STATUTORY INSTRUMENTS

2026 No. 869

INFRASTRUCTURE PLANNING

The Peartree Hill Solar Farm Order 2026

Made - - - -	*2nd July 2026*
Coming into force	*23rd July 2026*

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008 ("the 2008 Act")(**a**) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**b**) 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 carried out in accordance with the Infrastructure Planning (Examination Procedure) Rules 2010(**c**).

The Examining Authority, having considered the application together with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 74(2)(**d**) of the 2008 Act, made a report and recommendation to the Secretary of State.

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(**e**) and 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 granting development consent for the development described 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 is satisfied that the special category land within the Order land, when burdened with the new rights or the imposition of a restrictive covenant as authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before such acquisition, to the persons whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public, and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, in exercise of the powers conferred by sections 114(**f**), 115(**g**), 120(**h**), 122(**i**), 123(**j**), 132(**k**) and 140(**l**) of the 2008 Act makes the following Order.

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Peartree Hill Solar Farm Order 2026 and comes into force on 23rd July 2026.

(**a**) 2008 c. 29. Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to, the Localism Act 2011 (c. 20).
(**b**) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572 and S.I. 2018/378.
(**c**) S.I. 2010/103 as amended by S.I. 2024/317.
(**d**) As amended by paragraph 29(1) and (3) of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(**e**) S.I. 2017/572.
(**f**) As amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011.
(**g**) As amended by section 160 of the Housing and Planning Act 2016 (c. 22) and section 43 of the Wales Act 2017 (c. 4).
(**h**) As amended by section 140 and paragraph 60 of Part 1 of Schedule 13 to the Localism Act 2011.
(**i**) As amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.
(**j**) As amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011.
(**k**) As amended by paragraph 24(3) of the Growth and Infrastructure Act 2013 (c. 27).
(**l**) S.I. 2010/101.

Interpretation

2.—(1) In this Order—

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

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

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

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

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

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

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

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

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

"apparatus" has the same meaning as in section 105(1) (minor definitions) of the 1991 Act; except that, unless otherwise provided, it 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 described in Schedule 1 (authorised development) and any other development authorised by this Order, or any part of it, which is development within the meaning of section 32 (meaning of "development") of the 2008 Act;

"battery energy storage system" means batteries and equipment for the storage of electrical energy;

"book of reference" means the document of that description referenced in Schedule 13 (documents to be certified) and certified by the Secretary of State;

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

"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(**j**);

"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 other than the permitted preliminary works (except where stated to the contrary) and "commencement", "commenced" and cognate expressions are to be construed accordingly;

"Crown land plans" means the document of that description referenced in Schedule 13 (documents to be certified) and certified by the Secretary of State;

"date of decommissioning" means in respect of each part of the authorised development, the date that that part of the authorised development has permanently ceased to generate electricity on a commercial basis;

"date of final commissioning" means the date on which the authorised development commences operation by generating electricity on a commercial basis but excluding the generation of electricity during commissioning and testing;

"electronic transmission" means a communication transmitted—

(**a**) 1961 c. 33.
(**b**) 1965 c. 56.
(**c**) 1980 c. 66.
(**d**) 1981 c. 66.
(**e**) 1984 c. 27.
(**f**) 1989 c. 29.
(**g**) 1990 c. 8.
(**h**) 1991 c. 22.
(**i**) 2008 c. 29.
(**j**) 1971 c. 80.

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

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

"environmental statement" means the environmental statement referenced in Schedule 13 (documents to be certified) and certified by the Secretary of State as the environmental statement for the purposes of this Order;

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

"highway" and "highway authority" have the same meaning as in the 1980 Act(**a**);

"land plans" means the document of that description referenced in Schedule 13 (documents to be certified) and certified by the Secretary of State;

"local planning authority" means the local planning authority (as defined in section 336 of the 1990 Act) for the area to which the provision relates;;

"the location and land area plan" means the document of that description referenced in Schedule 13 (documents to be certified) and certified by the Secretary of State;

"maintain" includes inspect, repair, adjust, alter, remove, refurbish, replace, improve or reconstruct any part of, but not remove, reconstruct or replace the whole of, the authorised development provided that such works do not give rise to any materially new or materially different environmental effects in comparison to those reported in the environmental statement; and any derivative of "maintain" is to be construed accordingly;

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

"the Order limits" means the limits shown on the land plans and works plans within which the authorised development may be carried out and land acquired or used;

"permitted preliminary works" means all or any of—

(a) preconstruction ecological mitigation (including advanced planting to allow for an early establishment of protective screening);

(b) environmental surveys and monitoring, geotechnical surveys, intrusive archaeological surveys (including trenching) and other investigations for the purpose of assessing ground conditions (including the making of boreholes);

(c) removal of plant and machinery;

(d) above ground site preparation for temporary facilities for the use of contractors;

(e) remedial work in respect of any contamination or other adverse ground conditions;

(f) diversion and laying of apparatus;

(g) receipt and erection of construction plant and equipment;

(h) the provision of temporary means of enclosure and site security for construction;

(i) the temporary display of site notices or advertisements; or

(j) site clearance (including vegetation removal, demolition of existing buildings and structures);

"requirements" means those matters set out in Part 1 of Schedule 2 (requirements) to this Order;

"special category land plans" means the document of that description referenced in Schedule 13 (documents to be certified) and certified by the Secretary of State;

"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 or part of a street and any reference to a road is to be construed as a "street";

(**a**) "highway" is defined in section 238(1). For "highway authority" see section 1.

"street authority", in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act(**a**);

"streets, rights of way and access plan" means the document of that description referenced in Schedule 13 (documents to be certified) and certified by the Secretary of State;

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

"traffic measures plan" means the document of that description referenced in Schedule 13 (documents to be certified) and certified by the Secretary of State;

"tree preservation order and hedgerow plans" mean the document of that description referenced in Schedule 13 (documents to be certified) and certified by the Secretary of State. Any reference in this Order to a "tree preservation order" is also taken to be a reference to this document;

"undertaker" means RWE Renewables UK Solar and Storage Limited (company number 14539260) whose registered address is Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire SN5 6PB;

"watercourse" has the meaning given in the Land Drainage Act 1991(**c**); and

"works plans" means the document of that description referenced in Schedule 13 (documents to be certified) and certified by the Secretary of State.

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over the land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

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

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

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

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

(7) References to any statutory body in this Order includes that body's successor bodies from time to time.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

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

(**a**) "street authority" is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

(**b**) Section 121A was inserted by paragraph 70 of Part 2 of Schedule 8 to the 1991 Act and subsequently amended by paragraph 95 of Schedule 1 to, the Infrastructure Act 2015 and S.I. 2001/1400.

(**c**) 1991 c. 59, section 72(1).

Operation of generating station

4.—(1) The undertaker is authorised to use and operate the generating station comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generation station.

Maintenance of authorised development

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

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

(3) This article does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement.

Benefit of this Order

6. Subject to article 7 (consent to transfer benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker.

Consent to transfer benefit of Order

7.—(1) Subject to paragraph (3) the undertaker may with the written consent of the Secretary of State—

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

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

(2) Subject to paragraph (8), where a transfer or grant has been made in accordance with paragraph (1) references in this Order to the undertaker includes references to the transferee or the lessee.

(3) The consent of the Secretary of State is required for the exercise of the powers under paragraph (1) except where—

(a) the transferee or lessee holds a licence under section 6 (licences authorising supply, etc.) of the 1989 Act;

(b) the time limits for all claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—

(i) no such claims have been made;

(ii) any such claims that have been made have all been compromised or withdrawn;

(iii) compensation has been paid in final settlement of any claims made;

(iv) payment of compensation into court in lieu of settlement of all such claims has taken place; or

(v) it has been determined by a tribunal or court of competent jurisdiction in respect of all claims that no compensation is payable; or

(c) the transfer or grant relates to Work Nos 4A, 4B and 6 for the purpose of undertaking all or any of those Works and is made to Northern Powergrid Holding Company (company registration number 03476201) whose registered office is at Lloyds Court, 78 Grey Street, Newcastle Upon Tyne, NE1 6AF.

(4) Where the consent of the Secretary of State is not required under paragraph (3), the undertaker must notify the Secretary of State in writing before transferring or granting all or any part of the benefit referred to in paragraph (1).

(5) The notification referred to in paragraph (4) must—

(a) state—

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

(ii) subject to paragraph (6), the date on which the transfer will take effect;

(iii) the powers to be transferred or granted; and

(iv) in accordance with paragraph (8), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and

(b) where relevant, be accompanied by a plan showing the works or areas to which the transfer or grant relates.

(6) The date specified under paragraph (5)(a)(ii) must not be earlier than the expiry of ten business days from the date of the receipt of the notification.

(7) The notification given under paragraph (4) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notification.

(8) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit—

(a) the benefit transferred or granted ("the transferred benefit") must include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;

(b) the transferred benefit will reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit will not be enforceable against the undertaker; and

(c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant 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.

Disapplication and modification of legislative provisions

8.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation, maintenance or decommissioning of any part of the authorised development—

(a) sections 23 (prohibition of obstructions, etc. in watercourses), 30 (authorisation of drainage works in connection with a ditch) and 32 (variation of awards) of the Land Drainage Act 1991(**a**);

(b) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991(**b**);

(c) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the appropriate agency) to the Water Resources Act 1991(**c**);

(**a**) Section 23 was amended by paragraph 192(2) of Schedule 22 to the Environment Act 1995 (c. 25), paragraphs 25 and 32 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29) and S.I. 2013/755. Section 30 was amended by S.I. 2013/1036. Section 32 was amended by S.I. 2013/755. There are other amendments but they are not relevant.

(**b**) Paragraphs 1, 2 and 3 were amended by section 49 of, and paragraph 38 of Schedule 2 to, the Flood and Water Management Act 2010 (c. 29). Paragraph 5 was amended by section 86 and section 94 of the Water Act 2014 (c. 21).

(**c**) Paragraph 5 was amended by section 100 of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 (c. 23), paragraph 49 of Schedule 25 to the Flood and Water Management Act 2010 (c. 29). Paragraph 6 was amended by paragraph 26 of Schedule 15 to the Environment Act 1995, section 224 of, and paragraph 24 of Schedule 16, and Part 5(B) of Schedule 22, to, the Marine and Coastal Access Act 2009. Paragraph 6A was inserted by section 103(3) of the Environment Act 1995. There are other amendments but they are not relevant.

(d) the provisions of the Neighbourhood Planning Act 2017(**a**), insofar as they relate to temporary possession of land under article 31 (temporary use of land for carrying out the authorised development) and article 32 (temporary use of land for maintaining the authorised development) of this Order;

(e) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(**b**) in respect of a flood risk activity only; and

(f) the local enactments and local byelaws listed in Schedule 3 (legislation to be disapplied), and any byelaws or other provisions made under any of those enactments or byelaws, insofar as the provisions are inconsistent with a provision, of or a power conferred by, this Order.

(2) For the purposes of section 9 (requirement of licence for felling) of the Forestry Act 1967(**c**) any felling comprised in the carrying out of any work or operation required for the purposes of, or in connection with, the construction of the authorised development is deemed to be immediately required for the purpose of carrying out development authorised by planning permission granted under the 1990 Act.

(3) Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 (meaning of "development") of the Community Infrastructure Levy Regulations 2010(**d**) any building comprised in the authorised development is deemed to be—

(a) a building into which people do not normally go; or

(b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Defence to proceedings in respect of statutory nuisance

9.—(1) Where proceedings are brought under section 82(1) (summary proceedings by a person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(e) in relation to a nuisance falling within paragraph (d) or (g) of section 79(1) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

(a) 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 site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974(**f**); or

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

(c) 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 apply where the consent relates to the use of premises by the undertaker for purposes of, or, in connection with, the construction, maintenance or decommissioning of the authorised development.

(**a**) 2017 c. 20.
(**b**) S.I. 2016/1154. Regulation 12 was amended by S.I. 2018/110.
(**c**) 1967 c. 10. Section 9 was amended by paragraph 14 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11). There are other amendments to section 9 that are not relevant to this Order.
(**d**) S.I. 2010/948, amended by S.I. 2011/987; there are other amending instruments but none are relevant to this Order.
(**e**) 1990 c. 43. Section 82 was amended by section 103 of the Clean Neighbourhoods and Environment Act 2005 (c. 16); section 79 was amended by sections 101 and 102 of the same Act. There are other amendments not relevant to this Order.
(**f**) 1974 c. 40. Section 61(9) was amended by paragraph 15 of Schedule 3 to the Environmental Protection Act 1990. There are other amendments to the 1974 Act which are not relevant to the Order.

PART 3

STREETS

Street works

10.—(1) The undertaker may for the purposes of the authorised development, enter on so much of any of the streets as are within the Order limits and may—

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

(b) drill, tunnel or bore under the street;

(c) place and keep apparatus under the street;

(d) maintain apparatus in the street, change its position or remove it;

(e) repair, replace or otherwise alter the surface or structure of the street or any culvert under the street; and

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

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

(3) Notwithstanding article 11 (application of the 1991 Act) the provisions of sections 54 (notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any street works carried out under paragraph (1).

(4) The powers conferred by paragraph (1) must not be exercised without prior written consent of the street authority.

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

(6) For deemed consent under paragraph (5) to apply to any application for consent under paragraph (4), the application must include a statement that the provisions of paragraph (5) apply to that application

(7) If an application for consent under paragraph (4) does not include the statement required under paragraph (6), then the provisions of paragraph (5) will not apply to that application.

Application of the 1991 Act

11.—(1) Works executed under this Order in relation to a highway, which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

(a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (highway authorities, highways and related works) of that Act; or

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

(**a**) Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

(**b**) Section 184 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); section 4 of, and paragraph 45(11) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 168 of, and paragraph 9 of Schedule 8 and Schedule 9 to, the New Roads and Street Works Act 1991.

(2) In Part 3 (street works in England and Wales) of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

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

(a) section 56(**a**) (power to give directions as to timing);

(b) section 56A(**b**) (power to give directions as to placing of apparatus);

(c) section 58(**c**) (restrictions following substantial road works);

(d) section 58A(**d**) (restriction on works following substantial street works;

(e) section 73A(**e**) power to require undertaker to re-surface street);

(f) section 73B(**f**) (power to specify timing etc. of re-surfacing);

(g) section 73C(**g**)(materials, workmanship and standard of re-surfacing);

(h) section 78A(**h**)(contributions to costs of re-surfacing by undertaker); and

(i) Schedule 3A(**i**) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act(**j**) mentioned in paragraph (5) (which together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any closure, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 14 (temporary closure of streets and public rights of way), whether or not the closure, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(**k**) referred to in paragraph (4) are—

(a) section 54(**l**) (advance notice of certain works) subject to paragraph (6);

(b) section 55 (notice of starting date of works subject to paragraph (6));

(c) section 57(**m**) (notice of emergency works);

(d) section 59(**n**) (general duty of street authority to co-ordinate works);

(e) section 60 (general duty of undertakers to co-operate);

(f) section 68 (facilities to be afforded to street authority);

(g) section 69 (works likely to affect other apparatus in the street);

(h) section 75(**o**) (inspection fees);

(i) section 76 (liability for cost of temporary traffic regulation);

(j) section 77 (liability for cost of use of alternative route); and

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

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a closure, alteration or diversion (as the case may be) required in a case of emergency.

(**a**) Section 56 was amended by section 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(**b**) Section 56A was inserted by section 44 of the Traffic Management Act 2004.
(**c**) Section 58 was amended by section 51 of, and Schedule 1 to, the Traffic Management Act 2004.
(**d**) Section 58A was inserted by section 52 of the Traffic Management Act 2004.
(**e**) Section 73A was inserted by section 55 of the Traffic Management Act 2004.
(**f**) Section 73B was inserted by section 55 of the Traffic Management Act 2004.
(**g**) Section 73C was inserted by section 55 of the Traffic Management Act 2004.
(**h**) Section 78A was inserted by section 57 of the Traffic Management Act 2004.
(**i**) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.
(**j**) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004.
(**k**) Sections 55, 57, 60, 68 and 69 were amended by the Traffic Management Act 2004.
(**l**) As also amended by section 49(1) of the Traffic Management Act 2004.
(**m**) As amended by section 49(1) of the Traffic Management Act 2004.
(**n**) As amended by section 42 of the Traffic Management Act 2004.
(**o**) As amended by section 58(2) of the Traffic Management Act 2004.

Power to alter layout, etc., of streets

12.—(1) The undertaker may for the purposes of the authorised development, or in connection with the authorised development, alter the layout of or carry out any works in the streets specified in column (1) of Schedule 4 (alteration of streets) in the manner specified in relation to that street in column (2).

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraphs (3) and (4), the undertaker may, for the purposes of constructing, operating maintaining or decommissioning the authorised development, alter permanently or temporarily the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

(a) alter the level or increase the width of the carriageway by reducing the width of any kerb or verge within the street;

(b) alter the level or increase the width of any such kerb or verge;

(c) make and maintain passing places; and

(d) alter, remove, replace, install and relocate any street furniture, including bollards, lighting columns, road signs and chevron signs.

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

(4) The powers conferred by paragraph (2) must not be exercised without the prior written consent of the street authority.

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

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

(7) For deemed consent under paragraph (6) to apply to any application for consent under paragraph (4), the application must include a statement that the provisions of paragraph (6) apply to that application.

(8) If an application for consent under paragraph (4) does not include the statement required under paragraph (7), then the provisions of paragraph (6) will not apply to that application.

Construction and maintenance of altered streets

13.—(1) The alterations to each of the streets specified in column (1) of the table in Schedule 4 (alteration of streets) to this Order must be completed to the reasonable satisfaction of the street authority and, unless otherwise agreed by the street authority, the alterations must be maintained by and at the expense of the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the street authority.

(2) Those restoration works carried out in accordance with article 12(3) (power to alter layout, etc., of streets) must be completed to the reasonable satisfaction of the street authority and must be maintained by the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the street authority.

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

(4) For the purposes of a defence under paragraph (3), a court must in particular have regard to the following matters—

(a) the character of the street including the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a street of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the street;

(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and

(e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed, but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

Temporary closure or restriction of streets and public rights of way

14.—(1) The undertaker may, for the purposes of, or in connection with, the construction, operation, maintenance and decommissioning of the authorised development, temporarily close, alter, divert or restrict the use by vehicles, or classes of vehicles, or pedestrians of—

(a) the streets set out in column (1) of Part 1 of Schedule 5 (streets and public rights of way to be temporarily closed or restricted) to the extent specified, by reference to the letters and numbers shown on the streets and access plan in column (1) of that Schedule; and

(b) the public rights of way set out in column (1) of Part 2 of Schedule 5 (streets and public rights of way to be temporarily closed or restricted) to the extent specified, by reference to the letters and numbers shown on the streets and access plan in column (1) of that Schedule.

(2) Without prejudice to the specific powers in paragraph (1) and subject to paragraph (5) the undertaker, for the purposes of, or in connection with, the construction, operation, maintenance and decommissioning of the authorised development may temporarily close, alter, divert, prohibit the use of, authorise the use of or restrict the use of any street or public right of way and may for any reasonable time—

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

(b) subject to paragraph (4), prevent all persons from passing along the street or public right of way.

(3) The undertaker may use any street temporarily closed, altered, diverted, prohibited or restricted under the powers conferred by this article within the Order limits as a temporary working site.

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

(5) The undertaker must not temporarily close, alter, divert, prohibit the use of, authorise the use of, or restrict the use of—

(a) any street or public right of way referred to in paragraph (1) without first consulting the street authority; and

(b) any other street or public right of way without the consent of the street authority, which may attach reasonable conditions to the consent, such consent not to be unreasonably withheld.

