STATUTORY INSTRUMENTS

2025 No. 362

INFRASTRUCTURE PLANNING

The North Lincolnshire Green Energy Park Order 2025

Made - - - - *13th March 2025*

Coming into force *4th April 2025*

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(**a**) ("the 2008 Act") and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**b**) and for an Order granting development consent.

The application was examined by the Examining Authority appointed by the Secretary of State pursuant to Chapter 2 of Part 6 of the 2008 Act and in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(**c**). The Examining Authority has submitted a report to the Secretary of State under section 74(2) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**d**) and, as a national policy statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order giving effect to the proposals comprised in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120, 122, 123 and 140 of the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the North Lincolnshire Green Energy Park Order 2025 and comes into force on 4th April 2025.

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**e**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**f**);

"the 1980 Act" means the Highways Act 1980(**g**);

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**h**);

"the 1989 Act" means the Electricity Act 1989(**i**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**j**);

"the 1990 Act" means the Town and Country Planning Act 1990(**k**);

(**a**) 2008 c. 29; Parts 1 to 7 were amended by the Localism Act 2011 (c. 20), Chapter 6 of Part 6, and Part 1 of Schedule 13.
(**b**) S.I. 2009/2264.
(**c**) S.I. 2010/103, amended by S.I. 2012/635.
(**d**) S.I. 2017/572.
(**e**) 1961 c. 33.
(**f**) 1965 c. 56.
(**g**) 1980 c. 66.
(**h**) 1981 c. 66.
(**i**) 1989 c. 29.
(**j**) 1984 c. 27.
(**k**) 1990 c. 8.

"the 1991 Act" means the New Roads and Street Works Act 1991(**a**);

"the 2003 Act" means the Communications Act 2003(**b**);

"the 2008 Act" means the Planning Act 2008(**c**);

"the 2009 Regulations" means the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**d**);

"address" includes any number or address used for the purposes of electronic transmission;

"AOD" means above ordnance datum;

"apparatus" has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act save that "apparatus" further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity cables, telecommunications equipment and electricity cabinets;

"authorised development" means the development and associated development described in Part 1 of Schedule 1 (authorised development), which is development within the meaning of section 32 (meaning of "development") of the 2008 Act;

"book of reference" means the book of reference submitted under regulation 5(2)(d) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"building" includes any structure or erection or any part of a building, structure or erection;

"cables" means cables for the transmission of electricity and ancillary cables (including fibre optic cables) for the purpose of control, monitoring, protection or general communications;

"carriageway" has the same meaning as in the 1980 Act;

"CBMF" means the concrete block manufacturing facility;

"CCUS" means the carbon capture utilisation and storage facility;

"CLP" means the outline construction logistics plan submitted as Appendix D of Chapter 13 of the environmental statement referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"CoCP" means the code of construction practice submitted as Annex 7 of the environmental statement referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"commence" means beginning to carry out any material operation, as defined in section 155 (when development begins) of the 2008 Act, comprised in or carried out for the purposes of the authorised development and the words "commencement" and "commenced" and cognate expressions are to be construed accordingly;

"design principles and codes" means the design principles and codes submitted under regulation 5(2)(q) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

"DHPWN" means the district heating and private wire network;

"environmental statement" means the environmental statement submitted under regulation 5(2)(a) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

(**a**) 1991 c. 22.
(**b**) 2003 c. 21.
(**c**) 2008 c. 29.
(**d**) S.I. 2009/2264; relevant amending instruments are S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522 and S.I. 2013/755. There are other amending instruments but none is relevant.

"ERF" means the energy recovery facility;

"flood risk assessment" means the flood risk assessment submitted as Annex 3 of the environmental statement referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"footpath" and "footway" have the same meaning as in the 1980 Act;

"framework travel plan" means the framework travel plan submitted as Appendix C of Chapter 13 of the environmental statement referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"hedgerows plan" means the plan submitted under regulation 5(2)(o) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

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

"indicative drainage strategy" means the indicative drainage strategy submitted as Annex 5 of the environmental statement referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"indicative landscape and biodiversity plans" means the indicative landscape and biodiversity plans submitted under regulation 5(2)(o) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"indicative lighting strategy" means the indicative lighting strategy submitted as Annex 4 of the environmental statement referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"indicative railway plans" means the indicative railway plans submitted under regulation 5(2)(o) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"land plans" means the land plans submitted under regulation 5(2)(i) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"limits of deviation" means the limits of deviation shown for each work number on the works plans subject to this being in accordance with article 5 (limits of deviation) of this Order;

"maintain" includes (i) inspect, repair, adjust, alter, refurbish for the whole of the authorised development and (ii) in relation to any part (but not the whole of the authorised development) remove, reconstruct or replace that part provided those works do not give rise to materially new or materially different environmental effects; and "maintenance" and "maintaining" are to be construed accordingly;

"OEMP" means the operational environmental management plan submitted as Annex 8 of the environmental statement referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"option A" means the land shown on Sheets 1 to 10 and Sheet 10A of the land plans;

"option B" means the land shown on Sheets 1 to 10 and Sheet 10B of the land plans;

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

"Order limits" means the limits shown on the works plans within which the authorised development may be carried out;

"owner", in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(**a**);

(**a**) 1981 c. 67.

"outline employment and skills policy" means the outline employment and skills policy referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"outline LBMMP" means the outline landscape and biodiversity management and monitoring plan submitted under regulation 5(2)(q) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"preliminary works" means works consisting of site clearance and removal of minor structures, environmental surveys, investigations for the purpose of assessing ground conditions including gas monitoring, erection of any temporary means of enclosure, temporary display of notices or installation of a site compound;

"public sewer or drain" means a sewer or drain which belongs to Homes England, the Environment Agency, a harbour authority within the meaning of section 57 (interpretation) of the Harbours Act 1964(**a**), an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation;

"RHTF" means the bottom ash and flue gas residue handling and treatment facility;

"relevant planning authority" means the planning authority for the area in which the land to which the provisions of this Order apply is situated;

"requirements" means those matters set out in Schedule 2 (requirements) to this Order and any reference to a numbered requirement is to be construed accordingly;

"rights of way and access plans" means the rights of way and access plans submitted under regulation 5(2)(k) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"statutory undertaker" means any person falling within section 127(8) (statutory undertakers' land) of the 2008 Act and includes a public communications provider defined by section 151(1) (interpretation of Chapter I) of the 2003 Act;

"street" means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes any footpath and "street" includes any part of a street;

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

"street works" means the works listed in article 12(1);

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

"TRO drawings" means the TRO drawings submitted under regulation 5(2)(o) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

"undertaker" means The North Lincolnshire Green Energy Park Limited (Company No. 10949653), whose registered office is Office 71, The Colchester Centre, Hawkins Road, Colchester, CO2 8JX, or a person who has the benefit of this Order in accordance with articles 9 and 10;

"vertical parameters plans" means the vertical parameters plans submitted under regulation 5(2)(o) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.);

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

"working day" means any day other than a Saturday, Sunday or English bank or public holiday; and

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(**a**) 1964 c. 40. Paragraph 9B was inserted into Schedule 2 by paragraph 9 of Schedule 3 of the Transport and Works Act 1992 (c. 42). There are other amendments to the 1964 Act that are not relevant to this Order.

"works plans" means works plans A, works plans B and works plans C submitted under regulation 5(2)(j) of the 2009 Regulations referred to in Schedule 15 and certified as such by the Secretary of State for the purposes of this Order under article 46 (certification of plans, etc.).

(2) All distances, directions, measurements and lengths referred to in this Order are approximate, except the parameters referred to in article 5 and Schedule 1, Part 3.

(3) All areas described in square metres in the book of reference are approximate.

(4) References in this Order to "numbered works" or "Work No" are references to the works comprising the authorised development as numbered in Schedule 1 (authorised development) and shown on the works plans.

(5) The expression "includes" is to be construed without limitation.

(6) In this Order, references to the purposes of the authorised development includes the construction, maintenance, operation, use and decommissioning of the authorised development.

Electronic Communications

3.—(1) In this Order, subject to article 47 (service of notices)—

(a) references to documents, maps, plans, drawings, certificates or to copies, include reference to them in electronic form; and

(b) references to a form of communication being "in writing" includes references to an electronic communication that satisfies the conditions in paragraph (3); and "written" and cognate expressions are to be constructed accordingly.

(2) If an electronic communication is received outside the recipient's business hours, it is to be taken to have been received on the next working day.

(3) The conditions are that the communication is—

(a) capable of being accessed by the recipient;

(b) legible in all material respects; and

(c) sufficiently permanent to be used for subsequent reference.

(4) For the purposes of paragraph (3)(b), a communication is legible in all material respects if the information contained in it is available to the recipient to no lesser extent than it would be if transmitted by means of a document in printed form.

(5) In this article "electronic communication" has the meaning given in section 15(1) (general interpretation) of the Electronic Communications Act 2000(**a**).

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

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

(2) Each numbered work must be situated within the corresponding numbered area shown on the works plans and within the limits of deviation.

(**a**) 2000 c. 7; section 15(1) was amended by Schedule 17, paragraph 158, of the Communications Act 2003 (c. 21).

Limits of deviation

5.—(1) In carrying out the authorised development the undertaker may—

(a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extents of the limits of deviation show on those plans provided that a minimum separation distance of 100m is maintained between the bunker hall (within Work No. 1) and the River Trent at their closest point; and

(b) in relation to Work Nos. 1, 1A, 1B, 1C, 1D, 2, 6, 7, 8, 9, 12, 12A, 13, 14, 15A and 15B deviate vertically to the extent upwards as shown on the vertical parameters plans and listed in the parameters table in Part 2 of Schedule 1;

(c) in relation to Work Nos. 1, 1A, 1B, 1C, 1D, 2, 6, 7, 8, 9, 12, 12A, 13, 14, 15A and 15B deviate vertically to any extent downwards as may be found necessary to construct foundations or any underground structure;

(d) in relation to Work Nos. 3 and 4 deviate vertically by a maximum of 1 metre upwards or 1 metre downwards from the AOD levels shown on the indicative railway plans or listed in the parameters table in 2 of Schedule 1; and

(e) deviate vertically downwards by up to 3 metres in relation to Work Nos. 10 and 11.

(2) The undertaker must construct Work No. 5 within the following vertical limits of deviation: between 2.1 metres AOD and 5.2 metres AOD.

Maintenance of authorised development

6.—(1) The undertaker is authorised to, and may at any time, maintain the authorised development subject to any provision in this Order, including the requirements, or to an agreement made under this Order.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

Operation of authorised development

7.—(1) The undertaker is authorised to use and operate the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence or any obligation under any legislation that may be required to authorise the operation of the authorised development.

Planning permission

8. If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is not—

(a) itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or

(b) required to complete or enable the use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order so long as the carrying out, use of operation of such development does not prevent the undertaker from complying with this Order.

Benefit of the Order

9.—(1) Subject to article 10 (consent to transfer the benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker.

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

Consent to transfer the benefit of the Order

10.—(1) Subject to paragraph (4) the undertaker may—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed in writing between the undertaker and the transferee; or

(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed in writing between the undertaker and the lessee.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3) and paragraph (8) include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for the exercise of the powers of paragraph (1) except where the transferee or lessee is—

(a) the holder of a licence under section 6 (licences authorising supply, etc.) of the 1989 Act;

(b) in relation to a transfer or lease of utility or other infrastructure connection works the relevant statutory undertaker or licence holder; or

(c) in relation to a transfer or lease of any works within a highway a highway authority responsible for the relevant highway.

(5) Where the consent of the Secretary of State is not required under paragraph (4) the undertaker must notify the Secretary of State in writing before transferring or granting any or all of the benefit referred to in paragraph (1).

(6) The notification referred to in paragraph (5) must state—

(a) the name and contact details of the person to whom the benefit of the powers are to be transferred or granted;

(b) subject to paragraph (7), the date on which the transfer is proposed to take effect;

(c) the powers to be transferred or granted;

(d) the restrictions, liabilities and obligations that are to apply to the person exercising the powers transferred or granted under paragraph (3); and

(e) where relevant, a plan showing the works or areas to which the transfer or grant relates.

(7) The date specified under paragraph (6)(b) must not be earlier than the expiry of fourteen working days from the date of the receipt of the notice.

(8) The notice given under paragraph (6) must be signed by the undertaker and the person to whom the benefit of the powers are to be transferred or granted as specified in that notice.

(9) In this article "relevant statutory undertaker" or "licence holder" means a body—

(a) who falls within section 127(8) (statutory undertakers' land) of the 2008 Act, is a holder of a statutory licence or a licence granted under a statute or other regulatory framework; and

(b) whose licensed duties include owning, operating or maintaining utilities and or infrastructure and their connections.

Application and modification of legislative provisions

11.—(1) Regulation 6 of the Hedgerows Regulations 1997(**a**) is modified so as to read for the purposes of this Order only as if there were inserted after paragraph (1)(j) the following—

"or

(k) for carrying out development which has been authorised by an order granting development consent pursuant to the Planning Act 2008.".

(2) The provisions of the Neighbourhood Planning Act 2017(**b**) insofar as they relate to temporary possession of land under articles 32 (temporary use of land for carrying out the authorised development) and 33 (temporary use of land for maintaining the authorised development) of this Order do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised project.

PART 3

STREETS

Street works

12.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) and may—

(a) break up or open the street, or any sewer, drain or tunnel under it;

(b) tunnel or bore under the street or carry out works to strengthen or repair the carriageway;

(c) remove or use all earth and materials in or under the street;

(d) place and keep apparatus in the street;

(e) maintain, renew or alter apparatus in the street, change its position or remove it;

(f) demolish, remove, replace and relocate any street furniture;

(g) execute any works to provide or improve sight lines;

(h) execute and maintain any works to provide hard and soft landscaping;

(i) carry out re-lining and placement of road markings;

(j) remove and install temporary and permanent signage; and

(k) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (j).

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraph (3) the undertaker may carry out any of the works referred to in paragraph (1) in any street.

(3) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority but such consent must not be unreasonably withheld and if the street authority has received an application for consent to exercise powers under paragraph (2) accompanied by all relevant information and fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application is submitted with all relevant information, it is deemed to have granted consent.

(4) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(5) The authority given by paragraphs (1) and (2) are a statutory right for the purposes of section 48(3) (streets, street works and undertakers) and section 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(**a**) S.I. 1997/1160.
(**b**) 2017 c. 20.

(6) Where the undertaker is not the street authority the provisions of sections 54 (advance notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any such works.

Power to alter layout, etc., of streets

13.—(1) Subject to paragraph (3), the undertaker may for the purposes of constructing and maintaining the authorised development alter the layout of any street within the Order limits and the layout of any street at its junction with such a street, and, without limitation on the scope of this paragraph, the undertaker may—

(a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;

(b) alter the level or increase the width of such a kerb, footway, cycle track or verge;

(c) reduce the width of the carriageway of the street; and

(d) make and maintain crossovers and passing places.

(2) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(3) The powers conferred by paragraph (1) may not be exercised without the consent of the street authority but such consent must not be unreasonably withheld and if the street authority has received an application for consent to exercise powers under paragraph (1) accompanied by all relevant information and fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application is submitted with all relevant information, it is deemed to have granted consent.

(4) Paragraphs (2) and (3) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Permanent stopping up of streets

14.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up permanently the streets specified in column (2) of Schedule 4 (streets to be permanently stopped up for which a substitute is to be provided) to the extent specified, by reference to the letters shown on the access and rights of way plans, in column (3) of that Schedule.

(2) No street specified in column (2) of Schedule 4 (streets to be permanently stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

(a) the new street to be substituted for it, which is specified in column (4) of that Schedule, has been completed to the reasonable satisfaction of the relevant street authority and is open for use; or

(b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

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

(a) all rights of way over or along the street so stopped up are extinguished; and

(b) the undertaker may appropriate and use for the purposes of the authorised development so much of the street as is bounded on both sides by land owned by the undertaker.

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

(5) This article is subject to article 35 (apparatus and rights of statutory undertakers in stopped up streets).

Temporary stopping up of streets

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

(a) divert the traffic or a class of traffic from the street; and

(b) subject to paragraph (2), prevent all persons from passing along the street.

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

(3) The undertaker may not temporarily stop up, alter or divert any street without the consent of the street authority, and the street authority may attach reasonable conditions to any such consent.

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

Public rights of way – creation and temporary stopping up

16.—(1) Subject to the provisions of this article, the undertaker may, for any reasonable time, in connection with the carrying out and maintaining of the authorised development—

(a) temporarily stop up the public rights of way specified in columns (1) and (2) of Part 1 of Schedule 5 (public rights of way to be temporarily suspended) to the extent specified in column (3) of that Part of that Schedule;

(b) provide substitute temporary public rights of way where specified in column (4) of Part 1 of Schedule 5 (public rights of way to be temporarily suspended) on an alignment to be agreed with the relevant highway authority prior to the temporary stopping up of the public right of way concerned; and

(c) temporarily stop up any other public rights of way to the extent agreed with the relevant highway authority.

(2) Any temporary substitute right of way must be maintained by the undertaker with appropriate signage, and must remain in place until the relevant temporarily suspended public right of way for which it is a substitute is again open for use by the public.

(3) The undertaker must not exercise the powers in paragraph (1) unless it has given not less than 28 days' notice in writing of its intention so to do the relevant highway authority.

(4) The undertaker may in connection with carrying out of the authorised development provide the new public rights of way specified in column (2) of Part 2 of Schedule 5 (new public rights of way to be created) and open them for use on such day as approved by the relevant highway authority.

Accesses

17.—(1) The undertaker may, for the purposes of the authorised development and subject to paragraph (2), with the consent of the relevant highway authority or the relevant street authority as appropriate (such consent not to be unreasonably withheld), form and lay out such means of access (permanent or temporary) or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) The agreement of the relevant highway authority or the relevant street authority as appropriate is not required for the formulation, layout or improvement of a new or existing means of access described in Schedule 1 (authorised development) and carried out in accordance with the relevant provisions of Parts 1 and 2 of Schedule 14 (protective provisions).

