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STATUTORY INSTRUMENTS

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**2013 No. 675**

**INFRASTRUCTURE PLANNING**

**The Lancashire County Council (Torrisholme to the M6 Link  
(A683 Completion of Heysham to M6 Link Road)) Order 2013**

*Made* - - - - - *19th March 2013*

*Coming into force* - - - - - *9th April 2013*

An application has been made to the Infrastructure Planning Commission, in accordance with the Infrastructure Planning (Applications and Prescribed Forms and Procedure) Regulations 2009<sup>(1)</sup>, for an order under sections 37, 114, 115, 117(4), 120 and 122 of the Planning Act 2008<sup>(2)</sup>.

The application was examined by a single Commissioner (appointed by the Chair of the Infrastructure Planning Commission) in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010<sup>(3)</sup>.

The Commissioner, having considered the representations made and not withdrawn and the application together with accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Commissioner, has decided to make an Order granting development consent for the development described in the application and consent for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

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120 and 122 of, and paragraphs 1 to 3, 10 to 17, 19, 20, 23, 24, 26, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

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(1) S.I. 2009/2264.  
(2) 2008 c. 29.  
(3) S.I. 2010/103.

## PART 1

### PRELIMINARY

#### Citation and commencement

1. This Order may be cited as the Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013 and comes into force on 9th April 2013.

#### Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(4);

“the 1965 Act” means the Compulsory Purchase Act 1965(5);

“the 1980 Act” means the Highways Act 1980(6);

“the 1990 Act” means the Town and Country Planning Act 1990(7);

“the 1991 Act” means the New Roads and Street Works Act 1991(8);

“the 2008 Act” means the Planning Act 2008(9);

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

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;

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- (4) 1961 c. 33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c. 65). There are other amendments to the 1961 Act which are not relevant to this Order.
- (5) 1965 c. 56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c. 34). Subsection (1) of section 11 and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c. 23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c. 15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c. 39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.
- (6) 1980 c. 66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c. 22); sections 1(2), (3) and (4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c. 51); section 1(2A) was inserted, and section 1(3) was amended, by section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c. 29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11), by section 64(1) (2) and (3) of the Transport and Works Act 1992 (c. 42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c. 37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c. 51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (7) 1990 c. 8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c. 29) (date in force to be appointed see section 241(3), (4)(a), (c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
- (8) 1991. c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
- (9) 2008 c. 29.

“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;

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

“the canal” means the Lancaster Canal;

“the Canal & River Trust” means the private company limited by guarantee of that name (Company No. 07807276) whose registered office is at First Floor, North Station House, 500 Elder Gate, Milton Keynes, MK9 1BB;

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

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

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

“electronic transmission” means a communication transmitted—

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

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

“environmental impact assessment” means the assessment of the environmental impact of the authorised development, the findings of which are recorded in the environmental statement;

“the environmental statement” means the environmental statement submitted under regulation 5(2)(a) of the Infrastructure Planning (Applications and Prescribed Forms and Procedure) Regulations 2009 and certified as such by the Secretary of State for the purposes of this Order;

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

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

“the land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

“the landscaping plans” means the plans certified as the landscaping plans by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 5 (limits of deviation);

“maintain” includes inspect, repair, adjust, alter, remove or reconstruct and any derivative of “maintain” is to be construed accordingly;

“National Grid” means National Grid plc (Company No. 04031152) whose registered office is at 1-3 Strand, London WC2N 5EH;

“Order land” means the land shown on the land plans within the development consent order boundary, which is land to be acquired or used and is described in the book of reference;

“the Order limits” means the limits described as the development consent order boundary on the works plans, within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(10);

“relevant planning authority” means Lancashire County Council;

“the sections” means the long sections and cross sections certified by the Secretary of State for the purposes of this Order;

“the special roads plan” means the plan certified as the special roads plan by the Secretary of State for the purposes of this Order;

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(10) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

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

“the street plans” means the plans certified as the street plans by the Secretary of State for the purposes of this Order;

“the structure general arrangement drawings” means the drawings certified as the structure general arrangement drawings by the Secretary of State for the purposes of this Order;

“tree preservation order” has the meaning given in section 198 of the 1990 Act;

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

“undertaker” means the person who has the benefit of this Order in accordance with section 156 of the 2008 Act and article 6 (benefit of Order);

“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 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 air-space above its surface.

(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 to be 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 street plans or the special roads plan as the case may be.

(6) References in this Order to numbered works are references to the 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 and to 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) Subject to article 5 (limits of deviation) the works numbered in Schedule 1 (authorised development) may only be constructed in the lines and situations shown on the works plans and in accordance with the levels shown on the sections.

#### **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.

### **Limits of deviation**

5. In carrying out the authorised development the undertaker may
- (a) deviate vertically from the levels shown on the sections to any extent not exceeding 0.5 metres upwards or downwards; and
  - (b) deviate laterally from the lines or situations shown on the works plans to any extent not exceeding 1 metre in any direction within the Order limits.

### **Benefit of Order**

6.—(1) Subject to article 7 (consent to transfer benefit of Order), the provisions of this Order have effect solely for the benefit of Lancashire County Council.

(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**

7.—(1) 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) are 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—

- (a) to National Grid for the purposes of undertaking works numbered 1(xxii) and 1(xxxi) ; or
- (b) to the Secretary of State.

## **PART 3 STREETS**

### **Power to alter layout etc. of streets**

8.—(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the street specified in column (1) of Part 1 or Part 2 of Schedule 3 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2).

(2) Regardless of the specific powers conferred by paragraph (1) but subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain passing places.

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

(4) The powers conferred by paragraph (2) are not to be exercised without the consent of the street authority; but such consent must not be unreasonably withheld.

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

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

### **Street works**

**9.**—(1) The undertaker may, for the purposes of the authorised development, enter upon so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) (c) and (d).

(2) Where the undertaker is not the street authority, the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

(3) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

### **Construction and maintenance of new or altered streets**

**10.**—(1) Subject to paragraph (2) and article 11 (classification of roads), the streets authorised to be constructed, altered or diverted under this Order are to be public highways and are to be maintained by and at the expense of the highway authority.

(2) Where a street which is not and is not intended to be a public highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be), when completed to the reasonable satisfaction of the street authority, unless otherwise agreed, is to be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) In any action against the undertaker in respect of damage resulting from its failure to maintain a street to which paragraph (2) applies, section 58 of the 1980 Act applies as if that street were a highway maintainable at the public expense.

### **Classification of roads**

**11.**—(1) The roads described in Schedule 5 (special roads) are to be—

- (a) classified as special roads for the purpose of any enactment or instrument which refers to highways classified as special roads; and
  - (b) provided for the use of traffic of Classes I and II of the classes of traffic set out in Schedule 4 to the 1980 Act.
- (2) From the date on which the undertaker notifies the Secretary of State that the roads described in Schedule 5 (special roads) have been completed and are open for through traffic—
- (a) the Secretary of State is highway authority for these roads; and
  - (b) they are classified as trunk roads for the purpose of any enactment or instrument which refers to highways classified as trunk roads.
- (3) The new dual carriageway road referred to in work no. 1 of Schedule 1 is to be classified as the A683 and is to be—
- (a) a principal road for the purpose of any enactment or instrument which refers to highways classified as principal roads; and
  - (b) 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) of the 1980 Act.

### **Stopping up of streets**

**12.**—(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 specified in columns (1) and (2) of Parts 1 to 4 of Schedule 6 (streets to be stopped up) to the extent specified and described in column (3) of that Schedule.

(2) No street specified in columns (1) and (2) of Parts 1 and 2 of Schedule 6 (being a street to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street to be constructed and substituted for it, which is specified in column (4) of that Part of that Schedule, has been constructed and 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 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 until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Parts 3 and 4 of Schedule 6 (being a street to be stopped up for which no substitute is to be provided) 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 to be stopped up.

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

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

(5) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street 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 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).

### **Temporary prohibition or restriction of use of streets**

**13.**—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily alter, divert, prohibit 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 where the use has been prohibited or restricted under the powers conferred by this article and 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 alteration, diversion, prohibition or restriction of a street under this article if there would otherwise be no such access.

(4) Without limitation on the scope of paragraph (1), the undertaker may temporarily alter, divert, prohibit or restrict the use of the streets specified in columns (1) and (2) of Schedule 7 (temporary prohibition or restriction of use of streets) to the extent specified in column (3) of that Schedule.