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

(7) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily close, prohibit the use of, authorise the use of, restrict the use of, alter or divert any public right of way within the Order limits which is added to the definitive map and statement (within the meaning of the Wildlife and Countryside Act 1981) on or after 6 January 2026.

(8) If a street authority which receives a valid application for consent under paragraph (5)(b) 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.

(9) For deemed consent under paragraph (8) to apply to any application for consent under paragraph (5)(b) the application must include a statement that the provisions of paragraph (8) apply to that application.

(10) If an application for consent under paragraph (5)(b) does not include the statement required under paragraph (9), then the provisions of paragraph (8) will not apply to that application.

Access to works

15.—(1) The undertaker may, for the purposes of the authorised development—

(a) form and lay out the permanent means of access, or improve existing means of access, in the locations specified in Schedule 6 (access to works); and

(b) with the consent of the street authority form and layout such other means of access, or improve existing means of access, at such locations within the Order limits.

(2) If the street authority which receives an application for consent under paragraph (1)(b) 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.

(3) For deemed consent under paragraph (2) to apply to any application for consent under paragraph (1)(b), the application must include a statement that the provisions of paragraph (2) apply to that application.

(4) If an application for consent under paragraph (1)(b) does not include the statement required under paragraph (3), then the provisions of paragraph (2) will not apply to that application.

Use of private roads

16.—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction or maintenance of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

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

Traffic regulation measures

17.—(1) Subject to the provisions of this article the undertaker may at any time, in the interests of safety and for the purposes of, or in connection with, the construction, maintenance and decommissioning of the authorised development—

(a) temporarily make provision for traffic signs and signals and use of bankspersons in respect of the lengths of road specified in Part 1 of Schedule 7 (traffic regulation measures) and the placing of any traffic signs and signals is deemed to have been permitted by the traffic authority for the purposes of section 65 (powers and duties of

traffic authorities as to placing of traffic signs) of the 1984 Act and the Traffic Signs Regulations and General Directions 2016(**a**);

(b) temporarily make provision, in respect of the lengths of road specified in Part 2 of Schedule 7 (traffic regulation measures) imposing the temporary speed limit mentioned in column (2); and

(c) temporarily make provision, in respect of the lengths of road specific in Part 3 of Schedule 7 (traffic regulation measures) imposing the dedicated left turn regime in column (2).

(2) Subject to the provisions of this article and without limitation to the exercise of the powers conferred by paragraph (1), the undertaker may for the purposes of the construction, maintenance or decommissioning of the authorised development make temporary provision—

(a) as to the speed at which vehicles may proceed along any road;

(b) permitting, prohibiting or restricting the closing, waiting, loading or unloading of vehicles on any road;

(c) as to the prescribed routes for vehicular traffic or the direction or priority of vehicular traffic on any road;

(d) permitting or prohibiting or restricting the use by vehicular traffic or non-vehicular traffic of any road; and

(e) suspending or amending in whole or in part any order made, or having effect as if made, under the 1984 Act, either at all times or at times, on days or during such periods as may be reasonably specified by the undertaker.

(3) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendments) Regulations 2011(**b**) when in accordance with regulation 3(5) of those regulations.

(4) Before exercising the power conferred by paragraph (2) the undertaker must—

(a) consult with the chief officer of police in whose area the road is situated; and

(b) obtain the written consent of the traffic authority, which consent must not be unreasonably withheld.

(5) The undertaker must not exercise the powers in paragraphs (1) or (2) unless it has—

(a) given not less than 28 days' notice in writing of its intention to do so to the chief officer of police and to the traffic authority in whose area the road is situated;

(b) not less than seven days before the provision is to take effect published the undertaker's intention to make the provision in one or more newspapers circulating in the area in which any road to which the provision relates is situated; and

(c) displayed a site notice containing the same information at each end of the length of road affected.

(6) Any provision made under the powers conferred by paragraphs (1) or (2) of this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred in paragraphs (1) or (2).

(7) Any provision made by the undertaker under paragraphs (1) or (2)—

(a) must be made by written instrument in such form as the undertaker considers appropriate;

(b) has effect as if duly made by the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify specific savings and exemptions to which the provision is subject; and

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

(**a**) S.I. 2016/362.
(**b**) S.I. 2011/935.
(**c**) 2004 c. 18. There are amendments to this Act not relevant to this Order.

(8) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (4)(b) the traffic authority is deemed to have granted consent.

(9) For deemed consent under paragraph (8) to apply to any application for consent under paragraph (4)(b), the application must include a statement that the provisions of paragraph (8) apply to that application.

(10) If an application for consent under paragraph (4)(b) does not include the statement required under paragraph (9), then the provisions of paragraph (8) will not apply to that application.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

18.—(1) Subject to sub-paragraphs (3), (4) and (8) the undertaker may use any watercourse, public sewer or drain for the drainage of water in connection with the construction, maintenance or decommissioning 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, whose consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

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

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

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

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

(6) The undertaker must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river other than in accordance with a consent granted by the Environment Agency.

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

(8) In this article—

(a) "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(**c**), an internal drainage board, a joint planning

(**a**) 1991 c. 56. Section 106 was amended by section 35(8)(a) of the Competition and Service (Utilities) Act 1992 (c. 43) and sections 36(2) and 99 of the Water Act 2003 (c. 37). There are other amendments to this section which are not relevant to this Order.
(**b**) S.I. 2016/1154.
(**c**) 1964 c. 40.

board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

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

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

(10) For deemed consent under paragraph (9) to apply to any application for consent under paragraph (3) or approval under paragraph (4)(a), the application must include a statement that the provisions of paragraph (9) apply to that application.

(11) If an application for consent under paragraph (3) or approval under paragraph (4)(a) does not include the statement required under paragraph (10), then the provisions of paragraph (9) will not apply to that application.

Protective work to buildings

19.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building located within the Order limits or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the construction of any part of the authorised development in the vicinity of the building; or

(b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of five years beginning with the date of final commissioning of that part of the development; and

(c) to facilitate or during decommissioning any part of the authorised development in the vicinity of the building.

(3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building, the undertaker may (subject to paragraphs (5) and (6))—

(a) enter the building and any land within its curtilage; and

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

(5) Before exercising—

(a) a right under paragraph (1) to carry out protective works to a building;

(b) a right under paragraph (3) to enter a building and land within its curtilage;

(c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or

(d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise the power and, in a case falling within sub-paragraph (a), (c) or (d), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (4)(a), (4)(b), (4)(c) or (4)(d) the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question of whether it

is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 44 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of the rights.

(8) Where—

(a) protective works are carried out to a building under this article; and

(b) within the period of five years beginning with the date of final commissioning for that part of the authorised development in the vicinity of the building it appears that the protective works are inadequate to protect the building against damage caused by the construction or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Subject to article 48 (no double recovery) nothing in this article relieves the undertaker from any liability to pay compensation under section 102(2) (further provision as to compensation for injurious affection) of the 1965 Act.

(10) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) In this article "protective works", in relation to a building, means—

(a) underpinning, strengthening and any other works the purpose of which is to prevent damage that may be caused to the building by the construction, operation, maintenance, use or decommissioning of the authorised development; and

(b) any works the purpose of which is to remedy any damage that has been caused to the building by the construction, maintenance, use or decommissioning of the authorised development.

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

Authority to survey and investigate the land

20.—(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 scope of sub-paragraph (a), make any excavation, trial holes, boreholes and other investigations in such positions on the land as the undertaker thinks fit to investigate the extent or the nature of the surface layer, subsoil and ground water and remove soil and water samples;

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

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

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

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

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

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

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

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

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

but such consent must not be unreasonably withheld.

(5) 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 (determination of questions of disputed compensation) of the 1961 Act.

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

(a) under paragraph (4)(a) in the case of a highway authority; or

(b) under paragraph (4)(b) in the case of a street authority,

that authority will be deemed to have granted consent.

(7) For deemed consent under paragraph (6) to apply to any application for consent under paragraph (4)(a) or (4)(b), the application must include a statement that the provisions of paragraph (6) apply to that application.

(8) If an application for consent under paragraph (4)(a) or (4)(b) does not include the statement required under paragraph (7), then the provisions of paragraph (6) will not apply to that application.

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

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

21.—(1) 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) This article is subject to—

(a) article 23 (time limit for exercise of authority to acquire land compulsorily);

(b) article 24 (compulsory acquisition of rights and imposition of restrictive covenants);

(c) article 25 (private rights over land);

(d) article 26 (power to override easements and other rights);

(e) article 28 (acquisition of subsoil only);

(f) article 30 (rights under or over streets);

(g) article 31 (temporary use of land for carrying out the authorised development);

(h) article 37 (crown rights); and

(i) article 46 and Schedule 11 (protective provisions).

Compulsory acquisition of land – incorporation of the mineral code

22. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(**a**) are incorporated in this Order subject to the modifications that—

(a) paragraph 8(3) is not incorporated;

(b) for the "acquiring authority" substitute "the undertaker"; and

(c) for "undertaking" substitute "authorised development".

Time limit for exercise of authority to acquire land compulsorily

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

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

(b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 27 (application of the 1981 Act).

(2) The authority conferred by article 31 (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 and imposition of restrictive covenants

24.—(1) Subject to paragraphs (2) to (4) and article 31 (temporary use of land for carrying out the authorised development), the undertaker may acquire such rights over the Order land, or impose restrictive covenants over the Order land, as may be required for any purpose for which that land may be acquired under article 21 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 8 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights in the land and the imposition of such restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) of and Schedule 2A (counter-notice requiring purchase of land) to the 1965 Act, as modified by Schedule 9 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants), where the undertaker acquires a right over land or the benefit of a restrictive covenant affecting land under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 9 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictive covenants) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) In any case where the acquisition of new rights of imposition of a restriction under paragraphs (1) or (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.

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

(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 over land

25.—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land under article 21 (compulsory acquisition of land) are extinguished—

(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) (powers 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 24 (compulsory acquisition of rights and imposition of restrictive covenants) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

(a) as from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker whether compulsorily, by agreement or through the grant of a lease of the land 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.

(3) Subject to the provisions of this article, all private rights and restrictions over land owned by the undertaker that are within the Order land are extinguished at the start of any activity authorised by this Order which interferes with or breaches those rights Subject to the provisions of this article, all private rights and restrictions 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 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 33 (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 the 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 sub-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) References in this article to private rights over land include any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support; and include restrictions as to the use of land arising by virtue of a contract, agreement or undertaking having that effect.

Power to override easements and other rights

26.—(1) Any authorised activity which takes place on land within the Order land (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) The interests and rights to which this article applies include any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by the virtue of a contract.

(3) Where an interest, right or restriction to which this article applies is interfered with or breached under paragraph (1), unless otherwise agreed, compensation—

(a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and

(b) is to be assessed in the same way and subject to the same rules as in the case of other compensation under those sections where—

(i) the compensation is to be estimated in connection with a purchase under that Act; or

(ii) the injury arises from the execution of works on or use of land acquired under that Act.

(4) Where a person deriving title under the undertaker by whom the land in question was acquired—

(a) is liable to pay compensation by virtue of paragraph (3); and

(b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(5) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

(6) In this article "authorised activity" means—

(a) the erection, construction, operation, maintenance or decommissioning of any part of the authorised development;

(b) the exercise of any power authorised by this Order; or

(c) the use of any land within the Order limits (including the temporary use of land).

Application of the 1981 Act

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

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

(3) In section 1 for subsection (2) substitute—

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

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

(5) In section 5B (extension of time limit during challenge), in subsection (1), for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 (legal challenges relating to applications for orders granting development consent) of the 2008 Act.".

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

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

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

> "(2) But see article 28(3) (acquisition of subsoil only) of the Peartree Hill Solar Farm Order 2026, which excludes the acquisition of subsoil only from this Schedule.".

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

Acquisition of subsoil only

28.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 21 (compulsory acquisition of land) or article 24 (compulsory acquisition of rights and imposition of restrictive covenants) 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 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 only—

(a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act as modified by article 29 (modification of Part 1 of the Compulsory Purchase Act 1965);

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

(c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

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

Modification of Part 1 of the Compulsory Purchase Act 1965

29.—(1) Part 1 (compulsory acquisition under Acquisition of Land Act 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) 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 11A (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after "land" insert "under that provision"; and

(b) in subsection (2), after "land" insert "under that provision".

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

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

"(2) But see article 28(3) (acquisition of subsoil only) of the Peartree Hill Solar Farm Order 2026, which excludes the acquisition of subsoil only from this Schedule."; and

(b) after paragraph 29 insert—

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 19 (protective works to buildings), article 20 (authority to survey and investigate the land), article 31 (temporary use of land for carrying out the authorised development) or article 32 (temporary use of land for maintaining the authorised development) of the Peartree Hill Solar Farm Order 2026.".

Rights under or over streets

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

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

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

(a) any subway or underground building; or

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

(4) Subject to paragraph (5), any person who is an owner or occupier of land 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

31.—(1) Subject to paragraph (2), 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 column (1) of the table in Schedule 10 (land of which only temporary possession may be taken for carrying out the authorised development) for the purpose specified in relation to that land in column (2) of the table in 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 and no declaration has been made under section 4 (execution of declaration) of the 1981 Act);

(b) remove any buildings, agricultural plant, apparatus, drainage, fences, landscaping, debris and vegetation from that land;

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

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

(e) construct any works, on that land as are mentioned in Schedule 1 (authorised development); and

(f) carry out mitigation works required in accordance with the requirements in Schedule 2 (requirements).

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

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

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

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

(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 final commissioning of the part of the authorised development for which temporary possession of the land was taken; or

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

(5) 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 unless otherwise agreed but the undertaker is not required to—

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

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

(c) remove any new road surface or other improvements carried out under this article to any street;

(d) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;

(e) remove any fencing or boundary treatments installed by the undertaker under this article to replace or enhance existing fencing or boundary treatments; or

(f) restore the land on which any works have been carried out under paragraph (1)(f) insofar as the works relate to mitigation, compensation or enhancement works identified in the environmental statement or required under the requirements in Schedule 2 (requirements).

(6) 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.

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

(8) Any dispute as to the satisfactory removal of temporary works and restoration of land under paragraph (5) does not prevent the undertaker giving up possession of the land.

(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 carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(10) The undertaker may not compulsorily acquire, acquire new rights over or impose restrictive covenants over, the land referred to in paragraph (1)(a)(i) under this Order.

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

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

(13) Nothing in this article prevents the taking of temporary possession more than once in relation to any land under paragraph (1).

Temporary use of land for maintaining the authorised development

32.—(1) Subject to paragraph (2), at any time during the maintenance period (as defined in paragraph (11)) relating to any part of the authorised development, the undertaker may—

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

(b) enter on any land within the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and

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

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

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

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

(3) Not less than 28 days (or such period less than 28 days as may be requested by the undertaker and which is then approved by the owner of the land) 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 may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

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

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

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

(8) 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 (6).

(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 under this article to the same extent as it applies to the compulsory

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

(11) In this article "the maintenance period" means the period of 5 years beginning with the date of final commissioning save that in relation to landscaping or ecological works where "the maintenance period" means such period as may be approved in the landscape and ecological management plan in accordance with requirement 9 of Schedule 2 to this Order beginning with the date on which that part of the landscaping or ecological works is completed.

Statutory undertakers

33. Subject to the provisions of Schedule 11 (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 plans within the Order land and described in the book of reference; 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 closed streets

34. Where a street is altered or diverted or its use is temporarily prohibited or restricted under article 10 (street works), article 12 (power to alter layout, etc., of streets), article 13 (construction and maintenance of altered streets) or article 14 (temporary closure of streets and public rights of way) any statutory undertaker whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to Schedule 11 (protective provisions), as if this Order had not been made.

Recovery of costs of new connections

35.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 33 (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 33 (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 article 34 (apparatus and rights of statutory undertakers in closed streets) or Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

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

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

(**a**) 2003 c. 21.

Special category land

36.—(1) On the exercise by the undertaker of the relevant Order powers to acquire rights or impose restrictive covenants over the special category land so much of the special category land as is required for the purposes of the exercise by the undertaker of those rights or enforcement of those restrictive covenants is discharged from all rights, trusts and incidents to which it was previously subject, so far as their continuance would be inconsistent with the exercise of the relevant Order powers.

(2) In this article—

"relevant Order powers" means the rights and powers exercisable over the special category land by the undertaker under article 24 (compulsory acquisition of rights and imposition of restrictive covenants); and

"special category land" means the land in the East Riding of Yorkshire identified in the book of reference and on the special category land plans and forming part of Figham Common and numbered 13-6, 13-8, 14-1 and 14-3 on the special category land plans.

Crown Rights

37.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee or lessee to use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;

(b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or

(c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown Land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

PART 6

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

38.—(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, operation or decommissioning of the authorised development, or any part of it,

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

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

(3) No 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

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

Felling or lopping of trees and removal of hedgerows

40.—(1) Subject to paragraph (2) and article 41 (trees subject to tree preservation orders) the undertaker may fell or lop any tree or shrub near or within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

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

(b) constituting a danger to persons using the authorised development; or

(c) obstructing or interfering with the passage of vehicles to the extent necessary for the purposes of construction, maintenance, operation or decommissioning of the authorised development.

(2) In carrying out any activity authorised by paragraphs (1), (4) or (5), the undertaker must not do any unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

(4) The undertaker may, for the purposes of the authorised development or in connection with the authorised development, subject to paragraph (2) and requirement 9 undertake works to or remove any hedgerows within the Order limits that may be required.

(5) Without prejudice to the generality of paragraph (4), the undertaker may, for the purposes of the authorised development or in connection with the authorised development remove the hedgerows specified in column (2) of the table in Part 1 and Part 2 of Schedule 12 (hedgerows to be removed) and shown on the tree preservation order and hedgerow plans.

(6) The undertaker must reinstate or replace those lengths of hedgerow removed as specified in column (2) of the table in Part 1 of Schedule 12 (hedgerows to be removed) and shown on the tree preservation order and hedgerow plans.

(7) The undertaker may not under paragraphs (1), (4) and (5) fell or lop a tree or remove hedgerows within the extent of the publicly maintainable highway without the prior consent of the highway authority.

(8) In this article "hedgerow" has the same meaning as in the Hedgerows Regulations 1997(**a**) (and includes, where relevant, important hedgerows as defined by those Regulations).

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

Trees subject to tree preservation orders

41.—(1) Subject to paragraph (2), the undertaker may fell, lop, prune, or cut back the roots of any tree within or overhanging the Order limits which is the subject of a tree preservation order or that becomes subject to a tree preservation order which was made after the date this Order is made if it reasonably believes it to be necessary to do so in order to prevent the tree—

(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)—

(a) the undertaker must do no unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and

(b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act will not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

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

Certification of documents, etc.

42.—(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 13 (documents to be certified) to this Order 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.

Service of notices

43.—(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 a body corporate, the registered or principal office of that body, and

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

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

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having 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).

(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.

(10) In this article "legible in all material respects" means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

44.—(1) Except where otherwise expressly provided for in this Order and unless otherwise agreed in writing between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) or which falls to be determined under paragraph 22 (appeals) of Schedule 2 to this Order must be resolved in accordance with this article.

(2) The parties must use reasonable endeavours to settle any difference to which paragraph (1) applies through negotiations undertaken in good faith by senior representatives of the parties.

(3) Any difference which is not resolved to the satisfaction of the parties under paragraph (2) within ten business days of the dispute arising (or such longer period as may be agreed) must be referred to and settled by arbitration in accordance with the rules set at Schedule 14 (arbitration rules) and a single arbitrator to be agreed between the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

(4) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Requirements, appeals, etc.

45.—(1) Where an application or request is submitted to the local planning authority or any other relevant person for any consent, agreement or approval required or contemplated by any of the provisions of this Order, such consent, agreement or approval, if given, must be given in writing and must not be unreasonably withheld.