(3) If a highway authority or street authority which has received an application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(4) The private means of access as set out in column (2) of Part 1 of Schedule 6 (private means of access to be closed for which no substitute is to be provided) may be closed by the undertaker without a substitute being provided.

(5) The undertaker may provide the private means of access as set out in column (2) of Part 2 of Schedule 6 (new private means of access created).

Clearways, prohibitions and restrictions

18.—(1) Subject to paragraphs (3) and (4), from the date on which the undertaker notifies the relevant highway authority, no person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to wait on any part of a carriageway specified in column (2) of Schedule 7 (clearways) as indicated in column (3) of Schedule 7.

(2) Nothing in paragraph (1) applies—

(a) to render it unlawful to cause or permit a vehicle to wait on any part of the carriageway or verge, for so long as may be necessary to enable that vehicle to be used in connection with—

(i) the removal of any obstruction to traffic;

(ii) the maintenance, improvement, reconstruction or operation of the carriageway or verge;

(iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the carriageway or verge of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A to the Communications Act 2003(**a**); or

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

(i) for police, ambulance, fire and rescue authority or traffic officer purposes;

(ii) in the service of a local authority, Highways England, a safety camera partnership or the Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;

(iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(**b**); or

(iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Services Act 2011(**c**); or

(c) in relation to a vehicle waiting when the person in control of it is—

(i) required by law to stop;

(ii) obliged to stop in order to avoid an accident; or

(iii) prevented from proceeding by circumstances outside the person's control.

(3) No person is to cause or permit any vehicle to wait on any part of the roads described in Schedule 7 for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

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

(**a**) 2003 c. 21; Schedule 3A was inserted by Schedule 1 to the Digital Economy Act 2017 (c. 30).
(**b**) 1991 c. 56.
(**c**) 2011 c. 5.

Classification of highways

19.—(1) From the date on which the undertaker and relevant highway authority agree that the new highways described in Schedule 8 (classification of highways) have been completed they are to become classified roads as set out in column (3) of Schedule 8 for the purpose of any enactment or instrument which refers to highways classified as roads as if such classification had been made under section 12(3) (general provisions as to principal and classified roads) of the 1980 Act.

(2) The application of paragraph (1) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

Speed limits

20.—(1) From the date on which the roads specified in Schedule 9 (Speed Limits) are open for traffic, no person is to drive any motor vehicle at a speed exceeding the limit in miles per hour specified in column (3) of Schedule 9 along the lengths of road identified in the corresponding row of column (2).

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent (such consent not to be unreasonably withheld) of the relevant traffic authority, whose consent may be subject to reasonable conditions, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction, operation or maintenance of the authorised development, impose a temporary speed limit either at all times or at times, on days or during such periods, and on such highways as may be specified by the undertaker.

(3) The undertaker must not exercise the powers in paragraph (20) unless it has given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the relevant traffic authority.

(4) The speed limits imposed by this Order are deemed to have been imposed by an order under the 1984 Act and—

(a) have the same effect; and

(b) may be varied by the relevant traffic authority in the same manner,

as any other speed limit imposed by an order under that Act.

(5) No speed limit imposed by this Order applies to vehicles falling within regulation 3(4) (regulations in relation to orders and notices under the 1984 Act) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(**a**) when used in accordance with regulation 3(5) of those Regulations.

Traffic regulation

21.—(1) Subject to the provisions of this article and the consent (such consent not to be unreasonably withheld) of the relevant traffic authority, whose consent may be subject to reasonable conditions, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction, operation or maintenance of the authorised development—

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

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

(c) suspend or authorise the use as a parking place of any highway;

(d) make provision as to the direction or priority of vehicular traffic on any highway; and

(e) permit or prohibit vehicular access to any highway,

(**a**) S.I. 2011/935.

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker is not to exercise the powers in paragraph (3) unless it has—

(a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the relevant traffic authority; and

(b) advertised its intention in such manner as the relevant traffic authority may specify in writing within 7 days of the relevant traffic authority's receipt of notice of the undertaker's intention under sub-paragraph (a).

(3) Any prohibition, restriction or other provision made by the undertaker under paragraph (3) is to—

(a) have effect as if duly made by, as the case may be—

(i) the relevant traffic authority as a traffic regulation order under the 1984 Act; or

(ii) the local highway authority as an order under section 32 (power of local authorities to provide parking places) of the 1984 Act; and

(b) be deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(**a**).

(4) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (3).

(5) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(6) If the relevant traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (3) that is accompanied by all relevant information the relevant traffic authority is deemed to have given consent.

Agreements with street authorities

22.—(1) A street authority and the undertaker may enter into agreements with respect to—

(a) the construction of any new street including any structure carrying the street over or under any part of the authorised development;

(b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;

(c) the maintenance of landscaping within a highway constructed as part of the highway works;

(d) the maintenance of highway related assets which fall outside of the extent of highway maintained by a relevant highway authority;

(e) any stopping up, alteration or diversion of a street as part of or to facilitate the authorised development;

(f) the carrying out in the highway of any of the works referred to in article 12(1) (street works); or

(g) the adoption by a street authority which is the highway authority of works—

(i) undertaken on a street which is existing publicly maintainable highway; and

(ii) which the undertaker and highway authority agree are to be adopted as publicly maintainable highway.

(2) If such an agreement provides that the street authority must undertake works on behalf of the undertaker the agreement may, without prejudice to the generality of paragraph (1)—

(**a**) 2004 c. 18.

(a) make provision for the street authority to carry out any function under this Order which relates to the street in question;

(b) specify a reasonable time for the completion of the works; and

(c) contain such terms as to payment and otherwise as the parties consider appropriate.

PART 4

COMPULSORY ACQUISITION

Funding

23.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land unless it has first put in place either—

(a) a guarantee and the amount of that guarantee approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or

(b) an alternative form of security and the amount of that security for that purpose approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land.

(2) The provisions are—

(a) article 24 (compulsory acquisition of land);

(b) article 26 (compulsory acquisition of rights);

(c) article 27 (private rights);

(d) article 30 (acquisition of subsoil or airspace only);

(e) article 31 (rights under or over streets);

(f) article 32 (temporary use of land for carrying out the authorised development);

(g) article 33 (temporary use of land for maintaining the authorised development);

(h) article 34 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

Compulsory acquisition of land

24.—(1) Subject to paragraph (2), the undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental, to it.

(2) The undertaker may only acquire compulsorily the land required for either option A or option B.

(3) This article is subject to article 26(2) (compulsory acquisition of rights), article 27 (private rights), article 30 (acquisition of subsoil or airspace only), article 31 (rights under or over streets) and article 32 (temporary use of land for carrying out the authorised development).

Time limit for exercise of authority to acquire land and rights compulsorily

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

(a) no notice to treat may be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act; and

(b) no declaration may be executed under section 4 (execution of declaration) of the Compulsory Purchase (Vesting Declarations) Act 1981 as applied by article 28 (application of the 1981 Act).

(2) The authority conferred by article 32 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

(3) The applicable period for the purposes of section 4 of the 1965 Act (time limit for giving notice to treat) and section 5A of the 1981 Act (time limit for general vesting declaration) (as modified by this Order) is the period of five years beginning on the day on which this Order is made.

Compulsory acquisition of rights

26.—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights or impose restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 24 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this article, article 27 (private rights) and article 34 (statutory undertakers), in the case of the Order land specified in column (1) of Part 1 of Schedule 10 (land in which only new rights etc., may be acquired) in relation to option A, or column (1) of Part 2 of Schedule 10 (land in which only new rights etc., may be acquired) in relation to option B, the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column (2) of that Part of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act, as substituted by paragraph (5) of Schedule 11 (modification of compensation and compulsory purchase enactments for creation of new rights) where the undertaker acquires an existing right over land or imposes a restrictive covenant under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 11 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of restrictive covenants.

(5) In any case where the acquisition of new rights under paragraphs (1) and (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

Private rights

27.—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition under article 24 (compulsory acquisition of land) are suspended and unenforceable or, where so notified by the undertaker to the person with the benefit of such private rights or restrictive covenants, extinguished in so far as in either case their continuance would be inconsistent with the acquisition—

(a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act,

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 26 (compulsory acquisition of rights) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

(a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or

(b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earliest.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 34 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of the land;

(iii) the undertaker's entry onto the land; or

(iv) the undertaker's taking temporary possession of the land,

that any or all of those paragraphs do not apply to any right specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement referred to in paragraph (6)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

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

Application of the 1981 Act

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

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

(3) In section 1 (application of Act), for subsection (2), substitute—

"(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order."

(4) Section 5 (earliest date for execution of declaration) is omitted.

(5) In section 5B (extension of time limit during challenge)(**a**) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)".

(6) In section 6 (notices after execution of declaration), in subsection (1)(b) for "section 15 of, or paragraph 5 of Schedule 1 to, the Acquisition of Land Act 1981" substitute "section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008".

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

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

"(2) But see article 30(3) (acquisition of subsoil or airspace only) of the North Lincolnshire Green Energy Park Order 2025, which excludes the acquisition of subsoil and airspace only from this Schedule.".

(9) References to the 1965 Act in the 1981 Act must be construed as references to that Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (as modified by article 29 (application of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

Application of Part 1 of the 1965 Act

29.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge)(**c**) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)".

(3) In section 22(2) (interests omitted from purchase), for "section 4 of this Act" substitute "article 25 (time limit for exercise of authority to acquire land compulsorily) of the North Lincolnshire Green Energy Park Order 2025".

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

(a) omit paragraphs 1(2) and 14(2); and

(b) at the end insert—

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 32 (temporary use of land for carrying out the authorised development) or article 33 (temporary use of land for maintaining the authorised development) of the North Lincolnshire Green Energy Park Order 2025.".

(**a**) Section 5B of the 1981 Act was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).
(**b**) Schedule A1 to the 1981 Act was inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).
(**c**) Inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).
(**d**) Inserted by schedule 17(1) paragraph 3 to the Housing and Planning Act 2016 (c. 22).

Acquisition of subsoil or airspace only

30.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil or airspace of the land referred to in paragraph 21(1) of article 24 (compulsory acquisition of land) or article 26 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil or airspace of land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

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

(a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) Section 153(4A) (reference to objection to Upper Tribunal: general) of the 1990 Act.

(4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory or airspace above a house, building or factory.

Rights under or over streets

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

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

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

(a) any subway or underground building; or

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

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

32.—(1) The undertaker may, in connection with the carrying out of the authorised development—

(a) enter on and take temporary possession of—

(i) the land specified in columns (1) and (2) of Part 1 of Schedule 12 (land of which temporary possession may be taken) in relation to option A, or the land specified in columns (1) and (2) of Part 2 of Schedule 12 in relation to option B, for the purpose specified in relation to that land in column (3) of that Part of that Schedule; and

(ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;

(b) remove any buildings and vegetation from that land;

(c) construct temporary works (including the provision of means of access), running tracks, security fencing, bridges, structures and buildings on that land;

(d) use the land for the purposes of a working site with access to the working site in connection with the authorised development; and

(e) construct any works, or use the land, as specified in relation to that land in column 3 Part 1 of Schedule 12 (land of which temporary possession may be taken) in relation to option A, or column 3 Part 2 of Schedule 12 in relation to option B, or any mitigation works.

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

(3) The undertaker must not remain in possession of any land under this article for longer than reasonably necessary and in any event must not, without the agreement of the owners of the land, remain in possession of any land under this article—

(a) in the case of land specified in paragraph 1(a)(i) after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) Part 1 of Schedule 12 (land of which temporary possession may be taken) in relation to option A, or that land in column (4) Part 2 of Schedule 12 in relation to option B; and

(b) in the case of land specified in paragraph 1(a)(ii) after the end of the period of one year beginning on the date of completion of the part of the authorised project for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, the undertaker must before giving up possession of land of which temporary possession has been taken under this article, remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

(a) replace any building, structure, drain or electric line removed under this article;

(b) remove any drainage works installed by the undertaker under this article; or

(c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to street works).

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

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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

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

(a) acquiring new rights or imposing restrictive covenants over any part of that land under article 26 (compulsory acquisition of rights) to the extent that such land is listed in column (1) Part 1 of Schedule 10 (land in which only new rights etc., may be acquired) in relation to option A, or column (1) Part 2 of Schedule 10 (land in which only new rights etc., may be acquired) in relation to option B; or

(b) acquiring any part of the subsoil (or rights in the subsoil) of that land under article 30 (acquisition of subsoil or airspace only).

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

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

Temporary use of land for maintaining the authorised development

33.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

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

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

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

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

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

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

(4) The undertaker is not required to comply with paragraph (3) in a case of emergency and if an emergency exists they must—

(a) give to the owners and occupiers of the land in question notice of its intended entry or (as the case may be) of its having entered onto the land as soon as is reasonably practicable; and

(b) comply with paragraph (1) so far as is reasonably possible in the circumstances.

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

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

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

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

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

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

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory

acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article "the maintenance period" means the period of 5 years beginning with the date on which the authorised development first exports electricity to the national electricity transmission network.

Statutory undertakers

34. Subject to the provisions of Schedule 14 (protective provisions) the undertaker may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plan within the Order land; and

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

Apparatus and rights of statutory undertakers in stopped up streets

35.—(1) Where a street is stopped up under article 14 (permanent stopping up of streets), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 14 (permanent stopping up of streets) any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

(a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or

(b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

(a) the execution of the relocation works required in consequence of the stopping up of the street; and

(b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

(a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (4) is to be reduced by the amount of that excess.

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

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

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (4) (and having regard, where relevant, to paragraph (5)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (4) to (7) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

(a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and

(b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

"relocation works" means work executed, or apparatus provided, under paragraph (2); and

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

Recovery of costs of new connections

36.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 34 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 34 (statutory undertakers) any person who is—

(a) the owner or occupier of premises the drains of which communicated with that sewer; or

(b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this paragraph—

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

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

PART 5

SUPPLEMENTAL POWERS

Discharge of water

37.—(1) Subject to paragraphs (3) and (4) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on

any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

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

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

(4) The undertaker must not make any opening into any public sewer or drain pursuant to paragraph (1) except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs; and

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

(5) Except as authorised under this Order, the undertaker must not, in constructing or maintaining works, damage or interfere with the bed or banks of any watercourse forming part of a main river.

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

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters requires a licence under the Environmental Permitting (England and Wales) Regulations 2016(**b**).

(8) In this article expressions excluding "public sewer or drain" and "watercourse", used both in this article and in the Water Resources Act 1991(**c**), have the same meaning as in that Act.

Authority to survey and investigate the land

38.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

(a) survey or investigate the land;

(b) without prejudice to the generality of sub-paragraph (a), make trial holes or boreholes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;

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

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

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

(3) Any person entering land under this article on behalf of the undertaker—

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

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

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

(**a**) Section 106 was amended by the Competition and Service (Utilities) Act 1992 (c. 43), sections 35(8)(a) and 43(2) and paragraph 1 of Schedule 2, and the Water Act 2003 (c. 37), sections 36(2), 99(2), (4), (5)(a), (5)(b) and (5)(c).
(**b**) S.I. 2016/1154.
(**c**) 1991 c. 57.

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

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

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

(6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to 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.

PART 6

OPERATIONS

Felling or lopping of trees

39.—(1) The undertaker may fell or lop or cut back any roots of any tree or shrub near any part of the authorised development if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and pay compensation to any person for any loss or damage arising from such activity.

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

(4) Save in an emergency, the undertaker must not enter any land under paragraph (1) without serving a notice of the intended entry on the owners and occupiers of that land and, where the land is a highway maintainable at the public expense, on the highway authority.

(5) The notice under paragraph (5) must be served no less than 14 days before entering the land.

(6) In carrying out any activity authorised by paragraph (1) the duty contained in section 206(1) (replacement of trees) of the 1990 Act does not apply.

Removal of hedgerows

40.—(1) The undertaker may, for the purposes of carrying out the authorised development—

(a) remove any hedgerows within the Order limits and specified in Part 1 of Schedule 13 (hedgerows);

(b) remove any important hedgerows within the Order limits and specified in Part 2 of Schedule 13 (important hedgerows); and

(c) without limitation on the scope of sub-paragraph (a), and with the consent of the local authority in whose area the hedgerow is located, remove or translocate any hedgerow within the Order limits.

(2) The grant of consent of a local authority in terms of paragraph (1)(c) must not be unreasonably withheld.

(3) If a local authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (1)(c) the local authority is deemed to have granted consent.

(4) In carrying out any activity authorised by paragraph, (1) the undertaker must do no unnecessary damage to any hedgerow and pay compensation to any person for any loss or damage arising from such activity.

(5) Any dispute as to a person's entitlement to compensation under paragraph 39(2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) In this article "hedgerow" and "important hedgerow" have the same meaning as in the Hedgerow Regulations 1997(**a**).

PART 7

MISCELLANEOUS AND GENERAL

Removal of human remains

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

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

(a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and

(b) displaying a notice in a conspicuous place on or near to the specified land for a minimum of 28 days.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2), the undertaker must send a copy of the notice to the relevant planning authority.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be—

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

(b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

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

(**a**) S.I. 1997/1160.

(8) If—

(a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land;

(b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days;

(c) within 56 days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or

(d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (9) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be reinterred in individual containers which must identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(10) On the re-interment or cremation of any remains under powers conferred by this article—

(a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and

(b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the relevant planning authority.

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

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

(13) In this article, "the specified land" means any land within the Order limits.

Protective provisions

42. Schedule 14 (protective provisions) has effect.

Application of landlord and tenant law

43.—(1) This article applies to—

(a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and

(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

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

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

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

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

44. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act in relation to the land in respect of which Work Nos. 1, 1A, 1B, 1D, 10, 11 and 14 are authorised.

Defence to proceedings in respect of statutory nuisance

45.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990(a) in relation to a nuisance falling within paragraphs (b), (c), (d), (fb) and (g) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

(a) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the construction, maintenance or decommissioning of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites) or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(b); or

(ii) is a consequence of the construction, maintenance or decommissioning of the authorised development and that it cannot reasonably be avoided; or

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

(2) Section 61(9) (prior consent for work on construction sites) of the Control of Pollution Act 1974 does not to apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Certification of plans, etc.

