

2020 No. 402

INFRASTRUCTURE PLANNING

**The A585 Windy Harbour to Skippool Highway Development
Consent Order 2020**

Made - - - -

9th April 2020

Coming into force - -

30th April 2020

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

The application was examined by a single appointed person (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The single appointed person, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the single appointed person, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120 and 122 of, and paragraphs 1 to 3, 10 to 15, 17, 19 to 23, 26, 30A, 30B, 33, 36 and 37 of Part 1 of Schedule 5 to the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the A585 Windy Harbour to Skippool Highway Development Consent Order 2020 and comes into force on 30th April 2020.

Interpretation

2.—(1) In this Order—

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

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

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

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(g);

“the 1984 Act” means the Road Traffic Regulation Act 1984(h);

“the 1990 Act” means the Town and Country Planning Act 1990(i);

(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of 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, S.I. 2018/378 and S.I. 2019/734.

(c) S.I. 2010/103, amended by S.I. 2012/635.

(d) 1961 c. 33.

(e) 1965 c. 56.

(f) 1980 c. 66.

(g) 1981 c. 66.

(h) 1984 c. 27.

(i) 1990 c. 8.

“the 1991 Act” means the New Roads and Street Works Act 1991(a);

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

“the 2009 Act” means the Marine and Coastal Access Act 2009(c);

“address” includes any number or address for the purposes of electronic transmission;

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

“authorised development” means the development described in Schedule 1 (authorised development) or any part of it, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

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

“British Telecommunications PLC” means the company registered in England and Wales, company number 01800000, whose registered address is 81 Newgate Street, London EC1A 7AJ;

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

“Cadent Gas Ltd” means the Company registered in England and Wales, company number 10080864, whose registered address is Ashbrook Court, Prologis Park, Central Boulevard, Coventry CV7 8PE;

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

“CEMP” means construction environmental management plan;

“commence” means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of non-intrusive investigations for the purpose of assessing ground conditions, and, where capable of being reversed and the land restored to its original condition, operations consisting of any archaeological investigations, non-intrusive pre-construction ecology surveys, pre-construction ecological mitigation and works under mitigation licences, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, and the temporary display of site notices or advertisements and “commencement” is to be construed accordingly;

“cycle track” has the same meaning as in the 1980 Act(d);

“Electricity North West Limited” means the company registered in England and Wales, company number, 02366949, whose registered address is Borron Street, Stockport, SK1 2JD;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

“the engineering drawings and sections” means the drawings and sections listed in Schedule 11 (documents to be certified) and certified as the engineering drawings and sections by the Secretary of State for the purposes of this Order;

“Environment Agency” means the body of that name created by the Environment Act 1995(e) or any successor in function to it;

“environmental statement” means the document of that description submitted with the application for this Order and certified as the environmental statement by the Secretary of State for the purposes of this Order;

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

(a) 1991 c. 22.

(b) 2008 c. 29.

(c) 2009 c. 23.

(d) The definition of “cycle track” (in section 329(1) of the 1980 Act) was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

(e) 1995 c.25.

“GTC Infrastructure Limited” means the company registered in Guernsey, company number, FC020169, whose registered address is Martello Court, Admiral Park, St Peter Port, Guernsey GY1 3HB;

“HEMP” means handover environmental management plan;

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

“highway authority” means the undertaker;

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

“lead local flood authority” has the same meaning as in the Flood and Water Management Act 2010(a)

“maintain” in relation to the authorised development includes to inspect, repair, adjust, alter, remove or reconstruct to the extent that such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement and any derivative of “maintain” is to be construed accordingly;

“Natural England” means the body established by section 1 of the Natural Environment and Rural Communities Act 2006(b) or any successor in function to it;

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

“the Order limits” means the limits of lands to be acquired or used permanently or temporarily shown on the land plans and works plans within which the authorised development may be carried out;

“the outline CEMP” means the document of that description submitted with the application for this Order and certified as the outline CEMP by the Secretary of State for the purposes of this Order;

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

“relevant planning authority” means in any given provision of this Order, the planning authority for the area to which the provision relates;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

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

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

“streets, rights of way and access plans” means the plans listed in Schedule 11 (documents to be certified) and certified as the streets, rights of way and access plans by the Secretary of State for the purposes of this Order;

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

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

(a) 2010 c. 29.

(b) 2006 c.16.

(c) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

(d) See section 49 of the 1991 Act.

(e) Section 121A was inserted by the section 168(1) of, and paragraph 70 of Schedule 8 to, the New Roads and Street Works Act 1991. It was amended by section 1 of, and paragraph 95(2) and (3) of Schedule 1 to the Infrastructure Act 2015 (c. 7). There are other amendments to section 121A which are not relevant to this Order.

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10(a) (general provisions as to trunk roads) or 19(1)(b) (certain special roads and other highways to become trunk roads) of the 1980 Act; or
- (b) an order or direction under section 10 of that Act; or
- (c) an order granting development consent; or
- (d) any other enactment;

“undertaker” means Highways England Company Limited (Company No. 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“United Utilities Group PLC” means the Company registered in England and Wales, company number 06559020, whose registered office is at Haweswater House, Lingley Mere Business Park, Lingley Green Avenue, Great Sankey, Warrington WA5 3LP;

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

“the works plans” means the plans listed in Schedule 11 (documents to be certified) and certified as the works plans by the Secretary of State for the purposes of this Order.

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

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

(4) For the purposes of this Order, 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 streets, rights of way and access plans.

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

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

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

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

(3) Nothing in this Order prevents the carrying out of operations pursuant to article 19 (authority to survey and investigate the land) immediately upon this Order coming into force.

(a) Section 10 was amended by section 22(2) of the 1991 Act, by section 36 of, and paragraph 22 of Schedule 2 to the 2008 Act, and by section 1 of, and paragraph 10 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(b) Section 19(1) was amended by section 1 of, and paragraph 15 of Schedule 1 to, the Infrastructure Act 2015.

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

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

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

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to—

- (a) Electricity North West Limited for the purposes of undertaking Work No. 6, 8, 26, 30, 31, 42, 64, 71, 72 and 112;
- (b) United Utilities Group PLC for the purposes of undertaking Work No. 3, 7, 34, 36, 37, 51, 53, 60, 61, 67, 73, 77 and 116;
- (c) British Telecommunications PLC (or a related or subsidiary company) for the purposes of undertaking Work No. 15, 24, 32, 33, 65, 75, 81 and 121;
- (d) GTC Infrastructure Limited (or a related or subsidiary company) for the purposes of undertaking Work No. 120; and
- (e) Cadent Gas Ltd for the purposes of undertaking Work No. 16, 27, 54, 69, 76 and 80,

provided that any transfer or grant under this paragraph (4) must not include the transfer or grant of any benefit of the provisions of Part 5 (powers of acquisition and possession) of this Order without the consent of the Secretary of State.

PART 3

STREETS

Application of the 1991 Act

9.—(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) (which defines what highway authority works are major highway 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.

(2) In Part 3 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.

(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 1991 Act.

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

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

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

(4) The provisions of the 1991 Act 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 stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 12 (temporary stopping up and restriction of use of streets), whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

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

- section 54(k) (advance notice of certain works), subject to paragraph (6);
- section 55(l) (notice of starting date of works), subject to paragraph (6);
- section 57(m) (notice of emergency works);
- section 59(n) (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);
- section 75 (inspection fees);
- section 76 (liability for cost of temporary traffic regulation); and
- 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 stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 10 (construction and maintenance of new, altered or diverted streets)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act and the undertaker is not by reason of any duty under that article to maintain a street or to

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- (a) Section 56 was amended by sections 40 and 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 sections 40 and 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 of, and Schedule 4 to the Traffic Management Act 2004.
 - (j) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004.
 - (k) Section 54 was also amended by section 49(1) of the Traffic Management Act 2004.
 - (l) Section 55 was also amended by sections 49(2) and 51(9) of the Traffic Management Act 2004.
 - (m) Section 57 was also amended by section 52(3) of the Traffic Management Act 2004.
 - (n) Section 59 was amended by section 42 of the Traffic Management Act 2004.