(2) Part 2 (procedure for discharge of requirements) of Schedule 2 (requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements included in Part 1 of that Schedule, and any document referred to in any requirement in that Part 1.

Protective provisions

46. Schedule 11 (protective provisions) has effect.

Funding

47.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any Order 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 in accordance with the provisions referred to in paragraph (2) 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 in accordance with the provisions referred to in paragraph (2) in relation to that land.

(2) The provisions are—

(a) article 21 (compulsory acquisition of land);

(b) article 24 (compulsory acquisition of rights and imposition of restrictive covenants);

(c) article 25 (private rights over land);

(d) article 26 (power to override easements and other rights);

(e) article 28 (acquisition of subsoil only);

(f) article 30 (rights under or over streets);

(g) article 31 (temporary use of land for carrying out the authorised development);

(h) article 32 (temporary use of land for maintaining the authorised development); and

(i) article 33 (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 a 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.

No double recovery

48. Compensation will not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Signed by Authority of the Secretary of State for Energy Security & Net Zero

David Wagstaff
Head of Energy Infrastructure Planning
Department for Energy Security and Net Zero

2nd July 2026

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

1. In this Schedule—

"balance of solar plant" means either—

(a) a solar station comprising centralised inverters, transformers, switchgear and other ancillary equipment either—

(i) located outside on a permeable or concrete foundation; or

(ii) housed together within a container on a permeable or concrete foundation; or

(b) string inverters transformers, switchgear and other ancillary equipment attached either to mounting structures or a ground mounted frame on a permeable or concrete foundation or placed on metal skids;

"CCTV" means a closed circuit television security system;

"electrical cables" means—

(a) cables of differing types and voltages installed for the purposes of conducting electricity, auxiliary cables, cables connecting to direct current (DC) boxes, earthing cables and optical fibre cables; and

(b) works connected with cable laying including excavations, storage of excavated material, jointing pits, hardstanding adjoining the jointing pits, combiner boxes, fibre bays, cable ducts, cable protections, joint protection, manholes, kiosks, marker posts, underground cable marker, tiles and tape, send and receive pits for horizontal directional drilling, trenching, lighting, and a pit or container to capture fluids associated with drilling;

"inverter" means electrical equipment fitted to mounting structures required to convert direct current power generated by the solar modules to alternating current;

"Land Area B" means land that forms part of the authorised development as shown on the location and land area plan;

"Land Area C" means land that forms part of the authorised development as shown on the location and land area plan;

"Land Area D" means land that forms part of the authorised development as shown on the location and land area plan;

"Land Area E" means land that forms part of the authorised development as shown on the location and land area plan;

"Land Area F" means land that forms part of the authorised development as shown on the location and land area plan;

"mounting structure" means a frame or rack made of galvanised steel or other material designed to support the solar modules and inverters and mounted in piles driven into the ground;

"National Grid substation" means the National Grid Creyke Beck substation;

"permissive paths" means new access tracks providing restricted public access within the Order limits;

"solar module" means a solar photovoltaic panel designed to convert solar irradiance to electrical energy fitted to mounting structures;

"substation" means a substation containing electrical equipment required to switch, transform, convert electricity and provide reactive power consumption;

"switchgear" means a combination of electrical disconnect switches, fuses or circuit breakers used to control, protect and isolate electrical equipment; and

"transformer" means a structure containing electrical switchgear serving to transform electricity to a higher voltage.

2. In the East Riding of Yorkshire, a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act and associated development under section 115 of the 2008 Act.

The nationally significant infrastructure project comprises all or part of the following works—

Work No. 1 — a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts including—

(a) **Work No. 1A** — not used,

(b) **Work No. 1B** — works in Land Area B comprising—

(i) solar modules; and

(ii) balance of solar plant,

(c) **Work No. 1C** — works in Land Area C comprising—

(i) solar modules; and

(ii) balance of solar plant,

(d) **Work No. 1D** — works in Land Area D comprising—

(i) solar modules; and

(ii) balance of solar plant,

(e) **Work No. 1E** — works in Land Area E comprising—

(i) solar modules; and

(ii) balance of solar plant,

(f) **Work No. 1F** — works in Land Area F comprising—

(i) solar modules;

(ii) balance of solar plant;

and associated development within the meaning of section 115(2) of the 2008 Act in connection with Works Nos. 1B to 1F comprising—

Work No. 2 — a battery energy storage system including—

(a) battery energy storage cells;

(b) electricity stabilizer units including inverters, transformers, DC-DC converters and ancillary equipment;

(c) monitoring and control systems;

(d) heating, ventilation and air conditioning systems;

(e) fire safety infrastructure; and

(f) containers or enclosures housing all or any of (a) to (e).

Work No. 3 — works including—

(a) electrical cables, including but not limited to electrical cables connecting Works Nos. 1B, 1C, 1D, 1E and 1F to one another, Work No. 2 and to Work Nos. 4A and 4B and from Work Nos. 4A and 4B to Work No. 5;

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

(c) improvement, maintenance and use of existing private tracks;

(d) laying down of internal access tracks, ramps, means of access, footpaths, permissive paths, crossing of watercourses, and roads, including the laying and construction of drainage infrastructure, signage and information boards;

(e) works for the provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure, and perimeter fencing;

(f) works required for crossing, moving re-routing or over/undergrounding of existing utility assets (including water, gas, sewer pipes, electricity distribution/transmission cabling, telecommunications etc.);

(g) earthworks; and

(h) landscaping and biodiversity mitigation and enhancement measures including planting.

Work No. 4— development of two onsite substations including—

(a) **Work No. 4A**—

(i) substation, switch room buildings, concrete foundations and ancillary equipment including reactive power units;

(ii) power conversion system units including inverters, switchgear, transformers and ancillary equipment;

(iii) control building or container housing offices, storage containers and space, welfare facilities, waste storage within a fenced compound, hard standing areas and car parking;

(iv) communications tower being not more than 15 metres in height;

(v) monitoring and control systems;

(vi) harmonic filter compound;

(vii) deluge system including water tanks and fire suppression, and drainage and water containment features and associated infrastructure;

(viii) electrical cables; and

(ix) access gates and tracks, security palisade fencing and bunding.

(b) **Work No. 4B**—

(i) substation, switch room buildings, concrete foundations and ancillary equipment including reactive power units;

(ii) power conversion system units including inverters, switchgear, transformers and ancillary equipment;

(iii) control building or container housing offices, storage containers and space, welfare facilities, waste storage within a fenced compound, hard standing areas and car parking;

(iv) communications tower being not more than 15 metres in height;

(v) monitoring and control systems;

(vi) harmonic filter compound;

(vii) deluge system including water tanks and fire suppression, and drainage and water containment features and associated infrastructure;

(viii) electrical cables; and

(ix) access gates and tracks, security palisade fencing and bunding.

Work No. 5 — works to lay electrical cables up to 132 kilovolts including—

(a) 132 kilovolt electrical cables;

(b) trenching, tunnelling, boring and drilling works;

(c) improvement, maintenance and use of existing private tracks;

(d) laying down of internal access tracks, ramps, means of access, footpaths, crossing of watercourses, and roads, including the laying and construction of drainage infrastructure, signage and information boards; and

(e) works required for crossing, moving re-routing or over/undergrounding of existing utility assets (including water, gas, sewer pipes, electricity distribution/transmission cabling, telecommunications etc).

Work No. 6 — within the National Grid substation construction of electrical substation infrastructure to facilitate connection of Work. No. 1 to the National Grid, including—

(a) cable switchgear and electrical equipment, transformers, reactive compensation equipment, filters and cooling equipment;

(b) 132 kilovolt connection bay located at National Grid 132 kilovolt switchgear switch room;

(c) control and welfare buildings;

(d) works for the provision of security including security fencing;

(e) lightning rods;

(f) access gates and tracks;

(g) electrical cables; and

(h) other associated equipment and noise-attenuation works.

Work No. 7 — temporary construction and decommissioning compounds including—

(a) areas of hardstanding;

(b) car parking;

(c) site and welfare offices, canteens and workshops;

(d) security infrastructure, including cameras, perimeter fencing and lighting;

(e) site drainage and waste management infrastructure;

(f) electricity, water, waste water and telecommunications connections;

(g) storage of equipment, materials and waste skips;

(h) area for download and turning; and

(i) works to reinforce ground with weight-bearing support infrastructure.

Work No. 8 — works to facilitate access to Works Nos. 1 to 7 and 9 including—

(a) creation of accesses from the street;

(b) enhancement of existing accesses from the street;

(c) creation of visibility splays;

(d) creating of passing places; and

(e) works to widen and surface the street and private means of access.

Work No. 9 — works to create and maintain areas of green infrastructure and habitat management including—

(a) landscape and biodiversity mitigation and enhancement measures including, tree and hedgerow planting;

(b) habitat creation and management including, earth works including embankments, landscaping and construction of drainage infrastructure;

(c) laying down of permissive paths, signage and information boards; and

(d) fencing, gates, boundary treatment and other means of enclosure.

In connection with, and in addition to Works Nos. 1 to 9 further associated development comprising—

(a) works to place, alter, remove or maintain street furniture or apparatus (including statutory undertakers' apparatus) in, under or above a street, including mains, sewers, drains, pipes, cables, cofferdams, lights, fencing and other boundary treatments;

(b) laying down, maintenance and repair of internal access tracks, ramps, watercourses and other temporary crossings, means of access, footpaths and permissive paths including the laying and construction of drainage infrastructure, signage and information boards;

(c) glint and glare boarding;

(d) bunds, embankments, trenching and swales;

(e) fencing, gates, boundary treatments and other means of enclosure;

(f) works, improvements or extensions to the existing drainage and irrigation system and works to alter the position and extent of such irrigation system;

(g) surface water drainage systems and oil water separators;

(h) electrical, gas, water, foul water drainage and telecommunications infrastructure connections, diversions and works to, and works to alter the position of, such services and utilities connections;

(i) works for the provision of security and monitoring measures such as control buildings, containers or structures, CCTV, columns, lighting, cameras, weather stations, and communication infrastructure;

(j) containers or structures to house spare parts and materials required for the day to day operation of the authorised development;

(k) habitat creation and management, including earthworks, landscaping, means of enclosure, and the laying and construction of drainage infrastructure;

(l) electrical cables;

(m) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;

(n) landscaping and biodiversity mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;

(o) working sites in connection with the construction of the authorised development, construction lay down areas and compounds, storage compounds and their restoration;

(p) improvement, strengthening, reconstruction, maintenance and use of existing streets, private tracks and access roads;

(q) temporary footpath diversions and footpath enhancement;

(r) site establishments and preparation works including site clearance (including vegetation removal, demolition of existing buildings and structures); earthworks (including soil stripping and storage and site levelling) and excavations; the alteration of the position of services and utilities; and works for the protection of buildings and land;

(s) tunnelling, boring and drilling works;

and further associated development comprising such other works or operations as may be necessary or expedient for the purposes of or in connection with the construction, operation, maintenance and decommissioning of the authorised development insofar as they are unlikely to give rise to any materially new or materially different environmental effects to those assessed in the environmental statement.

SCHEDULE 2

Article 2

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

"archaeological management strategy" means the document certified by the Secretary of State under article 42 as the archaeological management strategy for the purposes of the Order;

"design parameters document" means the document certified by the Secretary of State under article 42 as the design parameters document for the purposes of this Order;

"outline BSMP" means the document certified by the Secretary of State under article 42 as the outline battery safety management plan for the purposes of this Order;

"outline CEMP" means the document certified by the Secretary of State under article 42 as the outline construction environmental management plan for the purposes of this Order;

"outline CTMP" means the document of that description certified by the Secretary of State under article 42 as the outline construction traffic management plan for the purposes of this Order;

"outline DEMP" means the document certified by the Secretary of State under article 42 as the outline decommissioning environmental management plan for the purposes of this Order;

"outline LEMP" means the document certified by the Secretary of State under article 42 as the outline landscape and ecological management plan for the purposes of the Order;

"outline OEMP" means the means the document certified by the Secretary of State under article 42 as the outline operational environmental management plan for the purposes of the Order;

"outline rights of way and access management plan" means the document certified by the Secretary of State under article 42 as the outline rights of way and access management plan for the purposes of the Order;

"outline site waste management plan" means the document certified by the Secretary of State under article 42 as the outline site waste management plan for the purposes of the Order; and

"outline soil management plan" means the document certified by the Secretary of State under article 42 as the outline soil management plan for the purposes of the Order.

Time limits

2. The authorised development must commence no later than the expiration of five years beginning from the date this Order comes into force.

Detailed design approval

3.—(1) No part of the authorised development may commence until details of—

(a) the layout;

(b) scale;

(c) proposed finished ground levels;

(d) external appearance;

(e) hard surfacing materials;

(f) vehicular and pedestrian access, junction improvements and passing places; and

(g) drainage, water, power and communications cables and pipelines,

relating to that part have been submitted to and approved in writing by the local planning authority.

(2) The details submitted must accord with the design parameters document.

(3) The authorised development must be carried out in accordance with the approved details.

(4) Sub-paragraph (1) does not apply to the matters listed under sub-paragraph (1)(f) if consent has already been given to the details of those works in accordance with articles 10 (street works), 12 (power to alter layout, etc. of streets), 13 (construction and maintenance of altered streets) or 15 (access to works).

Construction environmental management plan

4.—(1) No part of the authorised development may commence until a CEMP for that part has been submitted to and approved by the local planning authority, following consultation by the undertaker with the Environment Agency on matters relevant to its respective functions and Natural England in relation to measures associated with bentonite breakout only.

(2) Any CEMP submitted must include a commitment to regularly share all relevant pre-construction, construction, post-construction and operational survey and monitoring data in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant national and regional environmental recording schemes.

(3) Any CEMP submitted for approval under sub-paragraph (1) must be in accordance with the outline CEMP.

(4) The construction of any part of the authorised development must be carried out in accordance with the approved CEMP for that part.

Construction traffic management plan

5.—(1) No part of the authorised development may commence until a CTMP for that part has been submitted to and approved by the local planning authority, following consultation by the undertaker with Hull City Council and National Highways on matters relevant to their respective functions.

(2) Any CTMP submitted for approval under sub-paragraph (1) must be in accordance with the outline CTMP.

(3) The construction of any part of the authorised development must be carried out in accordance with the approved CTMP for that part.

Soil Management

6.—(1) No part of the authorised development may commence until a soil management plan for that part has been submitted to and approved by the local planning authority.

(2) Any soil management plan submitted for approval under sub-paragraph (1) must be in accordance with the outline soil management plan.

(3) The construction of any part of the authorised development must be carried out in accordance with the approved soil management plan for that part.

Site Waste

7.—(1) No part of the authorised development may commence until a site waste management plan covering that part has been submitted to and approved by the local planning authority.

(2) Any site waste management plan submitted for approval under sub-paragraph (1) must be in accordance with the outline site waste management plan.

(3) Any site waste management plan approved under sub-paragraph (1) must be implemented as approved.

Battery safety management plan

8.—(1) No part of the authorised development that contains Work No. 2 may commence until a BSMP for that part has been submitted to and approved by the local planning authority, following consultation by the undertaker with the Humberside Fire and Rescue Service and the Environment Agency on matters relevant to their respective functions.

(2) Any BSMP submitted for approval under sub-paragraph (1) must be in accordance with the outline BSMP.

(3) Any BSMP approved under sub-paragraph (1) must be implemented as approved and maintained throughout the construction, operation and decommissioning of Work No. 2.

Landscape and ecological management plan

9.—(1) No part of the authorised development may commence until a LEMP for that part has been submitted to and approved by the local planning authority following consultation by the undertaker with the Environment Agency, Natural England and Historic England on matters relevant to their respective functions.

(2) Any LEMP submitted for approval under sub-paragraph (1) must be in accordance with the outline LEMP and must demonstrate how a minimum biodiversity net gain of 55% for area habitat units, 35% for hedgerow units and 10% for watercourse units, calculated using the Department of Environment, Food and Rural Affairs' Statutory Biodiversity Metric (February 2024), or other biodiversity net gain metric agreed between the undertaker and the local planning authority in consultation with Natural England, would be delivered.

(3) Any LEMP submitted must include a commitment to regularly share all relevant pre-construction, construction, post-construction and operational survey and monitoring data in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant national and regional environmental recording schemes.

(4) Any LEMP approved under sub-paragraph (1) must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the LEMP relates.

Public rights of way

10.—(1) No part of the authorised development may commence until a rights of way and access management plan for any sections of public rights of way shown to be temporarily closed or restricted on the streets, rights of way and access plans for that part has been submitted to and approved by the local planning authority.

(2) The rights of way and access management plan must be in accordance with the outline rights of way and access management plan.

(3) The rights of way and access management plan approved under sub-paragraph (1) must be implemented as approved.

Fencing and other means of enclosure

11.—(1) No part of the authorised development may commence until written details of any proposed temporary fences, walls or other means of enclosure for that part have been submitted to and approved by the local planning authority.

(2) No part of the authorised development may commence until written details of any proposed permanent fences, walls or other means of enclosure for that part have been submitted to and approved by the local planning authority.

(3) Any construction site must remain securely fenced in accordance with the approved details under sub-paragraphs (1), (2) and (5) at all times during construction of the part of the authorised development for which it is used.

(4) Any temporary fencing must be removed on completion of the construction of the part of the authorised development for which it was used.

(5) In the event that temporary fences, walls or other means of enclosure are required for the permitted preliminary works, no permitted preliminary works may take place until written details of all proposed temporary fences, walls or other means of enclosure required for such works have been submitted to and approved by the local planning authority.

(6) Prior to the date of final commissioning of the authorised development, any permanent fencing, walls or other means of enclosure approved under sub-paragraph (2) must be completed and properly maintained for the operational lifetime of that part of the authorised development.

Operational noise

12.—(1) No part of Works Nos. 1 or 2 may commence until an operational noise assessment containing details of how the design of that numbered work has incorporated mitigation measures to ensure the operational noise rating levels as set out in the environmental statement are to be complied with for that part has been submitted to and approved by the local planning authority.

(2) The mitigation measures described in the operational noise assessment submitted for each part of Works Nos. 1 and 2 under sub-paragraph (1) must be implemented as approved and shall be maintained for the period specified in the assessment.

Archaeology

13.—(1) No part of the authorised development may commence until a written scheme of investigation for that part has been submitted to and approved by the local planning authority.

(2) Any written scheme of investigation submitted for approval must be in accordance with the archaeological management strategy.

(3) Any archaeological works or programme of archaeological investigation must be carried out in accordance with the written scheme of investigation approved under sub-paragraph (1) for the duration of the works on the part of the authorised development to which the written scheme of investigation relates.

(4) Unless otherwise agreed in writing by Historic England and the local planning authority, for the purposes of sub-paragraph (1) "commence" includes any permitted preliminary works which involve the breaking or disturbing of ground.

Operational environmental management plan

14.—(1) Prior to the date of final commissioning of the authorised development, an OEMP must be submitted to and approved by the local planning authority.

(2) Any OEMP submitted for approval under sub-paragraph (1) must be in accordance with the outline OEMP.

(3) The operation of the authorised development must be carried out in accordance with the approved OEMP.

Decommissioning and restoration

15.—(1) The date of decommissioning for any part of the authorised development must commence no later than 40 years following the date of final commissioning of the authorised development.

(2) Unless otherwise agreed with the local planning authority, no later than 3 months prior to the intended date of decommissioning of any part of the authorised development, the undertaker must submit to the local planning authority for that part a DEMP for approval.

(3) Any DEMP submitted for approval under sub-paragraph (2) must be in accordance with the outline DEMP and must include an anticipated timescale in which decommissioning works should be completed.

(4) No decommissioning works must be carried out until the local planning authority approves the DEMP submitted under sub-paragraph (2) in relation to such works.