46.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all documents and plans referred to in Schedule 15 (documents and plans to be certified) for certification that they are true copies of those documents.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) Where a plan or document certified under paragraph (1)—

(a) refers to a provision of this Order (including in specified requirement) when it was in draft form; and

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(**a**) 1990 c. 43; section 79 was amended by the Clean Neighbourhoods and Environment Act 2005 (c. 16), sections 101 and 102; section 82 was amended by section 103 of the same Act. There are other amendments but none is relevant.

(**b**) 1974 c. 40; sections 61(9) and 65(8) were amended by the Environmental Protection Act 1990 (c. 25), section 162, and paragraph 15 of Schedule 3. There are other amendments to the 1974 Act but none is relevant.

(b) identifies that provision by number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in the Order made,

the reference in the plan or document concerned must be construed for the purpose of this Order as referring to the provision (if any) corresponding to that provision in the Order as made.

Service of notices

47.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post;

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

(a) in the case of the secretary or clerk of that body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at that time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by the description of "owner", or as the case may be "occupier", of the land (describing it); and

(b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

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

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) in a form sufficiently permanent to be used for subsequent reference.

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

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(**a**) 1978 c. 30.

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

Procedure in relation to certain approvals, etc.

48.—(1) Where an application is made to or request is made of a consenting authority for any consent, agreement or approval required or contemplated by any of the provisions of the Order, such consent, agreement or approval, if given, must (unless contrary provision is made in Part 2 of Schedule 1 or in Schedule 14) be given in writing and must not be unreasonably withheld.

(2) If, within eight weeks after the application or request has been submitted to an authority or an owner as referred to in paragraph (1) of this article (or such longer period as may be agreed in writing with the undertaker) it has not notified the undertaker of its decision (and if it is a disapproval the grounds of disapproval), it is deemed to have approved the application or request.

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

(a) applications made in relation to requirements; or

(b) applications or requests made pursuant to any article in this Order which provides for deemed consent other than in accordance with paragraph (2).

Arbitration

49.—(1) Any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

(2) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order, including the requirements, shall not be subject to arbitration.

Signed by authority of the Secretary of State for Energy Security and Net Zero

David Wagstaff
Deputy Director For Energy Infrastructure Planning
Department For Energy Security And Net Zero

13th March 2025

SCHEDULE 1

Article 4

AUTHORISED DEVELOPMENT

PART 1

AUTHORISED DEVELOPMENT

In the Borough of North Lincolnshire

1. A nationally significant infrastructure project as defined in sections 14(1)(a) (nationally significant infrastructure projects: general) and 15 (generating stations) of the 2008 Act and

associated development within the meaning of section 115(2) (development for which development consent may be granted), comprising the following development and works—

Energy park: ERF infrastructure

Work No. 1 – an electricity generating station located on land at Flixborough Wharf, Lincolnshire, fuelled by refuse derived fuels, with a capacity to process up to 760,000 tonnes of refuse derived fuel per annum, with a gross generation capacity of up to 95 megawatts at ISO conditions comprising the following works—

(a) fuel reception and storage facilities, consisting of vehicle ramps, a tipping hall, shredder, bunker hall and cranes;

(b) a combustion system housed within a boiler hall, consisting of three combustion lines and associated boilers;

(c) a steam turbine and generator housed within a turbine hall with a cooling system;

(d) a bottom ash handling system, including an ash conveyor housed within a bottom ash hall connecting to Work No. 2;

(e) a flue gas treatment system, including residue and reagent silos housed within a flue gas treatment hall;

(f) a silo or tank for the storage of ammonia reagents;

(g) district heating equipment;

(h) a tank for the storage of fuel oil;

(i) a compressed air system;

(j) a process effluent storage tank;

(k) a switchyard including a sub-station and battery storage;

(l) a transformer compound containing the generator transformer;

(m) utility connections within the works limits;

(n) pipe racks, pipe runs and cabling;

(o) fire water pump house and fire water tank;

(p) internal vehicle access roads, crossings and pedestrian and cycle facilities and routes;

(q) administration offices and control room, security gatehouse, barriers and enclosures;

(r) elevated walkway connected to Work Nos. 1C, 2 and 6;

(s) weighbridges;

(t) car parking;

(u) a demineralised water treatment plant and demineralised water storage tanks;

(v) indoor storage tanks for boiler water treatment chemicals;

(w) a back-up generator;

(x) trade effluent treatment plant; and

(y) two visual barriers.

Work No. 1A –three emissions stacks, consisting of ERF stack windshield, back up boilers stack windshield and back-up generator stack, and associated emissions monitoring system.

Work No. 1B –carbon capture utilisation and storage facility capable of capturing at least 54,387 tonnes of CO^2 per annum including carbon dioxide storage tanks.

Work No. 1C –associated development being a visitors centre containing offices, exhibition space and visitor accommodation with elevated walkway connected to Work Nos. 1, 2 and 6.

Work No. 1D –a cooling system consisting of air-cooled condensers or air blast chillers.

Work No. 2 comprising associated development—

(z) a bottom ash and flue gas residue handling and treatment facility;

(aa) a concrete block manufacturing facility; and

(bb) offices and elevated walkway connected to Work Nos 1, 1C and 6.

Rail infrastructure

Work No. 3 –associated development being reinstatement of the railway line between Flixborough Wharf and the Dragonby sidings including new sidings and two footbridges across the railway line and three user worked crossings.

Work No. 4 –associated development being a railhead, sidings and associated equipment to allow loading and unloading.

Energy park: supporting infrastructure

Work No. 5 –associated development being a new access road linking the B1216 and Stather Road, stopping up of the section of Stather Road between Neap House and Bellwin Drive, improvements to footpaths and the junction between the B1216 and A1077 and section of elevated walkway that connects to Work Nos. 1, 1C, 2 and 6.

Work No. 6 –associated development being a plastic recycling facility and associated infrastructure including gatehouses, weighbridges, electrical equipment, heat exchange equipment, office and welfare facilities, pre-processed material storage and post processed material storage, and section of elevated walkway connected to Work Nos. 1, 1C and 2.

Work No. 7 –associated development being a hydrogen electrolyser, associated infrastructure, equipment required to inject hydrogen into the gas grid.

Work No. 8 –associated development being an electric and hydrogen vehicle refuelling station, with hydrogen production and equipment required to inject hydrogen into the gas grid and offices.

Work No. 9 –associated development being a battery storage facility capable of peak discharge of 30MWe, with associated infrastructure including site roads, offices, control equipment, transformers and rectifiers.

DHPWN

Work No. 10 –associated development being private wire networks linking Work No. 1 with Work No. 2, Work No. 6, Work No. 7, Work No. 8, Work No. 9 and to end users outside of the Order limits.

Work No. 11 –associated development being a district heating network providing heating and/or cooling, pipes carrying hydrogen gas and pipes carrying carbon dioxide to end users inside and outside of the Order limits.

Landscaping, mitigation and utility works

Work No. 12 –associated development being hard and soft landscaping and the construction of landscape features including a wetland area and ecological mitigation works.

Work No. 12A –associated development being habitat creation measures incorporating biodiversity enhancements.

Work No. 13 –associated development comprising flood defences and sustainable drainage systems, including swales, attenuation ponds and below ground tanks and the diversion of ditches.

Work No. 14 –associated development comprising new cables, including the grid connection, and diversions of existing utilities which conflict with the construction of Work No. 1, Work No. 2, Work No. 5, Work No. 6, Work No. 10 and Work No. 11.

Work No. 15A – associated development being temporary construction laydown areas and contractor facilities, including materials and plant storage and laydown areas, generators, concrete batching facilities, vehicle and cycle parking facilities, security fencing and gates, external lighting, roadways and haul routes, wheel wash facilities, and signage in connection with Work Nos 1-14.

Work No. 15B –associated development being construction access, temporary laydown areas to allow for storage of materials and working areas in connection with Work Nos. 1-14.

2. In connection with and in addition to Work Nos. 1, 1A to 1D and 2 to 14, to the extent that they do not otherwise form part of any such work, other associated development within the Order limits, being associated development within the meaning of section 115(2) of the 2008 Act (development for which development consent may be granted), including—

(a) temporary lighting, including lighting columns;

(b) security fencing, gates, boundary treatment and other means of enclosure;

(c) closed circuit television cameras and columns and other security measures;

(d) surface and foul water drainage systems, oil-water separators, including channelling, culverting, crossings and works to existing drainage ditches and systems;

(e) electric, gas, water, telecommunication and other infrastructure connections and works, and works to alter such services and utilities connections;

(f) hard and soft landscaping;

(g) biodiversity mitigation and enhancement measures;

(h) site establishment and preparation works, including site clearance (including vegetation removal); earthworks (including soil stripping and storage and site levelling) and excavations; temporary fencing; the creation of temporary construction access points; and the temporary alteration of the position of services and utilities apparatus and connections;

(i) vehicle access roads, crossings, parking, and pedestrian and cycle facilities and routes,

and such other works as may be necessary or expedient for the purposes of or in connection with the construction, operation and maintenance of the works in this Schedule 1 which do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

PART 2

PARAMETERS TABLE

(1) *Component*		*(2)* *Maximum dimensions (m)*	*(2)* *Maximum height above Finished Floor Level (FFL) (m)*	*(2)* *Maximum height AOD (m)*
ERF (Work No. 1)	Tipping hall	87.5 x 60	31	37.6
	Bunker hall	92 x 40	43	49.6
	Boiler hall	105 x 60	55	61.6
	Flue gas treatment hall	41 x 60	45	51.6
	Turbine hall	80 x 37	25	31.6
	Bottom ash hall	37 x 37	25	31.6
	Transformer	52 x 22	10	16.6

	compound			
	Switchyard	93 x 44	10	14.6
	Offices and admin facilities	30 x 100	43	49.6
	Fire water tank	11.3 diameter	19.3	25.9
	Fire water pumphouse	6 x 6	6.5	13.1
	Gatehouses	32 x 12	5	11.6
	Visual barriers		4.5	11.1
ERF stack windshield (Work No. 1A)		10 diameter	120	126.6
Back up boilers stack windshield (Work No. 1A)		3 diameter	53	59.6
Back-up generator stack (Work No. 1A)		0.85 diameter	55	61.6
Carbon capture utilisation and storage facility (Work No. 1B)		79 x 66	50	56.6
Carbon dioxide storage tanks (Work No. 1B)		28 x 20	20	26.6
Visitor centre (Work No. 1C)		41 x 36	16	19.05
Elevated walkway (Work No. 1 and 1C)		700 x 4	12	17.05
Air-cooled condensers/Air blast chillers (Work No. 1D)		75 x 35	50	56.6
RHTF and CBMF (Work No. 2)	process building and storage areas	280 x 130	25	30.1
	Admin buildings	62 x 10	21	26.1
Rail Infrastructure (Work No. 3)	Footbridge No. 1			55.385
	Footbridge No. 2			48.561
Access road (Work No. 5)				5.2
Plastic recycling facility (Work No. 6)	Pre-processed material storage	65 x 35	10	13.9
	Heat exchange building	35 x 17	15	18.9
	Post processed storage	5 x 16.4	15	18.9
	Electrical rooms	15 x 7	10	13.9
	Process building	130 x 80	25	28.9
	Admin building	62 x 10	21	24.9
Hydrogen electrolyser (Work No. 7)	Northern Gas AGI	60 x 60	5	9.6
	Northern hydrogen production and storage facility	100 x 25	8	12.6
Vehicle refuelling station (Work No. 8)		95 x 80	12.5	15.5
Hydrogen refuelling station (Work No. 8)	Southern Gas AGI	60 x 60	5	10.1
	Southern hydrogen production and	100 x 25	8	11.6

storage facility			
Battery storage facility (Work No. 9)	115 x 58	8.5	11.5

SCHEDULE 2

Article 2

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

"coming into operation" or "come into operation" means the date on which the commissioning of the relevant part of the authorised development is completed so that that part becomes operational;

"combined heat and power assessment" means the document of that name identified in Schedule 15 and which is certified by the Secretary of State as the combined heat and power assessment for the purposes of this Order under article 46;

"commissioning" means the process of assuring that all systems and components of any phase of the authorised development as the context requires, are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker;

"energy park works" means Work Nos. 1, 1A, 1B, 1C, 1D, 2, 6, 7, 8, 9 and 12;

"PPDW CEMP" means a permitted preliminary development works construction environmental management plan as described in section 5.3 of the CoCP;

"operation" or "operational" means the operational running of the relevant part of the authorised development;

"northern spur" means the part of the district heating network (Work No. 11) along the B1216 and A1077 on works plans B4, running east across works plans B5 and B6 and ending with either option A on works plans B7 or option B on works plans B8, in accordance with article 24 (compulsory acquisition of land);

"railway reinstatement works" means Work Nos. 3 and 4;

"waste area" means the area shown on the waste area plan; and

"waste area plan" means the document named the east midlands waste area plan identified in Schedule 15 and which is certified by the Secretary of State as the waste area plan for the purposes of this Order under article 46.

Commencement and phasing of the authorised development and notices

2.—(1) The authorised development must not be commenced after the expiration of five years from the date this Order comes into force.

(2) The authorised development must not be commenced until a written scheme setting out the proposed phasing of the authorised development has been submitted to and approved by the relevant planning authority and the approved phasing scheme must be complied with thereafter.

(3) The undertaker must notify the relevant planning authority within seven days of each of the following events occurring—

(a) the start of commissioning of any part of the authorised development; and

(b) the coming into operation of any part of the authorised development.

Detailed design

3.—(1) In relation to any part of the authorised development no development of that part may commence, save for any preliminary works, until details of the following have been submitted to and approved by the relevant planning authority—

(a) the siting, design, external appearance and dimensions of all buildings and structures comprising the authorised development which are to be retained;

(b) the colours, materials and surface finishes of all new permanent buildings and structures referred to in sub-paragraph (a);

(c) the permanent circulation roads, vehicle parking and hardstanding; and

(d) grounds levels and heights of all permanent buildings and structures.

(2) The details submitted and approved under sub-paragraph (1) must be in accordance with the design process and codes set out in the design principles and codes, and the flood risk assessment and must take into account any results of preliminary ground investigations, including ongoing archaeological investigations, topographical surveys and ground gas monitoring.

(3) The authorised development must be carried out in accordance with the details approved under sub-paragraph (1) for the relevant part of the authorised development.

Environmental management

4.—(1) The preliminary works may not commence until a PPDW CEMP has been submitted to and approved by the relevant planning authority and the preliminary works must be carried out in accordance with the approved PPDW CEMP unless otherwise agreed in writing by the relevant planning authority.

(2) No part of the authorised development may commence, save for the preliminary works, until a construction environmental management plan for that part has been submitted to and approved by the relevant planning authority following consultation with the Environment Agency and Natural England to the extent the construction environmental management plan relates to matters relevant to their functions.

(3) The construction environmental management plan submitted and approved must be in accordance with the CoCP and incorporate the following—

(a) dust management plan;

(b) remediation strategy;

(c) spill response plan;

(d) asbestos management plan;

(e) construction flood management plan;

(f) construction waste management plan;

(g) protected species management plan;

(h) invasive non-native species management plan;

(i) soil management plan;

(j) community relations plan;

(k) construction noise and vibration management plan;

(l) construction ornithology management plan; and

(m) piling and foundation works management plan.

(4) All construction works associated with the authorised development must be carried out in accordance with the approved construction environmental management plan for the relevant part of the authorised development unless otherwise agreed with the relevant planning authority.

(5) No part of the energy park works or railway reinstatement works may come into operation until a detailed operational environmental management plan for that part has been submitted to and approved by the relevant planning authority to the extent that such a plan is necessary to supplement the environmental management system required under the environmental permit.

(6) The detailed operational environmental management plan submitted and approved must be in accordance with the OEMP.

(7) The detailed operational environmental management plan in respect of the energy park works must also be in accordance with any conditions in the environmental permit and incorporate the following (to the extent such matters are not covered in the environmental management system required under the environmental permit)—

(a) noise management plan;

(b) waste management plan; and

(c) surface water discharge strategy.

(8) The maintenance and operation of the authorised development must be carried out in accordance with the approved detailed operational environmental management plan for the relevant part of the authorised development unless otherwise agreed with the relevant planning authority.

(9) No part of the energy park works may come into operation until either:

(a) the undertaker has submitted to the relevant planning authority a report which demonstrates that the emissions from the authorised development will not exceed 1% of the critical load of acid deposition for the authorised development alone on the Risby Warren SSSI and the relevant planning authority, in consultation with Natural England, has approved the report; or

(b) the undertaker has secured alternative adequate mitigation or compensation of the identified residual effects at the Risby Warren SSSI arising from the authorised development alone and this mitigation or compensation has been approved by the relevant planning authority, in consultation with Natural England.

Lighting scheme

5.—(1) No part of the energy park works or railway reinstatement works may come into operation until a scheme for all permanent external lighting has been submitted to and approved by the relevant planning authority.

(2) The scheme submitted and approved under sub-paragraph (1) must be in accordance with the principles of the indicative lighting strategy and include measures to minimise and otherwise mitigate any artificial light emissions during the operation of the authorised development.

(3) The scheme must be implemented as approved prior to the coming into operation of the authorised development and maintained throughout the operation of the authorised development unless otherwise agreed by the relevant planning authority.

Landscape design

6.—(1) No part of the energy park works or railway reinstatement works may commence until a landscaping scheme has been submitted to and approved by the relevant planning authority following consultation with Natural England to the extent the landscaping scheme relates to matters relevant to their functions.

(2) The scheme submitted and approved under sub-paragraph (1) must be in accordance with the indicative landscape and biodiversity plans, the plans in appendix I (biodiversity net gain report) of the ecology and nature conservation chapter of the environmental statement in order to deliver the biodiversity net gain, and design process and codes set out in the design principles and codes and must include details of all hard and soft landscaping works, including—

(a) materials, and the number, species, sizes and planting positions of any planting;

(b) measures to protect any existing shrub and tree planting that is to be retained;

(c) hard surfacing materials;

(d) an implementation plan; and

(e) a future maintenance plan.