- (i) a principal road for the purpose of any enactment or instrument which refers to highways classified as principal roads; and
- (ii) a classified road for the purpose of any enactment or instrument which refers to highways classified as classified roads;

as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act;

- (c) the roads described in columns (1) and (2) of Part 3 (unclassified roads) of Schedule 3 are to become unclassified roads for the purpose of any enactment or instrument which refers to unclassified roads;
- (d) the public right of way described in Part 4 (other public rights of way) of Schedule 3 will be of the type described in column (1) of that Part to the extent described in column (2).

(2) Subject to paragraph (3), on such day as the undertaker may determine, the road described in Part 5 (roads to be de-trunked) of Schedule 3 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(3) The undertaker may only make a determination for the purposes of paragraph (2) with the consent of the Secretary of State, who must consult the local highway authority before deciding whether to give that consent.

(4) From the date on which the roads specified in Part 6 (speed limits) of Schedule 3 are open for traffic, no person is to drive any motor vehicle at a speed exceeding the limit in miles per hour specified in column (3) of Part 6 of Schedule 3 along the lengths of road identified in the corresponding row of column (2) of that Part.

(5) On such day as the undertaker may determine, the order specified in column (3) of Part 7 (revocations and variations of existing traffic regulation orders) of Schedule 3 is to be varied or revoked as specified in the corresponding row of column (4) of that Part in respect of the lengths of roads specified in the corresponding row of column (2) of that Part.

(6) On such day as the undertaker may determine, the orders specified in column (3) of Part 8 (new traffic regulation orders sought) of Schedule 3 are to be made in respect of the roads specified in the corresponding row of column (2) of that Part.

(7) The application of paragraphs (1) to (6) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

Temporary stopping up and restriction of use of streets

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

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

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street temporarily stopped up or restricted under the powers conferred by this article and which is within the Order limits as a temporary working site.

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

(4) The undertaker must not temporarily stop up, alter or divert or restrict the use of any street for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

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

(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.

Permanent stopping up and restriction of use of streets and private means of access

13.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets and private means of access specified in column (1) of Parts 1, 2, 3 and 4 of Schedule 4 (permanent stopping up of streets and private means of access) to the extent specified and described in column (2) of that Schedule.

(2) No street or private means of access specified in column (1) of Parts 1 and 3 of Schedule 4 is to be wholly or partly stopped up under this article unless—

- (a) the new street or private means of access to be constructed and substituted for it, which is specified in column (3) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street or private means of access to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street or private means of access until the completion and opening of the new street or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in column (1) of Part 4 of Schedule 4 is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street or private means of access to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the undertaker is in possession of the land;
- (b) there is no right of access to the land from the street or private means of access concerned;
- (c) there is reasonably convenient access to the land otherwise than from the street or private means of access concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street or private means of access has been stopped up under this article—

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

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

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

Access to works

14. The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(10) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

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

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

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

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

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) Save where permitted by this Order, 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.

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

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for environmental permit) of 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, an internal drainage board, a joint planning board, a local 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(c) 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

(a) 1991 c. 56. Section 106 was amended by sections 35(1) and (8), 43(2) and 56I(7) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and section 32 of, and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(b) S.I. 2016/1154. Regulation 12 was amended by 2018/110.

(c) 1991 c. 57.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152(a) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 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 which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

19.—(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 (including any watercourses, ground water, static water bodies or vegetation on the land);
- (b) without limitation to the scope of sub-paragraph (a), make any excavations or trial holes and boreholes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and groundwater and remove soil and water samples and discharge water samples on to the land;
- (c) without limitation to the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including making any excavations 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 and boreholes.

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

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

- (a) must, if so required, 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 and boreholes.

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

- (a) in land located within a highway boundary for which the local highway authority is the highway authority without the consent of the local 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 of the 1961 Act.

(6) If either a local highway authority or 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 local highway authority; or
- (b) under paragraph (4)(b) in the case of a street authority,

(a) Section 152 was amended by S.I. 2009/1307

over land affecting land under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(5) Schedule 6 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.

Private rights over land

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

- (a) 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)(a) (powers of entry) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished 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 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 earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the undertaker that are within the Order limits are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

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

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

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

(7) Paragraphs (1) to (4) 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 it;
 - (iii) the undertaker's entry onto it; or
 - (iv) the undertaker's taking temporary possession of it,
- that any or all of those paragraphs do not apply to any right specified in the notice; and

(a) Section 11(1) was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1) and sections 186(1) and (2), 187 and 188 of the Housing and Planning Act 2016 (c. 22).

(b) Section 138 was amended by section 23(1) and (4) of the Growth and Infrastructure Act 2013 (c. 27) and S.I. 2017/1285.

the authorised development) of the A585 Windy Harbour to Skippool Highway Development Consent Order 2020”.

Application of the 1981 Act

- 26.**—(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 (application of Act) for subsection 2 substitute—
- “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.
- (4) In section 5(a) (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.
- (5) Omit section 5A(b) (time limit for general vesting declaration).
- (6) In section 5B(1)(c) (extension of time limit during challenge)—
- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and
- (b) for “the three year period mentioned in section 5A” substitute “the five year period mentioned in article 22 (time limit for exercise of authority to acquire land compulsorily) of the A585 Windy Harbour to Skippool Highway Development Consent Order 2020”.
- (7) In section 6(d) (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”.
- (8) In section 7(e) (constructive notice to treat) in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (9) In Schedule A1(f) (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).
- (10) References to the 1965 Act in the 1981 Act are to 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 25 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

- 27.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or of the airspace over the land referred to in paragraph (1) of article 20 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.
- (2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over land referred to in paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.
- (3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—
- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act as modified by article 25 of this Order;

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- (a) Section 5 was amended by paragraphs 4 and 6 of Schedule 15 to the Housing and Planning Act 2016 (c. 22).
- (b) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016.
- (c) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016.
- (d) Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016.
- (e) Section 7(1) was substituted by Schedule 18 to the Housing and Planning Act 2016.
- (f) Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016.

(d) construct any works on that land as are mentioned in Schedule 1 (authorised development).

(2) Not less than 14 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 and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 7, or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section (4) of the 1981 Act in relation to that land.

(4) 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 condition it was in on the date on which possession of the land was first taken by the undertaker or such other condition as may be agreed with the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development; or
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

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

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

(7) Any dispute as to the removal of temporary works and restoration of land under paragraph (4) does not prevent the undertaker giving up possession of the land.

(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 carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from acquiring any part of the subsoil (or rights in the subsoil of or airspace over) that land under article 27 (acquisition of subsoil or airspace only).

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

(11) Section 13(a) (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

(a) Section 13 was amended by sections 62(3) and 139 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).

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

(12) The provisions of the Neighbourhood Planning Act 2017^(a) do not apply insofar as they relate to temporary possession of land under this article 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 of the authorised development.

Temporary use of land for maintaining the authorised development

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

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

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

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon 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 and explain the purpose for which entry is taken.

(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 condition it was in on the date on which possession of the land was first taken by the undertaker or such other condition as may be agreed with 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, is to be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (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 execution of any works, 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 the 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”, in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

(a) 2017 c. 20.

(12) The provisions of the Neighbourhood Planning Act 2017 do not apply insofar as they relate to the temporary possession of land under this article in relation to the maintenance of any part of the authorised development within the maintenance period.

Statutory undertakers

31.—(1) Subject to the provisions of Schedule 10 (protective provisions), article 23 (compulsory acquisition of rights and restrictive covenants) and paragraph (2), the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over any Order land belonging to statutory undertakers; and
- (b) extinguish the rights of, or remove or reposition the apparatus belonging to, statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 (street works in England and Wales) of the 1991 Act; and
- (b) article 32 of this Order (apparatus and rights of statutory undertakers in stopped up streets).

Apparatus and rights of statutory undertakers in stopped up streets

32.—(1) Where a street is stopped up under article 13 (permanent stopping up and restriction of use of streets and private means of access), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 13 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

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

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

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

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

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

(8) In this article—

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

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

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

Recovery of costs of new connections

33.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 31 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from 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 32, 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 32 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

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

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

(a) 2003 c. 21. There are amendments to section 151 which are not relevant to this Order.

