

## SCHEDULES

### SCHEDULE 17

#### CONDITIONS OF DEEMED PLANNING PERMISSION

##### PART 1

##### CONDITIONS

###### *Introductory*

- 1 The requirements in paragraphs 2 to 12 are conditions of deemed planning permission under section 20(1).

###### *Condition relating to building works*

- 2 (1) To the extent that development consists of building works, it must be carried out in accordance with plans and specifications for the time being approved by the relevant planning authority.
- (2) In this paragraph “relevant planning authority” means, subject to paragraph 27, the unitary authority or, in a non-unitary area, the district council in whose area the development is carried out.
- (3) The relevant planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires additional details of the building works to be submitted for approval.
- (4) Where the relevant planning authority exercises the power conferred under sub-paragraph (3), the plans and specifications referred to in sub-paragraph (1) must, as regards the specified respect, include a plan or specification showing the additional details.
- (5) If the relevant planning authority is a qualifying authority, it may only refuse to approve plans or specifications for the purposes of this paragraph on the ground that—
- (a) the design or external appearance of the building works ought to be modified—
- (i) to preserve the local environment or local amenity,
- (ii) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or
- (iii) to preserve a site of archaeological or historic interest or nature conservation value,
- and is reasonably capable of being so modified, or
- (b) the development ought to, and could reasonably, be carried out elsewhere within the development’s permitted limits.

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- (6) If the relevant planning authority is not a qualifying authority, it may only refuse to approve plans or specifications for the purposes of this paragraph on the ground that—
- (a) the design or external appearance of the building works ought to be modified to preserve the local environment or local amenity and is reasonably capable of being so modified, or
  - (b) the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.
- (7) The relevant planning authority may only impose conditions on approval for the purposes of this paragraph on a ground referred to in sub-paragraph (5) or (6) (as the case may be).
- (8) In this paragraph, “building works” means the erection, construction, alteration or extension of any building, other than a temporary building.
- (9) For these purposes, a building ancillary to a scheduled work is only a temporary building if it is intended to remain in place for no longer than two years after the date on which the scheduled work is brought into general use.
- (10) The requirements in this paragraph do not apply to building works to the extent that they are ancillary to development consisting of—
- (a) the disposal of waste or spoil, or
  - (b) the excavation of bulk materials from borrow pits,
- (and see paragraph 7 as to such development).

*Condition relating to other construction works*

- 3 (1) If the relevant planning authority is a qualifying authority, development to which this paragraph applies must be carried out in accordance with plans and specifications for the time being approved by that authority.
- (2) This paragraph applies to development to the extent that it consists of the construction of any of the following—
- (a) a road vehicle park;
  - (b) earthworks;
  - (c) sight, noise or dust screens;
  - (d) transformers, telecommunications masts or pedestrian accesses to railway lines;
  - (e) fences or walls;
  - (f) lighting equipment.
- (3) In this paragraph “relevant planning authority” means, subject to paragraph 27, the unitary authority or, in a non-unitary area, the district council in whose area the development is carried out.
- (4) The relevant planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires there to be submitted for approval additional details of the operation or work which gives rise to the need for approval under sub-paragraph (1).
- (5) Where the relevant planning authority exercises the power conferred under sub-paragraph (4), the plans and specifications in accordance with which the development

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is required under sub-paragraph (1) to be carried out must, as regards the specified respect, include a plan or specification showing the additional details.

- (6) The relevant planning authority may only refuse to approve plans or specifications for the purposes of this paragraph on a ground specified in relation to the work in question in the following table.

<i>Development</i>	<i>Possible grounds for refusal of approval</i>
1. A road vehicle park.	<p>That the design or external appearance of the works ought to, and could reasonably, be modified—</p> <ul style="list-style-type: none"><li>(a) to preserve the local environment or local amenity,</li><li>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</li><li>(c) to preserve a site of archaeological or historic interest or nature conservation value.</li></ul> <p>That the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>
2. Earthworks. 3. Sight, noise or dust screens.	<p>That the design or external appearance of the works ought to, and could reasonably, be modified—</p> <ul style="list-style-type: none"><li>(a) to preserve the local environment or local amenity,</li><li>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</li><li>(c) to preserve a site of archaeological or historic interest or nature conservation value.</li></ul> <p>If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>
4. Transformers, telecommunications masts or pedestrian accesses to railway lines.	<p>That the design or external appearance of the works ought to, and could reasonably, be modified to preserve the local environment or local amenity.</p> <p>That the development ought to, and could reasonably, be carried out on land elsewhere within the development's permitted limits.</p>
5. Fences and walls (except for sight, noise and dust screens).	<p>That the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>
6. Artificial lighting equipment.	<p>That the design of the equipment, with respect to the emission of light, ought to, and</p>

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<i>Development</i>	<i>Possible grounds for refusal of approval</i>
	could reasonably, be modified to preserve the local environment or local amenity. If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.

