

SCHEDULES

SCHEDULE 2

Article 5

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

“the borrow pits restoration and aftercare strategy” means the document of that description set out in Schedule 10 (documents to be certified) certified by the Secretary of State as the borrow pits restoration and aftercare strategy for the purposes of this Order and which sets out the general restoration and aftercare arrangements for the borrow pits referred to in Schedule 1 (authorised development), together with the process by which a borrow pit restoration and aftercare plan for each borrow pit will be prepared, consulted upon and finalised;

“the code of construction practice” means the document of that description set out in Schedule 10 certified by the Secretary of State as the code of construction practice for the purposes of this Order and which contains obligations on the undertaker to prepare, amongst other things, construction environmental management plans and local environmental management plans in order to secure a number of specified mitigation measures during construction of the authorised development in respect of general site operations, air quality, cultural heritage, community and private assets, geology and soils (which includes complying with a soil management strategy (appendix 12.2 to the environmental statement) and the associated technical annex (document reference HE/A14/EX/125)), landscape, material resources, nature conservation, noise and vibration, road drainage and the water environment and traffic, transport and all travellers;

“contaminated land” has the same meaning as that given in section 78A of the Environmental Protection Act 1990⁽¹⁾;

“the Design Council’s Design Review panel” means the group of independent professionals assembled by the Design Council (registered charity number 272099) to undertake reviews of the design of infrastructure projects in accordance with guidance published by the Design Council from time to time;

“European protected species” has the same meaning as in regulations 40 (European protected species of animals) and 44 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2010⁽²⁾;

“the flood risk assessment” means the document of that description set out in Schedule 10 certified by the Secretary of State as the flood risk assessment for the purposes of this Order; and

(1) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

(2) S.I. 2010/490, to which there are amendments not relevant to this Order.

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“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981(3).

Time limits

2. The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

Preparation of detailed design, etc.

3.—(1) The authorised development must be designed in detail and carried out so that it is compatible with the preliminary scheme design shown on the works plans and the engineering section drawings unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its functions and provided that the Secretary of State is satisfied that any amendments to the works plans and the engineering section drawings showing departures from the preliminary design would not give rise to any materially new or materially worse adverse 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 or engineering section drawings and the undertaker must make those amended details available in electronic form for inspection by members of the public.

(3) No part of the authorised development is to commence until options for the detailed design of that part of the authorised development have been submitted to the Design Council’s Design Review panel and the undertaker has received and considered the advice of the Design Council’s Design Review panel in respect of the detailed design of that part of the authorised development.

(4) The undertaker must, in the course of developing the detailed design of the authorised development, consult with the relevant planning authorities, the Parish Forums, the Community Forums, the Landowner Forums and the Environment Forum in accordance with the provisions of the code of construction practice.

(5) No part of the authorised development is to commence until details of the external appearance of the viaduct to be constructed as Work No. 5(gg) have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

Code of construction practice

4.—(1) The authorised development must be carried out in accordance with the provisions of the code of construction practice.

(2) The undertaker must make the local environmental management plans produced in accordance with the code of construction practice available in an electronic form suitable for inspection by members of the public.

Protected species

5.—(1) No part of the authorised development is to commence until final pre-construction survey work for that part has been carried out, reflecting that contained in the environmental statement, to establish whether European or nationally protected species are present on any of the land affected, or likely to be affected, by any part of the authorised development or in any of the trees and shrubs to be lopped or felled as part of the authorised development.

(3) 1981 c. 69.

(2) Where a protected species is shown to be present, or where there is a reasonable likelihood of it being present, the relevant parts of the relevant works must not begin until a scheme of protection and mitigation measures including their design and management has been submitted to and approved in writing by the Secretary of State after consultation with Natural England. Except to the extent otherwise approved, the scheme of protection and mitigation measures including their design and management must be in accordance with the guidance in the Design Manual for Roads and Bridges (Volume 10, section 4).

(3) The relevant works must be carried out in accordance with the approved scheme or with any amended scheme that may subsequently be approved in writing by the Secretary of State, after consultation with Natural England, and in accordance with any necessary licence.

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 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 and the Environment Agency.

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

Implementation and maintenance of landscaping

7.—(1) No part of the authorised development is to commence until the undertaker has, following consultation with the relevant planning authority, issued a planting strategy which includes the landscape elements and objectives of the authorised development.

(2) No part of the authorised development is to commence until a landscaping scheme applicable to that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority. Such landscaping scheme must be in accordance with the planting strategy issued under sub-paragraph (1).