PART 6

OPERATIONS

Felling or lopping of trees and removal of hedgerows

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

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

(2) In carrying out any activity authorised by paragraph (1), the undertaker—

- (a) must do no unnecessary damage to any tree or shrub;
- (b) must not fell or lop any tree or shrub within or overhanging land within the Order limits or cut back its roots if the tree or shrub is identified as being retained in the environmental statement unless the undertaker reasonably believes it to be necessary to do so for the purposes of the construction or operation of the authorised development and provided that the Secretary of State is satisfied that the felling, lopping or cutting back of roots would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement; and
- (c) must pay compensation to any person for any loss or damage arising from such activity.

(3) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow described in Part 1 (hedgerows) of Schedule 9.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow which is not described in Part 1 of Schedule 9 with the prior consent of the relevant planning authority.

(5) In carrying out any activity authorised by paragraph (3) or (4), the undertaker must pay compensation to any person for any loss or damage arising from such activity.

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

(7) In this article “hedgerow” has the same meaning as in the Hedgerow Regulations 1997^(a) and includes important hedgerows for the purposes of those regulations.

PART 7

MISCELLANEOUS AND GENERAL

Deemed Marine Licence

35. The undertaker is deemed to have been granted the licence under Part 4 of the 2009 Act contained in Schedule 8 to this Order, to carry out works and make the deposits described in that licence and subject to the licence conditions which are deemed to have been attached to the licence by the Secretary of State under Part 4 of the 2009 Act.

Application of landlord and tenant law

36.—(1) This article applies to—

(a) S.I. 1997/1160.

Defence to proceedings in respect of statutory nuisance

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

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

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Protection of interests

40. Schedule 10 (protective provisions) has effect.

Certification of documents, etc.

41.—(1) As soon as practicable after the making of this Order, the undertaker must submit copies of each of the plans and documents set out in Schedule 11 (documents to be certified) to the Secretary of State for certification that they are true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 11 requires to be amended to reflect the terms of the Secretary of State's decision to make the Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

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

Service of notices

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

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

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

(b) Subsection (2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c. 40); there are other amendments to this subsection which are not relevant to this Order.

(c) 1974 c. 40. Section 61 was amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to section 61 which are not relevant to this Order.

(c) with the consent of the recipient and subject to paragraphs (5) 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 the time of service.

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

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

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

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement will 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) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

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

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

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

(b) such revocation will be final and will take effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article will not be taken to 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.

(a) 1978 c. 30.

Arbitration

43. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Crown rights

44.—(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 to take, use, enter upon or in any manner interfere with any land or rights of any description (including any river, channel, creek, bay or estuary)—

- (a) belonging to Her 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 Her Majesty in right of the Crown and 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 Her 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 purchase of any interest in any Crown land (as defined in the 2008 Act) 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.

(4) Nothing in this Order shall authorise the compulsory acquisition of any interest in the Order Land held by or on behalf of the Duchy of Lancaster.

Signed by authority of the Secretary of State

9th April 2020

Susan Anderson
Head of the Transport and Works Act Unit
Department for Transport

Work No.13 – The construction of the left turning lane from the B5412 Skippool Road onto Breck Road, (eastbound), at Skippool Junction, approximately 128 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.14 – The construction of pedestrian crossing facilities across the eastern arm (A585 Breck Road) of Skippool Junction, approximately 90 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.15 – The diversion of utilities (British Telecommunications PLC), approximately 151 metres in length, across Skippool Junction, as shown on Sheet 1 of the Works Plans.

Work No.16 – The diversion of utilities (Cadent), approximately 160 metres in length, across Skippool Junction, as shown on Sheet 1 of the Works Plans.

Work No.17 – The construction of a non-motorised user footway (including provisions for cyclists and pedestrians) approximately 596 metres in length, commencing at a tie in point with the existing footway on the B5412 Skippool Road and terminating at the diverted Old Mains Lane, as shown on Sheet 1 of the Works Plans.

Work No.18 – The construction of the westbound, left turn lane at Skippool Junction, approximately 155 metres in length, from the A585 Breck Road, continuing onto the A588 Breck Road, heading southbound, as shown on Sheet 1 of the Works Plans.

Work No.19 – The construction and alteration of Breck Service Road, running parallel to the main A585 Breck Road, approximately 156 metres in length, including the stopping up of the east end entrance and the construction of a “hammerhead” turning area, as shown on Sheet 1 of the Works Plans.

Work No.20 – The construction of alterations to the existing private means of access, on the north side of A585 Breck Road, approximately 36 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.21 – The construction of a new section of A585 dual carriageway between Skippool Junction and Skippool Bridge Junction, approximately 444 metres in length, including associated features such as embankments, additional structures and roadside furniture, as shown on Sheet 1 of the Works Plans.

Work No.22 – The construction of a non-motorised user footway (including provisions for cyclists and pedestrians) commencing at the turning point into Breck Road access road and running for approximately 220 metres along the south side of Mains Lane, including pedestrian crossing facilities at Skippool Bridge Junction, as shown on Sheet 1 of the Works Plans.

Work No.23 – The construction of alterations to the existing private means of access on the north side of the A585 Breck Road, approximately 41 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.24 – The diversion of utilities (British Telecommunications PLC), approximately 90 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.25 – The construction of a new underbridge over Main Dyke, including all associated bridge foundations, widening, parapets and roadside furniture, approximately 34 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.26 – The diversion of utilities (Electricity North West), approximately 218 metres in length, running along Mains Lane and across Skippool Bridge Junction, as shown on Sheet 1 of the Works Plans.

Work No.27 - The diversion of utilities (Cadent), approximately 258 metres in length, running along Mains Lane and across Skippool Bridge Junction, as shown on Sheet 1 of the Works Plans.

Work No.28 – The construction of the eastbound A585 off-slip lane at Skippool Bridge Junction, approximately 163 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.45 – The construction of a culvert perpendicular to the new A585 Dual Carriageway of length approximately 105 metres, north west of Poulton Junction as shown on Sheet 2 of the Works Plans.

Work No.46 – The construction of the new A585 Dual Carriageway westbound on-slip, left turning, lane at Poulton Junction, approximately 80 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.47 – The construction of an at grade crossroad junction (Poulton Junction) tying in with the existing A586 Garstang Road East and the new A585 Dual Carriageway including all associated widening works and retaining structures approximately 402 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.48 – The construction of a non-motorised user footway (including provisions for cyclists and pedestrians) along A586 Garstang Road East, approximately 169 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.49 – The construction of the new A585 Dual Carriageway eastbound off-slip, left turning, lane at Poulton Junction, approximately 87 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.50 – The construction of the new A585 Dual Carriageway eastbound on-slip, left turning, lane at Poulton Junction, approximately 28 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.51 – The diversion of utilities (United Utilities) along A586 Garstang Road East at Poulton Junction approximately 315 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.52 – The construction of an access route (path) to the drainage attenuation pond located South East of Poulton Junction approximately 45 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.53 – The diversion of utilities (United Utilities) along A586 Garstang Road East at Poulton Junction approximately 253 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.54 – The diversion of utilities (Cadent) along A586 Garstang Road East at Poulton Junction approximately 253 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.55 – The construction of an environmental bund (false cutting) along the south side of the new A585 Dual Carriageway, south of Poulton Junction, approximately 351 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.56 – The construction of the new A585 Dual Carriageway westbound off-slip left turning lane at Poulton Junction approximately 81 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.57 – The construction of a drainage attenuation pond and accompanying environmental bund (banking) with a perimeter approximately 210 metres in length, adjacent to Poulton Junction, as shown on Sheet 2 of the Works Plans.

Work No.58 – The construction of a section of the new A585 Dual Carriageway, approximately 2609 metres in length, commencing at Poulton Junction, and terminating at Windy Harbour Junction, including all associated features such as embankments, cuttings, additional structures and roadside furniture, as shown on Sheets 2, 3 and 4 of the Works Plans.

Work No.59 – The construction of an environmental bund along the north side of the new A585 Dual Carriageway, south of Poulton Junction, approximately 531 metres in length, as shown on Sheets 2 and 3 of the Works Plans.

Work No.60 – The diversion of utilities (United Utilities) parallel to the new A585 Dual Carriageway, running for approximately 828 metres in length, as shown on Sheets 2 and 3 of the Works Plans.