- (7) The relevant planning authority may only impose conditions on approval for the purposes of this paragraph on a ground specified in the table in sub-paragraph (6) in relation to the work in question.
- (8) Any reference in sub-paragraph (2) or (6) to a description of works does not include works of that description of a temporary nature.
- (9) In this paragraph—  
“construction” includes erection, alteration, extension and (in the case of lighting equipment) installation;  
“earthworks” means terracing, cuttings, embankments or other earth works;  
“road vehicle park” does not include anything which is a building;  
“sight, noise or dust screens” means any fences, walls or other barriers (including bunds) for visual or noise screening or dust suppression.
- (10) The requirements in this paragraph do not apply where development to which this paragraph applies is ancillary to development consisting of—  
(a) the disposal of waste or spoil, or  
(b) the excavation of bulk materials from borrow pits,  
(and see paragraph 7 as to such development).

*Condition relating to matters ancillary to development*

- 4 (1) If the relevant planning authority is a qualifying authority, development must be carried out in accordance with arrangements about ancillary matters which have been approved by that authority.
- (2) In this paragraph “ancillary matters” means—  
(a) handling of re-useable spoil or topsoil;  
(b) storage sites for construction materials, spoil or topsoil;  
(c) construction camps;  
(d) works screening;  
(e) artificial lighting;  
(f) dust suppression;  
(g) road mud control measures.
- (3) In this paragraph, “relevant planning authority” means, subject to sub-paragraph (4) and paragraph 27, the unitary authority or, in a non-unitary area, the district council in whose area the development is carried out.

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- (4) Where the development is in a non-unitary area and consists of waste or soil disposal or the excavation of bulk material from borrow pits, the relevant planning authority in respect of arrangements relating to ancillary matters is the county council.
- (5) The reference in sub-paragraph (1) to arrangements does not, in the case of artificial lighting, include detailed arrangements.
- (6) The relevant planning authority may only refuse to approve arrangements for the purposes of this paragraph—
- (a) on the ground that the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with other development which has deemed planning permission under section 20(1) and which is to be carried out in the authority’s area, or
  - (b) on a ground specified in relation to the matter in the following table.

<i>Matters</i>	<i>Grounds</i>
1. Handling of re-useable spoil and topsoil	That the arrangements ought to be modified to ensure that the spoil or topsoil remains in good condition, and are reasonably capable of being so modified.
2. Storage sites for construction materials, spoil or topsoil. 3. Construction camps. 4. Works screening.	That the arrangements ought to be modified— (a) to preserve the local environment, local amenity or a site of archaeological or historic interest or nature conservation value, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.
5. Artificial lighting. 6. Dust suppression.	That the arrangements ought to be modified to preserve the local environment or local amenity, and are reasonably capable of being so modified.
7. Road mud control measures.	That the arrangements ought to be modified— (a) to preserve the local environment or local amenity, or (b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, and are reasonably capable of being so modified.

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- (7) The relevant planning authority may only impose conditions on approval for the purposes of this paragraph—
- (a) with the agreement of the nominated undertaker, and
  - (b) on a ground specified in the table in sub-paragraph (6)(b) in relation to the matter in question.
- (8) In this paragraph—
- “artificial lighting” means the use of artificial lighting on land within the Act limits for the purpose of carrying out the development;
- “construction camps” means sites on land within the Act limits which are to be used for the residential accommodation of persons engaged in carrying out the development;
- “construction materials” means minerals, aggregates or other construction materials required for the development;
- “dust suppression” means the suppression of dust caused by construction operations carried out on land within the Act limits for the purpose of carrying out the development;
- “handling of re-useable spoil and topsoil” means handling during removal, storage and re-use of any spoil or topsoil removed during the course of carrying out the development;
- “road mud control measures” means measures to be taken on land within the Act limits to prevent or reduce the carrying of mud on to any public highway as a result of carrying out the development;
- “storage sites” means sites on land within the Act limits at which materials are to be stored until used or re-used in carrying out the development or disposed of as waste;
- “works screening” means the provision where necessary on land within the Act limits of any screening for working sites on such land required for the purpose of carrying out the development.
- 5 (1) The Secretary of State may for the purposes of paragraph 4 make a class approval of arrangements relating to the ancillary matters referred to in paragraph 4(2)(a), (b) and (d) to (g) above.
- (2) A class approval may be made—
- (a) generally or in relation to specific areas or specific descriptions of works, and
  - (b) subject to conditions.
- (3) A class approval may make different provision for different cases.
- (4) Before making a class approval the Secretary of State must consult the planning authorities who would be affected by it.
- (5) Where arrangements made by the nominated undertaker are approved under a class approval, they do not require the approval of the relevant planning authority under paragraph 4.
- (6) But the nominated undertaker may in the case of any particular arrangements request approval under paragraph 4.
- (7) If the relevant planning authority to which such a request is made considers that the circumstances of the case justify it, the authority may grant approval under paragraph

4 (and, accordingly, the arrangements are subject to that approval instead of the class approval).

