applicant’s position that paragraph 3(2) relates to the exercise of the powers under Article 44(1) and (2) for which the Applicant is, in effect, seeking a pre-authorisation for the exercise of those powers, as was</p>

Part	For the benefit of	Status at the time of deadline seven
		<p>explained at ISH4 (see paragraph 2.2 of the Applicant’s Post Hearing Submission (Application document reference 8.28), Examination Library reference REP6-118) and therefore it is appropriate to limit comments from the Conservators.</p> <p>The Applicant would also highlight that the Conservators have been added as a consultee to requirement 10 and therefore will have the opportunity to comment on the construction and operational outfall management and monitoring plan and then will have the opportunity to comment again under the protective provisions. The Applicant considers this to be sufficient and fair.</p> <p><u>Details for approval (paragraph 4)</u></p> <p>Paragraph 4(2) provides that</p> <p><i>The relevant navigation authority must respond in writing within 42 days of the request for approval under sub-paragraph (1) to either give consent to the details as submitted or suggest amendments to the details provided, but any such amendment must not materially affect or delay the efficient delivery of the relevant river work and must be suggested only where the relevant navigation authority considers such amendment necessary (acting reasonably) in accordance with its functions and duties in its capacity as the relevant navigation authority.</i></p> <p>The Conservators have proposed changing ‘must not materially affect or delay’ to ‘must not unreasonably affect or delay’. The Applicant does not agree with this. The purpose of this wording is to ensure that the delivery of the river work is not delayed, nor the proposed details to be materially different from that which has been proposed as part of the DCO Application. The Conservators’ wording could have this effect because there is potential that a comment may have a material effect, and also therefore a delay in the delivery of the river work whilst potentially not being ‘unreasonable’.</p> <p>The construction of the authorised development is subject to a complex construction programme and the</p>



Part	For the benefit of	Status at the time of deadline seven
		<p>Applicant is satisfied that with the ability of the Conservators to comment under paragraph 3, the ability to approve under paragraph 4 and the consultation requirements under requirement 10, that the Conservators have been offered adequate protection and input.</p> <p><u>Expenses (paragraph 6)</u></p> <p>The Applicant and the Conservators agree on the principle of the Conservators being paid its expenses for additional costs incurred as a result of the construction of any works forming part of the Proposed Development which are in or over the River Cam or which require interference with the movement of river traffic on the River Cam, whether or not such works are temporary. As with the other undertakers who have the benefit of protective provisions in Schedule 15, the Applicant confirms it is agreeable to meeting such expenses, provided that they are evidenced in writing and reasonably and properly incurred.</p> <p>The difference between the Conservators and the Applicant on this point arises due to the Conservators request for a lump sum to be paid on commencement of the Proposed Development to cover expenses arising as a result of the construction of the Proposed Development and without the provision of any evidence of costs incurred, and with no mechanism for the Applicant to dispute or challenge the sum. The Applicant has proposed a maximum cap on such expenses (at the level of the lump sum sought by the Conservators) and an agreement that it will pay expenses incurred up to this cap, but provided that they are evidenced and reasonably and properly incurred. The Applicant cannot agree to payment of a lump sum without any evidence that such costs have been incurred or are related to the Proposed Development and it has not agreed this position with any other undertaker. The Applicant does not consider this to be unreasonable.</p> <p>The Applicant has therefore included the following wording relating to expenses in the protective provisions:</p>