(3) The scheme must be implemented within a period of 12 months beginning with the coming into operation of the authorised development and maintained as approved during the operation of the authorised development, unless otherwise agreed with the relevant planning authority.

Landscape and ecology management

7.—(1) No part of the energy park works or railway reinstatement works may come into operation until a landscape and biodiversity management and monitoring plan for that part has been submitted to and approved by the relevant planning authority following consultation with Natural England to the extent the landscape and biodiversity management and monitoring plan relates to matters relevant to their functions.

(2) The landscape and biodiversity management and monitoring plan submitted and approved must be in accordance with the principles in the outline LBMMP and must include an implementation timetable, including monitoring and maintenance activities.

(3) The plan approved under sub-paragraph (1) must be implemented and delivered as approved and in accordance with the approved timetable.

Water Resources Assessment

8.—(1) No part of the energy park works may commence, save for the preliminary works, until a Water Resources Assessment is submitted to and agreed with Anglian Water following consultation with the Environment Agency on matters relating to their function and subsequently approved by the relevant planning authority. The Water Resources Assessment will include a scheme to deal with the supply of water during both construction and operation of the authorised development including final process design, maximum daily demand, and water efficiency measures.

(2) The scheme submitted and approved under sub-paragraph (1) must be in accordance with the environmental statement and for the operational water supply must be included in the operational environmental management plan submitted pursuant to Requirement 4(5) – (7) and for the construction water supply must be included in an update to the construction environment management plan submitted pursuant to Requirement 4(2).

(3) The scheme approved under sub-paragraph (1) must be implemented as approved throughout the construction and operation of the energy park works unless agreed otherwise by the relevant planning authority following consultation with the Environment Agency and Anglian Water as necessary.

(4) For the purposes of this Requirement—

(a) "Anglian Water" means Anglian Water Services Limited, the statutory water supply provider for the North Lincolnshire Green Energy Park under the Water Industry Act 1991 and responsible for ensuring the cumulative impacts of development do not compromise the supply of water for domestic purposes; and

(b) "Water Resources Assessment" includes all designs, drawings, specifications, resource assessments, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the source and supply of water for construction and operation.

Surface water drainage

9.—(1) No part of the energy park works may commence, save for the preliminary works, until details of the permanent surface water drainage systems, including a future maintenance plan, have been submitted to and approved by the relevant planning authority following consultation by

the undertaker with the lead local flood authority, Scunthorpe and Gainsborough Water Management Board and the Environment Agency on matters related to their function.

(2) The details submitted and approved under sub-paragraph (1) must be in accordance with the principles set out in the indicative drainage strategy and the design process and codes set out in the design principles and codes.

(3) The scheme approved under sub-paragraph (1) must be implemented as approved prior to the development coming into operation and maintained as approved throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.

Foul water drainage

10.—(1) No part of the energy park works may commence, save for the preliminary works, until details of the permanent foul water drainage systems, including a future maintenance plan, have been submitted to and approved by the relevant planning authority following consultation with the Environment Agency on matters related to their function.

(2) The details submitted and approved under sub-paragraph (1) must be in accordance with the principles set out in the indicative drainage strategy.

(3) The scheme approved under sub-paragraph (1) must be implemented as approved prior to the development coming into operation and maintained as approved throughout the operation of the authorised development unless otherwise agreed by the relevant planning authority.

Construction traffic management and travel planning

11.—(1) No part of the authorised development may commence, save for the preliminary works, until a construction traffic management plan and a construction workers travel plan for that part has been submitted to and approved by the relevant planning authority.

(2) The construction traffic management plan submitted and approved under sub-paragraph (1) must be in accordance with the CLP.

(3) The construction traffic management plan and construction workers travel plan approved under sub-paragraph (1) must be implemented as approved throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

Archaeology

12.—(1) No part of the authorised development is to commence until the undertaker has completed the following sequence of measures for that part of the authorised development—

(a) commissioned a programme of exploratory archaeological investigation of areas within the Order limits that provides for the identification and evaluation of the extent, character and significance of archaeological remains in any areas of the Order limits where previous evaluation investigations have not taken place or are incomplete;

(b) submitted to the relevant planning authority for approval a written scheme of investigation setting out the details of the programme of evaluation for the relevant planning authority to approve prior to commencement of the evaluation investigations;

(c) completed the evaluation investigations and submitted final reports to the relevant planning authority in accordance with the details and timings of the approved written scheme of investigation, provided that the evaluation investigations must be timed so that the results can inform the scope of the archaeological mitigation measures, referred to in sub-paragraph (2);

(d) submitted to the relevant planning authority for approval an updated archaeological impact assessment of the significance of all identified and potential heritage assets and the impact of the authorised development on that significance; and

(e) submitted to the relevant planning authority for approval an overarching archaeological mitigation strategy that details all mitigation measures to preserve, and if necessary enhance, all heritage assets affected by the authorised development.

(2) No part of the authorised development is to commence until a programme of archaeological mitigation measures for that part of the authorised development informed by the evaluation investigations referred to in sub-paragraph (1) and by earlier phases of investigation has been implemented in accordance with the approved overarching archaeological mitigation strategy and further written schemes of investigation for archaeological fieldwork which have been approved in writing by the relevant planning authority. The overarching archaeological mitigation strategy and written schemes of investigation must include and make provision for the following elements—

(a) mitigation fieldwork including measures to ensure the preservation in situ or by record of archaeological features of identified importance;

(b) post mitigation fieldwork methodologies for assessment and analysis;

(c) reporting and dissemination of findings, including publication of significant results;

(d) preparation of site archive, arrangements and timetable for deposition and sustainable management at a store approved in writing by the relevant planning authority;

(e) a timetable including sufficient notification to ensure that the mitigation fieldwork is undertaken and completed in accordance with the mitigation strategy before commencement of the relevant part of the authorised development;

(f) curatorial monitoring arrangements, including the notification in writing to the North Lincolnshire Historic Environment Record Office of the commencement of archaeological works and the opportunity to monitor such works;

(g) a list of all staff involved in the implementation of the mitigation strategy, including sub-contractors and specialists, their responsibilities and qualifications;

(h) any arrangements for community involvement; and

(i) measures to enhance the interpretation and public appreciation of heritage assets.

(3) The approved mitigation measures must be carried out in accordance with the written scheme of mitigation measures.

Flood risk

13.—(1) No part of the authorised development may commence, save for the preliminary works, until a detailed flood mitigation strategy, including the flood defences forming part of Work No. 13, an implementation timetable and long-term maintenance arrangements, has for that part, been submitted to and approved by the relevant planning authority in consultation with the Environment Agency.

(2) No part of the energy park works may be commissioned until a flood management plan, which must include an evacuation route plan and flood resilience implementation plan, has, for that part, been submitted to and approved by the relevant planning authority.

(3) The schemes submitted and approved under sub-paragraphs (1) and (2) must be in accordance with the principles in the flood risk assessment unless otherwise agreed by the relevant planning authority in consultation with the Environment Agency and the lead local flood authority.

(4) The schemes approved under sub-paragraphs (1) and (2) must be implemented as approved prior to the coming into operation of the energy park works and maintained throughout the operation of the energy park works unless otherwise agreed with the relevant planning authority.

Operational travel plan

14.—(1) The energy park works must not come into operation until a travel plan has been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved under sub-paragraph (1) must be in accordance with the framework travel plan unless otherwise agreed by the relevant planning authority.

(3) The plan approved under sub-paragraph (1) must be implemented as approved throughout the operation of the authorised development unless otherwise agreed by the relevant planning authority.

New highway access

15.—(1) The undertaker must not commence development of the energy park works or railway reinstatement works, excluding any preliminary works, until the new access road (Work No. 5) has been constructed to base course level and connected to the public highway.

(2) As part of constructing the new access road to base course level under sub-paragraph (1), the undertaker must carry out such parts of Work Nos. 10 and 11 as fall within the land in respect of which Work No. 5 is authorised.

(3) Prior to the energy recovery facility (Work No. 1) coming into operation the undertaker must complete the new access road (Work No. 5) to the reasonable satisfaction of the relevant planning authority, in consultation with the relevant highway authority, and make it available for public use.

Fuel Type

16.—(1) Only refuse derived fuel comprising of processed waste from municipal, household, commercial and industrial sources may be used in the combustion system in Work No. 1 (b), except for the purposes of start-up or support firing when gas or fuel oil may be used.

(2) Not less than—

(a) 350,000 tonnes; or

(b) 50%,

(c) of the refuse derived fuel processed at the authorised development per operational year (whichever is the lower) must originate from within the waste area unless otherwise agreed by the relevant planning authority.

(3) From the date of coming into operation of Work No. 1 (ERF) until the date Work No. 1 (ERF) has been decommissioned in accordance with requirement 16 (Decommissioning) (unless otherwise agreed by the relevant planning authority), the undertaker must maintain a written record, retained at the authorised development, of the quantity of the refuse derived fuel received from the waste area treated by the authorised development for each operational year.

(4) From the date of coming into operation of Work No. 1 (ERF) until the date Work No. 1 (ERF) has been decommissioned in accordance with requirement 16 (Decommissioning) (unless otherwise agreed by the relevant planning authority), on or prior to 1 February each year, the undertaker must provide to the relevant planning authority a report for the preceding operational year (the "waste catchment report"). The waste catchment report must identify the total tonnage of refuse derived fuel received from the waste area processed at the authorised development for the operational year.

Decommissioning

17.—(1) Within two years of the date that the undertaker decides to end commercial operation of the energy park works, the undertaker must submit to the relevant planning authority for its approval a decommissioning plan, including a timetable for its implementation and a decommissioning environmental management plan which shall include, but not be limited to, matters such as flood risk.

(2) The plan submitted to and approved under sub-paragraph (1) must be implemented as approved unless otherwise agreed with the relevant planning authority.

Combined heat and power

18.—(1) No part of the energy park works may be commissioned until a scheme for the provision of steam or hot water pass-outs has been submitted to and approved by the relevant planning authority.

(2) The scheme submitted under sub-paragraph (1) must as a minimum comply with the conditions relating to steam and hot water pass-outs within any environmental permit granted in respect of the authorised development.

(3) The scheme approved under sub-paragraph (1) must be implemented as approved prior to the coming into operation of the authorised development and maintained throughout the operation of the authorised development.

(4) Prior to the energy park works coming into operation, the undertaker will construct the northern spur.

(5) No later than the date that is 18 months after the date of the energy park works coming into operation, the undertaker must submit to the relevant planning authority for its approval a report ("the CHP review") updating the combined heat and power assessment.

(6) The CHP review submitted must—

(a) consider the opportunities that reasonably exist for the export of heat from Work No. 11 at the time of submission of the CHP review; and

(b) include a list of actions (if any) that the undertaker is reasonably and practicably able to take (without material additional cost to the undertaker) to increase the potential for the export of heat from Work No. 11.

(7) The undertaker must take such actions as are included, within the timescales specified, in the approved CHP review.

(8) The relevant planning authority must consult with the Environment Agency before approving any CHP review.

Commissioning

19.—(1) Notice of the intended completion of commissioning of Work Nos. 1 (ERF), 1B (CCUS) and 2(b) (CBMF) must be given to the relevant planning authority where practicable prior to such completion.

(2) Work No. 1B (CCUS) must be constructed and commissioned within 6 months of the commissioning of Work No. 1 (ERF) and Work No. 2(b) (CBMF) must be constructed and commissioned within 12 months of the commissioning of Work No. 1B except that these timescales may be amended where it has been demonstrated to the satisfaction of the relevant planning authority that the alternative timescales sought are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Carbon Capture

20.—(1) Once commissioned, Work No. 1B (CCUS) must capture a minimum quantity of CO2 which equates to the lesser of 54,387 tonnes per annum or 8.37% of the weight of the ERF waste throughput per annum from the date that the CCUS is commissioned until the energy park works are decommissioned.

(2) Within 28 days of the date which is one calendar year from the date Work No. 1B comes into operation, the undertaker must submit a report to the relevant planning authority confirming the amount of CO2 captured during the previous year of operation and must continue to submit such reports annually until the energy park works are decommissioned.

Rail

21.—(1) The undertaker must use reasonable endeavours to complete all necessary works forming part of Work No.3 to such an extent as to facilitate the use of the railway by rail freight importing or exporting waste or other materials within 12 months of construction of the new access road (Work No. 5) to base course level as per requirement 15 and in any event must complete Work No. 3 prior to commissioning of Work No. 1

(2) Following completion of Work No. 3 the undertaker must retain, manage and keep the railway forming part of the authorised development available for use throughout the construction and operation of the authorised development.

Local employment and skills

22.—(1) No part of the authorised development, save for the preliminary works, may commence until a detailed employment and skills plan (which must be in accordance with the outline employment and skills policy) has been submitted to and approved by the relevant planning authority.

(2) The employment and skills plan shall identify opportunities for individuals and businesses based in the region of Greater Lincolnshire to access employment opportunities associated with the construction, operation and maintenance of the authorised development.

(3) The employment and skills plan approved under sub-paragraph (1) must be implemented as approved.

Noise

23. The rating level (LAr) of noise from the operation of the authorised development shall not exceed: 45 dB LAr for any fifteen-minute period between 23:00 and 07:00; and 50 dB LAeq for any one-hour period between 07:00 and 23:00, determined one metre free-field external to any window or door of any existing permanent residential premises using the definitions and methods described in 'Methods for rating and assessing industrial and commercial sound' British Standards Institution BS4142 2014+A1:2019.

PRF

24.—(1) Notice of the intended completion of commissioning of the plastic recycling facility (Work No. 6) must be given to the relevant planning authority where practicable prior to such completion. Approved details and amendments to them.

(2) Prior to the coming into operation of Work No. 1 (ERF) the plastic recycling Facility (Work No. 6) must have been constructed and commissioned.

(3) The plastic recycling facility (Work No. 6) shall only treat plastic waste received from suppliers who are also supplying the undertaker with refuse derived fuel used to fuel the combustion system in Work No. 1 (b).

25. Where a requirement requires the authorised development to be constructed in accordance with details approved by the relevant planning authority, the approved details are taken to include any amendments subsequently approved by the relevant planning authority.

Amendments agreed by the relevant planning authority

26.—(1) Where the words "unless otherwise agreed by the relevant planning authority" appear in the requirements—

(a) whenever the undertaker requests that the relevant planning authority provides its agreement in accordance with those words, the undertaker must provide the relevant planning authority with information on compliance with any document listed in the relevant requirement and any other relevant certified document; and

(b) any such approval or agreement may only be given in relation to non-material amendments and where it has been demonstrated to the satisfaction of that authority that the subject matter of the approval or agreement sought will not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(2) In cases where the requirement or the relevant sub-paragraph requires consultation with specified persons, any such approval or agreement must not be given without the relevant planning authority having first consulted with those persons.

Requirement for written approval

27. Where under any of the requirements the approval or agreement of the relevant planning authority or another person is required, that approval or agreement must be provided in writing.

Anticipatory steps towards compliance with any requirement

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

(2) Any document submitted to the relevant planning authority which the undertaker considers may constitute a step referred to at sub-paragraph (1) must include a statement that it is likely to engage sub-paragraph (1).

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

29.—(1) Where an application has been made to the discharging authority for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement) included in this Order—

(a) the undertaker must give the discharging authority sufficient information to identify the requirement(s) to which the application relates;

(b) the undertaker must provide such particulars, and the request be accompanied by such plans and drawings as are reasonably considered necessary to deal with the application.

(2) The discharging authority must give notice to the undertaker of the decision on the application before the end of the decision period.

(3) For the purposes of sub-paragraph (2), the decision period is—

(a) where no information is requested under paragraph 31 (further information), 8 weeks from the day immediately following that on which the application is received by the discharging authority;

(b) where further information is requested under paragraph 31 (further information), 8 weeks from the day immediately following that on which further information has been supplied by the undertaker under paragraph 31; or

(c) such longer period as may be agreed between the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (a) or (b).

(4) In determining any application made under sub-paragraph (1), the discharging authority may—

(a) give or refuse its consent, agreement or approval; or

(b) give its consent, agreement or approval subject to reasonable conditions,

and where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with the notice of the decision pursuant to sub-paragraph (2).

Fees

30.—(1) Where an application is made to the discharging authority for consent, agreement or approval in respect of a requirement, a fee prescribed under regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(**a**) (as may be amended or replaced from time to time) is to be paid to that authority.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 42 days of—

(a) the application being rejected as invalidly made; or

(b) the discharging authority failing to determine the application within the decision period as determined under paragraph 29(3),

unless within that period the undertaker agrees, in writing, that the fee is to be retained by the discharging authority and credited in respect of a future application.

Further information

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

(2) In the event that the discharging authority considers such further information to be necessary the discharging authority must, as soon as reasonably practicable and within 20 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates.

(3) In the event that the discharging authority does not give such notification within that 20 business day period it is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(4) Where further information is requested under this paragraph in relation to part only of an application, that part is to be treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 29 (applications made under requirements) and in this paragraph.

Appeals

32.—(1) The undertaker may appeal to the Secretary of State in the event that—

(a) the discharging authority refuses an application for any agreement or approval required by a requirement included in this Order;

(b) the discharging authority does not give notice of its decision to the undertaker within the decision period as determined in paragraph 29;

(c) on receipt of a request for further information pursuant to paragraph 31 (further information) the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not reasonably necessary for consideration of the application; or

(d) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional

(**a**) S.I. 2012/2920.

information which the undertaker considers is not reasonably necessary for consideration of the application.

(2) The appeal process is as follows—

(a) the undertaker must submit the appeal documentation to the Secretary of State, a copy of the application submitted to the discharging authority and any supporting documentation which the undertaker may wish to provide ("the appeal documentation");

(b) the undertaker must on the same day provide copies of the appeal documentation to the discharging authority and any requirement consultee (if applicable) required to be consulted pursuant to the article or requirement which is the subject of the appeal;

(c) as soon as is practicable after receiving the appeal documentation, but in any event within 20 business days of receiving the appeal documentation, the Secretary of State must appoint a person and forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person's attention should be sent;

(d) the discharging authority and any requirement consultee (if applicable) must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person; and

(e) the appeal parties must make any counter-submissions to the appointed person within 20 business days of receipt of written representations pursuant to paragraph (d) above.