(8) A class approval may be varied or revoked.

*Condition relating to road transport*

- 6 (1) If the relevant planning authority is a qualifying authority, development must, with respect to the matters to which this paragraph applies, be carried out in accordance with arrangements approved by that authority.
- (2) The matters to which this paragraph applies are the routes by which anything is to be transported on a highway by a large goods vehicle to—
- (a) a working or storage site,
  - (b) a site where it will be re-used, or
  - (c) a waste disposal site.
- (3) In this paragraph “relevant planning authority” means, subject to paragraph 27, the unitary authority or, in a non-unitary area, the county council in whose area the development is carried out.
- (4) Sub-paragraph (1) does not require arrangements to be approved in relation to—
- (a) transportation on a special road or trunk road, or
  - (b) transportation to a site where the number of large goods vehicle movements (whether to or from the site) does not on any day exceed 24.
- (5) The relevant planning authority may only refuse to approve arrangements for the purposes of this paragraph on the ground that—
- (a) the arrangements relate to development which, for the purposes of regulating the matter in question, ought to and can reasonably be considered in conjunction with development which has deemed planning permission under section 20(1) and which is to be carried out in the authority’s area, or
  - (b) the arrangements ought to be modified—
    - (i) to preserve the local environment or local amenity,
    - (ii) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or
    - (iii) to preserve a site of archaeological or historic interest or nature conservation value,and are reasonably capable of being so modified.
- (6) The relevant planning authority may only impose conditions on approval for the purposes of this paragraph—
- (a) with the agreement of the nominated undertaker, and
  - (b) on the ground referred to in sub-paragraph (5)(b).
- (7) In this paragraph—
- “large goods vehicle” has the same meaning as in Part 4 of the Road Traffic Act 1988;
  - “special road” and “trunk road” have the same meanings as in the Highways Act 1980.

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*Conditions relating to waste and soil disposal and excavation*

- 7 (1) If the relevant planning authority is a qualifying authority, development to which this paragraph applies must be carried out in accordance with plans and specifications for the time being approved by that authority.
- (2) This paragraph applies to development to the extent that it consists of—
- (a) waste and soil disposal, or
  - (b) the excavation of bulk materials from borrow pits.
- (3) In this paragraph “relevant planning authority” means, subject to paragraph 27, the unitary authority or, in a non-unitary area, the county council in whose area the development is carried out.
- (4) The relevant planning authority may, on approving a plan or specification for the purposes of this paragraph, specify any respect in which it requires there to be submitted for approval additional details of the operation or work which gives rise to the need for approval under sub-paragraph (1).
- (5) Where the relevant planning authority exercises the power conferred under sub-paragraph (4), the plans and specifications in accordance with which the development is required under sub-paragraph (1) to be carried out must, as regards the specified respect, include a plan or specification showing the additional details.
- (6) The relevant planning authority may only refuse to approve plans or specifications for the purposes of this paragraph on a ground specified in sub-paragraph (7) or (8).
- (7) The grounds in this sub-paragraph are that—
- (a) the design or external appearance of disposal sites (in the case of the disposal of waste and soil) or borrow pits (in the case of excavation of bulk material from such pits) on land within the Act limits,
  - (b) the methods by which such sites or pits are worked, or
  - (c) the noise, dust, vibration or screening arrangements during the operation of such sites or pits,
- ought to, and could reasonably, be modified.
- (8) The grounds in this sub-paragraph are that in order to—
- (a) preserve the local environment or local amenity,
  - (b) prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or
  - (c) preserve a site of archaeological or historic interest or nature conservation value,
- the development ought to, and could reasonably, be carried out elsewhere within the development’s permitted limits.
- (9) The grounds in sub-paragraph (8) do not apply where the development is—
- (a) within the limits of deviation for the scheduled works, or
  - (b) consists of the use of land specified in columns (1) and (2) of Schedule 5 for a purpose specified in relation to the land in column (3) of that Part.
- (10) The relevant planning authority may only impose conditions on approval for the purposes of this paragraph—
- (a) with the approval of the nominated undertaker, and



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- (b) on a ground referred to in sub-paragraph (7) or (8) (taken with sub-paragraph (9)).
- 8 (1) If the relevant planning authority is a qualifying authority, development to which paragraph 7 applies may not be begun unless the authority has approved a scheme for the restoration of the land on which the development is to be carried out.
- (2) In this paragraph “relevant planning authority” has the same meaning as in paragraph 7.
- (3) The relevant planning authority may only refuse to approve, or impose conditions on the approval of, a scheme for the purposes of this paragraph on the ground that the scheme ought to be modified, and is reasonably capable of being modified.
- (4) The nominated undertaker must carry out a scheme approved for the purposes of this paragraph once it has completed its use of the land to which the scheme relates for the purpose of carrying out the development to which paragraph 7 applies.
- (5) In sub-paragraph (1), the reference to restoration includes a reference to restoration in the longer term; and, accordingly, a scheme for the restoration of land may include provision about aftercare.