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

(a) any street specified as mentioned in paragraph (4) without first consulting the street authority; and

(b) any other street, without the consent of the street authority, which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld,

except that this paragraph does not apply where the undertaker is the street authority.

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

(7) If a street authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (5)(b) that street authority is deemed to have granted consent.

### **Access to and from works**

**14.** The undertaker may, for the purposes of the authorised development—

(a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Parts 1 and 2 of Schedule 8 (access to and from works); and

(b) with the approval of the relevant planning authority after consultation with the highway authority (where the highway authority is not the undertaker), form and lay out such other 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.



### Agreements with street authorities

- 15.—(1) A street authority and the undertaker may enter into agreements with respect to—
- (a) the construction of any new street, including any structure carrying the street;
  - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
  - (c) the maintenance of the structure of any bridge or tunnel carrying a street;
  - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
  - (e) the carrying out in the street of any of the works referred to in article 9(1) (street works).
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
  - (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
  - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

## PART 4

### SUPPLEMENTAL POWERS

#### Discharge of water

16.—(1) 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 of the Water Industry Act 1991(11) (right to communicate with public sewers).

(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) The undertaker must not, in carrying out or maintaining works conferred by 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 under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

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(11) 1991 c. 56.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(12).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority; and
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(13) have the same meaning as in that Act.

### **Protective work to buildings**

17.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

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

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

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

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

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

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 42 (arbitration).

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

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(12) S.I. 2010/675

(13) 1991 c. 57.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

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

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

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

(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.

### **Temporary closure of, and works in, the canal**

**18.**—(1) The undertaker may, in connection with the authorised development, temporarily—

- (a) interfere with such parts of the canal as are affected by the authorised development by constructing or maintaining caissons, cofferdams or other temporary works as the undertaker considers necessary or expedient;
- (b) moor or anchor barges or other vessels or craft in the canal, and may load or unload into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction of the authorised development;
- (c) close to navigation the relevant part of the canal; and
- (d) remove the water from the relevant part of the canal that is so interfered with or closed.

(2) Not less than 28 days before exercising any power conferred by paragraph (1), the undertaker must notify the Canal & River Trust of its intention to exercise such powers.

(3) During the period of any closure referred to in paragraph (1)(c), all rights of navigation and other rights relating to, and any obligations of the Canal & River Trust to manage, the relevant part of the canal so closed are suspended and unenforceable against the Canal & River Trust.

(4) The power conferred by paragraph (1) must be exercised in a way which secures—

- (a) that no more of the relevant part of the canal is closed to navigation at any time than is necessary in the circumstances; and
- (b) that, if complete closure to navigation of the relevant part of the canal becomes necessary, all reasonable steps are taken to secure that the period of closure is kept to a minimum and that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the part so closed.

(5) In exercising the powers conferred by paragraph (1) in relation to the relevant part of the canal the undertaker must—

- (a) take such reasonable steps as are necessary to ensure that—
  - (i) the flow of water in the canal is maintained unaltered; and

- (ii) the functioning of any intake or discharge along the canal is unaffected; and
  - (b) without affecting sub-paragraph (a), keep any interference with water levels or flows to the minimum reasonably necessary to construct the works.
- (6) As soon as practicable following the exercise of any powers conferred by paragraph (1), any temporary works must be removed and the canal must be restored to its condition before the exercise of such powers.
- (7) Any person who suffers loss or damage as the result of—
- (a) the suspension of any private right of navigation under this article; or
  - (b) any effect of the exercise of the powers conferred by paragraph (1) on the functioning of any intake or discharge along the canal,
- is entitled to be paid compensation for such loss or damage by the undertaker, to be determined, in case of dispute, under Part 1 of the 1961 Act.

#### **Authority to survey and investigate 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;
  - (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions as the undertaker thinks fit on the land to investigate the nature of the surface layer and subsoil and remove soil samples;
  - (c) without prejudice to the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land;
  - (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.
- (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 authority to do so; and
  - (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) No trial holes are to be made under this article—
- (a) on land located within the highway boundary without the consent of the highway authority; or
  - (b) in a private street without the consent of the street authority;
- but such consent must not be unreasonably withheld.
- (5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

## PART 5

### POWERS OF ACQUISITION

#### Compulsory acquisition of land

**20.**—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental, to it or is required as replacement land for the special category land referred to in article 30(3) (special category land).

(2) This article is subject to paragraph (2) of article 22 (compulsory acquisition of rights) and paragraph (8) of article 28 (temporary use of land for carrying out the authorised development).

#### Time limit for exercise of authority to acquire land compulsorily

**21.**—(1) After the end of the period of 5 years beginning on the day on which the Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981<sup>(14)</sup> as applied by article 24 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 28 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

#### Compulsory acquisition of rights

**22.**—(1) Subject to paragraph (2) the undertaker may acquire compulsorily such rights over the Order land as may be required for any purpose for which that land may be acquired under article 20 (compulsory acquisition of land) by creating them as well as by acquiring rights already in existence

(2) In the case of the Order land specified in column (1) of Schedule 9 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements or new rights in the land as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 of the 1965 Act (as substituted by paragraph 5 of Schedule 10 (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires a right over land under paragraph (1) or (2) the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 10 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.

#### Private rights

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

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or

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<sup>(14)</sup> 1981 c. 66. Sections 2 and 116 were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). There are other amendments to the 1981 Act which are not relevant to this Order.

- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right—

- (a) as from the date of the acquisition of the right 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) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over Order land owned by the undertaker are extinguished on commencement of any activity authorised by this Order which interferes with or breaches such 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 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 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 31 (statutory undertakers) applies.

(7) Paragraphs (1) to (3) have effect subject to—

- (a) any notice given by the undertaker before—
- (i) the completion of the acquisition of the land or the acquisition of rights over 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

- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) Reference in this article to private rights over land includes reference to any trusts or incidents to which the land is subject.

## **Application of the Compulsory Purchase (Vesting Declarations) Act 1981**

**24.**—(1) The Compulsory Purchase (Vesting Declarations) Act 1981(15) applies as if this Order were a compulsory purchase order.

(2) The Compulsory Purchase (Vesting Declarations) Act 1981, as so applied, has effect with the following modifications.

(3) In section 3 (preliminary notices) for subsection (1) there is substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority must include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.

(4) In that section, in subsection (2), for “(1)(b)” there is substituted “(1)” and after “given” there is inserted “and published”.

(5) In that section, for subsections (5) and (6) there is substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there is inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) is omitted.

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

(8) References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 are construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the compulsory acquisition of land under this Order.

## **Acquisition of subsoil or air-space only**

**25.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or the air-space over the land referred to in 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 air-space over land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

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(15) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c. 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are amendments to the 1981 Act which are not relevant to this Order.



(3) Paragraph (2) does not prevent article 26 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

### **Acquisition of part of certain properties**

**26.**—(1) This article applies instead of section 8(1) of the 1965 Act (other provisions as to divided land) (as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act) where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner must sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner must sell only the land subject to the notice to treat is, unless the undertaker agrees to take the land subject to the counter-notice, to be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner must sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material

detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice, the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where, by reason of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and in that event must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

### **Rights under or over streets**

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

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

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

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

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss by the exercise of that power, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out the authorised development**

**28.**—(1) The undertaker may, in connection with the carrying out of the authorised development—

(a) enter on and take temporary possession of—

- (i) the land specified in columns (1) and (2) of Schedule 11 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
- (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights

only) and no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981;

- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct any permanent mitigation works.

(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.

(3) The undertaker may 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 (4) of Schedule 11; 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 Compulsory Purchase (Vesting Declarations) Act 1981 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 reasonable satisfaction of 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); or
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of 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) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) 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).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not precluded from—

- (a) acquiring new rights over any part of that land under article 22 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil or of air-space over (or rights in the subsoil or of air-space over) that land under article 25 (acquisition of subsoil or air-space only).

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

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory

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

### **Temporary use of land for maintaining authorised development**

**29.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any 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.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

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

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

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, 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 of the 2008 Act (compensation in case where no right to claim in nuisance) 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, it is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to the acquiring authority) 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 of the 2008 Act (application of compulsory acquisition provisions).

(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.

### **Special category land**

**30.**—(1) The special category land is not to vest in the undertaker until the undertaker has acquired the replacement land and the relevant planning authority has certified that a scheme for the provision of the replacement land as open space has been implemented to its satisfaction.