Part	For the benefit of	Status at the time of deadline seven
		<p data-bbox="735 304 1449 801"><i>6. Any reasonable and proper additional expenses not otherwise provided for in this Part of this Schedule which the relevant navigation authority incurs in managing or maintaining the river under any powers existing at the making of this Order by reason of the construction of any river work or temporary river work must be repaid by the undertaker to the relevant navigation authority (but subject to the submission to the undertaker, to its reasonable satisfaction, of written evidence that the additional expenses are a direct result of the construction of the river work or temporary river work and on the proviso that there will be no double recovery).</i></p> <p data-bbox="735 853 1449 1077">The parties have agreed that expenses are payable under paragraph 4(5) of the protective provisions for expenses incurred in relation to any approval sought under paragraph 4 (approval for temporary suspension of navigation rights or other rights sought pursuant to Article 44(3)).</p> <p data-bbox="735 1122 1054 1155"><u>Indemnity (paragraph 7)</u></p> <p data-bbox="735 1200 1449 1547">The indemnity at paragraph 7 is not agreed between the parties. The Applicant has proposed an indemnity for losses suffered or reasonably incurred to the extent that such losses are directly caused by (a) the construction of a river work or a temporary river work (as defined in the protective provisions) or (b) (b) any act or omission of the undertaker or of its officers, employees, servants, contractors or agents whilst engaged in—</p> <p data-bbox="735 1592 1449 1738">(i) the construction or carrying out of maintenance of the river work or a temporary river work; or (ii) seeking to remedy any failure of the river work or a temporary river work.</p> <p data-bbox="735 1783 1449 2009">The Conservators want the indemnity to extend to losses suffered as a result of operation. The Conservators have not elaborated on the types of losses which may be sustained during operation. The Applicant notes that the Conservators are not indemnified in relation to the current outfall.</p>

Part	For the benefit of	Status at the time of deadline seven
		The provisions in the Applicant's final dDCO submitted at Deadline 7 reflect the Applicant's final position.
8	Operators Of Electronic Communications Code Networks	These are standard provisions to cover any and all such operators. They have not been negotiated with any particular party, although comments were received from Sky Telecommunications Services Ltd at ") in response to ExQ1 (see Responses to ExA's ExQ1) [REP1-177] and were incorporated by the Applicant in the draft DCO submitted at Deadline 3.
9	Cambridge Water	The protective provisions are agreed with Cambridge Water.
10	Lead local flood authority	The protective provisions are agreed with Cambridgeshire County Council, as lead local flood authority.

- 10.21 *Schedule 16 (Hedgerows and important hedgerows)* sets out the hedgerows and the important hedgerows that may be removed pursuant to Article 23 (*Felling or lopping of trees and removal of hedgerows*), shown with reference to the hedgerow regulations and tree preservation plans (Application document reference 4.8, Examination Library reference REP6-005).
- 10.22 *Schedule 17 (Miscellaneous controls)* applies, modifies and excludes statutory provisions which relate to matters for which provision has been made in the Order.
- 10.23 Schedule 17 of the draft DCO was updated at Deadline 1 to remove the disapplication of the Building Act 1984 and to amend the disapplication on of the Community Infrastructure Levy Regulations 2010. As discussed at Issue Specific Hearing 1, the Applicant no longer seeks to disapply the Building Act 1984 and so it is not required to be included in Schedule 17.
- 10.24 In relation to the 2010 Regulations, the Applicant explained at Issue Specific Hearing 1 that it was to propose a simpler approach to the disapplication of the community infrastructure levy. The draft DCO was therefore been amended at Deadline 1 so that rather than specifying that any building comprised in the authorised development shall be deemed to be either: (a) a building into which people do not normally go; or (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery under regulation 6 of the 2010 Regulations, it now specifies that the Order shall not constitute a planning permission for the purpose of Part 11 of the 2008 Act notwithstanding the definition of planning permission contained in article 5 of the 2010 Regulations.

- 10.25 *Schedule 18 (Certification of plans and documents)* details the plans and documents which have been certified as part of this Order.
- 10.26 *Schedule 19 (Arbitration)* provides a process pursuant to which arbitration shall be conducted. As explained in relation to Article 52 a process for arbitration is secured through the Order. The intention is to achieve a fair, impartial and binding award on substantive differences between the parties (with the exception of costs) with a timely resolution.

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Calling our Freephone information line on **0808 196 1661**



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Visiting our website at [www.cwwtpr.com](http://www.cwwtpr.com)

You can view all our DCO application documents and updates on the application on The Planning Inspectorate website:

<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/cambridge-waste-water-treatment-plant-relocation/>