Work No.95 – The improvements associated with the de-trunking of the existing A585 between Skippool Bridge Junction and Little Singleton Junction, approximately 1947 metres in length as shown on Sheets 1, 2 and 3 of the Works Plans, including the construction of a non-motorised user footway (including provisions for cyclists and pedestrians).

Work No.96 – The construction of a culvert, perpendicular to the new A585 dual carriageway, approximately 57 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.97 – The construction and alteration of Shard Road Junction, approximately 55 metres in length, including associated features such as embankments, additional structures and roadside furniture, as shown on Sheet 1 of the Works Plans.

Work No.98 – The construction of flood mitigation area (1) with a perimeter of approximately 367 metres, including associated embankments, as shown on Sheet 1 of the Works Plans.

Work No.99 – The construction of a non-motorised user footway (including provision for cyclists and pedestrians) between Skippool Bridge Junction and Old Mains Lane, approximately 36 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.100 – The construction of pedestrian crossing facilities across the new A585 Dual Carriageway at Poulton Junction, approximately 93 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.101 – The construction of a non-motorised user footway (including provisions for cyclists and pedestrians) along A586 Garstang Road East, approximately 168 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.102 – The construction of pedestrian crossing facilities across the new A585 Dual Carriageway westbound at Skippool Bridge Junction, approximately 38 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.103 – The construction of pedestrian crossing facilities across the new A585 Dual Carriageway eastbound at Skippool Bridge Junction, approximately 21 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.104 – The construction of pedestrian crossing facilities across the new Skippool Bridge Junction left turning lane, approximately 24 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.105 – The construction of pedestrian crossing facilities across the new Skippool Bridge Junction left turning lane, approximately 47 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.106 – The construction of a non-motorised user footway (including provisions for cyclists and pedestrians) along the A585 Mains Lane, approximately 111 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.107 – The construction of an environmental bund (false cutting), approximately 667 metres in length, running along the north side of the new A585 dual carriageway, as shown on Sheet 2 of the Works Plans.

Work No.108 – The construction of an environmental bund (false cutting), approximately 298 metres in length, running along the south side of the new A585 dual carriageway, as shown on Sheet 1 of the Works Plans.

Work No.109 – The construction of flood mitigation area (4) with a perimeter of approximately 288 metres, including associated embankments, as shown on Sheet 2 of the Works Plans.

Work No.110 – The construction of flood mitigation area (3) with a perimeter of approximately 491 metres, including associated embankments, as shown on Sheet 2 of the Works Plans.

Work No.111 – The construction of flood mitigation area (2) with a perimeter of approximately 619 metres, including associated embankments, as shown on Sheets 1 and 2 of the Works Plans.

Work No.112 – The diversion of utilities (Electricity North West) running perpendicular to the A585 approximately 42 metres in length, as shown on Sheet 1 of the Works Plans.

Work No.113 – The construction of a new private means of access to the west of Poulton Junction on the A586, approximately 516 metres in length, as shown on Sheets 1 and 2 of the Works Plans.

Work No.114 – The construction of a new private means of access to the south of Grange footbridge, approximately 758 metres in length, as shown on Sheet 3 of the Works Plans.

Work No.115 – The construction of a culvert (Skipton Clough), approximately 104 metres in length, running directly beneath Skipton Junction, including the abandoning of the existing Skipton Clough culvert, as shown on Sheet 1 of the Works Plans.

Work No.116 – The diversion of utilities (United Utilities), approximately 27 metres in length, running perpendicular to the new A585 Dual Carriageway, as shown on Sheet 1 of the Works Plans.

Work No.117 – The construction of a farm access track and accommodation fencing on the north side of the track, approximately 84 metres in length, running parallel to the north side of the new A585 Dual carriageway towards Ryecroft Farm, as shown on Sheet 1 of the Works Plans.

Work No.118 – The construction of an altered connection, approximately 21 metres in length, from the footway to the section of Wyre Way west of Horsebridge Dyke, as shown on Sheet 1 of the Works Plans.

Work No.119 – The construction of an altered connection, approximately 12 metres in length, from the footway to the section of Wyre Way west of Horsebridge Dyke, as shown on Sheet 1 of the Works Plans.

Work No.120 – The diversion of utilities (GTC Infrastructure Limited), approximately 69 metres in length, along private means of access to Singleton Manor, as shown on Sheet 3 of the Works Plans.

Work No.121 – The diversion of utilities (British Telecommunications PLC) along A586 Garstang Road East at Poulton Junction, approximately 344 metres in length, as shown on Sheet 2 of the Works Plans.

Work No.122 – The construction of a dwarf wall, approximately 135 metres in length, along the northern footway at Skipton Junction from Throstles Nest to a point east of Skipton Junction, as shown on Sheet 1 of the Works Plans.

Work No.123 – The construction of an accommodation culvert, perpendicular to a new access track, approximately 13 metres in length, as shown on Sheet 1 of the Works Plans.

In connection with the construction of any of those works, further development within the Order limits consisting of—

- (a) alteration of the layout of any street permanently or temporarily, including but not limited to increasing the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street; altering the level or increasing the width of any such kerb, footpath, footway, cycle track or verge; and reducing the width of the carriageway of the street;
- (b) works required for the strengthening, improvement, maintenance, or reconstruction of any street;
- (c) works for the strengthening, alteration or demolition of any building;
- (d) ramps, means of access, non-motorised links, footpaths, footways, bridleways, cycle tracks and crossing facilities;
- (e) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, outfalls, ditches, pollution control devices, wing walls, highway lighting, fencing and culverts;

SCHEDULE 2 REQUIREMENTS

Article 3

PART 1 REQUIREMENTS

Interpretation

1. In this Schedule—

“contaminated land” has the same meaning as that given in section 78A(a) of the Environmental Protection Act 1990;

“European protected species” has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(b);

“the Manual of Contract Documents for Highway Works” means the document of that name published electronically by or on behalf of the strategic highway authority for England or any equivalent replacement published for that document;

“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981(c); and

“REAC” means the record of environmental actions and commitments at Volume 7 of the environmental statement (Application Document TR010035/APP/7.3).

Time limits

2. The authorised development must commence no later than the expiration of 5 years beginning with the date that this Order comes into force.

Detailed design

3.—(1) The authorised development must be designed in detail and carried out in accordance with the preliminary scheme design shown on the works plans and engineering drawings and sections unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its functions, provided that the Secretary of State is satisfied that any amendments to the works plans and engineering drawings and sections showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding works plans and engineering drawings and sections and the undertaker must make those amended details available in electronic form for inspection by members of the public.

(a) 1990 c. 43. Section 78A was inserted by section 57 of the Environment Act 1995 (c. 25) and amended by section 86(2) of the Water Act 2003 (c. 37).

(b) S.I. 2017/1012.

(c) 1981 c. 69.

Construction and handover environmental management plans

4.—(1) No part of the authorised development is to commence until a CEMP, substantially in accordance with the outline CEMP, for that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and Natural England to the extent that it relates to matters relevant to their function.

(2) The CEMP must be written in accordance with ISO14001 and must—

- (a) be in accordance with the mitigation measures set out in the REAC;
- (b) contain a record of all sensitive environmental features that have the potential to be affected by the construction of the proposed development;
- (c) require adherence to working hours of 07:30–18:00 Mondays to Fridays and 08:00–14:00 on Saturday except for—
 - (i) deliveries, movements to work, maintenance and general preparation works but not including running plant and machinery for a period of one hour either side of the above times;
 - (ii) night-time closures including for road crossings and final surfacing tie ins;
 - (iii) any oversize deliveries or deliveries where daytime working would be excessively disruptive to normal traffic operation;
 - (iv) junction tie-in works;
 - (v) repair or maintenance of construction equipment;
 - (vi) removal of overhead power lines;
 - (vii) overnight traffic management measures;
 - (viii) cases of emergency; and
 - (ix) as otherwise agreed by the relevant planning authority in advance;
- (d) include the following management plans which must be in accordance with the REAC—
 - (i) Bird Mitigation Strategy;
 - (ii) Biodiversity Enhancement Strategy;
 - (iii) Soil Management Plan;
 - (iv) Soil Resource Plan;
 - (v) Noise and Vibration Management Plan;
 - (vi) Pollution Control Plan;
 - (vii) Emergency Spillage Response Plan;
 - (viii) Emergency Flood Response Plan;
 - (ix) Dewatering Management Plan;
 - (x) Construction Water Management Plan;
 - (xi) Site Waste Management Plan;
 - (xii) Materials Management Plan;
 - (xiii) Borrow Pit – Restoration Aftercare Plan;
 - (xiv) Asbestos Management Plan;
 - (xv) Flood Warning Evacuation Plan.