(2) On the requirements of paragraph (1) being satisfied, the replacement land is to vest—

- (a) in respect of land numbered 21, in Wilcon Homes Northern Limited, 80 New Bond Street, London W1S 1SB;
- (b) in respect of land numbered 22, 29, 31 and 72, in Lancaster City Council, Town Hall, Dalton Square, Lancaster LA1 1PJ; and
- (c) in respect of land numbered 74, 76, 78, and 80, in Lancashire County Council, P.O. Box 78, County Hall, Fishergate, Preston, Lancashire PR1 8XJ,

subject to the same rights, trusts and incidents as attached to the special category land; and the special category land is to be discharged from all rights, trusts and incidents to which it was previously subject.

(3) In this article—

“the special category land” means the land numbered 14, 15, 17, 18, 20, 24, 25, 26, 27, 32, 69, 172, and 173 in the book of reference and on the land plans and forming part of open space which may be acquired compulsorily under this Order and for which replacement land is to be provided; and

“the replacement land” means the land numbered 21, 22, 29, 31, 72, 74, 76, 78, and 80 in the book of reference and on the land plans.

### **Statutory undertakers**

**31.** Subject to the provisions of Schedule 13 (for the protection of the Canal & River Trust), the undertaker may—

- (a) acquire compulsorily, or acquire new rights over, the land belonging to statutory undertakers shown on the land plans within the limits of the land to be acquired and described in the book of reference;
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

### **Apparatus and rights of statutory undertakers in stopped up streets**

**32.—(1)** Where a street is stopped up under article 12 (stopping up of streets) 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 12 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 of that Act (sharing of cost of necessary measures) 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) of the Communications Act 2003(16).

### **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 31, any person who is—

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(16) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.

- (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” has the same meaning as in the 1980 Act.

## PART 6

### OPERATIONS

#### **Felling or lopping trees**

**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 must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

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

#### **Trees subject to tree preservation order**

**35.**—(1) The undertaker may fell or lop any tree described in Schedule 12 (trees subject to tree preservation orders) and identified on the land plans, or cut back its roots if it reasonably believes it to be necessary in order 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)—

- (a) the undertaker must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty imposed by section 206(1) of the 1990 Act (replacement of trees) does not apply.

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



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

## PART 7

### MISCELLANEOUS AND GENERAL

#### Application of landlord and tenant law

**36.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

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

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

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

#### Operational land for purposes of the 1990 Act

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

#### Defence to proceedings in respect of statutory nuisance

**38.**—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990<sup>(17)</sup> (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) 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

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(17) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974<sup>(18)</sup>; 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 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do 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**

39. Schedule 13 (for the protection of the Canal & River Trust) has effect.

### **Certification of plans, etc.**

40.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the book of reference;
- (b) the environmental statement;
- (c) the land plans;
- (d) the landscaping plans;
- (e) the sections;
- (f) the special roads plan;
- (g) the street plans;
- (h) the structure general arrangement drawings; and
- (i) the works plans,

for certification that they are true copies of the documents referred to in this Order.

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

### **Service of notices**

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

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

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<sup>(18)</sup> 1974 c.40, as amended at the date of the coming into force of this Order.

(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<sup>(19)</sup> 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 is taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 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 is final and takes 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 does not exclude the employment of any method of service not expressly provided for by it.

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

## **Arbitration**

**42.** 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

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(19) 1978 c. 30.

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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 notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by authority of the Secretary of State for Transport

*Martin Woods*  
Head of the Transport and Works Act Orders  
Unit  
Department for Transport

19th March 2013

## SCHEDULES

### SCHEDULE 1

Articles 2 and 3

#### AUTHORISED DEVELOPMENT

##### **In the City of Lancaster—**

A nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act comprising:

**Work No.1** — the construction of a new dual carriageway road (referred to in this Schedule as “the new road”) 4.8 kilometres in length, starting at A683 Caton Road and ending at the eastern end of the Lancaster – Morecambe bypass at the A683/A589 Morecambe Road roundabout, to include—

- (i) the construction of a new M6 motorway junction 34 to include new northbound and southbound slip roads to replace the existing;
- (ii) the construction of a 3 metre wide shared footway and cycle track alongside the new road westbound carriageway;
- (iii) the widening of A683 Lancaster - Morecambe bypass from the south of Northgate junction northwards to A589 Morecambe Road junction;
- (iv) the remodelling of the Northgate Junction. The construction of a retaining wall to protect commercial premises from the widening of A683 Lancaster - Morecambe bypass;
- (v) the construction of Hadrian Junction linking a realigned Hadrian Road to the widened A683 Lancaster – Morecambe bypass through a new signalised ‘T’ junction;
- (vi) the replacement of the present roundabout on A589 Morecambe Road near Lancaster and Morecambe College with a high-capacity, multi-lane signal controlled crossroads with full pedestrian and cycle facilities;
- (vii) the reconfiguration of access, exit and internal circulation to McDonald’s restaurant at College junction;
- (viii) the construction of Thorpe View underpass to connect the Lancaster and Morecambe College campus to severed sports fields west of the new road. Diversion of a stream currently running through Lancaster and Morecambe College Campus to a new course along the west side of the new road;
- (ix) the construction of Torrisholme Road Bridge and realignment of Torrisholme Road, including a connection between the footway and cycle track alongside the new road and Torrisholme Road. Alteration to the sewers from 179 Torrisholme Road;
- (x) the realignment of Barley Cop Lane with a new ‘T’ junction with the realigned Torrisholme Road, southwest of its current location and the creation of a two-way footway and cycle track to run parallel to Barley Cop Lane from Torrisholme Road to Powder House Lane;
- (xi) the installation of highway drainage attenuation pond to the south of the new road in the narrow triangular area between the new road, Barley Cop Lane and Powder House Lane;
- (xii) the reshaping of the field bounded by the new road, the Lancaster Canal, Hammerton Hall Lane, Barley Cop Lane and Folly Lane to provide essential mitigation;

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- (xiii) the construction of the diverted Powder House Lane and Folly Lane, the construction of Folly Railway Bridge, crossing the West Coast Main Line and the diversions of Powder House Lane and Folly Lane. Creation of an eastbound lay-by on the new road midway between Torrisholme Road Bridge and Folly Railway Bridge;
- (xiv) the construction of Milestone Canal Bridge over the Lancaster Canal. The construction of an access track linking Hammerton Hall Farm land severed by the new road which will pass under the Milestone Canal Bridge;
- (xv) the connection of the new footway and cycle track alongside the new road to the towpath along the west side of the Lancaster Canal;
- (xvi) the provision of a westbound lay-by on the new road between the West Coast Main Line and the Lancaster Canal;
- (xvii) the construction of the Lancaster Road Link connecting Beaumont Junction roundabout 400 metres to the east of Milestone Canal Bridge with the A6 Lancaster Road via a signal-controlled Lancaster Road Junction, the diversion of the A6 over the new road via construction of Lancaster Road Bridge, and the installation of Beaumont Junction Retaining Wall to protect an electricity transmission tower to the east of Beaumont Junction;
- (xviii) the installation of Beaumont Gate Retaining Wall to protect an electricity transmission tower between the A6 and Beaumont Gate Occupation Bridge;
- (xix) the construction of Beaumont Bridge to carry a realigned Green Lane over the new road, and the provision of a westbound lay-by on the new road between Beaumont Gate Occupation Bridge and Beaumont Bridge;
- (xx) the diversion and culverting of Howgill Brook under the new road embankment;
- (xxi) the construction of Carus Bridge to carry Kellet Lane over the new road, the severance of an unnamed watercourse and diversion of its outflow into highway drainage, and the creation of an eastbound lay-by on the new road midway between Beaumont Bridge and Carus Bridge;
- (xxii) the diversion of a 300 metre section of gas transmission pipeline west of the Shefferlands roundabout;
- (xxiii) the construction of Shefferlands Junction; as part of the construction of the new M6 Junction 34, construction of new northbound entry slip road to the M6 northbound from the Shefferlands Junction; and the extension of the existing M6 Foundry Lane Bridge westward to bridge the new northbound entry M6 slip road;
- (xxiv) the construction of mitigation measures including planting and mounding for the benefit of Foundry Lane residents;
- (xxv) the construction of Shefferlands Bridge to carry the new road over a realigned Halton Road; the construction of a road connecting the new road to Halton Road; and the connection of the bridleway from Green Lane and of a 3 metre shared footway and cycle track to the Halton Road to the west of the new road bridge;
- (xxvi) the construction of the Lune West Bridge over the River Lune and Lune cycle path, and the diversion of footpath FP9 (Halton-with-Aughton) under north span of bridge;
- (xxvii) the construction of an emergency access to M6 motorway northbound carriageway on the approximate route of the existing northbound entry slip road;
- (xxviii) as part of the M6 Junction 34 construction, the construction of new northbound exit slip road commencing from the north of Grimeshaw Lane Bridge and terminating at Croskells Junction on A683 Caton Road; the construction of sign gantries across the new motorway