(5) The DEMP must be implemented as approved.

(6) This requirement is without prejudice to any other consents or permissions which may be required to decommission any part of the authorised development.

Interaction with Field House Solar Farm and Carr Farm Solar Farm

16.—(1) The undertaker must use all reasonable endeavours to avoid any conflict arising between the carrying out and maintenance of the authorised development and the carrying out of Field House Solar Farm and minimise any conflict arising between the carrying out and maintenance of the authorised development and (i) the carrying out and maintenance of Carr Farm Solar Farm and (ii) the maintenance of Field House Solar Farm.

(2) Without limitation to sub-paragraph (1), the undertaker must—

(a) use all reasonable endeavours to programme its construction activities to avoid the use of the existing access track or a relevant access within the Field House Solar Farm construction phase;

(b) in the event that the construction of the authorised development occurs concurrently with the construction of Field House Solar Farm and Carr Farm Solar Farm (or either of them), to co-operate with Albanwise Ltd so as to reasonably ensure the co-ordination of construction programming, use of the existing access track land assembly, and the carrying out of works in connection with the authorised development so as to minimise disruption to the construction, and maintenance of Field House Solar Farm and Carr Farm Solar Farm;

(c) provide a point of contact for continuing liaison and co-ordination throughout the construction and operation of the authorised development;

(d) exercise the powers of temporary possession and compulsory acquisition in such manner as is reasonably necessary for the undertaker to safely construct, maintain or operate the authorised development whilst, so far as reasonably practicable, minimising any disruption to the construction and operation of Field House Solar Farm and Carr Farm Solar Farm;

(e) unless otherwise agreed with Albanwise Ltd, ensure that the route of a relevant access to and from the authorised development does not require the removal of any above ground infrastructure constructed pursuant to the Field House Solar Farm planning permission; and

(f) before submitting for approval under Requirement 5 a CTMP that relates to a part of the authorised development which would involve the use of the existing access track or a relevant access, consult with, and have due regard to comments made by, Albanwise Ltd in relation to that CTMP on matters relating to the use of the existing access track or a relevant access.

(3) Field House Solar Farm below ground infrastructure shall have the benefit of the Protective Provisions for Electricity Undertakers in Part 1 of Schedule 11 to the Order as if it were "apparatus" as defined in paragraph (2)(a) of Part 1 of Schedule 11.

(4) Where the undertaker identifies an inconsistency between a planning permission and this Order it must notify the local planning authority as soon as reasonably practicable about the existence of the inconsistency, and how the undertaker is proceeding in view of that inconsistency.

(5) In this paragraph—

(a) "above ground infrastructure" means the solar photovoltaic arrays and substation development shown on the approved plan identified in condition 3 of the Field House Solar Farm planning permission and identified as Figure 04 – Proposed Site Plan;

(b) "Albanwise Ltd" means Albanwise Limited (Company Registration Number 01359468) whose registered office is at Botanic House, Hills Road, Cambridge, England, CB2 1PH and any successor who implements the planning permission for Field House Solar Farm and Carr Farm Solar Farm;

(c) "below ground infrastructure" means any apparatus, equipment or structures comprising part of Field House Solar Farm which is below ground, including but not limited to underground electricity cables and associated equipment;

(d) "Carr Farm Solar Farm" means the solar farm development permitted pursuant to the Carr Farm Solar Farm planning permission;

(e) "Carr Farm Solar Farm planning permission" means the planning permission with reference APP/E2001/W/25/3360978;

(f) "conflict" does not include any overlap in the land to be occupied or developed by the undertaker and the land which is the subject of a planning permission for Field House Solar Farm and Carr Farm Solar Farm;

(g) "existing access track" means the existing access track running south off the A1035;

(h) "Field House Solar Farm" means the solar development permitted pursuant to the Field House Farm Solar Farm planning permission;

(i) "Field House Solar Farm construction phase" means the construction period for Field House Solar Farm not exceeding 8 months and commencing when confirmed to the undertaker in writing by Albanwise Ltd no later than 21 days after the date on which the Order is made;

(j) "Field House Farm Solar Farm planning permission" means the planning permission with reference 22/000824/STPLF;

(k) "inconsistency" means a circumstance in which a physical conflict exists, or one in which development is no longer capable of being physically implemented or otherwise operated in accordance with the permission or consent granted;

(l) "planning permission" means planning permission granted under the 1990 Act including planning permission deemed to be granted under article 3 (permitted development) and Classes F, G, I, J, K, L, M and N of Part 8 (Transport related development) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015(**a**); and

(m) "relevant access" means such access to the authorised development as may be constructed pursuant to this Order within the limits of plot 2A-5.

Requirement for written approval

17. Where under any of the requirements the approval, agreement or confirmation of the local planning authority is required that approval, agreement or confirmation must be given in writing.

Amendments to approved details

18.—(1) The undertaker must submit any amendments to any Approved Document to the local planning authority for approval and, following approval, the relevant Approved Document is to be taken to include the amendments as approved under this paragraph.

(2) Approval under sub-paragraph (1) for the amendments to any Approved Document may not be given except where it has been demonstrated to the satisfaction of the local planning authority that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(**a**) S.I. 2015/596.

(3) In this paragraph, "Approved Document" means any document certified under article 42 (certification of plans and documents, etc) and any plans, details or schemes which have been approved pursuant to any requirement.

Consultation

19. In relation to any provision of this Schedule requiring details to be submitted to the local planning authority for approval following consultation by the undertaker with another party, the undertaker must provide such other party with not less than 21 business days for any response to the consultation and thereafter the details submitted to the planning authority for approval must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted including copies of any representations made by a consultee about the proposed application and the undertaker's response to those representations.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under Part 1

20.—(1) Where an application has been made to the local planning 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), the local planning authority must give notice to the undertaker of its decision on the application within a period of 56 days beginning with the later of—

(a) the day immediately following that on which the application is received by the local planning authority;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 21 (further information regarding requirements); or

(c) such other period that is agreed in writing between the undertaker and the local planning authority.

(2) In determining any application made to the local planning authority for any consent, agreement or approval required by a requirement included in this Order, the local planning 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 local planning authority must provide its reasons for that decision with the notice of the decision.

(3) In the event that the local planning authority does not determine an application within the period set out in sub-paragraph (1), the local planning authority is deemed to have granted all parts of the application (without any condition or qualification) at the end of that period.

(4) For deemed consent under paragraph (3) to apply to any application for consent under paragraph (1), the application must include a statement that the provisions of paragraph (3) apply to that application

(5) If an application for consent under paragraph (1) does not include the statement required under paragraph (4), then the provisions of paragraph (3) will not apply to that application.

Further information regarding requirements

21.—(1) In relation to any application made under this Schedule 2, the local planning authority may request such further information from the undertaker as it considers necessary to enable it to consider the application.

(2) In the event the local planning authority considers such further information to be necessary and the requirement concerned contained in Part 1 of this Schedule does not specify that consultation with a consultee is required, the local planning authority must, within 15 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 local planning authority does not give such notification within the period specified in sub-paragraph (2) or (4) the local planning authority (and the consultee, as the case may be) 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) If the requirement concerned contained in Part 1 of this Schedule specifies that consultation with a consultee is required, the local planning authority must issue the application to the consultee within 14 days of receipt of the application, and notify the undertaker in writing specifying any further information requested by the consultee within 14 days of receipt of such a request.

Appeals

22.—(1) The undertaker may appeal to the Secretary of State in the event that the local planning authority—

(a) refuses an application for any consent, agreement or approval required under this Order or grants it subject to conditions;

(b) issues a notice further to sections 60 (control of noise on construction sites) or 61 (prior consent for work on construction sites) of the 1974 Act;

(c) on receipt of a request for further information under paragraph 21, the undertaker considers that either the whole or part of the specified information requested by the local planning authority is not necessary for consideration of the application; or

(d) on receipt of any further information requested under paragraph 21, the local planning authority notifies the undertaker that the information provided is inadequate and requests additional information which the applicant considers is not necessary for consideration of the application.

(2) The appeal process applicable under sub-paragraph (1) is as follows—

(a) any appeal by the undertaker must be made within 42 days of the event under sub-paragraph (1);

(b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the local planning authority;

(c) the Secretary of State must appoint a suitably qualified person to consider the appeal ("the appointed person") as soon as is practicable after the submission under sub-paragraph (b) and must notify the appeal parties of the identity of the appointed person, a start date and the address to which all correspondence for their attention should be sent;

(d) the local planning authority must submit their written representations to the appointed person in respect of the appeal within 15 business days of the start date and must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

(e) the undertaker must make any counter-submissions to the appointed person within ten business days of receipt of written representations under sub-paragraph (d); and

(f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable but in any event no longer than 30 business days from receipt of counter-submissions under sub-paragraph (e).

(3) The appointment of the appointed person under sub-paragraph (2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to enable the appointed person 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.

(5) Any further information required under sub-paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(6) The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day.

(7) The revised timetable for the appeal must require submission of written representations to the appointed person within 10 business days of the agreed date but must otherwise be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (f).

(8) 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 or request of the local planning 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.

(9) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside of the relevant time limits.

(10) The appointed person may proceed to a decision even though no written representations have been made within the relevant 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.

(11) The decision of the appointed person on an appeal is final and binding on the parties unless proceedings are brought by a claim for a judicial review.

(12) Except where a direction is given under sub-paragraph (13) requiring some or all the costs of the appointed person to be paid by the local planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(13) The appointed person may give directions as to the costs of the appeal and as to the parties by whom the costs are to be paid.

(14) 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 relevant guidance on the Planning Practice Guidance Appeals (March 2014) or any circular or such guidance which may from time to time replace it.

Fees

23.—(1) Where an application is made to the local planning authority for written consent, agreement or approval in respect of a requirement, the 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 apply and must be paid to the local planning authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 28 days of—

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

(b) the local planning authority failing to determine the application within the relevant period in paragraph 20(1) unless—

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

(i) within that period the undertaker agrees, in writing, that the fee is to be retained by the local planning authority and credited in respect of a future application; or

(ii) a longer period of time for determining the application has been agreed pursuant to paragraph 20(1)(c) of this Schedule.

SCHEDULE 3

Article 8

LEGISLATION TO BE DISAPPLIED

1. The following local enactments and local byelaws do not apply insofar as they are inconsistent with a provision of, or a power conferred by, this Order—

(a) East Riding Drainage Act 1798(**a**);

(b) Beverley and Skidby Drainage Act 1808(**b**);

(c) Holderness Drainage Act 1832(**c**);

(d) Beverley Commons Act 1836(**d**);

(e) Beverley and Barmston Drainage Act 1880(**e**);

(f) Kingston-upon-Hull Corporation Act 1901(**f**);

(g) Holderness Water Act 1908(**g**);

(h) Kingston-upon-Hull Corporation Act 1911(**h**);

(i) Kingston-upon-Hull Corporation Act 1922(**i**);

(j) Kingston-upon-Hull Corporation Act 1926(**j**);

(k) Urban District Council of Hornsea Nuisances Byelaws 1926;

(l) Administrative County of the East Riding of Yorkshire Good Rule and Government of the County – Uprooting Plants 1930;

(m) Kingston-upon-Hull Corporation Act 1930(**k**);

(n) Haltemprice Urban District Council – Pleasure Grounds and Open Spaces 1951;

(o) The County of York, East Riding (Removal of Mud Etc. from Wheels of Vehicles) Byelaw 1952;

(p) The County Council of York, East Riding – The County of York, East Riding (Dropping of Water and Loose Substances from Vehicles on Highways) Byelaw 1961;

(q) The County Council of York, East Riding – The County of York, East Riding (Protection of Safety Lamps and Barriers) Byelaw 1965;

(r) Kingston-upon-Hull Corporation Act 1967(**l**);

(s) Associated British Ports Act 1987(**m**);

(t) Beverley Pasture Masters – Byelaws 1987;

(u) Beverley Pasture Masters – Byelaws 2004; and

(v) Beverley and North Holderness Internal Drainage Board Byelaws 2021.

(**a**) 1798 c. lxiii.
(**b**) 1808 c. xi.
(**c**) 1832 c. l.
(**d**) 1836 c. lxx.
(**e**) 1880 c. cxxviii.
(**f**) 1901 c. cxxiv.
(**g**) 1908 c. xcix.
(**h**) 1911 c. lxxxvi.
(**i**) 1922 c. lxxxvi.
(**j**) 1926 c. lxxiv.
(**k**) 1930 c. clxxv.
(**l**) 1967 c. xxxiii.
(**m**) 1987 c. xxvii.

SCHEDULE 4

Article 12

ALTERATION OF STREETS

(1) *Street subject to alteration of layout*	*(2)* *Description of alteration*
A165, Whitecross Road	Works for the provision of two permanent means of access to the authorised development within the area shown as SW/01/01 to SW/01/02 on sheet 1 of the Streets, Rights of Way and Access Plans
A1035	Works for the provision of a permanent means of access to the authorised development within the area shown as SW/2a/01 to SW/2a/02 on sheet 2A of the Streets, Rights of Way and Access Plans
Carr Lane (Long Riston)/A165, Whitecross Road	Works for the provision of a permanent means of access to the authorised development within the area shown as SW/03/09 to SW/03/10 on sheet 3 of the Streets, Rights of Way and Access Plans
Carr Lane (Long Riston)	Works for the provision of up to 4 permanent passing places along Carr Lane, Long Riston shown as SW/03/01 to SW/03/02, SW/03/03 to SW/03/04, SW/03/05 to SW/03/06 and SW/03/07 to SW/03/08 shown on sheet 3 of the Streets, Rights of Way and Access Plans
Arnold Lane West	Works for the provision of up to 2 permanent passing places along Arnold Lane West shown as SW/04/09 to SW/04/10 and SW/04/11 to SW/04/12 on sheets 4 of the Streets, Rights of Way and Access Plans
Carr Lane (Arnold)/Black Tup Lane	Works for the provision of a permanent means of access to the authorised development within the area shown as SW/04/07 to SW/04/08 on sheet 4 of the Streets, Rights of Way and Access Plans
Carr Lane (Arnold)	Works for the provision of up to 4 permanent passing places along Carr Lane (Arnold) shown as SW/04/01 to SW/04/02, SW/04/03 to SW/04/04, SW/04/05 to SW/04/06 and SW/05/01 to SW/05/02 on sheets 4 and 5 of the Streets, Rights of Way and Access Plans
Meaux Lane	Works for the provision of a permanent means of access to the authorised development within the area shown as SW/02/19 to SW/02/20 on sheet 2 of the Streets, Rights of Way and Access Plans
	Works for the provision of two permanent means of access to the authorised development within the area shown as SW/06/03 to SW/06/04 on sheet 6 of the Streets, Rights of

(1) *Street subject to alteration of layout*	*(2)* *Description of alteration*
	Way and Access Plans
	Works for the provision of up to 11 permanent passing places along Meaux Lane within the area shown as SW/02/01 to SW/02/02, SW/02/07 to SW/02/08, SW/02/09 to SW/02/10, SW/02/11 to SW/02/12, SW/02/13 to SW/02/14, SW/06/01 to SW/06/02, SW/06/05 to SW06/06, SW06/07 to SW/06/08, SW/06/09 to SW/06/10, SW/09/01 to SW/09/02 and SW/09/03 to SW/09/04 on sheets 2, 6 and 9 of the Streets, Rights of Way and Access Plans
	Works for the provision of a carriageway widening along Meaux Lane within the area shown as SW/02/03 to SW/02/04, SW/02/05 to SW/02/06 and SW/02/15 to SW/02/16 on sheet 2 of the Streets, Rights of Way and Access Plans
Meaux Road	Works for the provision of a permanent means of access to the authorised development within the area shown as SW/12/03 to SW/12/04 on sheet 12 of the Street, Rights of Way and Access Plans
	Works for the provision of a permanent means of access to the authorised development within the area shown as SW/12/05 to SW/12/06 on sheet 12 of the Street, Rights of Way and Access Plans
	Works for the provision of a permanent passing place along Meaux Road shown as SW/12/01 to SW/12/02 on sheet 12 of the Street, Rights of Way and Access Plans
A1174 Hull Road	Works to facilitate the use of the existing means of access to the authorised development within the area shown as SW/14/01 to SW/14/02 on sheet 14 of the Streets, Rights of Way and Access Plans
	Works to facilitate the use of the existing means of access to the authorised development within the area shown as SW/14/03 to SW/14/04 on sheet 14 of the Streets, Rights of Way and Access Plans
Long Lane	Works to facilitate the existing means of access to the authorised development within the area shown as SW/15/01 to SW/15/02 on sheet 15 of the Streets, Rights of Way and Access Plans

SCHEDULE 5

Article 14

STREETS AND PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED OR RESTRICTED

PART 1

STREETS TO BE TEMPORARILY CLOSED OR RESTRICTED

(1) *Street to be temporarily closed or restricted*	*(2)* *Extent of temporary closure or restriction*
Meaux Lane	Temporarily closed or restricted for the length shown between point TSC/02/01 and TSC/06/01 on sheets 2 and 6 of the Streets, Rights of Way and Access Plans

PART 2

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED OR RESTRICTED

(1) *Public Right of Way to be temporarily closed or restricted*	*(2)* *Extent of temporary closure or restriction*
Riston Footpath No. 1	Temporarily closed or restricted for the length shown between point PRoW/08/01 and PRoW/08/02 on sheet 8 of the Streets, Rights of Way and Access Plans
	Temporarily closed or restricted for the length shown between point PRoW/08/04 and PRoW/08/05 on sheet 8 of the Streets, Rights of Way and Access Plans
Riston Footpath No. 2	Temporarily restricted for the length shown between point PRoW/01/01 and PRoW/03/01 on sheets 1 and 3 of the Streets, Rights of Way and Access Plans
	Temporarily restricted for the length shown between point PRoW/03/02 and PRoW/08/03 on sheets 3 and 8 of the Streets, Rights of Way and Access Plans
Wawne Footpath No. 1	Temporarily restricted for the length shown between point PRoW/12/01 and PRoW/12/02 on sheet 12 of the Streets, Rights of Way and Access Plans
Tickton Bridleway No. 5	Temporarily closed or restricted for the length shown between point PRoW/10/01 and PRoW/10/02 on sheet 10 of the Streets, Rights of Way and Access Plans
Tickton Footpath No. 9	Temporarily closed or restricted for the length shown between point PRoW/13/01 and PRoW/13/02 on sheet 13, and passing through sheet 10, of the Streets, Rights of Way and

(1) *Public Right of Way to be temporarily closed or restricted*	*(2)* *Extent of temporary closure or restriction*
	Access Plans
Tickton Footpath No. 12	Temporarily closed or restricted for the length shown between point PRoW/13/03 and PRoW/13/04 on sheet 13 of the Streets, Rights of Way and Access Plans
Beverley Footpath No. 23	Temporarily closed or restricted for the length shown between point PRoW/13/05 and PRoW/13/06 on sheet 13 of the Streets, Rights of Way and Access Plans
Woodmansey Footpath No. 18	Temporarily closed or restricted for the length shown between point PRoW/14/01 and PRoW/14/02 on sheet 14 of the Streets, Rights of Way and Access Plans
Woodmansey Footpath No. 12	Temporarily closed or restricted for the length shown between point PRoW/15/01 and PRoW/15/02 on sheet 15 of the Streets, Rights of Way and Access Plans
Woodmansey Footpath No. 9	Temporarily closed or restricted for the length shown between point PRoW/15/02 and PRoW/15/03 on sheet 15 of the Streets, Rights of Way and Access Plans
Woodmansey Footpath No. 4	Temporarily closed or restricted for the length shown between point PRoW/16/01 and PRoW/16/02 on sheet 16 of the Streets, Rights of Way and Access Plans
	Temporarily closed or restricted for the length shown between point PRoW/16/03 and PRoW/16/04 on sheet 16 of the Streets, Rights of Way and Access Plans
	Temporarily closed or restricted for the length shown between point PRoW/16/04 and PRoW/16/05 on sheet 16 of the Streets, Rights of Way and Access Plans
Skidby Footpath No. 12	Temporarily closed or restricted for the length shown between point PRoW/16/06 and PRoW/16/07 on sheet 16 of the Streets, Rights of Way and Access Plans
	Temporarily closed or restricted for the length shown between point PRoW/17/01 and PRoW/17/02 on sheet 17 of the Streets, Rights of Way and Access Plans
Skidby Footpath No. 10	Temporarily closed or restricted for the length shown between point PRoW/17/06 and PRoW/17/07 on sheet 17 of the Streets, Rights of Way and Access Plans
Skidby Footpath No. 11	Temporarily closed or restricted for the length shown between point PRoW/17/04 and PRoW/17/05 on sheet 17 of the Streets, Rights of Way and Access Plans
Skidby Bridleway No. 7	Temporarily closed or restricted for the length shown between point PRoW/17/03 and PRoW/17/04 on sheet 17 of the Streets, Rights