(3) The construction of the authorised development must be carried out in accordance with the approved CEMP and any mitigation, monitoring and adaptive management measures contained in the approved CEMP must be implemented.

(4) A HEMP must be developed and completed by the end of the construction, commissioning and handover stage of the authorised development, in accordance with the process set out in the approved CEMP.

(5) The HEMP must address the matters set out in the approved CEMP that are relevant to the operation and maintenance of the authorised development, and must contain—

- (a) the environmental information needed for the future maintenance and operation of the authorised development;
- (b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development; and
- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies.

(6) The authorised development must be operated and maintained in accordance with the HEMP.

Landscaping

5.—(1) The authorised development must be landscaped in accordance with a landscaping scheme which sets out details of all proposed hard and soft landscaping works and which has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.

(2) The landscaping scheme must reflect the mitigation measures set out in the REAC and must be based on the illustrative environmental masterplan within the environmental statement (Application Document TR010035/APP/6.19).

(3) The landscaping scheme prepared under sub-paragraph (1) must include details of—

- (a) location, number, species mix, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) existing trees to be retained, with measures for their protection during the construction period;
- (d) proposed finished ground levels; and
- (e) implementation timetables for all landscaping works.

(4) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(5) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of at least the same species and size as that originally planted, or where significant loss occurs a size and species which accords with the provisions for replacement planting identified in the approved HEMP, unless the Secretary of State, following consultation with the relevant planning authority on matters related to its function, gives consent to a variation.

Contaminated land and groundwater

6.—(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(2) Where the undertaker determines that remediation of the contaminated land is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the Secretary of State,

following consultation with the relevant planning authority on matters related to its function and the Environment Agency.

- (3) Remediation must be carried out in accordance with the approved scheme.

Protected species

7.—(1) In the event that any protected species which are not previously identified in the environmental statement or nesting birds are found at any time when carrying out the authorised development the undertaker must cease construction works and report it immediately to the Ecological Clerk of Works.

(2) The undertaker must prepare a written scheme for the protection and mitigation measures for any protected species that were not previously identified in the environmental statement or nesting birds when carrying out the authorised development. Where nesting birds are identified works should cease within 10 metres of the nest until birds have fledged and the nest is no longer in use.

(3) The undertaker must implement the written scheme prepared under sub-paragraph (2) immediately and construction in the area specified in the written scheme must not recommence until any necessary licences are obtained to enable mitigation measures to be implemented.

(4) Prior to demolition of Skippool Bridge the undertaker must carry out an endoscope survey of the features on the bridge which have the potential to be used by bats. If the results of the survey show that bats are present and a protected species licence is required, no further work shall be undertaken to the bridge until a written scheme of investigation and mitigation has been prepared.

(5) The undertaker must implement the written scheme prepared under sub-paragraph (4) immediately and construction in the area specified in the written scheme must not recommence until any necessary licences are obtained to enable mitigation measures to be implemented.

(6) The undertaker must implement the Bird Mitigation Strategy prepared under requirement 4(2)(d)(i) at all times during construction of the authorised development unless otherwise agreed in writing by the Secretary of State following consultation with Natural England.

Surface and foul water drainage

8.—(1) No part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, reflecting the mitigation measures set out in the REAC including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation with the lead local flood authority on matters related to its function.

(2) The surface and foul water drainage system must be constructed in accordance with the approved details, unless otherwise agreed in writing by the Secretary of State following consultation with the lead local flood authority on matters related to its function, provided that the Secretary of State is satisfied that any amendments to the approved details would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

Archaeological remains

9.—(1) No part of the authorised development is to commence until for that part a written scheme for the investigation of areas of archaeological interest, reflecting the relevant mitigation measures set out in the Archaeology Mitigation Strategy and draft Written Scheme of Investigation, has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.

(2) The authorised development must be carried out in accordance with the scheme referred to in sub-paragraph (1).

(3) A copy of any analysis, reporting, publication or archiving required as part of the written scheme referred to in sub-paragraph (1) must be deposited with the Historic Environment Record of the relevant planning authority within one year of the date of completion of the authorised

development or such other period as may be agreed in writing by the relevant planning authority or specified in the written scheme referred to in sub-paragraph (1).

(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in situ and reported to the relevant planning authority as soon as reasonably practicable from the date they are identified.

(5) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (4) for a period of 14 days from the date of any notice served under sub-paragraph (4) unless otherwise agreed in writing by the relevant planning authority.

(6) If the relevant planning authority determines in writing that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains until provision has been made for the further investigation and recording of the remains in accordance with details to be submitted in writing to, and approved in writing by, the relevant planning authority.

Traffic management

10.—(1) No part of the authorised development is to commence until a traffic management plan for that part has been submitted to and approved in writing by the Secretary of State, following consultation with the local highway authority on matters related to its function.

(2) The authorised development must be constructed in accordance with the traffic management plan referred to in sub-paragraph (1).

Amendments to approved details

11. With respect to any requirement which requires the authorised development to be carried out in accordance with the details of schemes or plans approved under this Schedule, the approved details or schemes or plans are taken to include any amendments that may subsequently be approved in writing.

Fencing

12. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with Volume 1, Series 0300 of the Manual of Contract Documents for Highway Works except where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development.

Details of consultation

13. —(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule following consultation with another party, the undertaker must provide such other party with not less than 14 days for any response to the consultation and thereafter the details submitted to the Secretary of State for approval must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation.

(2) At the time of submission to the Secretary of State for approval, the undertaker must provide a copy of the summary report referred to under sub-paragraph (1) to the relevant consultees referred to in the requirement in relation to which approval is being sought from the Secretary of State.

(3) The undertaker must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, but only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.

(4) Where the consultation responses are not reflected in the details submitted to the Secretary of State for approval, the undertaker must state in the summary report referred to under sub-

paragraph (1) the reasons why the consultation responses have not been reflected in the submitted details.

Temporary compensatory flood storage system

14.—(1) Development must not be commenced within the 1% plus 30% for climate change flood extent of the Main Dyke, illustrated in Figure D8 of the Flood Risk Assessment (document reference TR010035/APP/5.2–v1) until details of a temporary compensatory flood storage scheme is submitted to and approved in writing by the Secretary of State. The scheme must include details of the design, function, construction and, as appropriate, decommissioning of the temporary compensatory flood storage area, to ensure that a suitably engineered solution is provided that will not impede access to Main Dyke (Skeppool Creek) for maintenance purposes and will allow for the storage and subsequent drain down of flood waters that would be displaced by the development.

(2) The scheme must be fully implemented as approved and subsequently maintained in accordance with the approved details until it is decommissioned.

Soil survey and mitigation plan

15.—(1) No part of the authorised development is to commence until an agricultural land classification and soil survey has been undertaken and a soil mitigation plan has been prepared and has been submitted and approved in writing by the Secretary of State following consultation with Natural England.

(2) The undertaker must implement the soil mitigation plan prepared under sub-paragraph (1) during construction of the authorised development.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

16.—(1) Where an application has been made to the Secretary of State 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 Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the Secretary of State;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 17; or
- (c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification at the end of that period).

(3) Where—

- (a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;
- (b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and
- (c) the application is accompanied by a report from a body required to be consulted by the undertaker under the requirement that considers it likely that the subject matter of the application would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement,

SCHEDULE 3
CLASSIFICATION OF ROADS, ETC.