- northbound exit slip road, and the installation of Long Bank Wood Retaining Wall to protect a diverted gas transmission pipeline;
- (xxix) the creation of the signal-controlled Croskells Junction to the west of the M6 motorway connecting the new road and the northbound exit from the M6 to the A683 Caton Road; the connection of the new road to the Lune cycle path on the west side of the new road prior to the signal-controlled Croskells Junction; and the realignment of Caton Road;
- (xxx) the major remodelling of the signal controlled Bulk Green Junction to the east of the M6 Motorway connecting the new southbound slip roads from the M6 motorway to the A683 Caton Road; the widening of the A683 Caton Road; and the installation of a retaining wall to protect Hudson's Farm from the widening of Caton Road;
- (xxxi) the diversion of an 80 metre section of gas transmission pipeline at Long Bank Wood near the new northbound exit slip road of the M6;
- (xxxii) the construction of sign gantries over M6 motorway south of junction 34;
- (xxxiii) the installation of telecommunication ducts north of Bottomdale Road and east of the M6 motorway; and
- (xxxiv) the realignment of Grimeshaw Lane, east of the M6.

Associated development within the meaning of section 115(2) of the 2008 Act comprising:

**Work No.2** — the construction of a park and ride facility with 600 car parking spaces including 60 disabled spaces, associated lighting and closed circuit television camera columns, bus crew facilities, bus shelters, fencing and associated landscaping between the M6 motorway, the new motorway northbound exit slip road and the A683 Caton Road;

**Work No.3** — the creation of the Valley Meadow habitat creation area including opening up the culverted section of Howgill Brook between Green Lane diversion and the new road;

**Work No.4** — the creation of the Howgill Wood habitat creation area including the diversion of Howgill Brook;

**Work No.5** — the upgrade of the existing Slynedales culvert and the installation of a new culvert across farmland to the east of the A6 and north of Green Lane, beneath the Lancaster Canal, along Moss Place, Woodlands Road and Halton Road to discharge into Howgill Brook south of Halton Road;

**Work No.6** — the renovation of the existing River Lune fish spawning pond east of the Lune Aqueduct;

**Work No.7** — the construction of parking areas and through route for Lancaster and Morecambe College to replace that lost to the authorised development; and the provision of mounding and landscaping;

**Work No.8** — the improvement of the main entrance to Halton Training Camp;

**Work No.9** — the construction of Beaumont Gate Occupation Bridge and access tracks linking Beaumont Gate Farm to severed land; and the diversion of footpath FP7 (Slyne-with-Hest) over Beaumont Gate Occupation Bridge;

**Work No.10** — the creation of Croskells habitat creation area west of the M6 motorway and south of the River Lune between the new road, the M6 motorway and the A683 Caton Road;

**Work No.11** — the creation of Long Bank Wood habitat creation area west of the proposed M6 northbound exit slip road;

**Work No.12** — the creation of Torrisholme habitat creation area between the new road, Lancaster Road and Russell Drive in Torrisholme;

**Work No.13** — the creation of the Beaumont Junction habitat creation area to the northwest of Beaumont Junction;



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**Work No.14** – the creation of the Lune habitat creation area between the River Lune and the Lune cycle path;

**Work No.15** – the creation of the Bulk Green habitat creation area east of the motorway between the M6, southbound exit slip road and Caton Road;

**Work No.16** – the creation of Long Bank Brook habitat creation area east of the motorway between the M6 and the southbound entry slip road; and

**Work No.17** – the improvement of the main entrance to Morecambe Road School.

and in connection with such works further development within the Order limits consisting of—

- (a) ramps, means of access, footpaths and bridleways;
- (b) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, wing walls, highway lighting, fencing and culverts;
- (c) works to alter the position of apparatus, including mains, sewers, drains and cables;
- (d) works to alter the course of, or otherwise interfere with a watercourse other than a navigable watercourse;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised project;
- (f) works for the benefit or protection of land affected by the authorised development;
- (g) works required for the strengthening, improvement, maintenance, or reconstruction of any streets; and
- (h) such other works, including contractor’s compounds, working sites, storage areas and works of demolition, as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development and which fall within the scope of the environmental impact assessment.

## SCHEDULE 2

Article 3

### REQUIREMENTS

#### Interpretation

1. In this Schedule—

“the approved development plans” means the plans certified in accordance with article 40(1) (certification of plans, etc.);

“heavy goods vehicle” means a heavy goods vehicle of more than 7.5 tonnes gross vehicle weight; and

“the link road” means the dual carriageway link road from the junction of the A683 and the A589 to Junction 34 of the M6 motorway.

#### 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.

### **Commencement**

3. Notice of commencement of the authorised development must be given by the undertaker to the relevant planning authority not later than 7 days after the date on which the authorised development is commenced.

### **Implementation**

4.—(1) Except as provided for by sub-paragraph (2), the authorised development must be carried out in accordance with the approved development plans.

(2) Replacement structure general arrangement drawings and landscaping plans may be approved in writing by the relevant planning authority and substituted for the relevant approved development plans provided that the development so altered accords with the environmental statement and falls within the Order limits.

### **Landscape and ecology**

5.—(1) No part of the authorised development is to commence until a written landscape and ecology management plan has been submitted to and approved in writing by the relevant planning authority.

(2) The landscape and ecology management plan must include details of—

- (a) landscape and ecological mitigation, compensation and nature conservation measures;
- (b) the management and monitoring of landscape and ecological mitigation, compensation and nature conservation measures;
- (c) the protection of any European protected species from activities associated with the authorised development;
- (d) repeat surveys to be undertaken to confirm the presence of any European protected species including the location of any active bat roosts;
- (e) measures to mitigate the effects of the activities associated with the authorised development on European protected species and identified in the surveys required by sub-paragraph (d); and
- (f) a programme for implementation of the proposed measures required by sub-paragraphs (c), (d) and (e).

(3) The approved landscape and ecology management plan must be implemented in its entirety unless otherwise agreed in writing by the relevant planning authority.

(4) Where a European protected species is shown to be present no authorised development is to commence until a scheme of protection and mitigation measures prepared after consultation between the relevant planning authority and Natural England has been submitted to and approved in writing by the relevant planning authority and subsequently the authorised development is to be carried out in accordance with the approved scheme.

(5) “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(20).

### **Contaminated land**

6.—(1) In the event that contaminated materials are found at any time when carrying out the authorised development which were not previously identified in the environmental statement, it

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(20) S.I. 2010/490.

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must be reported immediately in writing to the relevant planning authority and the undertaker must complete a risk assessment of the contamination.

(2) Where the relevant planning authority determines that remediation 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 relevant planning authority.

(3) Remediation must be carried out in accordance with the approved scheme unless otherwise agreed in writing by the relevant planning authority.

### **Construction environmental management plan**

7.—(1) No part of the authorised development is to commence until a written construction environmental management plan has been submitted to and approved in writing by the relevant planning authority.

(2) The construction environmental management plan must include measures to address—

- (a) generation of dust arising during the construction period;
- (b) the monitoring of PM10 particulates, including the taking of appropriate mitigation measures if National Air Quality Strategy objectives are exceeded or are predicted to be exceeded;
- (c) the routing of construction vehicles during the construction phase; and
- (d) vibration.

(3) The construction of the development must be carried out in accordance with the approved construction environmental management plan.

### **Noise and vibration**

8.—(1) No part of the authorised development is to commence until a plan showing the locations of the acoustic barriers and details of the height, design and materials of the acoustic barriers has been submitted in writing to and approved in writing by, the relevant planning authority.

(2) The acoustic barriers must be erected in accordance with the approved details prior to the opening of the link road and must be retained in position throughout the life of the road.

(3) All construction work must be undertaken in accordance with guidance detailed in the BS5228:2009 code of practice for noise and vibration control on construction and open sites, parts 1 and 2.