(1) *Public Right of Way to be temporarily closed or restricted*	*(2)* *Extent of temporary closure or restriction*
	of Way and Access Plans
Skidby Footpath No. 17	Temporarily closed or restricted for the length shown between point PRoW/17/08 and PRoW/17/09 on sheet 17 of the Streets, Rights of Way and Access Plans
Wilberforce Way	Temporarily closed or restricted for the length shown between point WFW/13/01 and WFW/14/01 on sheets 13 and 14 of the Streets, Rights of Way and Access Plans
National Cycle Network Route 1	Temporarily closed or restricted for the length shown between point NCN/17/01 and NCN/17/02 on sheet 17 of the Streets, Rights of Way and Access Plans

SCHEDULE 6

Article 15

ACCESS TO WORKS

(1) *Street*	*(2)* *Description of means of access*
A165, White Cross Road	Permanent means of access to the authorised development within the area shown between point A/01/01 and A/01/02 on sheet 1 of the Streets, Rights of Way and Access Plans
A165, White Cross Road	Permanent means of access to the authorised development within the area shown between point A/01/03 and A/01/04 on sheet 1 of the Streets, Rights of Way and Access Plans
A1035	Permanent means of access to the authorised development within the area shown between point A/2a/01 and A/2a/02 on sheet 2A of the Streets, Rights of Way and Access Plans
A165, White Cross Road/Carr Lane (Long Riston)	Permanent means of access to the authorised development within the area shown between point A/03/01 and A/03/02 on sheet 3 of the Streets, Rights of Way and Access Plans
Black Tup Lane/Carr Lane (Arnold)	Permanent means of access to the authorised development within the area shown between point A/04/01 and A/04/02 on sheet 4 of the Streets, Rights of Way and Access Plans
Meaux Lane	Permanent means of access to the authorised development within the area shown between point A/02/03 and A/02/04 on sheet 2 of the Streets, Rights of Way and Access Plans
	Permanent means of access to the authorised development within the area shown between point A/06/01 and A/06/02 on sheet 6 of the Streets, Rights of Way and Access Plans
	Permanent means of access to the authorised development within the area shown between point A/06/03 and A/06/04 on sheet 6 of the Streets, Rights of Way and Access Plans
Meaux Road	Permanent means of access to the authorised development within the area shown between point A/12/01 and A/12/02 on sheet 12 of the Streets, Rights of Way and Access Plans
	Permanent means of access to the authorised development within the area shown between point A/12/03 and A/12/04 on sheet 12 of the Streets, Rights of Way and Access Plans
A1174 Hull Road	Permanent means of access to the authorised development within the area shown between point A/14/01 and A/14/02 on sheet 14 of the Streets, Rights of Way and Access Plans
	Permanent means of access to the authorised development within the area shown between point A/14/03 and A/14/04 on sheet 14 of the Streets, Rights of Way and Access Plans
Long Lane	Permanent means of access to the authorised development within the area shown between point A/15/01 and A/15/02 on sheet 15 of the Streets, Rights of Way and Access Plans
	Permanent means of access to the authorised development within the area shown between point A/15/03 and A/15/04 on sheet 15 of the Streets, Rights of Way and Access Plans
Park Lane	Permanent means of access to the authorised development within the area shown between point A/17/01 and A/17/02 on sheet 17 of the Streets, Rights of Way and Access Plans

SCHEDULE 7

Article 17

TRAFFIC REGULATION MEASURES

PART 1

TRAFFIC SIGNAL AND BANKSPERSON CONTROL AREAS

(1) *Street*	*(2)* *Extent of temporary traffic signal and banksperson control area*
A165, White Cross Road	For the length shown between point TTM/01/01 and TTM/01/02 on Sheet 1 of the traffic measures plan
Meaux Lane	For the length shown between point TTM/02/01 and TTM/09/01 on Sheets 2, 6 and 9 of the traffic measures plan
A1035	For the length shown between point TTM/02a/01 and TTM/02a/02 on Sheet 2A of the traffic measures plan
Meaux Road	For the length shown between point TTM/09/02 and TTM/12/01 on Sheets 9 and 12 of the traffic measures plan
Carr Lane (Long Riston)	For the length shown between point TTM/03/01 and TTM/03/02 on Sheet 3 of the traffic measures plan
Arnold Lane West/Black Tup Lane	For the length shown between point TTM/04/01 and TTM/04/02 on Sheet 4 of the traffic measures plan
Carr Lane (Arnold)	For the length shown between point TTM/04/03 and TTM/05/01 on Sheets 4 and 5 of the traffic measures plan
Hull Road	For the length shown between point TTM/14/01 and TTM/14/02 on Sheet 14 of the traffic measures plan
Long Lane	For the length shown between point TTM/15/01 and TTM/15/02 on Sheet 15 of the traffic measures plan
Park Lane	For the length show between point TTM/17/01 and TTM/17/02 on Sheet 17 of the traffic measures plan

PART 2

TEMPORARY SPEED LIMIT

(1) *Street*	*(2)* *Extent of temporary speed limit*
Meaux Lane	Temporary 30mph speed limit for the length shown between point TRO/02/01 and TRO/09/01 on Sheets 2, 6 and 9 of the traffic measures plan
Meaux Road	Temporary 30mph speed limit for the length shown between point TRO/09/02 and TRO/12/01 on Sheets 9 and 12 of the traffic measures plan

PART 3

DEDICATED LEFT TURN MOVEMENTS FOR HEAVY GOODS VEHICLES (ENTRY AND EXIT)

(1) *Street*	*(2)* *Extent of dedicated left turn*
A1035	Temporary dedicated left turn at the junction shown between point TRO/02a/01, TRO/02a/02 and TRO/02a/03 on Sheet 2A of the traffic measures plan

SCHEDULE 8

Article 24

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purpose for which rights may be acquired or restrictive covenants may be imposed*
1-2, 1-7, 1-8, 2-19, 3-2, 3-13, 3-14, 3-15, 3-18, 5-2, 8-2, 8-3, 9-5, 9-6, 9-7, 9-8, 10-8, 10-10, 10-11	Installation of electrical underground cables and ancillary apparatus and structures, and the rights and restrictive covenants to construct, protect, operate, alter, access and maintain any such works.
	Rights of access, including the installation of access tracks and works to existing tracks, and related works (including to drainage infrastructure), and the rights and restrictive covenants to construct, protect, operate, alter, access and maintain any such works.
	Installation of security measures, including fencing and related works and the rights and restrictive covenants to construct, protect, operate, alter, access and maintain any such works.
	Utility asset diversions (including water, gas, sewer, electricity and telecommunications) and the rights and restrictive covenants to construct, protect, operate, alter, access and maintain any such works.
5-5, 5-10, 5-11, 6-3b, 10-12, 10-13, 13-1, 13-2, 13-3, 13-4, 13-5, 13-6, 13-7, 13-8, 14-1, 14-2, 14-3, 14-4, 14-10, 14-11, 14-12, 14-13, 15-1, 15-2, 15-3, 15-4, 15-5, 15-6, 15-7, 15-13, 15-14, 15-15, 16-1, 16-2, 16-3, 16-4, 16-5, 16-6, 16-7, 16-8, 16-9, 16-10, 17-1, 17-2, 17-3, 17-6, 17-8, 17-9	Installation of electrical cables and ancillary apparatus and structures, including trenching, tunnelling, boring and drilling works, and the rights and restrictive covenants to construct, protect, operate, alter, access and maintain any such works.
	Rights of access, including the installation of access tracks and works to existing tracks, and related works (including to drainage infrastructure), and the rights and restrictive covenants to construct, protect, operate, alter, access and maintain any such works.
	Utility asset diversions (including water, gas, sewer, electricity and telecommunications) and the rights and restrictive covenants to construct, protect, operate, alter, access and maintain any such works.
17-5, 17-7, 17-10, 17-11, 17-12, 17-14, 17-15, 17-16, 17-17, 17-18, 17-19, 17-20, 17-21, 17-22, 17-23	Installation of electrical substation infrastructure and ancillary apparatus, structures and buildings, including works to facilitate connection of the authorised development, and other associated works including noise attenuation works, and the rights and restrictive covenants to construct, protect, operate, alter, access and maintain any such works.
	Rights of access, including the installation of access tracks and works to existing tracks, and related works (including to drainage infrastructure), and the rights and restrictive covenants to construct, protect, operate, alter, access and maintain any such works.
1-15, 2A-4, 2A-6, 4-7, 5-6, 5-8, 6-7, 10-7, 14-5, 14-6, 14-7,14-8, 14-9, 14-10, 14-16, 14-17, 15-8, 15-9, 15-10, 15-11, 15-12, 15-17, 16-1, 16-11, 17-13, 17-24,	Construction of highway works, and the rights and restrictive covenants to construct, protect, operate, alter, access and maintain any such works.
	Rights of access, including the installation of access tracks and works to existing tracks, and related works (including to drainage infrastructure), and the rights and restrictive covenants to

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purpose for which rights may be acquired or restrictive covenants may be imposed*
17-25, 17-26	construct, protect, operate, alter, access and maintain any such works.

SCHEDULE 9

Article 24

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

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or 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 limiting paragraph 1, the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraphs (2).

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

(a) for "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from or imposed on"; and

(b) for "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable".

3.—(1) Without limiting 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, after "if" substitute—

"(a) the acquiring authority enters on land for the purpose of exercising a right in accordance with a notice of entry under section 11(1) of the Compulsory Purchase Act 1965 (as modified by paragraph 8 of Schedule 8 to the Peartree Hill Solar Farm 2026);

(b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the Compulsory Purchase Act 1965 (as substituted by paragraph 10 of Schedule 8 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants) to the Peartree Hill Solar Farm Order 2026) 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. 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—

(a) the right acquired or to be acquired, or the restrictive covenant imposed or to be imposed; or

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(**a**) 1973 c. 26.

(b) the land over which the right is or is to be exercisable, or the restrictive covenant is or is to be enforceable.

(2) Without limiting 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 restrictive covenant, with the modifications specified in the following provisions of this Schedule.

5. For section 7 (measure of compensation) of the 1965 Act substitute—

"**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the 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. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (failure by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 12(**a**) (powers of entry) of the 1965 Act is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(**b**) (penalty for unauthorised entry) and 13(**c**) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

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

9. Section 22 (interests omitted from purchase) of the 1965 Act is modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

10. For Schedule 2A of the 1965 Act substitute—

(**a**) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(**b**) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).

(**c**) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(**d**) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

"SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981(**a**) as applied by article 27 (application of the 1981 Act) of the Peartree Hill Solar Farm Order 2026 in respect of the land to which the notice to treat relates.

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 acquiring authority to purchase the owner's interest in the house, building or factory.

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

Response to counter-notice

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

(a) withdraw the notice to treat,

(b) accept the counter-notice, or

(c) refer the counter-notice to the Upper Tribunal.

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

7. If the acquiring authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

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

9. If the acquiring authority 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 or the imposition of the restrictive covenant would—

(a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

(**a**) 1981 c. 66, as amended by Part 7 of the Housing and Planning Act 2016 (c. 22).

(a) the effect of the acquisition of the right or the imposition of the covenant,

(b) the use to be made of the right or covenant proposed to be acquired or imposed, and

(c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

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

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

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 42 days beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

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

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.".

SCHEDULE 10

Article 31

LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE TAKEN FOR CARRYING OUT THE AUTHORISED DEVELOPMENT

(1) *Plot reference number shown on Land Plans*	*(2)* *Purpose for which temporary possession may be taken*
1-9, 1-10, 1-11, 1-12, 1-16, 2-1, 2-2, 2-7, 2-8, 2-12b, 2-13, 2A-1, 2A-2, 2A-3, 2A-5, 3-7, 4-1, 4-4, 4-5, 4-8, 4-9, 4-10, 6-3a, 6-3c, 9-1, 9-10, 9-11, 12-1, 12-2, 14-14, 14-15, 15-16	Temporary use to facilitate the construction of Work No. 8 and related works.

SCHEDULE 11

Article 46

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule (save for any utility undertakers which are specifically protected by any other Part of this Schedule, which will take precedence) the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(**a**)), belonging to or maintained by that utility undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(**b**) for the purposes of gas supply;

(c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(**c**); and

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal of works) of that Act or an

(**a**) 1989 c. 29.
(**b**) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).
(**c**) 1991 c. 56.

agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at a future date) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any inspection chambers, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

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

"utility undertaker" means—

(a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;

(c) a water undertaker within the meaning of the Water Industry Act 1991; and

(d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991;

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Apparatus in stopped up public rights of way

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 14 (temporary closure or restriction of streets and public rights of way), 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 prohibition or restriction was in that street.

Acquisition of land

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.

Removal of apparatus

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 28 days' written notice

of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed the utility undertaker must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its 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 44 (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 44 (arbitration), and after the grant to the utility undertaker 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 the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land 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.

Facilities and rights for alternative 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 of the utility undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 44 (arbitration).

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

Retained apparatus

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 of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) 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 a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3, 6 and 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 unless otherwise agreed with the utility undertaker, 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 the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

Expenses and costs

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

(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 44 (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) 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 an inspection chamber 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 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

10.—(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 6(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 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 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 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.

Cooperation

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 undertaker 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. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

13. In this Part of this Schedule—

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

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in section 106 (application of the electronic code) of the 2003 Act(**b**);

"electronic communications code network" means—

(**a**) 2003 c. 21.
(**b**) See section 106.

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

"operator" means the operator of an electronic communications code network.

14. The exercise of the powers conferred by article 33 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

15.—(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 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.

(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 44 (arbitration).

(5) This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) 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 THE DRAINAGE AUTHORITIES

16. The provisions of this Part have effect for the protection of a drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

17. In this Part—

"construction" includes execution, placing, altering, replacing, relaying and removal; and "construct" and "constructed" must be construed accordingly;

"drainage authority" means in relation to an ordinary water course—

(a) the drainage board concerned within the meaning of section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(**a**); and

(b) in the case of any area for which there is no such drainage board, the lead local flood authority within the meaning of section (6) other definitions of the Flood and Water Management Act 2010(**b**);

"drainage work" means any ordinary watercourse and includes any land that provides or is expected to provide flood storage capacity for any ordinary watercourse and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, or flood defence;

"ordinary watercourse" has the meaning given by section 72 (interpretation) of the Land Drainage Act 1991(**c**);

"plans" includes sections, drawings, specifications and method statements; and

"specified work" means so much of any work or operation authorised by this Order as is in, on, under, over or within 8 metres (or 9 metres in the case of any drainage work under the control of the Beverley and North Holderness Internal Drainage Board) of a drainage work (measured from the bank top of the drainage work) or is otherwise likely to—

(a) affect the total volume or volumetric rate of flow of water in or flowing to or from any drainage work; or

(b) affect the conservation, distribution or use of water resources.

18.—(1) Before beginning to construct any specified work, the undertaker must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may within 28 days of the submission of the plans reasonably require.

(2) The undertaker must not commence construction of the specified work until approval, unconditionally or conditionally, has been given as provided in this paragraph.

(3) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph 24.

(4) Any approval of the drainage authority required under this paragraph—

(a) must not be unreasonably withheld;

(b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval (or submission of further particulars if required by the drainage authority under sub-paragraph (1)) and

(c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work, for the prevention of flooding or pollution or discharge of its environmental function.

(5) Any submission of plans for approval (or submission of further particulars if required by the drainage authority) under sub-paragraph (1) must include a statement that the provisions of sub-paragraph (3)(b) apply to that submission of plans for approval.

(6) If a submission of plans for approval (or submission of further particulars if required by the drainage authority) under sub-paragraph (1) does not include the statement required under sub-paragraph (4), then the provisions of sub-paragraph (3)(b) will not apply to that submission of plans for approval.

(7) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

(**a**) 1991 c. 59
(**b**) 2010 c. 29.
(**c**) 1991 c. 59, section 72(1).

19. Without limiting paragraph 18, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

(a) to safeguard any drainage work against damage; or

(b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

20.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 19, must be constructed—

(a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and

(b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority—

(a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and

(b) notice in writing of its completion not later than 7 days after the date of completion.

(3) If the drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work.

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

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

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in emergency exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined under paragraph 25.

21. If by reason of the construction of any specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes is impaired, or the drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker as soon as reasonably practicable to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

22. The undertaker must make reasonable compensation to the drainage authority in respect of all reasonable costs, charges and expenses that the drainage authority may reasonably incur, have to pay or may sustain—

(a) in the examination or approval of plans under this Part;

(b) in inspecting the construction of any specified work or any protective works required by the drainage authority under this Part; and

(c) in carrying out of any surveys or tests by the drainage authority that are reasonably required in connection with the construction of the specified work.

23.—(1) Without limiting the other provisions of this Part, the undertaker must make reasonable compensation to the drainage authority in respect of all reasonable claims, demands, proceedings, costs, damages, expenses or loss that may be made or taken against, reasonably recovered from or incurred by, the drainage authority by reason of—

(a) any damage to any drainage work so as to impair its efficiency for the purposes of flood defence; or

(b) any flooding or increased flooding of any such land,

that is caused by the construction of any specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged on the work.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker (such agreement not to be unreasonably withheld).

(3) The drainage authority must use its reasonable endeavours to mitigate in whole or in part and to minimise any claims, demands, proceedings, costs, damages, expenses or loss to which this paragraph applies.

(4) If requested to do so by the undertaker, the drainage authority must provide an explanation of how the claim has been minimised.

(5) The undertaker is only liable under this paragraph for claims reasonably incurred by the drainage authority.

(6) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of the drainage authority or the breach of a statutory duty of the drainage authority, its officers, servants, contractors or agents.

24. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part.

25. Any dispute between the undertaker and the drainage authority under this Part, unless otherwise agreed, must be determined by arbitration under article 44 (arbitration).