(3) The appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable. If the appointed person considers that further information is necessary to consider the appeal, the appointed person must, as soon as practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the appeal party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties, within 20 business days of that date.

(5) On an appeal under this paragraph, the appointed person may—

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed, or set by the appointed person, under this paragraph.

(7) The appointed person may proceed to a decision even though no written representations have been made within those time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(8) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(9) If an approval is given by the appointed person pursuant to this Schedule, it is deemed to be an approval for the purpose of Part 1 of this Schedule (requirements) as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to

give it in identical form) may not be taken to affect or invalidate the effect of the appointed person's determination.

(10) Save where a direction is given pursuant to sub-paragraph (11) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person must be met by the undertaker.

(11) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance: Appeals (March 2014) on the award of costs, or any guidance which may from time to time replace it.

Interpretation

33. In this Schedule—

"the appeal parties" means the discharging authority, the requirement consultee and the undertaker;

"business day" means a day other than Saturday or Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(**a**);

"discharging authority" means that person or body responsible for approving details pursuant to the requirements in Part 1 of this Schedule.

SCHEDULE 3

Article 12

STREETS SUBJECT TO STREET WORKS

(1) *Area*	*(2)* *Streets subject to street works*	*(3)* *Description of street works*
The rights of way and access plans – Sheet 1		
In the Borough of North Lincolnshire	Brumby Common Lane and verge, Scunthorpe between points SW1 and SW2	Installation of the DHPWN (Work Nos. 10 and 11).
The rights of way and access plans – Sheet 2		
In the Borough of North Lincolnshire	West of M181 between points SW3 and SW4	Installation of the DHPWN (Work Nos. 10 and 11).
The rights of way and access plans – Sheet 3		
In the Borough of North Lincolnshire	A18 Doncaster Road between points SW5 and SW6	Installation of the DHPWN (Work Nos. 10 and 11).
The rights of way and access plans – Sheet 4		
In the Borough of North Lincolnshire Flixborough Parish Council	B1216 Ferry Road West between points SW7 and SW8	The creation of a new roundabout at the junction with the new spine road. Installation of the DHPWN (Work Nos. 10 and 11).
In the Borough of North Lincolnshire Flixborough Parish Council	B1216 Ferry Road West between points SW8 and SW9	Installation of the DHPWN (Work Nos. 10 and 11).
In the Borough of North Lincolnshire	A1077 Phoenix Parkway between points SW10 and	The creation of a new staggered toucan crossing,

(**a**) 1971 c. 80.

Flixborough Parish Council	SW11 including the eastern and western junctions with Ferry Road West	extension of the existing exit lane towards Ferry Road West with the associated road marking, re-shape of the existing traffic islands, realignment of the kerb line located at the north of the crossing and the creation of a new shared footway that connects to the junction with Ferry Road West and Main Avenue. Installation of the DHPWN (Work Nos. 10 and 11).
In the Borough of North Lincolnshire Flixborough Parish Council	A1077 Phoenix Parkway between points SW11 and SW12	Installation of the DHPWN (Work Nos. 10 and 11).
In the Borough of North Lincolnshire Flixborough Parish Council	Holyrood Drive between points SW13 and SW14	Installation of the DHPWN (Work Nos. 10 and 11).
The rights of way and access plans – Sheet 5		
In the Borough of North Lincolnshire Flixborough Parish Council	First Avenue between points SW16 and SW17	Improvements including the creation of a segregated cycle track, the realignment of the southern kerbline and new road marking. Installation of the DHPWN (Work Nos. 10 and 11) and other utilities.
In the Borough of North Lincolnshire Flixborough Parish Council	Bellwin Drive between points SW17 and SW18	Installation of the DHPWN (Work Nos. 10 and 11) and other utilities.
In the Borough of North Lincolnshire Flixborough Parish Council	The junction of Bellwin Drive and Stather Road between points SW18 and SW19	Improvements and widening including the creation of a segregated cycle track, realignment of Stather Road and Bellwin Drive with associated road marking, creation of a new junction with a ghost island arranged to the new spine road and new junction to the proposed employee parking area for the ERF. Installation of the DHPWN (Work Nos. 10 and 11) and other utilities.
In the Borough of North Lincolnshire Flixborough Parish Council	North of Stather Road between points SW19 and SW20	Installation of the DHPWN (Work Nos. 10 and 11) and other utilities.
In the Borough of North Lincolnshire Flixborough Parish Council	First Avenue between points SW20 and SW17	Installation of the DHPWN (Work Nos. 10 and 11) and other utilities.
In the Borough of North Lincolnshire Flixborough Parish Council	First Avenue between points SW20 and SW21	Installation of the DHPWN (Work Nos. 10 and 11) and other utilities.

The rights of way and access plans – Sheet 9		
In the Borough of North Lincolnshire	A1077 Phoenix Parkway between points SW15 (also on Sheet 4) and SW22	Installation of the DHPWN (Work Nos. 11 and 12).
In the Borough of North Lincolnshire	A1077 Phoenix Avenue and Clayfield Road roundabout between points SW22 and SW23	Installation of the DHPWN (Work Nos. 10 and 11).
The rights of way and access plans – Sheet 10		
In the Borough of North Lincolnshire	A1077 Phoenix Parkway between points SW23 (Sheet 9) and SW24	Installation of the DHPWN (Work Nos. 10 and 11).
In the Borough of North Lincolnshire	A1077 Phoenix Parkway and Normanby Road roundabout between points SW24 and SW25	Installation of the DHPWN (Work Nos. 10 and 11).
In the Borough of North Lincolnshire	Normanby Road, Warren Road, Bessemer Way and Mannaberg Way between points SW25 and SW26	Installation of the DHPWN (Work Nos. 10 and 11).

SCHEDULE 4

Article 14

STREETS TO BE PERMANENTLY STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

(1) *Area*	*(2)* *Street to be stopped up*	*(3)* *Extent of stopping up*	*(4)* *New street to be substituted*
The rights of way and access plans – Sheets 4 and 5			
In the Borough of North Lincolnshire Flixborough Parish Council	Reference A1 to A2 Part of Stather Road	Reference A1 to A2 from point A1 located 40 metres north of Neap House to point A2 located at the junction between Stather Road and Bellwin Drive, a distance of 1020 metres	Reference B1 to B2 To be substituted by a new highway from point B1 located on the B1216 Ferry Road West running in a northern direction to a point B2 located 146 metres east of Bellwin Drive, a distance of 1410 metres

SCHEDULE 5

Article 16

PUBLIC RIGHTS OF WAY

PART 1

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY SUSPENDED

(1)	*(2)*	*(3)*	*(4)*

Area	*Footpath to be temporarily suspended or diverted*	*Extent of temporary suspension*	*Diversion to be provided*
The rights of way and access plans – Sheet 6			
In the Borough of North Lincolnshire Flixborough Parish Council	Public footpath FLIX175 from its junction with Stather Road to the railway crossing point	Between points E1 and E2, a distance of 116 metres	No
In the Borough of North Lincolnshire Flixborough Parish Council	Public footpath FLIX178 in the vicinity of the railway crossing point	Between points E3 and E4, a distance of 47.5 metres	No
The rights of way and access plans – Sheet 9			
In the Borough of North Lincolnshire	Public footpath SCUN 175 at the crossing with the A1077 Phoenix Parkway	Between points E5 and E6, a distance of 21 metres	Yes
In the Borough of North Lincolnshire	Cycle track NCN 169 at the crossing with the A1077 Phoenix Parkway	Between points E5 and E6, a distance of 21 metres	Yes

PART 2

NEW PUBLIC RIGHTS OF WAY TO BE CREATED

(1) *Area*	*(2)* *Length of footpath/pedestrian-cycle path*
The rights of way and access plans – Sheet 4	
In the Borough of North Lincolnshire Flixborough Parish Council	Reference CCF1 to CCF2 A cycle track in the verge on the northern side of the B1216 Ferry Road West from point CCF1 in a south eastern direction to point CCF2, a distance of 501 metres
In the Borough of North Lincolnshire Flixborough Parish Council	Reference CCF3 to CCF5 (Sheet 5) A cycle track in the verge on the northern side of Ferry Road West from point CCF3 (east of the A1077 Phoenix Parkway) in a north western direction to point CCF2 on the new spine road and then in a northern direction to Point CCF4 on Stather Road and then in a western direction to point CCF5 at the junction with Bellwin Drive, a distance of 2090 metres
In the Borough of North Lincolnshire Flixborough Parish Council	Reference CCF6 to CCF7 A cycle track from point CCF6 on the new spine road in a western direction to point CCF7 on Stather Road, a distance of 330 metres
In the Borough of North Lincolnshire Flixborough Parish Council	Reference FP1 to FP2 A footpath from point FP1 on the new spine road in an eastern direction along Lysaght's drain to point FP2, a distance of 921 metres
The rights of way and access plans – Sheet 5	

In the Borough of North Lincolnshire Flixborough Parish Council	Reference CCF8 to CCF9 A cycle track in the verge on the south side of First Avenue from point CCF8 in a north eastern direction to point CCF9, a distance of 150 metres
In the Borough of North Lincolnshire Flixborough Parish Council	Reference FP3 to FP4 A footpath from point FP3 on Stather Road in a north western direction to point FP4 on existing public right of way FLIX 304, a distance of 412 metres
The rights of way and access plans – Sheet 6	
In the Borough of North Lincolnshire Flixborough Parish Council	Reference FP6 to FP5 A footpath from point FP6 on existing public right of way FLIX 178 in a south western direction to point FP5, a distance of 97 metres

SCHEDULE 6

Article 17

PART 1

PRIVATE MEANS OF ACCESS TO BE CLOSED FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) *Area*	*(2)* *Private means of access*
The rights of way and access plans – Sheet 4	
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C1
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C2
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C10
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C11
The rights of way and access plans – Sheet 5	
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C3
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C4
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C5
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C6
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C7
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C8
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C9
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as C12

PART 2

NEW PRIVATE MEANS OF ACCESS CREATED

(1) *Area*	*(2)* *Private means of access*
The rights of way and access plans - Sheet 4	
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as D1
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as D2
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as D3
The rights of way and access plans - Sheet 5	
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as D4
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as D5
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as D6
In the Borough of North Lincolnshire Flixborough Parish Council	The private means of access shown as D7

SCHEDULE 7

Article 18

CLEARWAYS

(1) *Area*	*(2)* *Road name and length*	*(3)* *Measures*
The TRO drawings – Sheet 4		
In the Borough of North Lincolnshire Flixborough Parish Council	Reference B and C The B1216 Ferry Road West including the new roundabout between B and C.	Clearway (including verges and hardshoulders)
The TRO drawings – Sheets 4 and 5		
In the Borough of North Lincolnshire Flixborough Parish Council	Reference A and D A new road between B1216 Ferry Road West northwards to Stather Road between A and D.	Clearway (including verges and hardshoulders)
The TRO drawings – Sheet 5		
In the Borough of North Lincolnshire Flixborough Parish Council	Reference E and F First Avenue between E and F.	Proposed waiting time restriction

SCHEDULE 8

Article 19

CLASSIFICATION OF HIGHWAYS

(1)	*(2)*	*(3)*

Area	*Extent of highway*	*Classification*
The rights of way and access plans – Sheets 4 and 5		
In the Borough of North Lincolnshire Flixborough Parish Council	A new road from the B1216 Ferry Road West northwards to Stather Road in the approximate position between B1 to B2	Classified C Road

SCHEDULE 9

Article 20

SPEED LIMITS

(1) *Area*	*(2)* *Extent of highway*	*(3)* *Speed limit*
The TRO drawings – Sheets 4 and 5		
In the Borough of North Lincolnshire Flixborough Parish Council	Reference A and D A new road from the B1216 Ferry Road West northwards to Stather Road between A and D.	50 miles per hour

SCHEDULE 10

Article 26

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

PART 1

OPTION A – LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

(1) *Number of land shown on land plan*	*(2)* *Purpose for which rights may be acquired*
Access tracks Plots 1-1, 1-2, 1-3, 1-11, 1-12, 1-13, 1-14, 2-12, 2-13, 2-15, 2-16, 2-17, 2-18, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-17, 3-18, 3-22, 3-25, 4-33, 4-81, 6-2, 8-4, 8-5, 8-6, 8-7, 8-8	(1) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to— (a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing authorised works; (b) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of access to adjoining land and highway;

(c) retain, maintain and use temporary supporting or protective structures and erect temporary supporting or protective structures (including the bridging over or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;

(d) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation for the purposes of enabling the right to pass and repass to and from adjoining land;

(e) retain and maintain existing temporary permissive paths and lay out temporary permissive paths for public use (if applicable);

(f) effect access and egress to and from the highway;

(g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;

(h) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal works are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights); and

(i) construct, install, use, retain, maintain, inspect, modify, improve, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

"adjoining land" for the purposes of this paragraph 1 means such other parts of the land within the Order limits required for the authorised development.

Access tracks (public rights of way)
Plots 5-66, 5-67

(2) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to—

(a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining

land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing authorised works;

(b) retain and maintain existing hardstandings for the purposes of access to adjoining land and highway;

(c) retain, maintain and use temporary supporting or protective structures and erect temporary supporting or protective structures (including the bridging over or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;

(d) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation for the purposes of enabling the right to pass and repass to and from adjoining land;

(e) effect access and egress to and from the highway;

(f) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;

(g) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal works are being carried out (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights); and

(h) construct, install, use, retain, maintain, inspect, modify, improve, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

"adjoining land" for the purposes of this paragraph 1 means such other parts of the land within the Order limits required for the authorised development.

Full cable rights

Plots 1-4, 1-5, 1-9, 1-10, 2-1, 2-2, 2-4, 2-9, 2-14, 3-3, 3-9, 3-11, 3-12, 3-13, 3-14, 3-19, 3-20, 3-21, 3-26, 4-1, 4-18, 4-21, 4-22, 4-23, 4-106,

(3) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised

5-26, 5-28, 5-31, 5-57, 5-58, 9-1, 9-4, 9-8, 9-11, 9-12, 9-14, 9-19, 9-20, 9-22, 9-23, 9-24, 9-25, 9-27, 9-28, 9-32, 9-35, 9-37, 10-35, 10-53, 10-56, 10-57, 10-60, 10-62

development and to—

(a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables and pipes by way of drilling and/or trenching;

(b) construct, install, use, retain, maintain, inspect, modify, improve, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;

(c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the pipes, cables, cable ducts and jointing works;

(d) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the pipes, cables, cable ducts and jointing works;

(e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity along the cables and steam along the pipes, or use of the cable ducts and jointing works;

(f) retain and use the pipes and cables for the purposes of the transmission of steam, communications, gas and electricity;

(g) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the pipes, cables, cable ducts and jointing works;

(h) install and maintain cable marker posts to identify the location of the cables, cable ducts and jointing works as required for routine integrity testing;

(i) remove, store and stockpile materials (including excavated material) within the Order land;

(j) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the pipes and cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights);

(k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);

(l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;

(m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);

(n) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the pipes, cables, cable ducts and jointing works;

(o) carry out environmental mitigation, remediation and enhancement works;

(p) install, construct, use and remove temporary welfare facilities during any periods of construction, maintenance, repair, replacement, renewal, upgrade and removal of the pipes, cables, cable ducts and jointing works;

(q) when the pipes and cables are temporarily unusable, to lay down, install, use, maintain and inspect on the surface of the land steam pipes, electric lines, ancillary equipment and associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and

(r) place temporarily and use plant,

machinery and structures on the land in connection with the lighting of the land and the authorised development.

(4) The right to enter and remain on the land for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development, and to—

(a) enter upon the land and to create temporary secure areas;

(b) place equipment on the land, including portakabins and welfare equipment;

(c) store plant, materials and equipment;

(d) create car parking sites, site offices, site areas for temporary security and welfare facilities;

(e) effect access and egress to and from the highway;

(f) create fuel storage and bunded facilities for the storage of materials ancillary to the implementation of the authorised development; and

(g) access the underground pipes, cables, cable ducts and jointing works and any other land used or to be used in connection with the installation and use of the underground steam pipes,, cables, cable ducts and jointing works, over the temporary secure area within the land, for purposes in connection with the installation and use of the underground steam pipes and cables.

(5) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to—

(a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the pipes, cables, cable ducts and jointing works;

(b) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of access to adjoining land and highway;

(c) erect temporary supporting or protective structures (including the bridging over or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;

(d) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation for the purposes of enabling the right to pass and repass to and from adjoining land;

(e) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);

(f) effect access and egress to and from the highway;

(g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;

(h) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the pipes and cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the exercise of the rights); and

(i) construct, retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

"adjoining land" for the purposes of this paragraph 3 means such other parts of the land within the Order limits required for the authorised development.

(6) A restrictive covenant over the land for the benefit of the remainder of the Order land to—

(a) prevent anything to be done in or upon the Order land or any part thereof for the purpose of the erection of any buildings or construction or erection of works of any kind (including the foundations, footings or

other supportive structures thereto);

(b) prevent anything to be done by way of hard surfacing of the Order land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised development nor make it materially more difficult or expensive to maintain the authorised development);

(c) prevent mole draining or anything to be done by way of excavation of any kind in the Order land nor any activities which increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities;

(d) prevent the planting or growing within the Order land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development) provided that the growing within the land of any pre-existing trees, shrubs or underwood do not require the consent of the undertaker; and

(e) prevent anything to be done in or upon the Order land or any part thereof which shall or which it is reasonably foreseeable may interfere with the exercise of the other rights set out in this Schedule or the use of the authorised development or in any way render the authorised development or any part thereof in breach of any statute or regulation for the time being in force and applicable thereto.