(4) All plant, equipment and other machinery used in connection with the construction of the link road must be equipped with effective silencing equipment or sound proofing equipment to the standard of design set out in the manufacturer's specification and must be maintained in accordance with that specification at all times during the carrying out of the authorised development.

### **Access by construction traffic**

9.—(1) No part of the authorised development is to commence until the locations and details of the access points for construction traffic from the public highway into the authorised development have been submitted in writing to, and approved in writing by, the relevant planning authority.

(2) All construction traffic must access the authorised development using an access point approved under sub-paragraph (1) at all times.

## Highway approvals and complementary measures

10.—(1) No part of the authorised development is to commence until details of the proposed improvements to Junction 34 of the M6 Motorway as shown in outline on the special roads plan have been submitted in writing to, and approved in writing by, the Secretary of State for Transport.

(2) The details to be submitted under sub-paragraph (1) must include—

- (a) details of the interface between the link road and the existing highway alignment;
- (b) details of the carriageway markings and lane destinations;
- (c) details of drainage, maintenance access, visibility zone requirements, service ducts, signage and lighting;
- (d) confirmation of compliance with the current Design Manual for Roads and Bridges (DMRB) and all other Department for Transport standards or with approved relaxations or departures from such standards;
- (e) independent stages one and two road safety audits carried out in accordance with current DMRB standards and advice notes, stage two to take into account any recommendations of the stage one road safety audit; and
- (f) a project appraisal report pursuant to the New Approach to Appraisal guidance.

(3) No part of the link road is to be opened to vehicular traffic until the highway works approved in accordance with sub-paragraph (1) have been constructed.

(4) The link road must not be opened to vehicular traffic until gateway markings or rumble strips have been marked out on the surface of the A6 to the south of Slyne with Hest village in a position to be first approved in writing by the relevant planning authority.

(5) The Park and Ride site at Junction 34 of the M6 motorway must be completed and available for use before the link road is fully opened to vehicular traffic. The Park and Ride site is to be brought into use when available road space is created on Caton Road but not more than 1 month after the link road has been fully opened. Appropriate supportive priority measures for bus services linking the Park and Ride site to Lancaster City Centre must be implemented within 12 months of the link road being fully opened to traffic.

(6) The link road must not be fully opened to vehicular traffic until an action plan of complementary traffic measures has been submitted to and approved in writing by the relevant planning authority, which must have regard to the findings of Lancaster and Morecambe Vision Board Study and include:

- (a) a review of the City Centre gyratory systems;
- (b) an investigation into the extension of the proposed Park and Ride network beyond the site at Junction 34 of the M6 Motorway;
- (c) a detailed feasibility study for a rapid transit route from Lancaster city centre, rail station and bus station to Morecambe and Heysham; and
- (d) a schedule of those measures that are to be implemented.

The action plan must aim to prevent road traffic growth within the central Lancaster area increasing to predicted “do minimum” levels between the opening and design years of the link road (thereby negating planned relief) and contain a timetable for implementation of the measures to be carried out.

(7) The complementary traffic measures set out in the schedule to the action plan approved in accordance with sub-paragraph (6) must be carried out in accordance with the approved timetable or no later than 10 years of the opening of the link road whichever is the earlier.

(8) The link road must not be fully opened to vehicular traffic until the undertaker has completed statutory consultation upon a proposal to make a traffic regulation order prohibiting HGVs from

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roads forming part of the A6 in central Lancaster and along A589 Morecambe Road east of the link road, except for access.

### **Building and construction materials - highways**

**11.**—(1) No part of the authorised development is to commence until written details of the materials to be used for the surfacing of the new highway and the adjacent cycleway and footway have been submitted to and approved in writing by the relevant planning authority.

(2) The details submitted under sub-paragraph (1) must include provision for the use of low noise road surfacing materials on the highway.

(3) The authorised development must be carried out using the materials approved under sub-paragraph (1).

### **Building and construction materials - structures**

**12.**—(1) No part of the authorised development is to commence until written details of the building materials to be used for the external facings of all structures, including bridges, retaining walls and culvert sides and headwalls, have been submitted to and approved in writing by the relevant planning authority.

(2) The authorised development must be carried out using the materials approved under sub-paragraph (1).

### **Street lighting**

**13.**—(1) No part of the authorised development is to commence until a scheme of the lighting to be erected along the link road has been submitted to and approved in writing by the relevant planning authority.

(2) The scheme submitted under sub-paragraph (1) must include details of—

- (a) the areas of the link road to be lit;
- (b) the position of the lighting columns and their heights and designs, including any shielding that is to be incorporated into the lighting columns; and
- (c) the extent of the light spread from each column.

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

### **Soil**

**14.**—(1) All soil must be removed from any part of the Order land that is to be excavated or traversed by heavy vehicles, plant or machinery; or where roads, buildings, plant yards or stores are to be constructed on it, and all such soil must be stored on the site for use in the restoration of the site.

(2) No movement of soil is to occur during the inclusive period between 1 November in any year and 1 March in the following year without the prior written consent of the relevant planning authority, and at all times the stripping, movement and redistribution of soil must be restricted to times when the soil is dry and friable and the ground is sufficiently dry to allow the passage of heavy vehicles, plant and machinery over it without damage to the soil.

(3) No soil is to be sold or otherwise removed from the Order land without the prior written consent of the relevant planning authority.

### **Hours of working**

**15.**—(1) No delivery or removal of materials or construction works are to take place outside the hours of—

- (a) 0730 to 1800 hours on Mondays to Fridays (except for Public Holidays); and
- (b) 0730 to 1500 hours on Saturdays or on Public Holidays.

(2) Sub-paragraph (1) does not prevent—

- (a) the use of pumping equipment or the carrying out of essential on-site repairs to plant and machinery; and
- (b) delivery or removal of materials or construction works carried out with the prior approval of the relevant planning authority

outside such hours.

### **Dust and mud during construction**

**16.**—(1) No part of the authorised development is to commence until wheel cleaning facilities have been installed, the design, specification and locations of which must first be submitted in writing to, and approved in writing by, the relevant planning authority.

(2) These facilities must remain in position and be maintained in full working order and be used by all heavy goods vehicles throughout the construction of the authorised development to minimise the risk that dust, mud or other deleterious matter is transferred to the public highway by vehicles leaving the authorised development.

(3) Measures must be taken during road construction operations to minimise the risk that dust or windblown material is carried on to adjacent property and in particular must include the watering of all haul and access roads and the spraying of storage heaps or operational construction areas as necessary during dry weather conditions.

(4) All heavy goods vehicles carrying materials in to or out of the authorised development during the construction of the development must be securely sheeted unless the load is otherwise enclosed.

### **Safeguarding of watercourses and drainage**

**17.**—(1) Provision must be made for the collection, treatment and disposal of all water entering or arising on the Order land during highway construction operations to ensure that there is no discharge of contaminated or polluted drainage to ground or surface waters.

(2) All foul drainage must be discharged to a public sewer or else to a sealed tank, the contents of which must be removed from the Order land in their entirety.

(3) Any chemical, oil or fuel storage container on the Order land must be sited on an impervious surface with bund walls, and the volume of the bunded area must be the equivalent of 110% of the volume of the container and must contain within its curtilage all fill and draw pipes, vents, gauges and sight glasses.

(4) The drainage system of the bund must be sealed with no discharge to any watercourse, land or underground strata.

(5) No part of the authorised development is to commence until, after consultation with the relevant planning authority and the Environment Agency, a scheme and programme of pollution control measures has been submitted to and approved in writing by the relevant planning authority. The scheme must include measures for sediment removal at all drainage outfalls.

(6) The authorised development must be carried out in accordance with the scheme and programme approved under sub-paragraph (5) unless otherwise approved in writing by the relevant planning authority.

## **Archaeology**

**18.—**(1) No part of the authorised development is to commence until a written scheme of archaeological investigation has been submitted to and approved in writing by the relevant planning authority.

(2) The authorised development must be carried out at all times in accordance with the scheme approved under sub-paragraph (1) unless otherwise agreed in writing by the relevant planning authority.

(3) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in place and reported to the relevant planning authority in writing within 3 working days.

(4) No construction operations are to take place within 10 metres of such remains for a period of 14 days from the date of such notification unless otherwise agreed in writing by the relevant planning authority.

(5) If the relevant planning authority are of the view 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 investigation and recording of the remains in accordance with details first submitted in writing to, and approved in writing by, the relevant planning authority.

## **Cultural heritage**

**19.—**(1) No part of the authorised development is to commence until a written cultural heritage scheme and programme has been submitted in writing to, and approved in writing by, the relevant planning authority.