PART 4

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

26.—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this Part of this Schedule—

"Agency" means the Environment Agency;

"construction" includes execution, placing, altering, replacing, relaying and removal and excavation and "construct" and "constructed" is construed accordingly;

"drainage work" means any main river and includes any land which provides or is expected to provide flood storage capacity for any main river and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

"emergency" means an occurrence which presents a material risk—

(a) serious flooding;

(b) serious detrimental impact on drainage; or

(c) serious harm to the environment;

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

"main river" has the same meaning given in section 113 of the Water Resources Act 1991(**a**);

"non-tidal main river" has the meaning given in paragraph 2(1) of Part 1 of Schedule 25 to the Environmental Permitting (England and Wales) Regulations 2016;

"plans" includes plans, sections, elevations, drawings, specifications, programmes, proposals, calculations, method statements and descriptions;

"remote defence" means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river;

"sea defence" means any bank, wall, embankment (any berm, counterwall or cross-wall connected to any such bank, wall or embankment), barrier, tidal sluice and other defence, whether natural or artificial, against the inundation of land by sea water or tidal water, including natural or artificial high ground which forms part of or makes a contribution to the efficiency of the defences of the Agency's area against flooding, but excludes any sea defence works which are for the time being maintained by a coast protection authority under the provisions of the Coast Protection Act 1949 or by any local authority or any navigation, harbour or conservancy authority;

"specified work" means so much of any work or operation authorised by this Order as is in, on, under, over or within—

(a) 16 metres of the base of a sea defence which is likely to—

(i) endanger the stability of, cause damage or reduce the effectiveness of that sea defence, or

(ii) interfere with the Agency's access to or along that sea defence or the Agency's ability to undertake works to ensure the efficacy of that sea defence;

(b) 8 metres of the base of a remote defence which is likely to—

(i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence, or

(ii) interfere with the Agency's access to or along that remote defence;

(c) 16 metres of a drainage work involving a tidal main river;

(d) 8 metres of a drainage work involving a non-tidal river—

(e) or any distance of a drainage work and is otherwise likely to—

(i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;

(ii) affect the flow, purity or quality of water in any main river or other surface waters;

(iii) cause obstruction to the free passage of fish or damage to any fishery;

(iv) affect the conservation, distribution or use of water resources; or

(v) affect the conservation value of the main river and habitats in its immediate vicinity;

or which involves—

(f) an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and

(g) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work; and

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(**a**) 1991 c. 57.

"tidal main river" has the meaning given in paragraph 2(1) of Part 1 of Schedule 25 to the Environmental Permitting (England and Wales) Regulations 2016.

Submission and approval of plans

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

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 36.

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

(a) must not be unreasonably withheld or delayed;

(b) subject to sub-paragraph (5), is deemed to have been refused if it is neither given nor refused within 2 months of the submission of the plans such later date as is agreed between the Agency and the undertaker if further particulars have been requested in accordance with sub-paragraph (1) the period between the making of this request and the provision of further particulars in response to it must not be taken into account in the calculation of the 2 months for the purposes of this sub-paragraph; and

(c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or for nature conservation or the prevention of environmental harm in the discharge of its environmental duties.

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

(5) In the case of a refusal, the Agency must provide reasons for the grounds of that refusal.

Construction of protective works

28. Without limiting paragraph 27 the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

(a) to safeguard any drainage work against damage; or

(b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

Timing of works and service of notices

29.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 28, must be constructed—

(a) without unreasonable delay in accordance with the plans approved under this Part of this Schedule; and

(b) to the reasonable satisfaction of the Agency,

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

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

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

Works not in accordance with this Schedule

30.—(1) If there is any failure by the undertaker to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions and where the Agency acting reasonably considers it necessary to avoid any of the risks specified in sub-paragraph (2), the Agency may serve written notice requiring the undertaker to cease all or part of the specified works as may be specified within the notice within such reasonable period as specified in the notice, and the undertaker must cease constructing the specified works or part thereof until such time as it has obtained the consent or complied with the condition specified within the notice served.

(2) The risks specified in sub-paragraph (1) are—

(a) risk of flooding;

(b) risk of harm to the environment;

(c) risk of detrimental impact on drainage;

(d) damage to the fishery.

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

(2) Subject to sub-paragraph (3) if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (1) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(3) In the event of any dispute as to whether sub-paragraph (1) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (2) until the dispute has been finally determined in accordance with paragraph 37.

Maintenance of works

32.—(1) Subject to sub-paragraph (5) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the Order limits and on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

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

(3) Subject to sub-paragraph (4) if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 37.

(5) This paragraph does not apply to—

(a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; and

(b) any obstruction of a drainage work expressly authorised in the approval of specified works plans and carried out in accordance with the provisions of this Part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

Remediating impaired drainage work

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

Agency access

34. If by reason of the construction of any specified work or the failure of any such work, the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must notify the Agency as soon as reasonably practicable and provide suitable alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction occurred and such alternative access must be made available or as soon as reasonably practicable after the undertaker becomes aware of such obstruction, except in the case of an emergency in which case the undertaker must provide such alternative means of access on demand unless to do so would cause danger to persons or property.

Free passage of fish

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

(2) If by reason of—

(a) the construction of any specified work; or

(b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage and provide a reasonable period in which those steps must be taken, or, as the case may be, to protect the fishery against such damage.

(3) If within such time as notified in sub-paragraph (2), the undertaker fails to take such steps as are described in sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) In any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

Indemnity

36.—(1) The undertaker indemnifies the Agency in respect of all costs, charges and expenses which the Agency may reasonably incur—

(a) in the examination or approval of plans under this Part of this Schedule;

(b) in the inspection of the construction of the specified works or any protective works required by the Agency under this Part of this Schedule; and

(c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

(2) The undertaker is responsible for and indemnifies the Agency against all costs and losses, liabilities, claims and demands not otherwise provided for in this Schedule which may be reasonably incurred or suffered by the Agency by reason of, or arising out of—

(a) the construction, operation or maintenance of any specified works comprised within the authorised development or the failure of any such works comprised within them; or

(b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.

(3) For the avoidance of doubt, in sub-paragraphs (1) and (2)—

(a) "costs" includes—

(i) expenses and charges;

(ii) staff costs and overheads; and

(iii) legal costs;

(b) "losses" includes physical damage;

(c) "claims" and "demands" include as applicable—

(i) costs (within the meaning of this sub-paragraph incurred in connection with any claim or demand; and

(ii) any interest element of sums claimed or demanded;

(d) "liabilities" includes—

(i) contractual liabilities;

(ii) tortious liabilities (including liabilities for negligence or nuisance);

(iii) liabilities to pay statutory compensation or for breach of statutory duty; and

(iv) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(4) The Agency must give to the undertaker reasonable notice of any such claim or demand and must not settle or compromise a claim without the agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.

(5) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(6) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, must not relieve the undertaker from any liability under the provisions of this Part of this Schedule.

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

Disputes

37. Any dispute arising between the undertaker and the Agency under this Part of this Schedule must, if the parties agree, be determined by arbitration under article 44 (arbitration), but failing

agreement be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for the department of Energy Security and Net Zero or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

PART 5

FOR THE PROTECTION OF NATIONAL GAS TRANSMISSION PLC AS GAS UNDERTAKER

Application

38.—(1) For the protection of National Gas as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Gas.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Gas, where the benefit of this Order is transferred or granted to another person under article 8 (consent to transfer benefit of Order)—

(a) any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between National Gas and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to National Gas on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Gas (but without prejudice to paragraph 48(3)b).

Interpretation

39.—(1) In this Part of this Schedule—

"1991 Act" means the New Roads and Street Works Act 1991;

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than "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 general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity 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 (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised works by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance shall include (without limitation)—

(a) a waiver of subrogation and an indemnity to principal clause in favour of National Gas; and

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

"acceptable security" means either—

(a) a parent company guarantee from a parent company in favour of National Gas to cover the undertaker's liability to National Gas to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Gas and where required by National Gas, 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

(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Gas to cover the undertaker's liability to National Gas for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Gas);

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of National Gas to enable National Gas to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any mains, pipes or other apparatus belonging to or maintained by National Gas for the purposes of gas supply, together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Gas for the purposes of transmission, distribution and/or supply 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) (interpretation) of this 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;

"commence" and "commencement" has the same meaning as in article2(1) (interpretation) of this Order save that for the purposes of this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

"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;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by National Gas (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 National Gas'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" shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Gas, including to construct, use, repair, alter, inspect, renew or remove the apparatus;

"National Gas" means National Gas Transmission plc (Company Number 02006000) whose registered office is at National Grid House, Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

"Network Code" means the network code prepared by National Gas pursuant to Standard Special Condition A11(3) of its Gas Transporter's Licence, which incorporates the Uniform Network Code, as defined in Standard Special Condition A11(6) of National Gas's Gas Transporters Licence, as both documents are amended from time to time;

"Network Code Claims" means any claim made against National Gas by any person or loss suffered by National Gas under the Network Code arising out of or in connection with any

failure by National Gas to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the gas national transmission system as a result of the authorised works or any costs and/or expenses incurred by National Gas as a result of or in connection with, it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the gas national transmission system which may arise as a result of the authorised works "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;

"parent company" means a parent company of the undertaker acceptable to and which shall have been approved by National Gas acting reasonably;

"specified works" means any of the authorised works or activities undertaken in association with the authorised works which—

(a) 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 paragraph 7(2) or otherwise; and/or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 44(2) or otherwise; and/or

(c) includes any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Gas's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Gas, High pressure Gas pipelines and associated installation requirements for third parties"; and

"undertaker" means the undertaker as defined in article 2(1) of this Order.

On street apparatus

40. Except for paragraphs 41 (apparatus of National Gas in temporarily closed or restricted streets), 9 (retained apparatus: protection of gas undertaker), 47 (expenses) and 48 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Gas, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Gas are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Gas in temporarily closed or restricted streets

41. Where any street is temporarily closed or restricted under the powers of article 15 (Temporary closure or restriction of streets and public rights of way) , National Gas is at liberty at all times to take all necessary access across any such temporarily closed or restricted street and to execute and do all such works and things in, upon or under any such streets may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the temporary closure or restriction was in that street.

Protective works to buildings

42. The undertaker, in the case of the powers conferred by article 20 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Gas.

Acquisition of land

43.—(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 (a) appropriate or acquire or take temporary possession of any land or apparatus or ((b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Gas otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Gas 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 National Gas or affect the provisions of any enactment or agreement regulating the relations between National Gas and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Gas reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Gas and the undertaker acting reasonably and which must be no less favourable on the whole to National Gas unless otherwise agreed by National Gas, and it will be the responsibility of the undertaker to procure and/or secure the consent 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) Save where otherwise agreed in writing between National Gas and the undertaker the undertaker and National Gas agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Gas and/or other enactments relied upon by National Gas as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by National Gas under paragraph 46 (Retained apparatus: protection of gas undertaker) or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

44.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Gas to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Gas in accordance with sub-paragraphs (2) to (5).

(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 National Gas advance 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 National Gas reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Gas to its satisfaction (taking into account paragraph 45(1) below) the necessary facilities and rights—

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and

(b) 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 or land secured by 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, National Gas may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation must not extend to the requirement for National Gas to use its compulsory purchase powers to this end unless it 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 National Gas and the undertaker.

(5) National Gas must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Gas 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.

Facilities and rights for alternative apparatus

45.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Gas facilities and rights in land for the construction, use, maintenance and protection 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 National Gas and must be no less favourable on the whole to National Gas than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Gas.

(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 less favourable on the whole to National Gas 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 matter may be referred to arbitration in accordance with paragraph 52 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Gas as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of gas undertaker

46.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Gas a plan and, if reasonably required by National Gas, a ground monitoring scheme in respect of those works.

(2) In relation to specified works the plan to be submitted to National Gas 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 works to which sub-paragraphs (1) and (2) apply until National Gas has given written approval of the plan so submitted.

(4) Any approval of National Gas required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (6); and

(b) must not be unreasonably withheld.

(5) In relation to any works to which sub-paragraphs (1) and/or (2) apply, National Gas may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective

works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (5), as approved or as amended from time to time by agreement between the undertaker and National Gas and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by National Gas for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Gas will be entitled to watch and inspect the execution of those works.

(7) Where National Gas 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 National Gas' satisfaction prior to the commencement of any specified works for which protective works are required and National Gas must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If National Gas in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 44(2).

(9) 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.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Gas notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times;

(11) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Gas's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Gas, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that National Gas 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 47 (Expenses).

Expenses

47.—(1) Save where otherwise agreed in writing between National Gas and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Gas within 30 days of receipt of an itemised invoice or claim from National Gas all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Gas 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 National Gas in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Gas as a consequence of National Gas;

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 44(3); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Gas;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(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.

(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 52 (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 National Gas 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 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) Any amount which apart from this sub-paragraph would be payable to National Gas 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 National Gas 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

48.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule 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 him) 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 works) or property of National Gas, or there is any interruption in any service provided, or in the supply of any goods or energy, by National Gas, or National Gas 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 National Gas the cost reasonably and properly incurred by National Gas in making good such damage or restoring the supply; and

(b) indemnify National Gas for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Gas, by reason or in consequence of any such damage or interruption or National Gas becoming liable to any third party and including Network Code Claims other than arising from any default of National Gas.

(2) The fact that any act or thing may have been done by National Gas on behalf of the undertaker or in accordance with a plan approved by National Gas or in accordance with any requirement of National Gas or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Gas 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 National Gas, its officers, servants, contractors or agents;

(b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Gas as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 8 (consent to transfer benefit of Order) subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works yet to be executed and not falling within this sub-paragraph 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 48; and/or

(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;

(4) National Gas 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) National Gas must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Gas must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Gas's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Gas's control and if reasonably requested to do so by the undertaker National Gas must provide an explanation of how the claim has been minimised, where relevant.

(7) The undertaker must not commence construction (and not permit the commencement of such construction) of the authorised works on any land owned by National Gas or in respect of which National Gas has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Gas's apparatus until the following conditions are satisfied—

(a) unless and until National Gas is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence 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 National Gas has confirmed the same to the undertaker in writing; and

(b) unless and until National Gas is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Gas 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 National Gas has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with sub-paragraph (7) of this paragraph, nothing in this Part of this Schedule shall prevent National Gas from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

49. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Gas and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Gas 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

50.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Gas requires the removal of apparatus under paragraph 44(2) or National Gas makes requirements for the protection or alteration of apparatus under paragraph 46 (Retained apparatus: protection of gas undertaker) the undertaker shall 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 National Gas's undertaking and National Gas shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Gas's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

51. If in consequence of the agreement reached in accordance with paragraph 43(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Gas to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

52. Save for differences or disputes arising under paragraph 44(2), 44(4) 45(1) and 46 any difference or dispute arising between the undertaker and National Gas under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Gas, be determined by arbitration in accordance with article 49 (arbitration).

Notices

53. Notwithstanding article 43 (service of notices), any plans submitted to National Gas by the undertaker pursuant to paragraph 9 (Retained apparatus: protection of gas undertaker) must be submitted using the LSBUD system (https://lsbud.co.uk/) or such other address as National Gas may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 6

FOR THE PROTECTION OF NATIONAL GAS ELECTRICITY TRANSMISSION PLC AS ELECTRICITY UNDERTAKER

Application

54.—(1) For the protection of National Grid Electricity Transmission Plc as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, where the benefit of this Order is transferred or granted to another person under article 8 (consent to transfer benefit of Order)—

(a) any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between National Grid Electricity Transmission Plc and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to National Grid Electricity Transmission Plc on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid Electricity Transmission Plc (but without prejudice to 66(3)(b)).

Interpretation

55. In this Part of this Schedule—

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than "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 general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity 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 (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised works by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance shall include (without limitation)—

(a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid Electricity Transmission Plc; and/or

(b) pollution liability for third party property damage and third-party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

"acceptable security" means either—

(a) a parent company guarantee from a parent company in favour of National Grid Electricity Transmission Plc to cover the undertaker's liability to National Grid Electricity Transmission Plc to a total liability cap of £50,000,000.00 (fifty million pounds) (in a

form reasonably satisfactory to National Grid Electricity Transmission Plc and where required by National Grid Electricity Transmission Plc, 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

(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Grid Electricity Transmission Plc to cover the undertaker's liability to National Grid Electricity Transmission Plc for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to National Grid Electricity Transmission Plc);

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of National Grid Electricity Transmission Plc to enable National Grid Electricity Transmission Plc to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means—

(a) electric lines or electrical plant as defined in the 1989 Act, belonging to or maintained by National Grid Electricity Transmission Plc together with any replacement apparatus; and

(b) such other apparatus constructed pursuant to the Order that becomes operational apparatus of the National Grid Electricity Transmission plc for the purposes of transmission, distribution and/or supply 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 this 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;

"commence" and "commencement" in this Part of this Schedule will include any below ground surveys, monitoring, groundwork operations or the receipt and erection of construction plant and equipment;

"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;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by National Grid Electricity Transmission Plc (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, will require the undertaker to submit for National Grid Electricity Transmission Plc'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;

"Incentive Deduction" means any incentive deduction National Grid Electricity Transmission Plc Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works; "maintain" and "maintenance" shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid Electricity Transmission Plc: construct, use, repair, alter, inspect, renew or remove the apparatus;

"National Grid Electricity Transmission Plc" means National Grid Electricity Transmission Plc (Company Number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

"NGESO" means as defined in the STC;

"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;

"parent company" means a parent company of the undertaker acceptable to and which will have been approved by National Grid Electricity Transmission Plc acting reasonably;

"Peartree Hill Project works" means any part of Work Nos. 5, 6 or 8 described in Schedule 1 of this Order (authorised development);

"specified works" means any of the authorised works or activities undertaken in association with the authorised works which—

(a) 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 paragraph 61(2) or otherwise; and/or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 61(2) or otherwise; and/or

(c) includes any of the activities that are referred to in development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

"STC" means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NGESO as modified from time to time;

"STC Claims" means any claim made under the STC against National Grid Electricity Transmission Plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission Plc's transmission system which arises as a result of the authorised works;

"Transmission Owner" means as defined in the STC;

"Wanlass Beck Project" means the proposed new substation to be known as the Wanlass Beck Substation, construction of access road from the A1079, diversion of Park Lane, overhead line works, utilities and watercourse crossings and associated works to be undertaken by National Grid Electricity Transmission Plc and any temporary construction compounds and laydown areas for such works; and

"Wanlass Beck Site" includes—

(a) land on which any Wanlass Beck apparatus is situated; and

(b) land on which Wanlass Beck apparatus is anticipated to be situated which is necessary for the construction, use or maintenance of the Wanlass Beck Project (in so far as the same has been notified by National Grid Electricity Transmission Plc in writing to the undertaker).

Interaction with the Wanlass Beck Project

56. Without limiting any other provision of this Part of this Schedule, the undertaker must use reasonable endeavours to avoid any conflict arising between the construction, maintenance and operation of the authorised works and the Wanlass Beck Project. For the purposes of this paragraph, "reasonable endeavours" means—

(a) undertaking consultation on the detailed design and programming of the Peartree Hill project works and all works associated with or ancillary to the Peartree Hill project works to ensure that the design and programme for the Peartree Hill Project works does not unreasonably impede or interfere with the Wanlass Beck Project;

(b) having regard to the proposed programme of works for the Wanlass Beck Project as may be made available to the undertaker by National Grid Electricity Transmission Plc and facilitating a co-ordinated approach to the programme, land assembly, and the carrying out of the Peartree Hill Project works and the Wanlass Beck Project;

(c) providing a point of contact for continuing liaison and co-ordination throughout the construction and operation of the authorised works; and

(d) keeping National Grid Electricity Transmission Plc informed on the programme of works for the authorised works.

Peartree Hill Project works

57.—(1) The undertaker must not construct any Peartree Hill Project works, or any part of it, without consulting National Grid Electricity Transmission Plc on the proposed plans of the relevant Peartree Hill Project works (or part of it) and considering their representations.

(2) National Grid Electricity Transmission Plc must employ reasonable endeavours to respond to the submission of any plans within a period of 56 days from the date of submission of the plans. If National Grid Electricity Transmission Plc require further particulars, such particulars must be requested by National Grid Electricity Transmission Plc no later than 21 days from the submission of plans and thereafter National Grid Electricity Transmission Plc must employ reasonable endeavours to respond to the submission within 56 days from receipt of the further particulars.

(3) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case, it must give to National Grid Electricity Transmission Plc notice as soon as is reasonably practicable and a plan of those works.

