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STATUTORY INSTRUMENTS

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**2020 No. 402**

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

**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.

**Maintenance of authorised development**

**4.** The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

**Maintenance of drainage works**

**5.—(1)** Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(1).

**Limits of deviation**

**6.** In carrying out the authorised development the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and
- (b) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 1.0 metres upwards or downwards, with the exception of the following—
  - (i) to a maximum of 0.5 metres upwards or downwards at Little Singleton Junction as defined by Work Nos. 84, 85, 86, 87, 88 and 89;

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(1) 1991 c. 59. The definition was substituted by section 100(2) of the Environment Act 1995 (c. 25).

- (ii) to a maximum of 0.5 metres upwards or downwards at Lodge Lane as defined by Work No. 70; and
- (iii) in respect of any borrow pit, during excavation to a maximum of 10 metres downwards and to any distance upwards and, following restoration, to a maximum of 2.6 metres downwards and to any distance upwards to ground level, as defined by Work Nos. 63 and 78,

except that these maximum limits of vertical deviation do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority and (in respect of sub-paragraphs (b)(i) and (ii)) the local highway authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

### **Benefit of Order**

7.—(1) Subject to paragraph (2) and article 8 (consent to transfer benefit of Order), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

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

### **Consent to transfer benefit of Order**

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

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed 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.