(2) The scheme submitted under sub-paragraph (1) must include details of—

(a) records to be taken to show the current appearance and setting of historic buildings impacted by the works;

(b) mitigation measures to protect—

(i) the boundary stone, described as site no. 48 on page 8.65 of Volume 1, Part A of the environmental statement;

(ii) the canal milestone, described as site no. 79 on page 8.65 of Volume 1, Part A of the environmental statement;

(iii) the milestone on Slyne Road, described as site no. 108 on page 8.65 of Volume 1, Part A of the environmental statement; and

(c) the future use to which the listed building within Cottams Farm is to be put, or if no use is identified, the works that are to be carried out to the building to protect its historical interest and a timescale for their implementation.

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

## **Landscaping and management of tree and hedge planting**

**20.—**(1) No part of the authorised development is to commence until a detailed landscaping scheme has been submitted in writing to, and approved in writing by, the relevant planning authority.

(2) All landscaping works must be carried out in accordance with the detailed landscaping scheme approved under sub-paragraph (1).

(3) Any tree or shrub planted as part of the approved detailed 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 the same species as that originally planted, unless otherwise approved in writing by the relevant planning authority.

(4) All hedges and trees forming part of the boundary of the Order land or situated within it (unless shown to be removed in the environmental statement (Volume 1, Part B, Fig 10.5.1)) must be protected from any damage and maintained throughout the authorised development.

(5) If any hedge or tree protected under sub-paragraph (4) is removed, uprooted, destroyed or dies it must be replaced in the first available planting season and afterwards maintained for a period of 5 years.

(6) All areas of the site left undisturbed, and all soil, soil-making material and overburden mounds must be kept free from invasive and noxious weeds throughout the carrying out of the authorised development.

### **Requirements relating to Lancaster and Morecambe College**

**21.**—(1) The existing access to Lancaster and Morecambe College playing field on the west side of the main car parking area must remain open until the underpass shown on the approved development plans has been constructed and is available for use.

(2) Other than the construction of the embankment and the drainage works between Morecambe Road and Torrisholme Road no works are to be carried out between Morecambe Road and Torrisholme Road until the acoustic barriers alongside the link road between Morecambe Road and Torrisholme Road have been installed.

(3) The authorised development must not be opened to traffic until the acoustic barriers between Morecambe Road and Torrisholme Road (including that on Torrisholme Road Bridge) have been installed.

(4) The existing car park to Lancaster and Morecambe College must remain available for use until the replacement car park has been laid out in accordance with the approved development plans and is available for use as a car park to serve Lancaster and Morecambe College, and the undertaker must not prevent the parking of cars there at any time.

(5) A replacement 6 metre wide surfaced and lit route through the Lancaster and Morecambe College must be provided in accordance with the approved development plans or such other route as may be agreed between Lancaster and Morecambe College and the undertaker subject to Lancaster and Morecambe College obtaining planning permission for such other route before the commencement of work on the replacement route; and the existing through route must remain open until the replacement through route shown on the approved development plans (or such other agreed alternative route) has been constructed and is available for use.

### **Highway safety measures**

**22.**—(1) No part of the authorised development is to commence until a scheme and programme of highway signage and road safety measures to be provided on Church Brow has been submitted to, and approved in writing by, the relevant planning authority.

(2) The scheme and programme must contain details of –

- (a) the type and location of vehicle activated bends sign;
- (b) the type, number and location of signs warning of pedestrians in the road;
- (c) the number and location of “SLOW” carriageway markings; and
- (d) the number and location of gateway markings.

(3) No part of the link road is to be opened to vehicular traffic until the highway signage and road safety measures approved in accordance with sub- paragraph (1) have been implemented in full.



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(4) The connecting road from Shefferlands Roundabout to Halton Road must not be opened to vehicular traffic until the undertaker has completed statutory consultation upon a proposal to make a traffic regulation order for a mandatory 20 miles per hour (mph) speed limit on Halton Road, Church Brow and High Road from a point on Halton Road 50 metres west of the centre line of its junction with Halton Hall Gardens to a point on High Road 120 metres south-west of the centre line of its junction with St. Wilfred’s Park.

(5) The connecting road from Shefferlands Roundabout to Halton Road must not be opened to vehicular traffic until the undertaker has completed statutory consultation upon a proposal to make a traffic regulation order for a mandatory speed limit of 30 mph on Halton Road from Halton Army Camp (Gate no 4) to a point 50 metres west of the centre line of its junction with Halton Hall Gardens.

### **Gas Main Diversion**

**23.** No part of the link road is to be opened for traffic until the undertaker or National Grid have certified to the Health and Safety Executive that works Nos. 1 (xxii) and 1 (xxx) have been fully completed.

## SCHEDULE 3

Article 8

### STREETS SUBJECT TO ALTERATION OF LAYOUT

#### PART 1

#### STREETS SUBJECT TO TEMPORARY ALTERATION OF LAYOUT

<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
<b>In the City of Lancaster—</b>	
A6 Lancaster Road	The creation of a temporary length of street during construction works for a distance of 280 metres generally in a southerly direction from 100 metres south of the property known as Morlich to 30 metres north of the property known as Geiranger, reference letter H on street plans Sheet 4, Inset 1.
Kellet Lane	The creation of a temporary length of street during construction works for a distance of 320 metres generally in a south-westerly direction from 170 metres south-west of the entrance to the property known as Beaumont Grange to 50 metres south-west of the property known as Carus Cottage, reference letter L on street plans Sheet 5.
Footpath FP7 (Slyne-with-Hest)	Temporary alterations as required in order to maintain safe route for the public across the line of the new road comprised in Work No. 1 during construction until permanent alteration

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<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
	is available across Beaumont Gate Occupation Bridge.
Footpath FP9 (Halton-with-Aughton)	Temporary alterations as required to maintain safe route for the public during construction works to adjacent Lune West Bridge.
Footpath FP15 (Quernmore)	Temporary alterations as required to maintain safe route for the public during construction works to adjacent Lune West Bridge.
Lune cycle path	Temporary alterations as required to maintain safe route for the public during construction works to adjacent Lune West Bridge.

## PART 2

### STREETS SUBJECT TO PERMANENT ALTERATION OF LAYOUT

<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
<b>In the City of Lancaster—</b>	
Northgate	An increase to the width and alteration of the level of the carriageway and adjoining kerbs, footways and verges for a distance of 130 metres on the eastbound approach and 100 metres on the westbound approach to the junction with A683 Lancaster - Morecambe Bypass.
A683 Lancaster - Morecambe Bypass	An increase to the width and alteration of the level of the carriageway and adjoining kerbs, footway and verges for a distance of 550 metres generally in a north-easterly direction commencing 100 metres south-west of the junction with Northgate to the junction with A589/A683 Morecambe Road.
Hadrian Road	An alteration of the alignment commencing 10 metres east from unnamed cul-de-sac outside No. 2 Hadrian Road to new traffic signal controlled junction on A683 Lancaster - Morecambe Bypass, reference letter B on street plans – Sheet 1, Inset 2; a reduction of the carriageway width of the existing Hadrian Road for a distance of 100 metres in a north-easterly direction from where the new alignment meets the present road to form a new exit road from McDonald’s Restaurant.