(4) The undertaker must give to National Grid Electricity Transmission Plc not less than 14 days' notice in writing of its intention to commence construction of any Peartree Hill Project works and provide a copy of the final plans for the Peartree Hill Project works and National Grid Electricity Transmission Plc will be entitled by its officer to watch and inspect the construction of such works.

(5) The undertaker must give to National Grid Electricity Transmission Plc notice in writing of its completion of any Peartree Hill Project works not later than 7 days after the date on which it is completed

(6) If any part of the Peartree Hill Project works is constructed otherwise than in accordance with the final plans provided under sub-paragraph 4(1) above National Grid Electricity Transmission Plc may by notice in writing identify the extent to which the Peartree Hill project works do not comply with the final plans provided and request the undertaker at the undertaker's own expense carry out remedial works so as to comply with the final plans provided or such alternative works as may be agreed with National Grid Electricity Transmission Plc or as otherwise may be agreed between the parties.

(7) Subject to sub-paragraph (8), if within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (6) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, National Grid Electricity Transmission Plc may execute the works specified in the notice and any reasonable expenditure incurred by National Grid Electricity Transmission Plc in so doing will be recoverable from the undertaker.

(8) In the event of any dispute as to whether sub-paragraph (6) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, National Grid Electricity Transmission Plc will not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (7) until the dispute has been finally determined in accordance with paragraph 70 (arbitration).

On Street Apparatus

58. Except for paragraphs 59 (apparatus of National Grid Electricity Transmission Plc in temporarily closed or restricted streets), 64 (retained apparatus: protection of National Grid Electricity Transmission Plc as Electricity undertaker), 65 (expenses) and 66 (indemnity) of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid Electricity Transmission Plc, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid Electricity Transmission Plc are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid Electricity Transmission Plc in temporarily closed or restricted streets

59. Where any street is temporarily closed or restricted under the powers of article 15 (temporary closure or restriction of streets and public rights of way), National Grid Electricity Transmission Plc is at liberty at all times to take all necessary access across any such temporarily closed or restricted 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.

Protective works to buildings

60. The undertaker, in the case of the powers conferred by article 20 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus or the Wanlass Beck Site without the prior written consent of National Grid Electricity Transmission Plc which must not be unreasonably withheld.

Acquisition of land

61.—(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 (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of National Grid Electricity Transmission Plc otherwise than by agreement.

(2) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not unless otherwise agreed in writing with National Grid Electricity Transmission Plc appropriate, acquire or take temporary possession of any land forming part of the Wanlass Beck Site, (such agreement not to be unreasonably withheld or delayed) and/or any access thereto.

(3) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc or affect the provisions of any enactment or agreement regulating the relations between National Grid Electricity Transmission Plc and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid Electricity Transmission Plc reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid Electricity Transmission Plc and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid Electricity Transmission Plc unless otherwise agreed by National Grid Electricity Transmission Plc, and it will be the responsibility of the undertaker to procure and/or secure the consent 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.

(4) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker the undertaker and National Grid Electricity Transmission Plc agree that where

there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid Electricity Transmission Plc and/or other enactments relied upon by National Grid Electricity Transmission Plc as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(5) Any agreement or consent granted by National Grid Electricity Transmission Plc under paragraph 64 (retained apparatus: protection of National Grid Electricity Transmission Plc as Electricity undertaker) or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

62.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid Electricity Transmission Plc to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid Electricity Transmission Plc in accordance with sub-paragraph (2) to (5).

(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 National Grid Electricity Transmission Plc a minimum of 56 days' advance 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 National Grid Electricity Transmission Plc reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid Electricity Transmission Plc to its satisfaction (taking into account paragraph 63(1) below) the necessary facilities and rights—

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and

(b) 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 or land secured by 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, National Grid Electricity Transmission Plc may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation must not extend to the requirement for National Grid Electricity Transmission Plc to use its compulsory purchase powers to this end unless it 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 National Grid Electricity Transmission Plc and the undertaker.

(5) National Grid Electricity Transmission Plc must, after the alternative apparatus to be provided or constructed has been agreed, and subject to any necessary legal agreements having been entered between the parties and the grant to National Grid Electricity Transmission Plc 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.

Facilities and rights for alternative apparatus

63.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid Electricity Transmission Plc facilities and rights in land for the construction, use, maintenance and protection 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 National Grid Electricity Transmission Plc and must be no less favourable on the whole to National Grid Electricity Transmission Plc than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid Electricity Transmission Plc.

(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 less favourable on the whole to National Grid Electricity Transmission Plc 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 matter may be referred to arbitration in accordance with paragraph 70 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid Electricity Transmission Plc as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of National Grid Electricity Transmission Plc as Electricity Undertaker

64.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid Electricity Transmission Plc a plan of the works to be executed and seek from National Grid Electricity Transmission Plc details of the underground extent of their electricity assets.

(2) In relation to specified works the plan to be submitted to National Grid Electricity Transmission Plc 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;

(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;

(f) any intended maintenance regimes;

(g) an assessment of risks of rise of earth issues; and

(h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

(a) details of any cable trench design including route, dimensions, clearance to pylon foundations;

(b) demonstration that pylon foundations will not be affected prior to, during and post construction;

(c) details of load bearing capacities of trenches;

(d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;

(e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;

(f) written details of the operations and maintenance regime for any cable, including frequency and method of access;

(g) assessment of earth rise potential if reasonably required by National Grid Electricity Transmission Plc's engineers; and

(h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid Electricity Transmission Plc has given written approval of the plan so submitted.

(5) Any approval of National Grid Electricity Transmission Plc required under sub-paragraphs (4)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,

(b) may be given subject to such reasonable requirements as National Grid Electricity Transmission Plc may have in connection with the safe and efficient construction, commissioning, operation and maintenance of the Wanlass Beck Project and

(c) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid Electricity Transmission Plc may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved under sub-paragraph (4) or as amended from time to time by agreement between the undertaker and National Grid Electricity Transmission Plc and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5), (6), (8) or (9) by National Grid Electricity Transmission Plc for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid Electricity Transmission Plc will be entitled to watch and inspect the execution of those works.

(8) Where National Grid Electricity Transmission Plc 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, such protective works must be carried out to National Grid Electricity Transmission Plc's satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and National Grid Electricity Transmission Plc must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid Electricity Transmission Plc in accordance with sub-paragraphs (6) or (8) 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, sub-paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 62(2) (removal of apparatus).

(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 authorised works, a new plan, instead of the plan previously submitted under paragraph (1), and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid Electricity Transmission Plc notice as soon as is reasonably practicable a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the undertaker must comply with National Grid Electricity Transmission Plc's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

65.—(1) Save where otherwise agreed in writing between National Grid Electricity Transmission Plc and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid Electricity Transmission Plc within 30 days of receipt of an itemised invoice or claim from National Grid Electricity Transmission Plc all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid Electricity Transmission Plc as a consequence of National Grid Electricity Transmission Plc—

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 62(3) (removal of apparatus); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid Electricity Transmission Plc;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(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.

(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 70 (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 National Grid Electricity Transmission Plc 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 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) Any amount which apart from this sub-paragraph would be payable to National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc 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

66.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule 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 him) 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 works) or property of National Grid Electricity Transmission Plc, or there is any interruption in any service provided, or in the supply of any goods, by National Grid Electricity Transmission Plc, or National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc the cost reasonably and properly incurred by National Grid Electricity Transmission Plc in making good such damage or restoring the supply; and

(b) indemnify National Grid Electricity Transmission Plc for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid Electricity Transmission Plc, by reason or in consequence of any such damage or interruption or National Grid Electricity Transmission Plc becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any default of National Grid Electricity Transmission Plc.

(2) The fact that any act or thing may have been done by National Grid Electricity Transmission Plc on behalf of the undertaker or in accordance with a plan approved by National Grid Electricity Transmission Plc or in accordance with any requirement of National Grid Electricity Transmission Plc or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid Electricity Transmission Plc 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) will 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 National Grid Electricity Transmission Plc, its officers, servants, contractors or agents;

(b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Grid Electricity Transmission Plc as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 8 (consent to transfer benefit of Order) subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works

yet to be executed and not falling within this sub-paragraph (3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph in respect of such apparatus; and/ or

(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.

(4) National Grid Electricity Transmission Plc must give the undertaker reasonable written 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) National Grid Electricity Transmission Plc must use all reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid Electricity Transmission Plc's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid Electricity Transmission Plc's control and if reasonably requested to do so by the undertaker, National Grid Electricity Transmission Plc must provide an explanation of how the claim has been minimised, where relevant.

(6) National Grid Electricity Transmission Plc must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(7) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Grid Electricity Transmission Plc or in respect of which National Grid Electricity Transmission Plc has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Grid Electricity Transmission Plc's apparatus until the following conditions are satisfied—

(a) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence 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 National Grid Electricity Transmission Plc has confirmed the same to the undertaker in writing; and

(b) unless and until National Grid Electricity Transmission Plc is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid Electricity Transmission Plc 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 National Grid Electricity Transmission Plc has confirmed the same in writing to the undertaker.

(8) In the event that the undertaker fails to comply with sub-paragraph (11)(7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Grid Electricity Transmission Plc from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

67. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid Electricity Transmission Plc and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid Electricity Transmission Plc 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

68.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid Electricity Transmission Plc requires the removal of apparatus under paragraph 62(2) (removal of apparatus) or National Grid Electricity Transmission Plc makes requirements for the protection or alteration of apparatus under paragraph 64 (retained apparatus: protection of National Grid Electricity Transmission Plc as Electricity undertaker), 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 National Grid Electricity Transmission Plc's undertaking and National Grid Electricity Transmission Plc must use its best endeavours to co-operate with the undertaker for that purpose.

(2) Whenever National Grid Electricity Transmission Plc's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

69. If in consequence of the agreement reached in accordance with paragraphs 61(1) and 62(2) (Acquisition of Land) or the powers granted under this Order the access to any apparatus and/or the Wanlass Beck Site is materially obstructed, the undertaker must provide such alternative means of access to such apparatus and/or the Wanlass Beck Site as will enable National Grid Electricity Transmission Plc to access, maintain or use the apparatus and/or the Wanlass Beck Site no less effectively than was possible before such obstruction.

Arbitration

70. Save for differences or disputes arising under paragraph 62(2), 62(4) 63(1) and 64 any difference or dispute arising between the undertaker and National Grid Electricity Transmission Plc under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid Electricity Transmission Plc, be determined by arbitration in accordance with article 48 (arbitration).

Notices

71. Any plans submitted to National Grid Electricity Transmission Plc by the undertaker pursuant to this Part must be submitted using the LSBUD system (https://lsbud.co.uk/) or to such other address as National Grid Electricity Transmission Plc may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 7

FOR THE PROTECTION OF RAILWAY INTERESTS

Application

72. 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 88 (transfer of property, land and rights) of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

Interpretation

73. In this part of this Schedule—

"asset protection agreement" means an asset protection agreement or basic asset protection agreement, as the case may be, in Network Rail's standard form (as the same is amended from

time to time) but amended to reflect the particular circumstances relating to works under the authorised development;

"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 Waterloo General Office, London SE1 8SW) 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 (evidence of which shall be provided by Network Rail to the undertaker as soon as reasonably practicable upon Network Rail's receipt of written request from the undertaker);

"regulatory consents" means any consent or approval required under—

(a) the Railways Act 1993;

(b) the network licence; and/or

(c) 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 or 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.

Railway operational procedures

74.—(1) Where under this Part of this Schedule Network Rail is required to give its consent, agreement or approval in respect of any matter, that consent, agreement 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**) 1993 c. 43.

(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.

(3) The undertaker must not exercise the powers conferred by—

(a) article 3 (Development consent etc. granted by this Order);

(b) article 5 (Maintenance of authorised development);

(c) article 18 (Discharge of water);

(d) article 20 (Authority to survey and investigate the land);

(e) article 21 (Compulsory acquisition of land);

(f) article 24 (Compulsory acquisition of rights and imposition of restrictive covenants);

(g) article 25 (Private rights over land);

(h) article 26 (Power to override easements and other rights);

(i) article 28 (Acquisition of subsoil only);

(j) article 31 (Temporary use of land for carrying out the authorised development);

(k) article 32 (Temporary use of land for maintaining the authorised development);

(l) article 33 (Statutory undertakers);

(m) article 40 (Felling or lopping of trees and removal of hedgerows);

(n) article 41 (Trees subject to tree preservation orders);

(o) the powers conferred by section 11(3) (power of entry) of the 1965 Act;

(p) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;

(q) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016; or

(r) any powers in respect of the temporary possession of land under the Neighbourhood Planning Act 2017,

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(4) 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.

(5) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 33 (Statutory undertakers), article 26 (Power to override easements and other rights) or article 25 (Private rights over land), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(6) 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.

(7) 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.

(8) 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).

(9) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

Submission and approval of plans

75.—(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 44 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, 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 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 is 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 reasonable 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 (together with any adjoining part of the specified work which the undertaker reasonably requires to be constructed with that work), Network Rail must construct it without unreasonable 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 reasonable 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 reasonable expense of the undertaker in either case without unreasonable 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 the engineer's reasonable satisfaction.

76.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 75(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 75(1);

(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 is 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 properly incurred 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 employees, 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.

77. 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 the engineer may reasonably require with regard to a specified work or the method of constructing it.

Access

78. 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.

Alterations and additions

79.—(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 during a period of 36 months after the completion of that 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 including an estimate of the reasonable cost of carrying out, and where applicable in maintaining, working and, when necessary, renewing, those alterations or additions), the undertaker must pay to Network Rail the reasonable and proper 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 and properly 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 reasonable 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 75(3), pay to Network Rail all properly and reasonably incurred expenses to which Network Rail may be put and compensation for any direct loss which it may suffer by reason of the execution by Network Rail of that specified work provided that at all times Network Rail will be under an obligation to take reasonable steps to mitigate its loss.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 80(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.

Expenses

80. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably and properly incurred by Network Rail—

(a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 75(3) or in constructing any protective works under the provisions of paragraph 75(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 reasonable 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 is 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 reasonable 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.

Electromagnetic interference

81.—(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 75(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 4(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 75(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; and

(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 76.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 85(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 80(a) any modifications to Network Rail's apparatus under this paragraph are deemed to be protective works referred to in that paragraph.

Adverse impact on railway property

82. 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.

Signage

83. 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.

84. Any additional expenses which Network Rail may reasonably and properly 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.

Indemnity

85.—(1) The undertaker must pay to Network Rail all reasonable and properly incurred costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to the remaining provisions of this part of this Schedule and to article 48 (no double recovery)) 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;

(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; or

(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;

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 provided Network Rail will be under an obligation to take reasonable steps to mitigate its loss: 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 does 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 as soon as reasonably practicable after Network Rail became aware of any such claims or demands;

(b) not admit liability or make any settlement or compromise of any such a claim or demand without the prior consent of the undertaker;

(c) take all such reasonable steps to mitigate any liabilities relating to such claims or demands; and

(d) keep the undertaker informed where reasonably practicable to do so in relation to the progress of any such claims and demands and have due regard to the undertaker's representations in relation to them.

(3) The sums payable by the undertaker under sub-paragraph (1) must include if relevant 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, direct losses and expenses (including loss of revenue) reasonably and properly 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 direct result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (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.

Estimated ongoing expenses

86.—(1) 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 85) 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).

(2) Network Rail must provide an itemised invoice to the undertaker of all charges, costs, fees damages and expenses which are claimed under this Part of this Schedule and any payment due to Network Rail under this Part of this Schedule must be made within 30 days of receipt of the itemised invoice.

Assessment of expenses

87. 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.

Transfer of property, land and rights

88. 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.

Part I of the Railways Act 1993

89. 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.

Application under article 7 (consent to transfer benefit of Order)

90. 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 7 (consent to transfer benefit of 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.

Certification of plans

91. 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 42 (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.

Application of article 44 (arbitration)

92. Any difference under the provisions of this Part of the Schedule must be, unless otherwise agreed in writing between the undertaker and Network Rail, determined by arbitration in accordance with article 44 (arbitration).

PART 8

FOR THE PROTECTION OF NORTHERN POWERGRID

Application

93. For the protection of Northern Powergrid the following provisions have effect, unless otherwise agreed in writing between the undertaker and Northern Powergrid.

94. In this Part of this Schedule—

"alternative apparatus" means alternative and / or replacement 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 Electricity Act 1989) 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 the operation or maintenance of or anything which is incidental to or ancillary to the operation and maintenance of 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.

Application of the 1991 Act

95. This Part of this Schedule does not apply to apparatus and / or alternative 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.

Access to temporarily closed or restricted streets

96. Regardless of the temporary closure or restriction of streets under the powers conferred by article 14 of the Order (temporary closure or restriction of streets and public rights of way), Northern Powergrid is at liberty at all times to take all necessary access across any such temporarily closed or restricted 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 prohibition or restriction was in that street.

Restriction on acquisition of apparatus and rights

97. 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) and having regard to Norther Powergrid's existing and known future requirements for such land or interests.

Restriction on interference with communications equipment

98. Regardless of any provision in the Order or anything shown on the land plans or contained in the book of reference, the undertaker shall not interfere with any communications cables or equipment used by Northern Powergrid in relation to its apparatus nor shall acquire or interfere with rights or interests supporting the use, maintenance or renewal of such equipment including any easements other than by agreement of Northern Powergrid such agreement not to be unreasonably withheld .

Removal of apparatus

99.—(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 in 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 which shall include rights to retain and subsequently maintain the apparatus being replaced or diverted for the lifetime of that alterative apparatus, all to the reasonable satisfaction of Northern Powergrid in accordance with sub-paragraphs (2) to (5).

(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 90 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 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 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—

(a) the undertaker must in the first instance use reasonable endeavours to acquire all necessary land interests or rights as Northern Powergrid may reasonably require for the relocation and construction of alternative apparatus and must use reasonable endeavours to procure all necessary rights to access and maintain Northern Powergrid's apparatus and alternative apparatus thereafter the terms of such access and maintenance to be agreed by Northern Powergrid (acting reasonably);

(b) in the event that the undertaker is not able to procure the necessary land interest or rights referred to in the sub-paragraph (3)(a) 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.

(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 44 (arbitration).

(5) Northern Powergrid must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 44 (arbitration), 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.

Facilities and rights for alternative apparatus

100.—(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 44 (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 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.

Retained apparatus: protection of Northern Powergrid

101.—(1) Not less than 90 days before starting the execution of any authorised works in, on or under any land purchased, held, appropriated or used under this Order (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 99(2), the undertaker must submit to Northern Powergrid a plan,

section and description of the works to be executed and any such information as Northern Powergrid reasonably required relating to those works.

(2) Those authorised 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.

(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 (3) and in consequence of the authorised works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs 1 to 6 apply as if the removal of the apparatus had been required by the undertaker under paragraph (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 42 days before commencing the execution of any authorised 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 authorised works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

Expenses

102.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Northern Powergrid within fifty (50) days of the date of the receipt of an itemised invoice or a claim for all reasonable and proper expenses, costs or charges reasonably and properly 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 99(2) including without limitation—

(i) any costs reasonably incurred by or compensation properly paid by Northern Powergrid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that Northern Powergrid acquires any necessary land and / or rights for alternative apparatus by voluntary negotiation or elects to use its compulsory purchase powers to acquire any necessary rights under paragraph 99(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;

(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 including alternative 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 99(1) having first decommissioned such apparatus.

(2) Where any payment falls due pursuant to sub-paragraph (1), Northern Powergrid shall—

(a) provide an itemised invoice or reasonable expenses claim to the undertaker;

(b) provide 'reminder letters' to the undertaker for payment to be made within the fifty days on the following days after the invoice or reasonable expenses claim to the undertaker—

(i) 15 days ('reminder letter 1');

(ii) 29 days ('reminder letter 2');

(iii) 43 days ('reminder letter 3'); and

(c) be entitled to commence debt proceedings to recover any unpaid itemised invoice or reasonable expenses claim after fifty one (51) days of receipt of the same where payment has not been made.