(3) The landscaping scheme must reflect the mitigation measures included in the environmental statement and set out details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed aquatic or terrestrial planting;
- (b) landscaping works associated with any noise fences and walls (as appropriate);
- (c) cultivation, importing of materials and other operations to ensure plant establishment;
- (d) proposed finished ground levels;
- (e) hard surfacing materials;
- (f) details of existing trees to be retained, with measures for their protection during the construction period;
- (g) retained historic landscape features and proposals for restoration, where relevant; and
- (h) implementation timetables for all landscaping works.

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

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(5) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, dies or becomes, in the opinion of the relevant planning authority, seriously diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

Archaeology

8.—(1) No authorised development is to commence until a written scheme for the investigation of areas of archaeological interest, reflecting the mitigation measures included in the environmental statement, has been submitted to and approved in writing by the Secretary of State.

(2) Prior to the submission of the written scheme to the Secretary of State for approval under paragraph 8(1), the relevant planning authority must be consulted on its content.

(3) The authorised development must be carried out in accordance with the scheme as approved under sub-paragraph (1).

Traffic management

9.—(1) No part of the authorised development is to commence until a traffic management plan applicable to the construction of that part has been submitted to and approved in writing by the Secretary of State, following consultation with the local highway authority.

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

Surface water drainage

10.—(1) No part of the authorised development is to commence until written details of the surface water drainage system to be constructed for that part, reflecting the mitigation measures included in the environmental statement and including means of pollution control, have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The surface water drainage system must be constructed in accordance with the approved details referred to in sub-paragraph (1).

Borrow pits

11.—(1) The restoration and aftercare (including longer-term maintenance and management) of the borrow pits must be carried out in accordance with the borrow pits restoration and aftercare strategy.

(2) The undertaker must make the borrow pit restoration and aftercare plans produced in accordance with the borrow pits restoration and aftercare strategy available in an electronic form suitable for inspection by members of the public.

Noise mitigation

12.—(1) No part of the authorised development is to commence until written details of proposed noise mitigation in respect of the use and operation of that part of the authorised development, including noise barriers and any very low noise surfacing, have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The written details referred to in sub-paragraph (1) must either reflect the mitigation measures included in the environmental statement or, where the mitigation proposed materially differs from the mitigation identified in the environmental statement, the undertaker must provide evidence with the written details submitted that the mitigation proposed would not give rise to any materially

new or materially worse adverse environmental effects in comparison with those reported in the environmental statement taking into account the mitigation identified in it.

(3) The noise mitigation must be constructed in accordance with the approved details referred to in sub-paragraph (1) and must be retained thereafter.

Brampton Meadows Site of Special Scientific Interest mitigation areas

13.—(1) Works Nos. 1, 2, 3, 40 and 44 must not commence until the details of the establishment and management of the mitigation areas to be provided under Works Nos. 2 and 3 to the north and west of Brampton Meadows Site of Special Scientific Interest (as shown in plot 5/38a and part of plots 5/11 and 5/10 of the land plans), including details of all proposed planting, landscaping and access works, have been submitted to and approved in writing by the Secretary of State, after consultation with Natural England.

(2) The establishment and management of the mitigation areas must be carried out in accordance with the approved details referred to in sub-paragraph (1).

Highway lighting scheme

14.—(1) No part of the authorised development is to commence until a written scheme of the proposed highway lighting to be provided for that part of the authorised development has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and, (in the case of proposed lighting for any highway for which the undertaker is not, or will not be following implementation of article 12(4), the highway authority), the local highway authority.

(2) The standard of the highway lighting to be provided by the scheme referred to in sub-paragraph (1) must either reflect the standard of the highway lighting included in the environmental statement or, where the standard of the highway lighting proposed materially differs from the standard of the highway lighting identified in the environmental statement, the undertaker must provide evidence with the written scheme submitted for approval that the standard of the highway lighting proposed would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement taking into account the lighting identified in it. The standard of the highway lighting must encompass the specification, level of provision, light spillage, intensity, brightness and uniformity of the highway lighting.

(3) The authorised development must be carried out in accordance with the scheme approved under sub-paragraph (1).

(4) Nothing in this requirement restricts lighting of the authorised development during its construction or where temporarily required for maintenance.

Flood risk assessment

15.—(1) Subject to sub-paragraph (2), the authorised development must be carried out in accordance with the flood risk assessment, including the mitigation measures detailed in it, so that no part of the authorised development is predicted to result in any exceedance of the flood levels to properties and land shown in the flood risk assessment.