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(1) <i>Street subject to alteration of layout</i>	(2) <i>Description of alteration</i>
Lancaster to Morecambe Cycle track	An alteration of the alignment to follow the new alignment of Hadrian Road, reference letter A on the street plans – Sheet 1, Inset 2.
A589 Morecambe Road	Removal of the existing roundabout with the A683 Lancaster – Morecambe Bypass and A683 Morecambe Road and its replacement with signal controlled cross roads; an increase in width, reconstruction and alteration of the level of the kerbs, carriageway and adjoining footways, cycle tracks and verges, for a distance of 250 metres in a westerly direction from the present roundabout.
A683 Morecambe Road	Removal of the existing roundabout with the A683 Lancaster – Morecambe Bypass and A589 Morecambe Road and its replacement with signal controlled cross roads; an increase in width, reconstruction and alteration of the level of the kerbs, carriageway and adjoining footways, cycle tracks and verges, for a distance of 180 metres in an easterly direction from the present roundabout.
B5321 Lancaster Road/Torrisholme Road	An increase in width, the provision of cycle track and an alteration of the alignment and level of the carriageway and kerbs and adjoining footways and verges for a distance of 190 metres initially in an easterly and then south-easterly direction commencing at No. 364 Lancaster Road (B5321) to 25 metres north-west of the Torrisholme Road (B5321) entrance to Lancaster and Morecambe College.
Barley Cop Lane	An increase in width, and alteration of the alignment and level of the existing carriageway and verges for a distance of 120 metres initially in a westerly and then south-westerly direction commencing 115 metres west of the entrance to Torrisholme Cricket Club to new priority junction on the realigned B5321 Torrisholme Road, reference letter C on the street plans – Sheet 2, Inset 1.
Powder House Lane	An increase in the width, and alteration of the alignment and level of the existing carriageway and verges for a distance of 420 metres initially in an easterly and then southerly direction to pass beneath the new Folly Railway Bridge, commencing 220 metres north of its existing junction with Barley Cop Lane to new priority junction on Barley Cop Lane, 325 metres east of

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<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
	the existing junction, reference letter D on the street plans – Sheet 3.
Folly Lane	An increase in width, and alteration of the alignment and level of existing carriageway and verges for a distance of 320 metres initially in a south-westerly and then southerly direction to pass beneath the new Folly Railway Bridge, commencing at the property known as Brookside to 80 metres north of its present junction with Barley Cop Lane, reference letter E on the street plans – Sheet 3.
A6 Lancaster Road	An alteration of the alignment and level of carriageway and kerbs, an increase in width of carriageway and adjoining footways and verges, and the provision of cycle tracks to cross the new Lancaster Road bridge over the new road comprised in Work No. 1 for a distance of 800 metres generally in a southerly direction commencing at the property known as Lonsdale to the access track by the pumping station 50 metres north of the entrance to Beaumont College.
Green Lane	An alteration of the alignment and level, an increase in carriageway and verge width to cross the new Beaumont Bridge over the new road comprised in Work No. 1 for a distance of 300 metres initially in a south-westerly and then south-easterly direction commencing 830 metres south from its junction with Bottomdale Road
Kellet Lane	An alteration of the alignment and level of carriageway to cross new Carus Bridge over the new road comprised in Work No. 1 for a distance of 490 metres in a south-westerly direction commencing 50 metres south-west of the entrance to the property known as Beaumont Grange to the access to Littledale Mews.
Halton Road	An alteration of the alignment and level of carriageway and kerbs, an increase in carriageway, footway and verge width to pass under new Shefferlands Bridge carrying the new road comprised in Work No. 1 for a distance of 250 metres initially in a westerly and then south-westerly direction commencing at the present bridge carrying the M6 Motorway over Halton Road

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(1) <i>Street subject to alteration of layout</i>	(2) <i>Description of alteration</i>
A683 Caton Road/Lancaster Road	An alteration of the alignment and level of carriageway and kerbs, an increase in carriageway, footway and verge widths, the provision of new cycle track, the re-siting of the existing traffic signal controlled junction for M6 Motorway northbound slip roads 100 metres east of the present location, the replacement and remodelling of the existing traffic signal controlled junction for M6 Motorway southbound slip roads at its present location, for a distance of 800 metres initially in a westerly and then south-westerly direction commencing 50 metres east of the entrance to the property known as Tarn View to 40 metres south-west of the entrance to the Holiday Inn Hotel.
M6 Motorway northbound entry slip road	An alteration of the alignment and level of the carriageway and verge generally in a northerly direction for a distance of 450 metres from Shefferlands junction to the point of merge with the existing M6 Motorway northbound carriageway, as reference letter AA on the special roads plan.
M6 Motorway northbound exit slip road	An alteration of the alignment and level of the carriageway and verge in a northerly direction for a distance of 530 metres from the point of diverge from the existing M6 Motorway northbound carriageway to a new junction with the exit road from the park and ride, reference letter BB on the special roads plan, and continuing in a northerly direction for a further 230 metres to a new junction on A683 Caton Road 100 metres east of the present junction Caton Road junction.
M6 Motorway southbound entry slip road	An alteration of the alignment and level of the carriageway and verge in a southerly direction for a distance of 640 metres from A683 Caton Road to the point of merge with the existing M6 Motorway southbound carriageway, reference letter DD on the special roads plan.
M6 Motorway southbound exit slip road	An alteration of the alignment and level of the carriageway and verge initially in a southerly then easterly and then northerly direction for a distance of 480 metres from the point of diverge from the existing M6 Motorway southbound carriageway to the junction on A683 Caton Road, reference letter CC on the special roads plan.

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<i>(1)</i> <i>Street subject to alteration of layout</i>	<i>(2)</i> <i>Description of alteration</i>
Footpath FP7 (Slyne-with-Hest)	A re-routing of the public footpath to the west of its present route onto Beaumont Gate Occupation Bridge to cross over the route of the new road comprised in Work No. 1, reference letter J on the street plans – Sheet 4, Inset 3.
Footpath FP9 (Halton-with-Aughton)	A re-routing of the public footpath to the north of its present route to avoid new north abutment of Lune West Bridge, reference letter O on the street plans – Sheet 7, Inset 1.

SCHEDULE 4

Article 9

STREETS SUBJECT TO STREET WORKS

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Street subject to street works</i>
<b>City of Lancaster</b>	Northgate A683 Lancaster - Morecambe Bypass Hadrian Road A589 Morecambe Road A683 Morecambe Road B5321 Lancaster Road/Torrisholme Road Barley Cop Lane Powder House Lane Folly Lane A6 Lancaster Road Green Lane Kellet Lane Halton Road Bottomdale Road A683 Caton Road/Lancaster Road M6 Motorway

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SCHEDULE 5

Article 11

SPECIAL ROADS

**In the City of Lancaster—**

1. A road constructed on a route 452 metres in length, starting at a point 331 metres south of a point on the centreline of Bottomdale Road 104 metres east of its junction with Foundry Lane proceeding in a north-easterly direction to a point 65 metres north of a point on the centre line of Bottomdale Road 5 metres east of the intersection of Bottomdale Road centre line with the centre line of the M6 Motorway, reference letter AA on the special roads plan.

2. A road constructed on a route 532 metres in length, starting at a point 763 metres south of a point on the centre line of the A683 Caton Road 57 metres west of the intersection of the centre line of the A683 Caton Road with the centre line of the M6 Motorway proceeding in a northerly direction to a point 247 metres south of a point on the centre line of the A683 Caton Road 111 metres west of the intersection of the centre line of the A683 Caton Road with the centre line of the M6 Motorway, reference letter BB on the special roads plan.

3. A road constructed on a route 484 metres in length, starting at a point 234 metres south of a point on the centre line of the A683 Lancaster Road/Caton Road 34 metres east of the intersection of the centre line of the A683 Lancaster Road/Caton Road with the centre line of the M6 Motorway proceeding in a southerly, then easterly, then northerly direction to a point 18 metres south on the centre line of the A683 Lancaster Road/Caton Road 176 metres east of the intersection of the centre line of the A683 Lancaster Road/Caton Road with the centre line of the M6 Motorway, reference letter CC on the special roads plan.

4. A road constructed on a route 640 metres in length, starting at a point 16 metres south of a point on the centre line of the A683 Lancaster Road/Caton Road 194 metres east of the intersection of the centre line of the A683 Lancaster Road/Caton Road and the centre line of the M6 Motorway in a southerly and then south-westerly direction to a point 609 metres south of a point on the centre line of the A683 Lancaster Road/Caton Road 12 metres west of the intersection of the centre line of the A683 Lancaster Road/Caton Road with the centre line of the M6 Motorway, reference letter DD on the special roads plan.