Cable rights in highways
Plots 1-7, 1-8, 2-3, 4-2, 4-3, 4-6, 4-7, 4-13, 4-14, 4-16, 4-17, 4-19, 4-25, 4-27, 4-38, 4-39, 4-107, 4-108, 5-23, 5-24, 5-25, 5-27, 5-29, 5-30,

(7) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised

5-32, 5-33, 5-59, 5-60, 5-61, 5-62, 5-89, 9-5, 9-18, 9-26, 9-29, 9-31, 10-1, 10-2, 10-3, 10-4, 10-5, 10-6, 10-7, 10-10, 10-12, 10-13, 10-18, 10-37, 10-38, 10-50, 10-54, 10-61, 10-64, 10-73, 10-75, 10-76, 10-79, 10-80	development and to— (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables and pipes by way of drilling and/or trenching; (b) construct, retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts; (c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the pipes, cables and cable ducts; (d) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the pipes, cables and cable ducts; (e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the pipes, cables and cable ducts; (f) retain and use the cables for the purposes of the transmission of steam, telecommunications and electricity; (g) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the pipes, cables and cable ducts; (h) install and maintain cable marker posts to identify the location of the pipes, cables and cable ducts as required for routine integrity testing; (i) remove store and stockpile materials (including excavated material) within the Order land; (j) remove fences, hedges or other

barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights);

(k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);

(l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;

(m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);

(n) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the pipes, cables and cable ducts;

(o) carry out environmental mitigation, remediation and enhancement works;

(p) install, construct, use and remove temporary welfare facilities during any periods of maintenance, repair, replacement, renewal, upgrade and removal of the pipes, cables and cable ducts;

(q) when the pipes or cables are temporarily unusable, to lay down, install, use, maintain and inspect on the surface of the land steam pipes, electric lines, telecommunications, ancillary equipment and associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and

(r) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised development.

Major crossings (railway, highways)

(8) The right to enter onto and remain on the

Plots 2-6, 2-7, 3-23, 3-24	land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to— (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the pipes, pipe sleeves and cables by way of horizontal drilling or other trenchless techniques; (b) construct, retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts; (c) enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of transmitting steam along the pipes and electricity along the cables and cable ducts; (d) retain and use the pipes and cables for the purposes of the transmission of steam and electricity; and (e) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers).
Highway works Plots 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-13, 4-21, 4-22, 4-23, 4-25, 4-27, 4-98, 4-105, 4-106, 4-107, 4-108, 5-23, 5-24, 5-25, 5-26, 5-27, 5-28, 5-29, 5-30, 5-36, 5-37, 5-55, 5-62	(9) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to— (a) construct, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove road works and associated infrastructure and street furniture; (b) construct, retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts; (c) enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of road works; (d) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus of statutory undertakers.

Utility works Plots 4-2, 4-3, 4-6, 4-7, 4-13, 4-14, 4-16, 4-17, 4-18, 4-19, 4-21, 4-22, 4-23, 4-25, 4-26, 4-27, 4-38, 4-39, 4-106, 4-107, 4-180, 5-23, 5-24, 5-25, 5-26, 5-27, 5-28, 5-29, 5-30, 5-31, 5-32, 5-33, 5-36, 5-37, 5-55, 5-56, 5-57, 5-58, 5-59, 5-60, 5-61, 5-62, 5-64, 5-65, 5-68, 5-69, 5-82	(10) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to— (a) divert install, underground, retain, use, monitor and maintain pipes, cables, conduits or apparatus of statutory undertakers; (b) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the pipes, cables, conduits or apparatus; (c) enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of utility works. "adjoining land" for the purposes of this paragraph 1 means such other parts of the land within the Order limits required for the authorised development.
	(11) A restrictive covenant over the land to protect the apparatus from excavation.
Drainage rights Plots 4-34, 4-41, 4-42, 4-43, 4-44, 4-76, 4-81, 4-82, 4-87, 4-88, 4-95, 5-7, 5-8, 5-19, 5-90, 6-1, 6-2, 6-3, 6-5, 6-11, 6-12, 6-13, 6-83	(12) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to construct, retain, maintain, install, use, inspect, modify, improve, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts. (13) The right to drain on, in and/or through the land to and from adjoining land. "adjoining land" for the purposes of this paragraph 2 means such other parts of the land within the Order limits required for the authorised development. (14) A restrictive covenant over the land for the benefit of the remainder of the Order land to prevent anything to be done in or upon the land or any part thereof which shall or which it is reasonably foreseeable may interfere with the right to drain.
Landscaping access Plots 5-76, 5-89, 6-34	(15) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and

	decommissioning of the authorised development and to enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of landscaping works. (16) A restrictive covenant over the land for the benefit of the remainder of the Order land to— (a) prevent anything to be done in or upon the land or any part thereof which shall or which it is reasonably foreseeable may interfere with access to the landscaping works; (b) prevent anything to be done in or upon the land or any part thereof which shall or which it is reasonably foreseeable may render the authorised development or any part thereof in breach of any statute or regulation for the time being in force and applicable thereto.
Railway works Plots 8-1, 8-2, 8-3, 8-5, 8-9	(17) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to— (a) construct, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove railway works and associated infrastructure; (b) construct, retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts; (c) enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of railway works.

PART 2

OPTION B - LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

(1) *Number of land shown on land plan*	*(2)* *Purpose for which rights may be acquired*
Access tracks Plots 1-1, 1-2, 1-3, 1-11, 1-12, 1-13, 1-14, 2-12, 2-13, 2-15, 2-16, 2-17, 2-18, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-17, 3-18, 3-22, 3-25, 4-33, 4-81, 6-2, 8-4, 8-5, 8-6, 8-7, 8-8	(18) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to—

(a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing authorised works;

(b) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of access to adjoining land and highway;

(c) retain, maintain and use temporary supporting or protective structures and erect temporary supporting or protective structures (including the bridging over or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;

(d) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation for the purposes of enabling the right to pass and repass to and from adjoining land;

(e) retain and maintain existing temporary permissive paths and lay out temporary permissive paths for public use (if applicable);

(f) effect access and egress to and from the highway;

(g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;

(h) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal works are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights); and

(i) construct, install, use, retain, maintain, inspect, modify, improve, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent

drainage and manage waterflows in any drains, watercourses and culverts.

"adjoining land" for the purposes of this paragraph 1 means such other parts of the land within the Order limits required for the authorised development.

Access tracks (public rights of way)
Plots 5-66, 5-67

(19) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to—

(a) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing authorised works;

(b) retain and maintain existing hardstandings for the purposes of access to adjoining land and highway;

(c) retain, maintain and use temporary supporting or protective structures and erect temporary supporting or protective structures (including the bridging over or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;

(d) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation for the purposes of enabling the right to pass and repass to and from adjoining land;

(e) effect access and egress to and from the highway;

(f) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;

(g) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal works are being carried out (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights); and

(h) construct, install, use, retain, maintain, inspect, modify, improve, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

"adjoining land" for the purposes of this paragraph 1 means such other parts of the land within the Order limits required for the authorised development.

Full cable rights

Plots 1-4, 1-5, 1-9, 1-10, 2-1, 2-2, 2-4, 2-9, 2-14, 3-3, 3-9, 3-11, 3-12, 3-13, 3-14, 3-19, 3-20, 3-21, 3-26, 4-1, 4-18, 4-21, 4-22, 4-23, 4-106, 5-26, 5-28, 5-31, 5-57, 5-58, 9-1, 9-4, 9-8, 9-11, 9-12, 9-14, 9-19, 9-20, 9-22, 9-23, 9-24, 9-25, 9-27, 9-28, 9-32, 9-35, 9-37, 10-11, 10-19, 10-20, 10-21, 10-22, 10-29, 10-35, 10-53, 10-56, 10-57, 10-60, 10-62

(20) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to—

(a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables and pipes by way of drilling and/or trenching;

(b) construct, install, use, retain, maintain, inspect, modify, improve, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;

(c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the pipes, cables, cable ducts and jointing works;

(d) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the pipes, cables, cable ducts and jointing works;

(e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity along the cables and steam along the pipes, or use of the cable ducts and jointing works;

(f) retain and use the pipes and cables for the purposes of the transmission of

steam, communications, gas and electricity;

(g) place and use plant, machinery and temporary structures within the land for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the pipes, cables, cable ducts and jointing works;

(h) install and maintain cable marker posts to identify the location of the cables, cable ducts and jointing works as required for routine integrity testing;

(i) remove, store and stockpile materials (including excavated material) within the Order land;

(j) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the pipes and cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights);

(k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);

(l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;

(m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);

(n) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the pipes, cables, cable ducts and jointing works;

(o) carry out environmental mitigation, remediation and enhancement works;

(p) install, construct, use and remove temporary welfare facilities during any periods of construction,

maintenance, repair, replacement, renewal, upgrade and removal of the pipes, cables, cable ducts and jointing works;

(q) when the pipes and cables are temporarily unusable, to lay down, install, use, maintain and inspect on the surface of the land steam pipes, electric lines, ancillary equipment and associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and

(r) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised development.

(21) The right to enter and remain on the land for the purposes of the construction, installation, operation, maintenance and decommissioning of the authorised development, and to—

(a) enter upon the land and to create temporary secure areas;

(b) place equipment on the land, including portakabins and welfare equipment;

(c) store plant, materials and equipment;

(d) create car parking sites, site offices, site areas for temporary security and welfare facilities;

(e) effect access and egress to and from the highway;

(f) create fuel storage and bunded facilities for the storage of materials ancillary to the implementation of the authorised development; and

(g) access the underground pipes, cables, cable ducts and jointing works and any other land used or to be used in connection with the installation and use of the underground steam pipes, cables, cable ducts and jointing works, over the temporary secure area within the land, for purposes in connection with the installation and use of the underground steam pipes and cables.

(22) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to—

(a) pass and repass with or without

vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the pipes, cables, cable ducts and jointing works;

(b) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of access to adjoining land and highway;

(c) erect temporary supporting or protective structures (including the bridging over or protection of the apparatus of the statutory undertakers) for the purposes of access to adjoining land and highway;

(d) alter, lop, uproot and replant trees, shrubs and hedges and other vegetation for the purposes of enabling the right to pass and repass to and from adjoining land;

(e) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);

(f) effect access and egress to and from the highway;

(g) retain, maintain, straighten, widen, repair, alter, upgrade and use existing access routes for the purposes of accessing adjoining land and highway;

(h) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the pipes and cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the exercise of the rights); and

(i) construct, retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, replace, extend, test, cleanse and remove temporary or permanent drainage and manage waterflows in any drains, watercourses and culverts.

"adjoining land" for the purposes of this paragraph 3 means such other parts of the land within the Order limits required for the authorised development.

(23) A restrictive covenant over the land for the benefit of the remainder of the Order land to—

(a) prevent anything to be done in or upon the Order land or any part thereof for the purpose of the erection of any buildings or construction or erection of works of any kind (including the foundations, footings or other supportive structures thereto);

(b) prevent anything to be done by way of hard surfacing of the Order land with concrete of any kind or with any other material or surface whatsoever without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed if the proposed surfacing would not cause damage to relevant part of the authorised development nor make it materially more difficult or expensive to maintain the authorised development);

(c) prevent mole draining or anything to be done by way of excavation of any kind in the Order land nor any activities which increase or decrease ground cover or soil levels in any manner whatsoever without the consent in writing of the undertaker save as are reasonably required for agricultural activities;

(d) prevent the planting or growing within the Order land of any trees, shrubs or underwood without the consent in writing of the undertaker (such consent not to be unreasonably withheld or delayed provided that the proposed trees, shrubs or underwood would not cause damage to the relevant part of the authorised development nor make it materially more difficult or expensive to access the relevant part of the authorised development) provided that the growing within the land of any pre-existing trees, shrubs or underwood do not require the consent of the undertaker; and

(e) prevent anything to be done in or upon the Order land or any part

thereof which shall or which it is reasonably foreseeable may interfere with the exercise of the other rights set out in this Schedule or the use of the authorised development or in any way render the authorised development or any part thereof in breach of any statute or regulation for the time being in force and applicable thereto.

Cable rights in highways

Plots 1-7, 1-8, 2-3, 4-2, 4-3, 4-6, 4-7, 4-13, 4-14, 4-16, 4-17, 4-19, 4-25, 4-27, 4-38, 4-39, 4-107, 4-108, 5-23, 5-24, 5-25, 5-27, 5-29, 5-30, 5-32, 5-33, 5-59, 5-60, 5-61, 5-62, 5-89, 9-5, 9-18, 9-26, 9-29, 9-31, 10-7, 10-12, 10-13, 10-18, 10-23, 10-24, 10-25, 10-26, 10-27, 10-28, 10-30, 10-31, 10-32, 10-34, 10-37, 10-38, 10-50, 10-54, 10-61, 10-64, 10-73, 10-75, 10-76, 10-79, 10-80

(24) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to—

(a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the cables and pipes by way of drilling and/or trenching;

(b) construct, retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;

(c) pass and repass, with or without vehicles, plant, equipment, materials and machinery for the purposes of constructing, laying, installing, adjusting, altering, using, maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the pipes, cables and cable ducts;

(d) retain and maintain existing hardstandings and lay down, use, repair, alter and remove hardstandings for the purposes of constructing, laying, installing, adjusting, altering, using maintaining, repairing, replacing, renewing, upgrading, inspecting and removing the pipes, cables and cable ducts;

(e) enter and be upon the land and remain with or without plant, vehicles, machinery, apparatus and equipment which is ancillary to the purposes of transmitting electricity and telecommunications along the pipes, cables and cable ducts;

(f) retain and use the cables for the purposes of the transmission of steam, telecommunications and electricity;

(g) place and use plant, machinery and temporary structures within the land

for the installation, construction, maintenance, repairing, renewing, upgrading, inspecting, removal and replacing of the pipes, cables and cable ducts;

(h) install and maintain cable marker posts to identify the location of the pipes, cables and cable ducts as required for routine integrity testing;

(i) remove store and stockpile materials (including excavated material) within the Order land;

(j) remove fences, hedges or other barriers during any period in which construction, maintenance, upgrading, improvement, renewal or removal are being carried out and for the exercise of the power to access the cables (subject to the prior erection of any temporary stock proof fencing as is reasonably required and the replacement or re-instatement of the fences, hedges or other barriers following the end of each period of the exercise of the rights);

(k) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers);

(l) carry out works to lop, fell, cut or coppice trees or remove roots of trees or hedges or shrubs;

(m) retain and maintain existing temporary permissive paths or lay out temporary permissive paths for public use (if applicable);

(n) remove archaeological artefacts where they would prevent or cause it to be materially more difficult or expensive to construct, lay, install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect or remove the pipes, cables and cable ducts;

(o) carry out environmental mitigation, remediation and enhancement works;

(p) install, construct, use and remove temporary welfare facilities during any periods of maintenance, repair, replacement, renewal, upgrade and removal of the pipes, cables and cable ducts;

(q) when the pipes or cables are temporarily unusable, to lay down,

	install, use, maintain and inspect on the surface of the land steam pipes, electric lines, telecommunications, ancillary equipment and associated works and other conducting media together with conduits or pipes for containing the same in and under the land; and (r) place temporarily and use plant, machinery and structures on the land in connection with the lighting of the land and the authorised development.
Major crossings (railway, highways) Plots 2-6, 2-7, 3-23, 3-24	(25) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to— (a) construct, lay and install, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove the pipes, pipe sleeves and cables by way of horizontal drilling or other trenchless techniques; (b) construct, retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts; (c) enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of transmitting steam along the pipes and electricity along the cables and cable ducts; (d) retain and use the pipes and cables for the purposes of the transmission of steam and electricity; and (e) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus (including the pipes, cables, conduits or apparatus of statutory undertakers).
Highway works Plots 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-13, 4-21, 4-22, 4-23, 4-25, 4-27, 4-98, 4-105, 4-106, 4-107, 4-108, 5-23, 5-24, 5-25, 5-26, 5-27, 5-28, 5-29, 5-30, 5-36, 5-37, 5-55, 5-62	(26) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to— (a) construct, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove road works and associated infrastructure and street furniture; (b) construct, retain, maintain, install, use,

	inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts; (c) enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of road works; (d) install, alter, re-lay, maintain, protect, adjust or remove pipes, cables, conduits or apparatus of statutory undertakers.
Utility works Plots 4-2, 4-3, 4-6, 4-7, 4-13, 4-14, 4-16, 4-17, 4-18, 4-19, 4-21, 4-22, 4-23, 4-25, 4-26, 4-27, 4-38, 4-39, 4-106, 4-107, 4-180, 5-23, 5-24, 5-25, 5-26, 5-27, 5-28, 5-29, 5-30, 5-31, 5-32, 5-33, 5-36, 5-37, 5-55, 5-56, 5-57, 5-58, 5-59, 5-60, 5-61, 5-62, 5-64, 5-65,5-68, 5-69, 5-82	(27) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to— (a) divert install, underground, retain, use, monitor and maintain pipes, cables, conduits or apparatus of statutory undertakers; (b) pass and repass with or without vehicles, plant, equipment, materials and machinery to access adjoining land and highway for the purposes of laying, installing, adjusting, altering, constructing, using, maintaining, repairing, renewing, upgrading, inspecting, removing and replacing the pipes, cables, conduits or apparatus; (c) enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of utility works. "adjoining land" for the purposes of this paragraph 1 means such other parts of the land within the Order limits required for the authorised development.
	(28) A restrictive covenant over the land to protect the apparatus from excavation.
Drainage rights Plots 4-34, 4-41, 4-42, 4-43, 4-44, 4-76, 4-81, 4-82, 4-87, 4-88, 4-95, 5-7, 5-8, 5-19, 5-90, 6-1, 6-2, 6-3, 6-5, 6-11, 6-12, 6-13, 6-83	(29) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to construct, retain, maintain, install, use, inspect, modify, improve, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts. (30) The right to drain on, in and/or through the land to and from adjoining land.