(2) Sub-paragraph (1) does not apply in any circumstance where the undertaker proposes to carry out a part of the authorised development otherwise than in accordance with the flood risk assessment and either demonstrates to the Environment Agency's satisfaction that the part of the authorised development concerned would not result in an exceedance of the flood levels shown in the flood risk assessment or demonstrates that all affected landowners accept the predicted exceedance of the flood levels shown in the flood risk assessment.

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Air quality monitoring and mitigation

16.—(1) No part of the authorised development is to commence until the undertaker has installed—

- (a) continuous air quality monitors in respect of oxides of nitrogen and fine particles at PM10 and PM 2.5 fractions at or close to—
 - (i) the junction of Histon Road and Huntingdon Road in the city of Cambridge to be agreed with Cambridge City Council; and
 - (ii) the historic South Cambridgeshire District Council monitoring location close to Bar Hill to be agreed with South Cambridgeshire District Council; and
- (b) diffusion tube monitors in 8 locations to be agreed with Huntingdonshire District Council in Huntingdon, Brampton, Fenstanton, Alconbury, Offord Cluny and Hilton,

and the monitors have subsequently been operated by the undertaker so that the data covering an uninterrupted period of at least 2 months has been obtained by the undertaker.

(2) The specification for installation, operation and data provision must be agreed in writing with the relevant Council prior to the commissioning of monitoring.

(3) The undertaker must operate the monitors installed under sub-paragraph (1)—

- (a) during the construction of the authorised development and for a period of at least 3 years from the opening of the authorised development for public use, and until such time that the monitoring shows a continuous period of 12 months with no exceedances of national air quality objectives or European Union limit values for the pollutants monitored;
- (b) in line with guidance on air quality monitoring issued by the Department for Environment, Food and Rural Affairs from time to time; and
- (c) in each case, in accordance with the specification for installation, operation and data provision prepared under sub-paragraph (2).

(4) The relevant Council must support the undertaker where possible in facilitating the installation of the air quality monitoring equipment to be operated by the undertaker under sub-paragraph (1).

(5) During the time period mentioned in sub-paragraph (2)(a)—

- (a) the undertaker must make all data obtained from the monitors available to the relevant Council; and
- (b) each relevant Council must supply to the undertaker all air quality monitoring data obtained from its existing air quality monitors on an annual basis.

(6) If, following analysis by the undertaker in consultation with the relevant Council of the monitoring data mentioned in sub-paragraph (5), it reasonably appears that the authorised development has materially worsened air quality such that there are exceedances of national air quality objectives, or European Union limit values for the pollutants monitored, the undertaker must discuss and agree with the relevant Council on a scheme of mitigation, which must be submitted to the Secretary of State for written approval.

(7) Before considering whether to approve the scheme of mitigation, the Secretary of State must consult the relevant Council and take in to consideration any local air quality action plans adopted by the Council as part of its local air quality management duties.

(8) The scheme of mitigation approved under sub-paragraph (6) must be implemented by the undertaker.

Traffic Monitoring and Mitigation

17.—(1) No part of the authorised development is to commence until written details of a traffic impact monitoring and mitigation scheme has been submitted to and approved in writing by the highway authority.

(2) The traffic impact monitoring and mitigation scheme must include—

- (i) a before and after survey to assess the changes in traffic;
- (ii) the locations to be monitored and the methodology to be used to collect the required data;
- (iii) the periods over which traffic is to be monitored;
- (iv) the method of assessment of traffic data;
- (v) control sites to monitor background growth;
- (vi) the implementation of monitoring no less than 3 months before the implementation of traffic management on the existing A14;
- (vii) agreement of baseline traffic levels;
- (viii) the submission of survey data and interpretative report to the highway authority; and
- (ix) a mechanism for the future agreement of mitigation measures.

(3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker.

Amendments to approved details

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

Details of consultation

19.—(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule, the details submitted 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) 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.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

20.—(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;

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- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 21; 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 that considers it likely that the subject matter of the application would give rise to any materially new or materially worse environmental effects in comparison with those reported in the environmental statement,

the application is taken to have been refused by the Secretary of State at the end of that period.

Further information

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

(2) In the event that the Secretary of State considers such further information to be necessary the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the Secretary of State does not give such notification within that 21 business day period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 20 (applications made under requirements) and in this paragraph.

Register of requirements

22.—(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

Anticipatory steps towards compliance with any requirement

23. If before the coming into force of this Order the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with

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that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.