Articles 11 and 15

PART 1
TRUNK ROADS

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Extent</i>
A585 at Skippool Junction cross roads	Entire junction within Point 1 of the Streets, Rights of Way and Access Plans (Sheet 1)
A585(T) between Skippool Junction and Skippool Bridge Junction	Shown within Point 1 of the Streets, Rights of Way and Access Plans (Sheet 1)
A585 at Skippool Bridge Junction	Entire junction within Point 1 of the Streets, Rights of Way and Access Plans (Sheet 1)
A585(T) between Skippool Bridge Junction and Poulton Junction	Shown by Point 7 of the Streets, Rights of Way and Access Plans (Sheets 1 and 2)
A585 at Poulton Junction cross roads	Cross roads shown by Point 8 of the Streets, Rights of Way and Access Plans (Sheet 2)
A585(T) between Poulton Junction and intersect with de-classified Garstang New Road	Shown by Point 9 of the Streets, Rights of Way and Access Plans (Sheets 2 and 3)
A585(T) between intersect with de-classified Garstang New Road and Windy Harbour Junction	Shown by Point 14 of the Streets, Rights of Way and Access Plans (Sheet 4)

PART 2
CLASSIFIED ROADS

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Extent</i>
A586 Garstang Road East (west of proposed Poulton Junction)	Shown by Point 10 of the Streets, Rights of Way and Access Plans (Sheet 2)
B5260 Lodge Lane Bridge	Shown by Point 12 of the Streets, Rights of Way and Access Plans (Sheet 3)
Garstang Road East (to be re-classified as the B5260)	Shown by Point 11 of the Streets, Rights of Way and Access Plans (Sheets 2 and 3)
Mains Lane between Skippool Bridge Junction and Shard Road Junction (to be re-classified as the A588)	Shown by Point 19 and 18 of the Streets, Rights of Way and Access Plans (Sheet 1)

(1) <i>Parish(es)</i>	(2) <i>Road name, number and length</i>	(3) <i>Speed Limit</i>
	As shown on Sheet 1 of the Traffic Regulation Measures and De-trunking Plans	
Singleton	A585 (eastbound) From a point 135 metres south of Skippool Bridge heading east along its length to a point 306 metres north west from Poulton Junction for a total distance of 995 metres As shown on Sheet 1 and 2 of the Traffic Regulation Measures and De-trunking Plans	National de-restricted speed limit (70 miles per hour)
Singleton	A585 (westbound) From a point 306 metres north west from Poulton Junction heading west along its length to a point 373 metres south of Skippool Bridge Junction for a total distance of 801 metres As shown on Sheet 1 and 2 of the Traffic Regulation Measures and De-trunking Plans	National de-restricted speed limit (70 miles per hour)
Singleton	A585 (eastbound) From a point 306 metres north from Poulton Junction heading east along its length to a point 280 metres south east of Poulton Junction for a total distance of 589 metres As shown on Sheet 2 of the Traffic Regulation Measures and De-trunking Plans	50 miles per hour
Singleton	A585 (westbound) From a point 280 metres south east from Poulton Junction heading west along its length to a point 306 metres north west of Poulton Junction for a total distance of 589 metres As shown on sheet 2 of the Traffic Regulation Measures and De-trunking Plans	50 miles per hour
Singleton	A585 (eastbound) From a point 280 metres south east of Poulton Junction heading east along its length to a point 238 metres west from Windy Harbour Junction for a total distance of 2094 metres	National de-restricted speed limit (70 miles per hour)

<i>(1)</i> <i>Parish(es)</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Speed Limit</i>
	Traffic Regulation Measures and De-trunking Plans	

PART 7

REVOCATIONS AND VARIATIONS OF EXISTING TRAFFIC REGULATION ORDERS

<i>(1)</i> <i>Parishes</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Title of Order</i>	<i>(4)</i> <i>Revocations or Variations</i>
Singleton	Mains Lane, A585, 2904 yards	Order 1973 (No.2)	Revocation

PART 8

NEW TRAFFIC REGULATION ORDERS SOUGHT

<i>(1)</i> <i>Parish(es)</i>	<i>(2)</i> <i>Road name and number</i>	<i>(3)</i> <i>Traffic Regulation Sought</i>
Poulton-le-Fylde	A585 Breck Road	No entry on westbound carriageway at Skippool Junction for traffic travelling east, as shown on Sheet 1 of the Traffic Regulation Measures and De-trunking Plans
Poulton-le-Fylde	A585 Breck Road	No entry on eastbound carriageway at Skippool Junction for traffic travelling west, as shown on Sheet 1 of the Traffic Regulation Measures and De-trunking Plans
Poulton-le-Fylde	Breck Service Road	No through road for traffic entering Breck Service Road from A588 Breck Road, as shown on Sheet 1 of the Traffic Regulation Measures and De-trunking Plans
Poulton-le-Fylde	A585 Breck Road	Prohibition of right turn movements for all traffic entering on to the A585 westbound carriageway from accesses to the south of the A585 Breck Road between Skippool Junction and proposed Skippool Bridge Junction, as show on Sheet 1

		of the Traffic Regulation Measures and De-trunking Plans
Poulton-le-Fylde	A585 Breck Road	Prohibition of right turn movements for all traffic entering on to the A585 eastbound carriageway from accesses to the south of the A585 Breck Road between Skippool Junction and proposed Skippool Bridge Junction, as show on Sheet 1 of the Traffic Regulation Measures and De-trunking Plans
Singleton	A585	No entry on westbound carriageway at proposed Skippool Bridge Junction for traffic travelling east, as shown on Sheet 1 of the Traffic Regulation Measures and De-trunking Plans
Singleton	A585	No entry on eastbound carriageway at proposed Skippool Bridge Junction for traffic travelling west, as shown on Sheet 1 of the Traffic Regulation Measures and De-trunking Plans
Singleton	A585	No entry on westbound carriageway at proposed Poulton Junction for traffic travelling east, as shown on Sheet 2 of the Traffic Regulation Measures and De-trunking Plans
Singleton	A585	No entry on eastbound carriageway at proposed Poulton Junction for traffic travelling west, as shown on Sheet 2 of the Traffic Regulation Measures and De-trunking Plans
Singleton	Mains Lane	One way road for traffic using the proposed “U” turn facility at Little Singleton Junction, as shown on Sheet 3 of the Traffic Regulation Measures and De-trunking Plans
Singleton	Garstang New Road	No through road for traffic entering Garstang New Road from Little Singleton Junction, as shown on Sheet 3 of the Traffic Regulation Measures and De-trunking Plans

<i>(1)</i> <i>Private means of access to be stopped up</i>	<i>(2)</i> <i>Extent of stopping up</i>	<i>(3)</i> <i>New private means of access to be substituted</i>
Private means of access adjacent to the north of the A585	At Point K as shown on Sheet 1 of the Streets, Rights of Way and Access Plans	At Point k as shown on Sheet 1 of the Streets, Rights of Way and Access Plans
Private means of access adjacent to the east of the A588	At Point M as shown on Sheet 1 of the Streets, Rights of Way and Access Plans	At Point p as shown on Sheet 1 of the Streets, Rights of Way and Access Plans
Private means of access adjacent to the north of the A586	At Point N as shown on Sheet 2 of the Streets, Rights of Way and Access Plans	At Point m as shown on Sheet 2 of the Streets, Rights of Way and Access Plans
Private means of access adjacent to the north of the A586	At Point Q as shown on Sheet 2 of the Streets, Rights of Way and Access Plans	At Point m as shown on Sheet 2 of the Streets, Rights of Way and Access Plans
Private means of access adjacent to the south of the A586	At Point P as shown on Sheet 2 of the Streets, Rights of Way and Access Plans	At Point P as shown on Sheet 2 of the Streets, Rights of Way and Access Plans
Private means of access adjacent to the east of the B5260	At Point R as shown on Sheet 3 of the Streets, Rights of Way and Access Plans	At Point w as shown on Sheet 3 of the Streets, Rights of Way and Access Plans
Private means of access adjacent to the east of the B5260	At Point S as shown on Sheet 3 of the Streets, Rights of Way and Access Plans	At Point w as shown on Sheet 3 of the Streets, Rights of Way and Access Plans
Private means of access adjacent to the south of the A585	At Point T as shown on Sheet 3 of the Streets, Rights of Way and Access Plans	At Point z as shown on Sheet 3 of the Streets, Rights of Way and Access Plans
Private means of access adjacent to the east of Pool Foot Lane	At Point V as shown on Sheet 3 of the Streets, Rights of Way and Access Plans	At Point y as shown on Sheet 3 of the Streets, Rights of Way and Access Plans
Private means of access adjacent to the south of the A585	At Point W as shown on Sheet 4 of the Streets, Rights of Way and Access Plans	At Point z as shown on Sheet 3 of the Streets, Rights of Way and Access Plans
Private means of access adjacent to the north of the A585	At Point Z as shown on Sheet 1 of the Streets, Rights of Way and Access Plans	At Point ac as shown on Sheet 3 of the Streets, Rights of Way and Access Plans