"adjoining land" for the purposes of this paragraph 2 means such other parts of the land within the Order limits required for the authorised development.

(31) A restrictive covenant over the land for the benefit of the remainder of the Order land to prevent anything to be done in or upon the land or any part thereof which shall or which it is reasonably foreseeable may interfere with the right to drain.

Landscaping access
Plots 5-76, 5-89, 6-34

(32) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of landscaping works.

(33) A restrictive covenant over the land for the benefit of the remainder of the Order land to—

(a) prevent anything to be done in or upon the land or any part thereof which shall or which it is reasonably foreseeable may interfere with access to the landscaping works;

(b) prevent anything to be done in or upon the land or any part thereof which shall or which it is reasonably foreseeable may render the authorised development or any part thereof in breach of any statute or regulation for the time being in force and applicable thereto.

Railway works
Plots 8-1, 8-2, 8-3, 8-5, 8-9

(34) The right to enter onto and remain on the land for the purposes of construction, installation, operation, maintenance and decommissioning of the authorised development and to—

(a) construct, adjust, alter, use, maintain, repair, replace, renew, upgrade, inspect and remove railway works and associated infrastructure;

(b) construct, retain, maintain, install, use, inspect, modify, improve, maintain, adjust, repair, extend, test, cleanse, and remove temporary or permanent drainage and manage waterflows in any drains, watercourse and culverts;

(c) enter the land with or without machinery, apparatus and equipment which is ancillary to the purposes of railway works.

SCHEDULE 11

Article 26

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

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

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

(a) for the words "land is acquired or taken" there is substituted the words "a right or restrictive covenant over land is purchased from or imposed on"; and

(b) for the words "acquired or taken from him" there is substituted the words "over which the right is exercisable or the restrictive covenant enforceable".

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

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

"(5A) If—

(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 8 of Schedule 11 to the North Lincolnshire Green Energy Park Order 2025);

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 6 of Schedule 11 to the North Lincolnshire Green Energy Park Order 2025) to acquire an interest in the land; and

(c) the acquiring authority enters on and takes possession of that land,

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

Application of the 1965 Act

4.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired or the restriction imposed or to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restriction is to be enforceable.

(**a**) 1973 c. 26.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restriction, with the modifications specified in the following provisions of this Schedule.

5. For section 7 of the 1965 Act (measure of compensation) there is substituted the following section—

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

6. Section 8(1) of the 1965 Act has effect as if references to acquiring land were to acquiring a right in the land, and Schedule 2A to that Act is to be read as if, for that Schedule, there were substituted—

"SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 28 (application of the 1981 Act) of the North Lincolnshire Green Energy Park Order 2025 in respect of land to which the notice to treat relates.

(2) But see article 30(3) (acquisition of subsoil or airspace only) of the North Lincolnshire Green Energy Park Order 2025 which excludes acquisition of subsoil or airspace only from this Schedule.

2. In this Schedule "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the undertaker to purchase the owner's interest in the house, building or factory.

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

Response to counter-notice

5. On receiving a counter-notice the undertaker must decide whether to—

(a) withdraw the notice to treat,

(b) accept the counter-notice, or

(c) refer the counter-notice to the Upper Tribunal.

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

7. If the undertaker decides to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the undertaker does not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

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

Determination by Upper Tribunal

10. On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—

(a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right,

(b) the proposed use of the right, and

(c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

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

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

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

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

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.".

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

(a) section 9(4) (failure by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

is so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

8. Section 11 of the 1965 Act (powers of entry) is so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive

covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 24), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A (powers of entry: further notices of entry); 11B (counter-notice requiring possession to be taken on specified date, 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

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

10. Section 22 of the 1965 Act (interests omitted from purchase) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 12

Article 32

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

PART 1

OPTION A - LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Area*	*(2)* *Number of land shown on land plan*	*(3)* *Purpose for which temporary possession may be taken*	*(4)* *Part of the authorised development*
Borough of North Lincolnshire	1-6, 2-10, 2-11, 3-1, 3-2, 3-16, 9-17, 10-14, 10-15	Facilitating construction and carrying out the authorised development; construction compounds for carrying out the authorised development; access for carrying out the authorised development.	Work Nos. 10, 11, 15A and 15B
Borough of North Lincolnshire	6-28, 6-29, 6-32, 6-36, 6-39, 6-43, 6-44, 6-45, 6-46, 6-48, 6-51, 6-52, 6-61, 6-67, 6-68, 6-69, 6-81	Facilitating construction and carrying out the authorised development; carrying out the authorised development; access for carrying out the authorised	Work Nos. 3 and 12

		development.	
Borough of North Lincolnshire	2-5, 2-8, 3-10, 3-15, 5-10, 9-3, 9-6, 9-7, 9-9, 9-10, 9-13, 9-15, 9-33, 9-34, 9-36, 9-40, 9-41, 9-42, 9-43, 9-44, 9-45, 10-8, 10-9, 10-41, 10-45, 10-46, 10-47, 10-51, 10-52, 10-55, 10-58, 10-59, 10-63, 10-65, 10-66, 10-67, 10-71, 10-72	Facilitating construction and carrying out the authorised development; carrying out the authorised development; access for carrying out the authorised development.	Work Nos. 10 and 11
Borough of North Lincolnshire	6-25, 6-26, 6-27	Laying of hardstanding and improvements to tracks; access for carrying out the authorised development.	Work No. 3
Borough of North Lincolnshire	5-54	Facilitating construction and carrying out the authorised development; carrying out the authorised development; access for carrying out the authorised development.	Work Nos. 10 and 13
Borough of North Lincolnshire	4-72, 5-1	Laying of hardstanding; Facilitating construction and carrying out the authorised development.	Work Nos. 5 and 14

PART 2

OPTION B - LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Area*	*(2)* *Number of land shown on land plan*	*(3)* *Purpose for which temporary possession may be taken*	*(4)* *Part of the authorised development*
Borough of North Lincolnshire	1-6, 2-10, 2-11, 3-1, 3-2, 3-16, 9-17, 10-14, 10-15	Facilitating construction and carrying out the authorised development; construction compounds for carrying out the authorised	Work Nos. 10, 11, 15A and 15B

		development; access for carrying out the authorised development.	
Borough of North Lincolnshire	6-28, 6-29, 6-32, 6-36, 6-39, 6-43, 6-44, 6-45, 6-46, 6-48, 6-51, 6-52, 6-61, 6-67, 6-68, 6-69, 6-81	Facilitating construction and carrying out the authorised development; carrying out the authorised development; access for carrying out the authorised development.	Work Nos. 3 and 12
Borough of North Lincolnshire	2-5, 2-8, 3-10, 3-15, 5-10, 9-3, 9-6, 9-7, 9-9, 9-10, 9-13, 9-15, 9-33, 9-34, 9-36, 9-40, 9-41, 9-42, 9-43, 9-44, 9-45, 10-8, 10-9, 10-41, 10-45, 10-46, 10-47, 10-51, 10-52, 10-55, 10-58, 10-59, 10-63, 10-65, 10-66, 10-67, 10-71, 10-72, 10-74	Facilitating construction and carrying out the authorised development; carrying out the authorised development; access for carrying out the authorised development.	Work Nos. 10 and 11
Borough of North Lincolnshire	6-25, 6-26, 6-27	Laying of hardstanding and improvements to tracks; access for carrying out the authorised development.	Work No. 3
Borough of North Lincolnshire	5-54	Facilitating construction and carrying out the authorised development; carrying out the authorised development; access for carrying out the authorised development.	Work Nos. 10 and 13
Borough of North Lincolnshire	4-72, 5-1	Laying of hardstanding; Facilitating construction and carrying out the authorised development.	Work Nos. 5 and 14

SCHEDULE 13

Article 40

REMOVAL OF HEDGEROWS

PART 1

HEDGEROWS

(1) *Location of hedgerow*	*(2)* *Work to be carried out*	*(3)* *Relevant part of the authorised development*
The hedgerows plan – Sheet 9		
H404	Removal	Work No. 10, 11 and 14
H410	Removal	Work No. 10, 11 and 14
H412	Partial removal	Work No. 10, 11 and 14
H413	Removal	Work No. 10, 11 and 14

PART 2

IMPORTANT HEDGEROWS

(1) *Location of hedgerow*	*(2)* *Work to be carried out*	*(3)* *Relevant part of the authorised development*
The hedgerows plan – Sheet 4		
H297	Removal	Work No. 5
The hedgerows plan – Sheet 5		
H267	Removal	Work No. 5

SCHEDULE 14

Article 42

PROTECTIVE PROVISIONS

PART 1

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

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

2. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

"apparatus" means—

(a) in the case of a utility undertaker within paragraph (a) of the definition of that term, electric lines or electrical plant (as defined in the 1989 Act), belonging to or maintained by that utility undertaker;

(b) in the case of a utility undertaker within paragraph (b) of the definition of that term, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;

(c) in the case of a utility undertaker within paragraph (c) of the definition of that term—

(i) mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and

(ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991(**a**) (agreements to adopt water main or service pipe at future date);

(d) in the case of a utility undertaker within paragraph (d) of the definition of that term—

(i) any drain or works vested in the utility undertaker under the Water Industry Act 1991; and

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act(**b**) (adoption of sewers and disposal works) or an agreement to adopt made under section 104 of that Act(**c**) (agreements to adopt sewer, drain or sewage disposal works, at future date),

and includes a disposal main (within the meaning of section 219 of that Act (general interpretation)), a sludge main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land; and

"utility undertaker" means—

(e) any licence holder within the meaning of Part 1 of the 1989 Act (electricity supply);

(f) a gas transporter within the meaning of Part 1 of the Gas Act 1986(**d**) (gas supply);

(g) water undertaker within the meaning of the Water Industry Act 1991; and

(h) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act (street works in England and Wales).

4.—(1) Where any street is stopped up under article 14 (permanent stopping up of streets), any utility undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or the utility undertaker to require the removal of that apparatus under paragraph 6 or the power of the undertaker to carry out works under paragraph 8.

(2) Regardless of the temporary stopping up or diversion of streets under the powers conferred by article 15 (temporary stopping up of streets) or the temporary stopping up of public rights of way under the powers conferred by article 16 (public rights of way – creation and temporary

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(**a**) Section 51A was inserted by section 92(1) of the Water Act 2003 (c. 37); section 51A was amended by section 10(1) and (2) of the Water Act 2014 (c. 21).

(**b**) Section 102(4) of the Water Industry Act 1991 was amended by section 56 of, and paragraphs 2 and 90 to, the Water Act 2014.

(**c**) Section 104 was amended by section 96(4) of the Water Act 2003. There are other amendments but none is relevant.

(**d**) 1986 c. 44; a new section 7 was substituted by the Gas Act 1995 (c. 45), section 5, and was further amended by section 76 of the Utilities Act 2000 (c. 27) and section 197(9) of, and Part 1 of Schedule 23 to, the Energy Act 2004 (c. 20).

stopping up), a utility undertaker is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street or public right of way .

5. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

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

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

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 49 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

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

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities

and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

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

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be constructed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (1) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

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

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

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 49 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

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

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

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

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

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 6(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

(a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

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

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

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

11. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaking in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

12.—(1) For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

(2) In this Part of this Schedule—

"electronic communications apparatus" has the same meaning as set out in paragraph 5 of the electronic communications code;

"the electronic communications code" has the same meaning as in section 106 (application of the electronic communications code) of the 2003 Act;

"electronic communications code network" means—

(a) so much of a network or infrastructure system provided by an electronic communication code operator as is not excluded from the application of the electronic communications code by a direction under section 106(5) of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

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

"operator" means the operator of an electronic communications code network.

13. The exercise of the powers of article 34 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

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

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

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

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 49 (arbitration).

15. This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or

(b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

16. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

17. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

18. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

"Anglian Water" means Anglian Water Services Limited (company number 02366656) whose registered office is at Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire PE29 6XU;

"apparatus" means—

(a) any works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;

(b) any drain or works vested in Anglian Water under the Water Industry Act 1991;

(c) any sewer which is vested in Anglian Water under the Water Industry Act 1991 or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act;

(d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and

(e) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus,

and for the purpose of this definition, where words are defined by section 219 of the Water Industry Act 1991, they shall be taken to have the same meaning;

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

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

Apparatus in stopped up streets

19.—(1) Where any street is stopped up under article 14 (permanent stopping up of streets), where Anglian Water has apparatus in the street or accessed by virtue of that street, it has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must use reasonable endeavours to grant or procure the grant of legal easements reasonably satisfactory to Anglian Water in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of Anglian Water to require the removal of that apparatus under paragraph 6 or the power of the undertaker to carry out works under paragraph 8.

(2) Regardless of the temporary stopping up or diversion of streets under the powers conferred by article 15 (temporary stopping up of streets) or the temporary stopping up of public rights of way under the powers conferred by article 16 (public rights of way – creation and temporary stopping up), Anglian Water is at liberty at all times to take all necessary access across any such

street and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street or public right of way.

Acquisition of land

20. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

21.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until—

(a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and

(b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 7.

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

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 49 and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been

approved. For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, allow Anglian Water not less than 30 days to enable Anglian Water to—

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

22.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Anglian Water facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 49 (arbitration).

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

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting (England and Wales) Regulations 2016 or other legislation.

Retained apparatus

23.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 21(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 18 to 19 and 21 to 23 apply as if the removal of the apparatus had been required by the undertaker under paragraph 21(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of

those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus—

(a) 4 metres where the diameter of the pipe is less than 250 millimetres;

(b) 5 metres where the diameter of the pipe is between 250 and 400 millimetres, and

(c) a distance to be agreed on a case by case basis and before the submission of the Plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres.

Expenses and costs

24.—(1) Subject to the following provisions of this paragraph and paragraph 26 below, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

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

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 48 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of subparagraph (1) must be reduced by the amount of that excess.

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

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

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

25.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 21(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

(a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and

(b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

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

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents and nor does sub-paragraph (1) impose any liability in respect of pure economic losses (which term for the avoidance of doubt may not constitute additional operational or administrative costs, fines and expenses, wasted expenditure or charges rendered unnecessary or the additional cost of procuring or providing replacement services.

(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

26. Anglian Water must use its reasonable endeavours to mitigate losses in whole or in part and to minimise any claim, costs, expenses, loss, demands and penalties. If requested to do so by the undertaker, Anglian Water shall provide an explanation of how the claim has been minimised.

Cooperation

27. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 21(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 23, the undertaker must use reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

Unmapped Apparatus

28. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

Miscellaneous

29. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

30. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

Disputes

31. Any difference or dispute arising between the undertaker and Anglian Water under this Part must, unless otherwise agreed in writing between the undertaker and Anglian Water, be determined by arbitration in accordance with article 49 (arbitration).

PART 4

FOR THE PROTECTION OF NORTHERN POWERGRID (YORKSHIRE) PLC

32. For the protection of Northern Powergrid the following provisions have effect, unless otherwise agreed in writing between the undertaker and Northern Powergrid.

33. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable Northern Powergrid to fulfil its statutory functions in a manner not less efficient than previously;

"apparatus" means electric lines or electrical plant (as defined in the 1989 Act), belonging to or maintained by Northern Powergrid and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

"authorised works" means so much of the works authorised by this Order which affect existing Northern Powergrid's apparatus within the Order limits;

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed and shall include measures proposed by the undertaker to ensure the grant of sufficient land or rights in land necessary to mitigate the impacts of the works on Northern Powergrid's undertaking; and

"Northern Powergrid" means Northern Powergrid (Yorkshire) PLC (Company Number 04112320) whose registered address is Lloyds Court, 78 Grey Street, Newcastle upon Tyne NE1 6AF.

34. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Northern Powergrid are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

35. Regardless of any provision in this Order or anything shown on the land plans, or contained in the book of reference, the undertaker shall not acquire any apparatus, or override any easement or other interest of Northern Powergrid otherwise than by agreement with Northern Powergrid, such agreement not to be unreasonably withheld or delayed.

36.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that Northern Powergrid's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Northern Powergrid to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided pursuant to a completed easement or authorisation by written agreement from NPG for a tenure no less favourable than exists to the apparatus being relocated or diverted, all to the reasonable satisfaction of Northern Powergrid in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Northern Powergrid 42 days' advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed (such plans and details to be

approved by Northern Powergrid in writing approval not to be unreasonably withheld or delayed) and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Northern Powergrid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Northern Powergrid the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If, in the exercise of the powers conferred by this Order, alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Northern Powergrid must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable and at the cost of the undertaker (subject to prior approval by the undertaker of its estimate of costs of doing so) use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Northern Powergrid to use its compulsory purchase powers to this end unless—

(a) the undertaker has first used reasonable endeavours to acquire the relevant land, rights and/or interests and provided reasonable evidence of the same to Northern Powergrid in accordance with the measures set out in the plan (in default of agreement, the reasonableness of any such measures to be determined through arbitration under article 49 (arbitration)) of the Order; and

(b) the undertaker and Northern Powergrid agree (or in default of agreement, it is determined through arbitration under article 49 (arbitration)) of the Order that the promotion of compulsory purchase powers by the undertaker would be significantly more onerous than the exercise of Northern Powergrid's own compulsory purchase powers.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Northern Powergrid and the undertaker or in default of agreement settled by arbitration in accordance with article 49 of the Order.

(5) Northern Powergrid must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 49 of the Order, and after the grant to Northern Powergrid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule and any costs associated with the removal of any of the apparatus shall be borne by the undertaker.

(6) If Northern Powergrid fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 35 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved.

37.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Northern Powergrid facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Northern Powergrid or in default of agreement settled by arbitration in accordance with article 49 (arbitration) of the Order.