*Conditions on bringing scheduled works and depots into use*

- 9 (1) If the relevant planning authority is a qualifying authority, no work to which this paragraph applies may be brought into use without the approval of that authority.
- (2) This paragraph applies to—
- (a) any scheduled work, except to the extent that the work is underground, and
- (b) any depot constructed, in exercise of the powers conferred under this Act, for use for or in connection with the maintenance of railway vehicles or track, whether or not constructed for use also for other purposes.
- (3) In this paragraph “relevant planning authority” means, subject to paragraph 27, the unitary authority or, in a non-unitary area, the district council in whose area the work is carried out.
- (4) The relevant planning authority must grant approval for the purposes of this paragraph if—
- (a) it considers that there are no reasonably practicable measures which need to be taken for the purpose of mitigating the effect of the work or its operation on the local environment or local amenity, or
- (b) it has approved, at the request of the nominated undertaker, a scheme consisting of provision with respect to the taking of measures for that purpose.
- (5) The relevant planning authority may not refuse to approve, or impose conditions on the approval of, a scheme submitted for the purposes of sub-paragraph (4)(b) unless it is satisfied that it is expedient to do so on the ground that the scheme ought to be modified—
- (a) to preserve the local environment or local amenity,
- (b) to preserve a site of archaeological or historic interest, or
- (c) in the interests of nature conservation,
- and that the scheme is reasonably capable of being so modified.

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- (6) In this paragraph “railway vehicle” and “track” have the same meanings as in Part 1 of the Railways Act 1993.
- 10 Where the relevant planning authority approves a scheme for the purposes of paragraph 9(4)(b), the nominated undertaker must—
- (a) carry out the scheme, and
  - (b) comply with any condition subject to which the scheme is approved.

*Condition relating to discontinuation of ancillary operations*

- 11 Where development consists of or includes the carrying out on any site of operations ancillary to the construction of any of the scheduled works, the operations must be discontinued as soon as reasonably practicable after the completion of the scheduled work or works.

*Condition relating to site restoration*

- 12 (1) The nominated undertaker must, after discontinuation of the use of any site for carrying out operations ancillary to the construction of any of the scheduled works, restore the site in accordance with a scheme agreed with the relevant planning authority.
- (2) In this paragraph “relevant planning authority” means, subject to paragraph 27, the unitary authority or, in a non-unitary area, the district council in whose area the work is carried out.
- (3) For the purposes of sub-paragraph (1) the nominated undertaker must, within four months of the discontinuation of the use, submit a proposed scheme to the relevant planning authority.
- (4) If—
- (a) the nominated undertaker fails to submit a proposed scheme in accordance with sub-paragraph (3), or
  - (b) the nominated undertaker submits a proposed scheme in accordance with sub-paragraph (3) but no scheme is agreed for the purposes of sub-paragraph (1) before the end of the relevant period,
- the scheme for the purposes of sub-paragraph (1) is to be such as the appropriate Ministers may determine after consulting the nominated undertaker and the relevant planning authority.
- (5) In sub-paragraph (4)(b) “the relevant period” means—
- (a) eight weeks beginning with the date on which the proposed scheme is submitted, or
  - (b) such longer period as the nominated undertaker and the relevant planning authority may agree.
- (6) A scheme agreed or determined for the purposes of sub-paragraph (1) may reserve particulars for subsequent agreement between the nominated undertaker and the relevant planning authority.
- (7) Where a particular reserved under sub-paragraph (6) is not agreed—
- (a) by the time specified by or determined in accordance with the scheme, or

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- (b) by such later time as the nominated undertaker and the relevant planning authority may agree,  
that particular is to be determined by the appropriate Ministers after consulting the nominated undertaker and the authority.
- (8) Where, independently of any consultation under sub-paragraph (4) or (7), the appropriate Ministers ask the relevant planning authority for assistance in connection with their function under the sub-paragraph in question, they may require the nominated undertaker to reimburse to the relevant planning authority any expenses which the authority reasonably incurs in meeting the request.
- (9) Sub-paragraph (1) does not apply to a site—
  - (a) to the extent that the site consists of land to which a scheme under paragraph 8 (waste or spoil etc) applies, or
  - (b) in relation to which the nominated undertaker is subject to an obligation under paragraph 5(1) of Schedule 16 (obligation to put land into such condition as an agreed scheme provides, before giving up possession of the land).