PART 4

PRIVATE MEANS OF ACCESS TO BE STOPPED UP AND FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Private means of access to be stopped up</i>	<i>(2)</i> <i>Extent of stopping up</i>
Private means of access (gate) adjacent to the south of Old Mains Lane	At Point G as shown on Sheet 1 of the Streets, Rights of Way and Access Plans
Private means of access (gate) adjacent to the south of the A585	At Point H as shown on Sheet 1 of the Streets, Rights of Way and Access Plans
Private means of access (gate) adjacent to the south of the A585	At Point X as shown on Sheet 4 of the Streets, Rights of Way and Access Plans
Private means of access (gate) adjacent to the south of the A585	At Point Y as shown on Sheet 4 of the Streets, Rights of Way and Access Plans

SCHEDULE 5

Article 23(2)

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>
Land Plans – Sheet 1	
1/34c	To construct, operate, access and maintain Skippool bridge (Work No.25)
Land Plans – Sheet 4	
4/02e, 4/06i	To construct, operate, access and maintain a culvert/ditch outfall (Work No.41)
4/06j, 4/08h	To construct, operate, access and maintain a culvert/ditch outfall (Work No.96)
4/08i	To construct, operate, access and maintain a culvert/ditch outfall (Work No.44)
4/08j	To construct, operate, access and maintain a culvert/ditch outfall (Work No.45)
4/08k	To operate, access and maintain a bridge
Land Plans – Sheet 5	
5/01m	To operate, access and maintain a bridge
5/01n, 5/02a, 5/02, 5/01d, 5/03, 5/04, 5/05a, 5/06f	To operate, access and maintain a drainage outfall (Work No.62)
5/14a, 5/13c, 5/09g, 5/13b	To construct, operate, access and maintain Lodge Lane Bridge (Work No.70)
Land Plans – Sheet 7	
7/10, 7/04e, 7/04d	To construct, operate, access and maintain a culvert/ditch outfall (Work No.92)

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restrictive covenant as they apply in respect of compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act, substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 6 of the A585 Windy Harbour to Skippool Highway Development Consent Order 2020);
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 6 to the A585 Windy Harbour to Skippool Highway Development Consent Order 2020) 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 when it entered on that land for the purpose of exercising that right.”.

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a), has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 5(3)—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

Application of Part 1 of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 25 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 20 (compulsory acquisition of land) applies to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 23(1) (compulsory acquisition of rights and restrictive covenants)—

- (a) with the modifications specified in paragraph 5; and

(a) 1973 c. 26.

- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restrictive covenant imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restrictive covenant is or is to be enforced.

(3) For section 7 (measure of compensation in case of severance) 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 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.”.

(4) 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.

(5) Section 11(a) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 20), 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; and sections 11A(b) (powers of entry; further notices of entry), 11B(c) (counter-notice requiring possession to be taken on specified date), 12(d) (unauthorised entry) and 13(e) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(f) (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.

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- (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), section 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.
 - (b) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.
 - (c) Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016.
 - (d) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).
 - (e) 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).
 - (f) 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 7

Article 29

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
Land Plans – Sheet 1		
1/07a, 1/07f, 1/07l	Required to provide construction working area for replacement culvert and for the diversion of electric cables and associated auxiliary cables	Work No.6 Work No.115
1/05a, 1/05b	Required to provide construction working area for replacement culvert and dwarf wall and for the diversion of a water pipeline	Work No.34 Work No.115 Work No.122
1/05c	Required for the provision of the main site compound to include, but not limited to, site offices, welfare facilities, parking provisions, storage of plant and materials and the treatment of site generated waste	All Works
1/05d	Required to provide construction working area for the combined footway/cycleway and for the diversion of a water pipeline	Work No.17 Work No.34
1/30a, 1/34a	Required to provide an improved private means of access and for the diversion of a water pipeline and for the diversion of electric cables and associated auxiliary cables	Work No.23 Work No.24 Work No.30 Work No.31
1/30b, 1/34b, 1/34f, 1/34g	Required for the diversion of a water pipeline and for the diversion of electric cables and associated auxiliary cables	Work No.24 Work No.30 Work No.31
Land Plans – Sheet 3		
3/01a	Required to provide a construction working area and improved private means of access	Work No.97
Land Plans – Sheet 4		
4/02c	Required to provide a construction working area for highway boundary fencing and for the diversion of electric cables and associated auxiliary cables	Work No.36 Work No.40
4/02b, 4/02c, 4/03a, 4/02d, 4/06c, 4/06d, 4/06h, 4/06e, 4/06g, 4/08b, 4/08e, 4/08g	Required to provide a construction working area for highway boundary fencing	Work No.40
4/06d, 4/06h, 4/06g	Required to provide a construction working area for highway boundary fencing and for the diversion of electric cables and associated auxiliary cables	Work No.40 Work No.42
4/06f	Required to provide a flood mitigation area	Work No.98
4/08a	Required to provide a flood mitigation area	Work No.111
4/08d	Required to provide a flood mitigation area	Work No.110

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
4/08f	Required to provide a flood mitigation area	Work No.109
4/08l	Required to provide a construction working area and for drainage works	Work No.113
4/10a, 4/12	Required for the provision of the main site compound to include, but not limited to, site offices, welfare facilities, parking provisions, storage of plant and materials and the treatment of site generated waste	All Works
Land Plans – Sheet 5		
5/01a	Required to provide a construction working area (including for construction material storage, construction access and storage of plant) and for the diversion of water pipelines	All Works
5/01c	Required to provide a construction working area for highway boundary fencing and for the diversion of a water pipeline	Work No.48 Work No.53 Work No.55 Work No.58
5/01e	Required to provide a temporary access for main construction compound	All Works
5/01f, 5/01k, 5/01i	Required to provide a construction working area for highway boundary fencing	Work No.57 Work No.58 Work No.59
5/01h, 5/06j	Required for the diversion of a water pipeline and construction working area for culvert	Work No.61 Work No.62
5/05b	Required for the diversion of a water pipeline	Work No.60
5/06a	Required to provide a borrow pit area and for the diversion of electric cables and associated auxiliary cables and water pipeline	Work No.63 Work No.61 Work No.64
5/06c	Required to provide a construction working area for highway boundary fencing and for the diversion of water pipelines and electric cables and associated auxiliary cables	Work No.58 Work No.59 Work No.61
5/06i	Required to provide a construction working area for the bridge and for the diversion of electric cables and associated auxiliary cables	Work No.58 Work No.70 Work No.64
5/06d	Required to provide a construction working area for highway boundary fencing and for the diversions of water pipelines and electric cables and associated auxiliary cables	Work No.58 Work No.60 Work No.61 Work No.72
5/06b	Required to provide a borrow pit area and for the diversion of electric cables and associated auxiliary cables and for diversion of a gas pipeline and for the diversion of water pipelines	Work No.60 Work No.61 Work No.69 Work No.72 Work No.78
5/06h	Required to provide a construction working area for the bridge and for the diversion of electric cables and associated auxiliary cables and gas pipeline	Work No. 69 Work No.70 Work No.72

<i>(1) Plot Reference Number shown on Land Plans</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>
5/07c, 5/15a	Required for the diversion of a water pipeline	Work No.61
5/12	Required to provide an improved private means of access and for the diversion of a gas pipeline	Work No.67 Work No.68
5/15, 5/07b, 5/07d	Required for the diversion of a water pipeline	Work No.60
5/09e, 5/09c, 5/09d, 5/09b	Required to provide an improved private means of access and for the diversion of electric cables and associated auxiliary works and for the diversion of a gas pipeline and for the diversion for telecommunications cables	Work No.71 Work No.72 Work No.73 Work No.74 Work No.75 Work No.76 Work No.120
Land Plans – Sheet 6		
6/43a	Required to provide a construction working area for highway boundary fencing	Work No.87
Land Plans – Sheet 7		
7/01a	Required to provide a construction working area for highway boundary fencing	Work No.58
7/02d	Required to provide a construction working area for highway boundary fencing and for the diversion of a water pipeline	Work No.58 Work No.77
7/06b, 7/06c, 7/08a, 7/07a	Required to provide a construction working area for highway boundary fencing	Work No.58 Work No.90 Work No.93
7/07b, 7/07c	Required to provide a construction working area for highway boundary fencing and pavement widening	Work No.58
7/04a	Required to provide a construction working area for highway boundary fencing and culvert	Work No.58 Work No.91
Land Plans – Sheet 8		
8/02d	Required to provide a construction working area for highway boundary fencing	Work No.29
8/02e, 8/04	Required to provide a habitat mitigation area	All Works