(2) In the event that the parties cannot reach agreement in accordance with paragraph (1) and the parties seek determination pursuant to article 49 (arbitration) of the Order, then If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Northern Powergrid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of

compensation by the undertaker to Northern Powergrid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

38.—(1) Not less than 35 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to (including conducting any activities whether intentionally or unintentionally, through for example ground or machinery collapse, which may affect Northern Powergrid's apparatus or encroach on safety distances to live equipment) or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 36(2), the undertaker must submit to Northern Powergrid a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Northern Powergrid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Northern Powergrid is entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(3) Any requirements made by Northern Powergrid under sub-paragraph (2) must be made within a period of 42 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If Northern Powergrid in accordance with sub-paragraph (2) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 36(2) to 36(6) apply as if the removal of the apparatus had been required by the undertaker under paragraph 36(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to Northern Powergrid notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

39.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Northern Powergrid all reasonable and proper expenses costs or charges incurred by Northern Powergrid—

(a) in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 36(2) including without limitation—

(i) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that it is agreed Northern Powergrid elects to use compulsory purchase powers to acquire any necessary rights under paragraph 36(3) all costs reasonably incurred as a result of such action;

(ii) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;

(iii) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(iv) the approval of plans;

(v) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and

(vi) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in

consequence of the execution of any such works referred to in this Part of this Schedule); and

(b) in assessing and preparing a design for its apparatus to address and accommodate the proposals of the undertaker whether or not the undertaker proceeds to implement those proposals or alternative or none at all,

provided that if it so prefers Northern Powergrid may abandon apparatus that the undertaker does not seek to remove in accordance with paragraph 36(1) having first decommissioned such apparatus.

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal and for the avoidance of doubt, if the apparatus removed under the provisions of this Part of this Schedule has nil value, no sum will be deducted from the amount payable under sub-paragraph (1) if in accordance with the provisions of this Part of this Schedule—

(a) apparatus of greater specification, capacity or dimensions is placed in substitution for existing apparatus of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was;

and the placing of apparatus of that capacity, specification or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 49 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Northern Powergrid by virtue of sub-paragraph (1) is to be reduced by the amount of that excess save where it is not possible on account of project time limits and / or supply issues to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs shall be borne by the undertaker.

(3) For the purposes of sub-paragraph (2)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 36(2); and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

40.—(1) Subject to sub-paragraphs (2) to (4), if by reason or in consequence of the construction of any of the works referred to in in paragraph 36(2), or in consequence of the, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Schedule or any subsidence resulting from any of these works any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Northern Powergrid, or there is any interruption in any service provided by Northern Powergrid, or Northern Powergrid becomes liable to pay any amount to a third party as a consequence of any default, negligence or omission by the undertaker in carrying out the authorised works, the undertaker must—

(a) bear and pay the cost reasonably incurred by Northern Powergrid in making good such damage or restoring the supply; and

(b) indemnify Northern Powergrid for any other expenses, loss, damages, penalty, proceedings, claims or costs incurred by or recovered from Northern Powergrid,

by reason or in consequence of any such damage or interruption or Northern Powergrid becoming liable to any third party and limited to a maximum aggregate liability of the undertaker to

Northern Powergrid to the sum total of £50,000,000.00 (fifty million pounds) for all claims arising from this Part of this Schedule.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to—

(a) any damage or interruption to the extent that it is attributable to the act, neglect or default of Northern Powergrid, its officers, employees, servants, contractors or agents; and/or

(b) any authorised development and/or any other works authorised by this Part of this Schedule carried out by Northern Powergrid as an assignee, transferee or lessee of the undertaker with the benefit of the Order subject to the proviso that once such works become apparatus any works yet to be executed by the undertaker and not falling within this paragraph 40(2)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 40 in respect of such new apparatus.

(3) Northern Powergrid must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Northern Powergrid must use its reasonable endeavours to mitigate its losses and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 40 applies. If requested to do so by the undertaker, Northern Powergrid must provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph (1).The undertaker shall only be liable under this paragraph 40 for claims reasonably incurred by Northern Powergrid.

41. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Northern Powergrid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

42. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Northern Powergrid requires the removal of apparatus under paragraph 36 or otherwise or Northern Powergrid makes requirements for the protection or alteration of apparatus under paragraph 38, the undertaker shall use its reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the need to ensure the safe and efficient operation of Northern Powergrid's undertaking taking into account the undertaker's desire for the efficient and economic execution of the authorised development and the undertaker and Northern Powergrid shall use reasonable endeavours to co-operate with each other for those purposes.

43. If in consequence of an agreement reached in accordance with paragraph 35 or the powers granted under this Order the access to any apparatus or alternative apparatus is materially obstructed, the undertaker shall provide such alternative means of access to such apparatus or alternative apparatus as will enable Northern Powergrid to maintain or use the said apparatus no less effectively than was possible before such obstruction.

44. The plans submitted to Northern Powergrid by the undertaker pursuant to this Part of the Schedule must be sent to Northern Powergrid at property@northernpowergrid.com or such other address as Northern Powergrid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

45. Where practicable, the Undertaker and Northern Powergrid will make reasonable efforts to liaise and co-operate in respect of information that is relevant to the safe and efficient construction operation and maintenance of the authorised development. Such liaison shall be carried out where any works are—

(a) within 15m of any above ground apparatus; and/or

(b) are to a depth of between 0 – 4m below ground level.

PART 5

FOR THE PROTECTION OF RAILWAY INTERESTS

46. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 60 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

47. In this Part of this Schedule—

"asset protection agreement" means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993(**a**);

"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

"railway property" means any railway belonging to Network Rail and—

(a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and

(b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

"regulatory consents" means any consent or approval required under—

(c) the Railways Act 1993;

(d) the network licence; and/or

(e) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

"specified work" means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 6 (maintenance of authorised development) in respect of such works.

(**a**) 1993 c. 43.

48.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

(a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

(b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

49.—(1) The undertaker must not exercise the powers conferred by—

(a) article 4 (development consent etc. granted by the Order);

(b) article 6 (maintenance of authorised development);

(c) article 7 (operation of authorised development);

(d) article 16 (Public rights of way – creation and temporary stopping up);

(e) article 17 (Accesses);

(f) article 24 (compulsory acquisition of land);

(g) article 26 (compulsory acquisition of rights);

(h) article 27 (private rights);

(i) article 30 (acquisition of subsoil or airspace only);

(j) article 32 (temporary use of land for carrying out the authorised development);

(k) article 33 (temporary use of land for maintaining the authorised development);

(l) article 34 (statutory undertakers);

(m) article 37 (discharge of water);

(n) article 38 (authority to survey and investigate the land);

(o) article 39 (felling or lopping of trees);

(p) article 40 (removal of hedgerows);

(q) the powers conferred by section 11(3) (power of entry) of the 1965 Act;

(r) the powers conferred by section 203 (power to override easements and other rights) of the Housing and Planning Act 2016(**a**);

(s) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016; and

(t) any powers under in respect of the temporary possession of land under the Neighbourhood Planning Act 2017(**b**);

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

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

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 26 (compulsory acquisition of rights), article 27 (private rights) or article 34 (statutory

(**a**) 2016 c. 22.
(**b**) 2017 c. 20.

undertakers), 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.

(4) 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.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

50.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 49 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

51.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 50(4) must, when commenced, be constructed—

(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 50;

(b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;

(c) in such manner as to cause as little damage as is possible to railway property; and

(d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

52. The undertaker must—

(a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and

(b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

53. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

54.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 50(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 55(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

55. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

(a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 50(3) or in constructing any protective works under the provisions of paragraph 50(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

(b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;

(c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;

(d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

(e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

56.—(1) In this paragraph—

"EMI" means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail's apparatus; and

"Network Rail's apparatus" means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 50(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3) —

(a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 50(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

(b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and

(c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 50(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred —

(a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;

(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;

(c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and

(d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

(a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;

(b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 51.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 60(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 55(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

57. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

58. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

59. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice

of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

60.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—

(a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or

(b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

(c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;

(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;

(e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;

(f) in respect of any losses incurred by Network Rail, as a result of or in connection with a specified work, under any leases, tenancy agreements, easements and/or wayleaves granted by Network Rail on the railway land (to the extent that any are applicable);

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

(a) give the undertaker reasonable written notice of any such claims or demands;

(b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and

(c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

"the relevant costs" means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1); and

"train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

61. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 60) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

62. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

63. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

(a) any railway property shown on the works and land plans and described in the book of reference;

(b) any lands, works or other property held in connection with any such railway property; and

(c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

64. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

65. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 10 (consent to transfer the benefit of the Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

(a) the nature of the application to be made;

(b) the extent of the geographical area to which the application relates; and

(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

66. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 46 (certification of plans, etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

67. In relation to any dispute arising under this Part of this Schedule (except for those disputes referred to in paragraph 56) the provisions of article 49 (arbitration) shall not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

PART 6

FOR THE PROTECTION OF CADENT GAS LIMITED

Application

68. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

69. In this Part of the Schedule—

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than: (i) "A-" if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and "A3" if the rating is assigned by Moody's Investors Services Inc.;

"acceptable insurance" means a third party liability insurance effected and maintained by the undertaker to a level of not less than £50,000,000.00 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained for the construction period of the authorised works which constitute specified works and arranged with an internationally recognised insurer of repute operating in the London and worldwide insurance market underwriters whose security/credit rating meets the same requirements as an "acceptable credit provider", such policy shall include (but without limitation)—

(a) Cadent as a Co-Insured;

(b) a cross liabilities clause;

(c) a waiver of subrogation in favour of Cadent; and

(d) contractors' pollution liability for third party property damage and third party bodily damage arising from a pollution/contamination event with cover of £10,000,000.00 (ten million pounds) per event or £20,000,000.00 (twenty million pounds) in aggregate;

"acceptable security" means either—

(e) a parent company guarantee from a parent company in favour of Cadent to cover the undertaker's liability to Cadent to a cap of not less than £50,000,000 (fifty million pounds) per asset per event up to a total liability cap of £50,000,000 (fifty million pounds) (in a form reasonably satisfactory to Cadent and where required by Cadent, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(f) a bank bond or letter of credit from an acceptable credit provider in favour of Cadent to cover the undertaker's liability to Cadent for an amount of not less than £50,000,000 (fifty million pounds) per asset per event up to a total liability cap of £50,000,000 (fifty million pounds) (in a form reasonably satisfactory to Cadent);

"alternative apparatus" means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by Cadent for the purposes of Cadent's undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as is given to the term "authorised development" in article 2(1) of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"Cadent" means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

"Cadent's undertaking" means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995);

"commence" and "commencement" include any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition,

the receipt and erection of construction plant and equipment, and non-intrusive investigations for the purpose of assessing ground conditions;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"facilities and rights" for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for Cadent's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" have effect as if Cadent's existing apparatus was authorised development and as if the term maintain includes protect and use;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"rights" includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

"specified works" means any of the authorised works or activities (including maintenance) undertaken in association with the authorised works which—

(g) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 74 or otherwise; or

(h) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 74 or otherwise.

On Street apparatus

70.—(1) This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

(a) paragraphs 71, 76, 77 and 78; and

(b) where sub-paragraph (2) applies, paragraphs 73 and 74.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) The Protective Provisions in this Part of this Schedule apply and take precedence over article 35 of the Order which shall not apply to Cadent.

Apparatus of Cadent in stopped up streets

71.—(1) Where any street is stopped up under article 14 (permanent stopping up of streets), if Cadent has any apparatus in the street or accessed via that street Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway, but nothing in this paragraph shall affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 73.

(2) Notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 15 (temporary stopping up of streets), Cadent will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street.

Acquisition of land

72.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by Cadent under paragraph 75 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of Cadent in such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where the undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 73 do not apply, the undertaker must, unless Cadent agrees otherwise—

(a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

73.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 72, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed and any right of Cadent to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed (which must be approved by Cadent in accordance with the standard SLA) and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account paragraph 74(1)) the necessary facilities and rights—

(a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);

(b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and

(c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed as soon as reasonably practicable save that this obligation shall not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker or settled by arbitration.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed or settled, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

74.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or

removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 81 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

75.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and

(b) must not be unreasonably withheld or delayed and Cadent must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) For the purposes of sub-paragraph (4)(b) it will be deemed to be reasonable for any approval to be refused if Cadent considers that the specified works would—

(a) cause interference with or risk of damage to its apparatus; or

(b) prevent access to its apparatus at any time.

(6) Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Specified works must only be executed in accordance with—

(a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and

(b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(8) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(9) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 68 to 70 and 72 to 74 apply as if the removal of the apparatus had been required by the undertaker under paragraph 73(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) As soon as reasonably practicable after any ground subsidence event attributable to the authorised works (including such an event attributable to its maintenance)—

(a) the undertaker must implement an appropriate ground mitigation scheme; and

(b) Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 76.

(12) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances.

(13) In this paragraph, "emergency works" means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

Expenses

76.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent within 28 days of receipt of an invoice all charges, costs and expenses reasonably anticipated or reasonably incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent;

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 73 if it elects to do so; or

(ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;

(g) any watching brief pursuant to sub-paragraph 75(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

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

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 81 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances (or it would be unlawful due to a statutory or regulatory change) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

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

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

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

Indemnity

77.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from Cadent, the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and

(b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs properly incurred by, paid by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents;

(b) any part of the authorised works carried out by Cadent in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 10 (consent to transfer the benefit of the Order) of the Order; and

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable at the commencement of the relevant works referred to in sub-paragraph (1).

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) The undertaker must not commence construction (and must not permit the commencement of such construction) of the authorised works on any land owned by Cadent or in respect of which Cadent has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres in any direction of Cadent's apparatus until the following condition is satisfied—

(a) unless and until Cadent is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence to Cadent that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and Cadent has confirmed the same to the undertaker in writing; and

(b) unless and until Cadent is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to Cadent that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and Cadent has confirmed the same in writing to the undertaker.

(6) In the event that the undertaker fails to comply with 77(5), nothing in this Part of this Schedule shall prevent Cadent from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

78. Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

79.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or Cadent requires the removal of apparatus under paragraph 73 or Cadent makes requirements for the protection or alteration of apparatus under paragraph 75, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by Cadent or the taking of action by Cadent, it must not be unreasonably withheld or delayed.

Access

80. If in consequence of any agreement reached in accordance with paragraph 72 or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

81. Save for differences or disputes arising under sub-paragraph 73 any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 49 (arbitration).

Notices

82. Notwithstanding article 47 (service of notices) any plans submitted to Cadent by the undertaker pursuant to paragraph 75 must be sent via email to Cadent Gas Limited Plant Protection at plantprotection@cadentgas.com copied by e-mail to toby.feirn@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

SCHEDULE 15

Article 46

DOCUMENTS AND PLANS TO BE CERTIFIED

(1)	*(2)*	*(3)*	*(4)*
Document name	*Document reference*	*Revision number*	*Date*
Book of reference	3.1	Rev. 4	May 2023
CLP (outline construction logistics plan)	environmental statement 6.2.13 chapter 13 appendix D	Rev. 1	December 2022
design principles and codes	5.12	Rev. 4	April 2023
environmental statement	environmental statement 6.1: non-technical summary	Rev. 2	April 2023
	environmental statement 6.2 .1, 6.2.2, 6.2.4, 6.2.6,	Rev. 0	May 2022

6.2.11, 6.2.15, 6.2.17 (excluding chapters 3, 5, 7, 8, 9, 10, 12, 13, 14, 16, 18, 19)		
environmental statement 6.2.3 (chapter 3)	Rev. 2	March 2023
environmental statement 6.2.5 (chapter 5)	Rev. 3	May 2023
environmental statement 6.2.7 (chapter 7)	Rev. 2	April 2023
environmental statement 6.2.8 (chapter 8)	Rev. 0	May 2022
environmental statement 6.2.9 (chapter 9)	Rev. 1	March 2023
environmental statement 6.2.10 (chapter 10)	Rev. 1	May 2023
environmental statement 6.2.12 (chapter 12)	Rev. 1	February 2023
environmental statement 6.2.13 (chapter 13)	Rev. 1	December 2022
environmental statement 6.2.14 (chapter 14)	Rev. 2	May 2023
environmental statement 6.2.16 (chapter 16)	Rev. 1	May 2023
environmental statement 6.2.18 (chapter 18)	Rev. 1	May 2023
environmental statement 6.2.19 (chapter 19)	Rev. 3	May 2023
environmental statement 6.3.1 (annex 1 (NLGEP scoping report)), 6.3.2 (annex 2 (PINS scoping report)), 6.3.3 (annex 3 (flood risk assessment)), 6.3.4 (annex 4 (indicative lighting strategy))	Rev. 0	May 2022
environmental statement 6.3.5 (annex 5 (indicative drainage strategy) and annex 6.3.6 (navigation risk	Rev. 1	February 2023

	assessment))		
CoCP (code of construction practice)	environmental statement 6.3.7 (annex 7 (code of construction practice))	Rev. 6	May 2023
OEMP (operational environmental management plan)	environmental statement 6.3.8 (annex 8 (operational environmental management plan))	Rev. 2	April 2023
framework travel plan	environmental statement 6.2.13 chapter 13 appendix C	Rev. 0	May 2022
hedgerows plan	4.8	Rev. 0	May 2022
indicative landscape and biodiversity plans	4.10	Rev. 2	January 2023
indicative railway plans	4.15	Rev. 1	March 2023
land plans	4.2	Rev. 2	May 2023
outline employment and skills policy	9.35	Rev. 0	April 2023
outline LBMMP (outline landscape and biodiversity management and monitoring plan)	5.7	Rev. 1	March 2023
rights of way and access plans	4.3	Rev. 2	April 2023
TRO drawings	4.19	Rev. 1	January 2023
vertical parameters plans	4.18	Rev. 1	March 2023
works plans	4.4 Works Plans A	Rev. 3	February 2023
	4.4 Works Plans B and C	Rev. 2	February 2023
Waste area plan	4.21	Rev.0	February 2025

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises The North Lincolnshire Green Energy Park Limited (referred to in this Order as the undertaker) to construct, operate and maintain an energy from waste electricity generating station located at Stather Road, Flixborough, Scunthorpe fuelled by refuse derived fuels, with a gross generation capacity of up to 95 megawatts at ISO conditions.

A copy of the Order plans and the book of reference mentioned in this Order and certified in accordance with article 46 of this Order (certification of plans, etc.) may be inspected free of charge during working hours at Church Square House, 30-40 High Street, Scunthorpe, North Lincolnshire DN15 6NL.

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