(3) 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 and which is not re-used as part of the alternative apparatus, 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 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,

(4) 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 44 (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 Northern Powergrid by virtue of sub-paragraph (1) is to be reduced by the amount of that excess save where it is not in the circumstances possible on account of project time limits and/or supply interest to obtain the existing type of apparatus at the same capacity dimensions or place at the existing depth in which case full costs shall be borne by the undertaker.

(5) 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 where such extension is required in consequence of the execution of any such works as are referred to in paragraph 99(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.

Indemnity

103.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the authorised works referred to in in paragraph 99(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 authorised works, including without limitation authorised 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 (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 and properly 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.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or negligence of Northern Powergrid, its officers, employees, servants, contractors or agents.

(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, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably as it would as if settling third party claims on its own behalf from its own funds.

(5) Northern Powergrid must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 103 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 103 for claims reasonably incurred by Northern Powergrid.

(6) Subject to sub-paragraphs (4) and (5), the fact that any act or thing may have been done by Northern Powergrid on behalf of the undertaker or in accordance with a plan approved by Northern Powergrid or in accordance with any requirement of Northern Powergrid as a consequence of the authorised development or under its supervision will not (unless sub-paragraph (2) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (6) where the undertaker 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 or as otherwise agreed between the undertaker and the Northern Powergrid.

Enactments and agreements

104. 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.

Arbitration

105. Any difference under the provisions of this Part of the Schedule, unless otherwise agreed is to be referred to and settled by arbitration in accordance with article 44 (arbitration).

Co-ordination and co-operation

106. Where in consequence of the proposed construction of any of the authorised works, the undertaker or Northern Powergrid requires the removal of apparatus under paragraph 99 or otherwise or Northern Powergrid makes requirements for the protection or alteration of apparatus

under paragraph 101, 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.

Access

107. If in consequence of an agreement reached in accordance with paragraph 98 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.

Plans

108. 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.

Notices

109. Prior to carrying out any authorised works within the Order Limits (as defined in the Order) Northern Powergrid must give written notice of the proposed works to the undertaker, such notice to include full details of the location of the proposed works, their anticipated duration, access arrangements, depths of the works, and any other information that may impact upon the works consented by the Order.

Co-operation

110. 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 authorised works are—

(a) within 15m of any above ground apparatus; and/or

(b) within 15m of any apparatus and are to a depth of between 0 – 4m below ground level under any apparatus.

SCHEDULE 12

Article 40

HEDGEROWS TO BE REMOVED

PART 1

HEDGEROW TO BE REMOVED AND REINSTATED/REPLACED

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 1 of 18), reference H001.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 2 of 18), reference H004.
East Riding of Yorkshire Council	Removal of up to 60m in length of the hedgerows shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 2 of 18), references H005, H006 and H007.
East Riding of Yorkshire Council	Removal of up to 60m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 2 of 18), reference H008.
East Riding of Yorkshire Council	Removal of up to 30m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 2 of 18), reference H009.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 2 of 18), reference H010.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 2 of 17), reference H011.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 2 of 18), reference H012.
East Riding of Yorkshire Council	Removal of up to 97m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 2 of 18), reference H013.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 2 of 18), reference H017.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
	on the tree preservation order and hedgerow plans (Sheet 4 of 18), reference H020.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 4 of 18), reference H021.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 4 of 18), reference H025.
East Riding of Yorkshire Council	Removal of up to 16m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 5 of 18), reference H026.
East Riding of Yorkshire Council	Removal of up to 24m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 5 of 18), reference H027.
East Riding of Yorkshire Council	Removal of up to 16m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 5 of 18), reference H028.
East Riding of Yorkshire Council	Removal of up to 16m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 5 of 18), reference H029.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 5 of 18), reference H030.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H031.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H032.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H037.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H038.
East Riding of Yorkshire Council	Removal of up to 16m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H039.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 6

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
	of 18), reference H040.
East Riding of Yorkshire Council	Removal of up to 16m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H041.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H042.
East Riding of Yorkshire Council	Removal of up to 24m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H044.
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by a cyan line (important hedgerow) on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H045.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 8 of 18), reference H046.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 9 of 18), reference H047.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 11 of 18), reference H049.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 12 of 18), reference H051.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 12 of 18), reference H052.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 12 of 18), reference H055.
East Riding of Yorkshire Council	Removal of up to 16m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 12 of 18), reference H056.
East Riding of Yorkshire Council	Removal of up to 16m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 12 of 18), reference H057.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerows shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 14 of 18), references H058 and H059.

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 14 of 18), reference H060.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerows shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 14 of 18), references H061 and H062.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 14 of 18), reference H063.
East Riding of Yorkshire Council	Removal of up to 24m in length of the hedgerows shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 15 of 18), references H064, H065 and H066.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by an cyan line (important hedgerow) on the tree preservation order and hedgerow plans (Sheet 16 of 18), reference H070.

PART 2

HEDGEROW TO BE REMOVED

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
East Riding of Yorkshire Council	Removal of up to 8m in length of that part of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 1 of 18), reference H002.
East Riding of Yorkshire Council	Removal of up to 4m in length of that part of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 1 of 18), reference H003.
East Riding of Yorkshire Council	Removal of up to 10m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 1 of 18), reference H003a.
East Riding of Yorkshire Council	Removal of up to 10m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 2 of 18), reference H016.
East Riding of Yorkshire Council	Removal of up to 5m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 2a of 187), reference H071
East Riding of Yorkshire Council	Removal of up to 5m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 2a of 187), reference H072
East Riding of Yorkshire Council	Removal of up to 10m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 2a of 187), reference H073
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerows shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 3 of 18), references H018 and H019.
East Riding of Yorkshire Council	Removal of up to 20m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 4 of 18), reference H022.
East Riding of Yorkshire Council	Removal of up to 6m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 4 of 18), reference H023.
East Riding of Yorkshire Council	Removal of up to 6m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 4 of 18), reference H024.
East Riding of Yorkshire Council	Removal of up to 44m in length of the hedgerows shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans, references

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*
	H033 and H034, and by a dark blue line (important hedgerow), reference H035 (Sheet 6 of 18).
East Riding of Yorkshire Council	Removal of up to 40m in length of the hedgerow shown approximately within the area identified by an orange line on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H036.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 6 of 18), reference H043.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 10 of 18), reference H048.
East Riding of Yorkshire Council	Removal of up to 8m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 12 of 18), reference H050.
East Riding of Yorkshire Council	Removal of up to 32m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 12 of 18), reference H053.
East Riding of Yorkshire Council	Removal of up to 12m in length of the hedgerow shown approximately within the area identified by a pink line on the tree preservation order and hedgerow plans (Sheet 12 of 18), reference H054.

SCHEDULE 13

Article 42

DOCUMENTS TO BE CERTIFIED

PART 1

ENVIRONMENTAL STATEMENT AND RELATED DOCUMENTS

(1) *Document*	*(2)* *Document Reference*	*(3)* *Version*	*(4)* *Date*	*(5)* *Examination Library Reference*
Environmental Statement – Main Report (Chapters 00-5 excluding Chapters 2 and 3)	EN010157/APP/6.1	1	February 2025	APP-036, APP-037, APP-040, APP-041
Environmental Statement – Main Report (Chapter 3)	EN010157/APP/6.1	4	October 2025	REP4-061
Environmental Statement – Main Report (Chapter 8)	EN010157/APP/6.2	1	February 2025	APP-044
Environmental Statement – Main Report (Chapter 7)	EN010157/APP/6.2	3	October 2025	REP4-063
Environmental Statement – Main Report (Chapter 10)	EN010157/APP/6.2	3	September 2025	REP2-077
Environmental Statement – Main Report (Chapter 12)	EN010157/APP/6.2	2	September 2025	REP2-079
Environmental Statement – Main Report (Chapter 13)	EN010157/APP/6.2	3	October 2025	REP4-065
Environmental Statement – Main Report (Chapter 14)	EN010157/APP/6.2	5	November 2025	REP5-018
Environmental Statement – Main Report (Chapter 2)	EN010157/APP/6.1	2	November 2025	REP5-010
Environmental Statement – Main Report (Chapters 6 and 11)	EN010157/APP/6.2	2	November 2025	REP5-012 REP5-016
Environmental Statement – Main Report (Chapter 9)	EN010157/APP/6.2	3	November 2025	REP5-014
Environmental Statement – Main Report (Chapter 15)	EN010157/APP/6.2	5	December 2025	REP6-016
Environmental Statement – Figures (Figures 4.1, 4.2)	EN010157/APP/6.3	1	February 2025	APP-061 – APP-062
Environmental Statement – Figures (Figures 2.1, 14.2, 15.1)	EN010157/APP/6.3	3	September 2025	REP2-087, REP2-121, REP2-124
Environmental Statement – Figures (Figures 1.1, 3.3, 6.1, 6.2, 7.2, 9.1, 9.2, 9.3, 10.1, 10.2, 11.1, 11.2, 11.3, 11.4, 11.5, 11.6, 11.7, 11.8, 12.1, 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, 13.1, 14.1, 14.3, 14.4)	EN010157/APP/6.3	2	September 2025	REP2-085, REP2-090, REP2-094, REP2-095, REP2-097, REP2-098, REP2-099, REP2-100, REP2-101, REP2-102, REP2-103, REP2-104, REP2-105, REP2-

				106, REP2-107, REP2-108, REP2-109, REP2-110, REP2-111, REP2-112, REP2-113, REP2-114, REP2-115, REP2-116, REP2-117, REP2-118, REP2-119, REP2-120, REP2-122, REP2-123
Environmental Statement – Figures (Figure 3.5)	EN010157/APP/6.3	3	October 2025	REP3-021
Environmental Statement – Figures (Figure 7.1)	EN010157/APP/6.3	4	October 2025	REP4-070
Environmental Statement – Figures (Figure 3.4)	EN010157/APP/6.3	6	December 2025	REP6-018
Environmental Statement – Figures (Figures 1.2, 3.6)	EN010157/APP/6.3	3	November 2025	REP5-022, REP5A-006
Environmental Statement – Figures (Figures 3.1)	EN010157/APP/6.3	5	November 2025	REP5-023
Environmental Statement – Figures (Figure 3.2)	EN010157/APP/6.3	4	November 2025	REP5-024
Environmental Statement – Non-Technical Summary	EN010157/APP/6.4	2	November 2025	REP5-028
Environmental Statement – Commitments Register	EN010157/APP/6.4	9	December 2025	REP6-019
Environmental Statement – Appendices (Appendices 1.1, 5.1, 5.2, 5.3, 5.4, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.9, 8.1, 8.2, 9.1, 9.2, 9.3, 10.1 Parts 2 and 3, 10.2, 11.1, 11.2, 11.3, 12.2, 12.4)	EN010157/APP/6.4	1	February 2025	APP-096, APP-097, APP-098, APP-099, APP-100, APP-104, APP-105, APP-106, APP-107, APP-108, APP-109, APP-110, APP-113, APP-116, APP-117, APP-118, APP-119, APP-120, APP-121, APP-122, APP-125, APP-126, APP-127, APP-128, APP-129, APP-130, APP-135, APP-137
Environmental Statement – Appendices (Appendix 11.6 part 2)	EN010157/APP/6.4	1	February 2025	AS-002
Environmental Statement – Appendices (Appendix 9.4)	EN010157/APP/6.4	2	August 2025	REP1-026
Environmental Statement – Appendices (Appendix 5.6 parts 1-9)	EN010157/APP/6.4	4	November 2025	REP5A-009, REP5A-011, REP5A-013, REP5A-015, REP5A-017, REP5A-019, REP5A-021, REP5A-023, REP5A-025

Environmental Statement – Appendices (Appendix 11.6 part 1)	EN010157/APP/6.4	2	Novemb er 2025	REP5-060
Environmental Statement – Appendices (Appendices 7.10, 12.1, 12.3, 14.2, 14.3, 14.4, 14.5)	EN010157/APP/6.4	2	Septemb er 2025	REP2-023, REP2-129, REP2-131, REP2-135, REP2-136, REP2-123, REP2-137
Environmental Statement – Appendices (Appendix 14.1)	EN010157/APP/6.4	4	October 2025	REP4-025
Environmental Statement – Appendices (Appendix 15.2)	EN010157/APP/6.4	2	October 2025	REP3-024
Environmental Statement – Appendices (Appendix 7.11)	EN010157/APP/6.4	3	October 2025	REP4-023
Environmental Statement – Appendices (Appendices 6.1, 10.1 Part 1, 11.4, 11.5 and 15.1)	EN010157/APP/6.4	2	Novemb er 2025	REP5-048, REP5-054, REP5-056, REP5-058, REP5-061
Environmental Statement – Appendices (Appendices 5.5, 7.7, 7.8)	EN010157/APP/6.4	3	Novemb er	REP5A-007, REP5A-027, REP5A-029
Habitats Regulations Assessment – Information to Inform Appropriate Assessment	EN010157/APP/5.3	5	Novemb er 2025	REP5A-004

PART 2

OTHER CERTIFIED DOCUMENTS

(1) *Document*	*(2)* *Document Reference*	*(3)* *Version*	*(4)* *Date*	*(5)* *Examination Library Reference*
Book of reference	EN010157/APP/4.2	10	Decemb er 2025	REP6-013
Crown land plans	EN010157/APP/2.6	2	Septemb er 2025	REP2-056
Land plans (consisting of a key plan and sheets 1 to 17 inclusive)	EN010157/APP/2.4	6	Decemb er 2025	REP6-005
Location and land area plan	EN010157/APP/2.1	2	Septemb er 2025	REP2-049
Special category land plans (consisting of a key plan and sheets 13 and 14 of 17)	EN010157/APP/2.5	2	Septemb er 2025	REP2-055
Works plans	EN010157/APP/2.2	5	Decemb er 2025	REP6-004
Traffic measures plan	EN010157/APP/2.9	3	Septemb er 2025	REP2-058
Streets, rights of way and	EN010157/APP/2.3	3	Septemb	REP2-051

access plans			er 2025	
Tree preservation order and hedgerow plans	EN010157/APP/2.8	4	October 2025	REP4-004
Outline battery safety management plan	EN010157/APP/7.6	4	January 2026	AS-041
Outline construction environmental management plan	EN010157/APP/7.2	7	Decemb er 2025	REP6-021
Outline construction traffic management plan	EN010157/APP/7.7	7	Decemb er 2025	REP6-027
Outline soil management plan	EN010157/APP/7.8	3	Novemb er 2025	REP5-073
Outline site waste management plan	EN010157/APP/7.1	1	February 2025	APP-161
Outline operational environmental management plan	EN010157/APP/7.3	5	Decemb er 2025	REP6-023
Outline decommissioning environmental management plan	EN010157/APP/7.4	5	Novemb er 2025	REP5-065
Design parameters document	EN010157/APP/5.8	6	October 2025	REP4-059
Outline landscape and ecological management plan	EN010157/APP/7.5	10	Decemb er 2025	REP6-025
Outline rights of way and access management plan	EN010157/APP/7.9	3	Septemb er 2025	REP2-144
Archaeological management strategy	EN010157/APP/7.1	2	August 2025	REP1-066

SCHEDULE 14

Article 44

ARBITRATION RULES

Commencing an arbitration

1. The arbitration is deemed to have commenced when a party ("the claimant") serves a written notice of arbitration on the other party ("the respondent").

Time periods

2.—(1) All time periods in these arbitration rules are measured in days and include weekends, but not bank or public holidays.

(2) Time periods are calculated from the day after the arbitrator is appointed which is either—

(a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or

(b) the date the arbitrator is appointed by the Secretary of State.

Timetable

3.—(1) The timetable for the arbitration is that which is set out in sub-paragraph (2) to (4) below unless amended in accordance with paragraph 5(3).

(2) Within 14 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

(a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant's contentions as to those issues, the amount of its claim or the remedy it is seeking;

(b) (b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 14 days of receipt of the claimant's statements under sub-paragraph (2) by the arbitrator and respondent, the respondent must provide the claimant and the arbitrator with—

(a) a written statement of defence consisting of a response to the claimant's statement of claim, its statement in respect of the nature of the difference, the legal and factual issues in the claimant's claim, its acceptance of any elements of the claimant's claim and its contentions as to those elements of the claimant's claim it does not accept;

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports;

(c) any objection it wishes to make to the claimant's statements, comments on the claimant's expert reports (if submitted by the claimant) and explanations of the objections.

(4) Within seven days of the respondent serving its statements under sub-paragraph (3) the claimant may make a statement of reply by providing both the respondent and the arbitrator with—

(a) a written statement responding to the respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;

(b) all statements of evidence and copies of documents in response to the respondent's submissions;

(c) any expert report in response to the respondent's submissions;

(d) any objections to the statements of evidence, expert reports or other documents submitted by the respondent; and

(e) its written submissions in response to the legal and factual issues involved.

Procedure

4.—(1) The parties' pleadings, witness statements and expert reports (if any) must be concise. A single pleading must not exceed 30 single-sided A4 pages using 10pt Arial font.

(2) The arbitrator will make an award on the substantive differences based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(3) Either party may, within two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within seven days of receiving the last submission, the arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(5) Within 10 days of the arbitrator advising the parties that a hearing is to be held, the date and venue for the hearing are to be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which the arbitrator considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(6) A decision must be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any experts attending the hearing may be asked questions by the arbitrator.

(7) There is to be no examination or cross examination of experts, but the arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the experts in response to the arbitrator's questions. Prior to the hearing in relation to the experts—

(a) at least 28 days before a hearing, the arbitrator must provide a list of issues to be addressed by the experts;

(b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 14 days of the issues being provided; and

(c) the form and content of a joint report must be as directed by the arbitrator and must be provided at least seven days before the hearing.

(8) Within 14 days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator must take these submissions into account in the award.

(9) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which the arbitrator is appointed, unless both parties otherwise agree to an extension to the date for the award.

(10) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before the arbitrator attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure or direction.

(11) The arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given must be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

5.—(1) The arbitrator has all the powers of the Arbitration Act 1996, save where modified in this Schedule.

(2) There must be no discovery or disclosure, except that the arbitrator is to have the power to order the parties to produce such documents as are reasonably requested by another party no later than the statement of reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales or procedure—

(a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;

(b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Costs

6.—(1) The costs of the arbitration must include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the arbitration.

(2) Where the difference involves connected or interrelated issues, the arbitrator must consider the relevant costs collectively.

(3) The final award must fix the costs of the arbitration and decide which of the parties are to bear them or in what proportion they are to be borne by the parties.

(4) The arbitrator must award recoverable costs on the general principle that each party should bear its own costs, having regard to all material circumstances, including such matters as exaggerated claims or defences, the degree of success for different elements of the claims, claims that have incurred substantial costs, the conduct of the parties and the degree of success of a party.

Confidentiality

7.—(1) Subject to sub-paragraphs (2) and (3), any arbitration hearing and documentation will be open to and accessible by the public.

(2) The arbitrator may direct that the whole or part of a hearing is to be private or any documentation to be confidential where it is necessary in order to protect commercially sensitive information.

(3) Nothing in this paragraph will prevent any disclosure of a document by a party pursuant to an order of a court in England and Wales or where disclosure is required under any enactment.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises the construction, operation, maintenance and decommissioning of a solar generating station and battery energy storage system on land to the east of Beverley in the East Riding of Yorkshire together with associated development. This Order imposes requirements in connection with the development and authorises the compulsory acquisition of land (including rights in land) and the right to use land and to override easements and other rights.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 42 (certification of documents, etc.) of this Order may be inspected free of charge during normal working hours at Beverley Library, Champney Road, Beverley, HU17 8HE.

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