SCHEDULE 9
HEDGEROWS AND TREES

Article 34 and 37

PART 1
HEDGEROWS

<i>(1)</i> <i>Hedgerow</i>	<i>(2)</i> <i>Work to be carried out</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>	<i>(4)</i> <i>Important Hedgerow</i>
H1	Removal	Work Nos.13, 15, 16, 17, 21 and 34	No
H2	Removal	Work Nos.17, 21, 34 and 122	No
H3	Removal	Work Nos.21, 22, 26, 27 and 36	No
H4	Removal	Work Nos.28, 29, 30, 31, 32, 33 and 34	No
H5	Removal	Work Nos.38, 39 and 40	No
H6	Removal	Work No.41	Yes
H7	Removal	Work Nos.38 and 41	Yes
H8	Removal	Work Nos.40, 96 and 108	Yes
H9	Removal	Work Nos.40, 44 and 107	Yes
H10	Removal	Work No.107	Yes
H11	Removal	Work Nos.58, 60 and 62	Yes
H12	Removal	Work Nos.58, 64, 65, 67, 69, 70, 71, 72, 73, 74, 75 and 76	Yes
H13	Removal	Work Nos.58, 64, 65, 67, 69, 70, 71, 72, 73, 74, 75 and 76	No
H14	Removal	Work Nos.85, 87 and 89	No
H15	Removal	Work Nos. 58, 79 and 114	Yes
H16	Removal	Work Nos.58, 80, 81, 82, 91 and 92	No
H17	Removal	Work Nos.58 and 90	Yes
H18	Removal	Work Nos.58 and 93	Yes
H19	Removal	Work Nos.58, 80, 81, 82, 91 and 92	No
H20	Removal	Work No.58	No
H21	Removal	Work Nos.58, 80, 81, 82, 91 and 92	No
H22	Removal	Work No.97	No
H23	Removal	Work No.115	No

“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, must require the undertaker to submit for Cadent’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“rights” includes rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“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 24(2) or otherwise;
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 24(2) or otherwise; and/or
- (c) include any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (Cadent’s policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of Cadent High Pressure Gas pipelines and associated installation requirements for third parties GD/SP/SSW/22”); and

“undertaker” means the undertaker as defined in article 2(1) of this Order.

On Street Apparatus

20.—(1) Except for paragraphs 21 (apparatus of Cadent in stopped up streets), 26 (retained apparatus : protection of Cadent), 27 (expenses) and 28 (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 Cadent, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

(2) Paragraphs 24 and 25 of this Part of this Schedule apply to diversions even where carried out under the 1991 Act, in circumstances where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing adopted public highway.

Apparatus of Cadent in stopped up streets

21.—(1) Without limitation on the scope of the generality of any other protection afforded to Cadent elsewhere in the Order, where any street is stopped up under article 13 (permanent stopping up and restriction of use of streets and private means of access), if Cadent has any apparatus in the street or accessed via that street Cadent will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker will grant to Cadent, or will procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or

highway but nothing in this paragraph affects any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 24 of this Part of this Schedule.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 12 (temporary stopping up and restriction of use of streets), Cadent will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary stopping up or diversion in respect of any apparatus which at the time of the stopping up or diversion was in that highway

(3) The provisions of this Part of this Schedule apply and take precedence over article 32(2) to (7) (apparatus and rights of statutory undertakers) which shall not apply to Cadent.

Protective works to buildings

22.—(1) The undertaker, in the case of the powers conferred by article 18 (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 Cadent and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to paragraph (2), must—

- (a) pay compensation to Cadent for any loss sustained by it; and
- (b) indemnify Cadent against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement, admission of liability or compromise thereof shall be made by Cadent, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

Acquisition of land

23.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in paragraph 23(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of Cadent and/or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure 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) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation 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,

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraphs (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

25.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's opinion) then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 32 (arbitration) of this Part of this Schedule and the arbitrator is to make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

26.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant, etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until Cadent has given written approval of the plan so submitted.

(4) Any approval of Cadent required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, Cadent may require such modifications to be made to the plans as may be reasonably necessary for the purpose of

securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) and (2) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required prior to commencement

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 18 to 20 and 23 to 25 apply as if the removal of the apparatus had been required by the undertaker under paragraph 24(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 authorised 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 Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with—

- (a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and
- (b) sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with the Cadent's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of Cadent High Pressure Gas pipelines and associated installation requirements for third parties SPGD/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 must implement an appropriate ground mitigation scheme save that Cadent retains, the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 27 of this Part of this Schedule.

Expenses

27.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand all charges, costs and expenses reasonably anticipated or reasonably incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3) if it elects to do so; and/or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Cadent;

- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule; and
- (g) any watching brief pursuant to paragraph 9(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 32 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances (or it would be unlawful due to a statutory or regulatory change) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

28.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by 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 Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and
- (b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs properly incurred by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 (benefit of order granting development consent) 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 (b) will be subject to the full terms of this Part of this Schedule including this paragraph 28.

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) The undertaker confirms that—

- (a) it is a self-insuring body, bound by the guidance set out in the HM Treasury Handbook “Managing Public Money”;
- (b) it holds a certificate of exemption under which the Secretary of State exempts it from any obligation to maintain Employers Liability Insurance but it shall be under an obligation to effect and maintain any insurance it is required to hold by statute or law unless an appropriate certificate of exemption is held;
- (c) if, at any time, it ceases to comply with paragraph (a) or (b) above it will immediately notify Cadent in writing, put into place the acceptable insurance without delay and will then maintain that acceptable insurance for the construction period of the authorised works; and
- (d) its response to any indemnity provided under this Part of this Schedule will not be reduced in any way and any claim shall not be prejudiced because of the undertaker’s self-insuring strategy.

(6) In the event that the undertaker fails to comply with paragraph 28(5) of this Part of this Schedule, nothing in this Part of this Schedule prevents Cadent from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction. Cadent 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 applies and if reasonably requested to do so by the undertaker Cadent must provide an explanation of how the claim has been minimised.

SCHEDULE 11
DOCUMENTS TO BE CERTIFIED

Article 41

<i>(1)</i> <i>Document</i>	<i>(2)</i> <i>Document Reference</i>
Book of Reference	TR010035/APP/4.3
Flood Risk Assessment	TR010035/APP/5.2
Habitat Regulation Assessment	TR010035/APP/5.4
Environmental Statement	TR010035/APP/6.1 – 6.20
Outline CEMP	TR010035/APP/7.2
Location Plan	TR010035/APP/2.1
Land Plans	TR010035/APP/2.2
Works Plans	TR010035/APP/2.3
Streets, Rights of Way and Access Plans	TR010035/APP/2.4
Traffic Regulation Measures and De-trunking Plans	TR010035/APP/2.8
Classification of Road Plans	TR010035/APP/2.7
Engineering Drawings and Sections	TR010035/APP/2.6
Hedgerow and Protected Trees Plans	TR010035/APP/2.10
Crown land plans	TR010035/APP/2.11
Record of Environmental Actions and Commitments	TR010035/APP/7.3

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Highways England to undertake works to alter and improve the A585 Windy Harbour to Skippool Highway and carry out all associated works.

The Order permits Highways England to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also includes provisions in connection with the maintenance of the authorised development.

A copy of the plans, engineering drawings and sections, the book of reference, the environmental statement and the outline CEMP mentioned in this Order and certified in accordance with article 41 (certification of documents, etc.) of this Order may be inspected free of charge during normal working hours at Highways England, Piccadilly Gate, Store Street, Manchester, M1 2WD.

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