SCHEDULE 6

Article 12

STREETS TO BE STOPPED UP

PART 1

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New Street to be substituted</i>
<b>City of Lancaster</b>	Lancaster to Morecambe Cycle Track	From a point 40 metres north-east of its junction with the Lancaster to	Reference Letter A on the street plans (footpath and cycle track)

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New Street to be substituted</i>
		Morecambe Cycle Track in a north-easterly and north-westerly direction for a maximum distance of 205 metres	
	A north-western part width of Hadrian Road	From a point 25 metres south-west of its junction with the A683/A589 roundabout junction of the A683 Lancaster - Morecambe Bypass and the A589/A683  Morecambe Road in a south-westerly direction for a maximum distance of 67 metres	Reference Letter B on the street plans
	Barley Cop Lane	From its junction with the B5321 Lancaster Road/Torrisholme Road in an easterly direction for a maximum distance of 73 metres	Reference Letter C on the street plans
	Powder House Lane	From its junction with Barley Cop Lane in a northerly direction for a maximum distance of 190 metres	Reference Letter D on the street plans
	Folly Lane	From a point 76 metres north of its junction with Barley Cop Lane in a north-easterly and northerly direction for a maximum distance of 284 metres	Reference Letter E on the street plans
	A6 Lancaster Road	From a point 11 metres north of the northern boundary of	Reference Letters F, G and I on the street plans



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(1) Area	(2) Street to be stopped up	(3) Extent of stopping up	(4) New Street to be substituted
		the property known as Geiranger in a northerly direction for a maximum distance of 78 metres	
	Footpath FP7 (Slyne –with-Hest)	From a point 414 metres north of its junction with Green Lane in a northerly, westerly and northerly direction for a maximum distance of 147 metres	Reference Letter J on the street plans (footpath)
	Green Lane	From a point 83 metres south of Howgill Brook in a southerly direction for a maximum distance of 204 metres	Reference Letter K on the street plans
	Kellet Lane	From a point 255 metres south-west of its junction with the entrance to Beaumont Grange in a south-westerly direction for a maximum distance of 125 metres	Reference Letter M on the street plans
	Halton Road	From a point 95 metres west of the centreline of the M6 Motorway in an easterly direction for a maximum distance of 46 metres	Reference Letter N on the street plans
	Footpath FP9 (Halton-with-Aughton)	From a point 53 metres south of a point on the south boundary of Halton Road 44 metres west of the centreline of the M6 Motorway in a southerly and south-westerly direction for	Reference Letter O on the street plans (footpath)

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New Street to be substituted</i>
		a maximum distance of 132 metres	
	M6 Motorway (northbound)	Northbound entry and exit slip roads from their junction with the A683 Caton Road in a northerly and easterly direction for a maximum distance of 225 metres	Reference Letters P, Y and Z on the street plans
	M6 Motorway (southbound)	Southbound entry and exit slip roads from their junction with the A683 Caton Road in a southerly and westerly direction for a maximum distance of 254 metres	Reference Letters W and X on the street plans

## PART 2

### PRIVATE ACCESSES FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private access to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Private Access to be substituted</i>
<b>City of Lancaster</b>	Access X1 on the street plans	To a track from a point 10 metres south of the centreline  of Hadrian Road 104 metres west and south-west of its junction with  the A683/A589 roundabout junction of the A683 Lancaster-Morecambe Bypass and the A589/A683 Morecambe Road in a  south-westerly direction for a distance of 52 metres	Reference Number 1 on the street plans

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private access to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Private Access to be substituted</i>
	Access X2 on the street plans	To McDonalds Restaurant from a point on the north boundary of Hadrian Road 7 metres west of its connection to the roundabout junction of the A683 Lancaster - Morecambe Bypass and the A589/A683 Morecambe Road in a northerly direction	Reference Number 2 on the street plans
	Access X3 on the street plans	To McDonalds Restaurant from a point on the south boundary of the A589 Morecambe Road 80 metres north-west of its connection to the roundabout junction of the A683 Lancaster - Morecambe Bypass and the A589/A683 Morecambe Road	Reference Number 2 on the street plans
	Access X4 on the street plans	On the south boundary of Barley Cop Lane at its junction with the B5321 Lancaster Road/ Torrisholme Road over the width of the access	Reference Number 5 on the street plans
	Access X5 on the street plans	On the north boundary of Barley Cop Lane at its junction with the B5321 Lancaster Road/ Torrisholme Road over the width of the access	Reference Number 6 on the street plans
	Access X6 on the street plans	On the north boundary of Barley Cop Lane at a point 15 metres south-east of its junction with the B5321 Lancaster Road/ Torrisholme Road over the width of the access	Reference Number 8 on the street plans

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private access to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Private Access to be substituted</i>
	Access X8 on the street plans	On the north boundary of Folly Lane at a point 80 metres north-west of its junction with Barley Cop Lane over the width of the access	Reference Number 16 on the street plans
	Access X9 on the street plans	On the west boundary of Folly Lane at a point 110 metres south of the southern boundary of the property known as Brookside over the width of the access	Reference Number 16 on the street plans
	Access X11 on the street plans	On the west boundary of the A6 Lancaster Road at a point 70 metres south of its junction with Turnpike Fold over the width of the access	Reference Number 20 on the street plans
	Access X12 on the street plans	On the west boundary of the A6 Lancaster Road at a point 93 metres north of the northern boundary of the property known as Geiranger over the width of the access	Reference Number 22 on the street plans
	Access X14 on the street plans	On the west boundary of the A6 Lancaster Road at a point 77 metres south of the southern boundary of the property known as Morlich over the width of the access	Reference Number 22 on the street plans
	Access X16 on the street plans	On the west boundary of Green Lane at a point 196 metres south of Howgill Brook over the width of the access	Reference Number 28 on the street plans
	Access X17 on the street plans	On the west boundary of Kellet Lane at	Reference Number 31 on the street plans

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private access to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Private Access to be substituted</i>
		a point 334 metres south-west of its junction with the entrance to Beaumont Grange over the width of the access	
	Access X20 on the street plans	On the north boundary of Foundry Lane at a point 57 metres west of the centreline of the M6 Motorway over the width of the access	Reference Number 33 on the street plans
	Access X21 on the street plans	On the south boundary of Foundry Lane at a point 31 metres west of the centreline of the M6 Motorway over the width of the access	Reference Number 32 on the street plans
	Access X24 on the street plans	On the north boundary of the A683 Caton Road/Lancaster Road at a point 72 metres west of the centreline of the M6 Motorway over the width of the access	Reference Number 36 on the street plans
	Access X26 on the street plans	On the south boundary of the A683 Caton Road/Lancaster Road at a point 217 metres east of the centreline of the M6 Motorway over the width of the access	Reference Number 40 on the street plans
	Access X27 on the street plans	To the property known as Croskells Farm on the south boundary of the A683 Caton Road/Lancaster Road at a point 52 metres west of the centreline of the M6 Motorway over the width of the access	Reference Number 38 on the street plans
	Access X28 on the street plans	On the south boundary of the A683 Caton Road/Lancaster Road	Reference Number 37 on the street plans

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private access to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Private Access to be substituted</i>
		at a point 126 metres east of the centreline of the M6 Motorway over the width of the access	
	Access X30 on the street plans	On the south boundary of the A683 Caton Road/Lancaster Road at a point 198 metres east of the centreline of the M6 Motorway over the width of the access	Reference Number 39 on the street plans
	Access X31 on the street plans	On the south boundary of the A683 Caton Road/Lancaster Road at a point 201 metres east of the centreline of the M6 Motorway over the width of the access	Reference Number 39 on the street plans
	Access X32 on the street plans	Along Grimeshaw Lane from a point 24 metres north-west of the centreline of Grimeshaw Lane Bridge and 41 metres east of the centreline of the M6 Motorway in a north-westerly direction for a distance of 97 metres	Reference Number 42 on the street plans
	Access X33 on the street plans	On the north boundary of Grimeshaw Lane from a point 88 metres north-west of the centreline of Grimeshaw Lane Bridge and 37 metres east of the centreline of the M6 Motorway over the width of the access	Reference Number 43 on the street plans

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### PART 3

#### STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
<b>City of Lancaster</b>	Footpath FP12 (Morecambe and Heysham)	From a point 10 metres south of a point on the centreline of Hadrian Road 92 metres west and south-west of its junction with the A683/A589 roundabout junction of the A683 Lancaster - Morecambe Bypass and the A589/A683 Morecambe Road in a south-westerly direction for a distance of 52 metres
	A northern part width of the B5321 Lancaster Road/ Torrisholme Road	From a point 66 metres south-east of its junction with Russell Drive in a south-easterly direction for a maximum distance of 53 metres
	Shefferlands Lane	From a point on the north boundary of Halton Road 131 metres west of the centreline of the M6 Motorway in a north-westerly and north-easterly direction for a distance of 230 metres to the west boundary of the M6 Motorway
	Foundry Lane	From a point on 311 metres south-west of its junction with Bottomdale Road in an easterly direction for a distance of 43 metres to the west boundary of the M6 Motorway
	Bottomdale Road (embankments only)	From a point 23 metres north-west of the centreline of the M6 Motorway in a north-westerly direction for a maximum distance of 45 metres

## PART 4

### PRIVATE ACCESSES FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private Access to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
<b>City of Lancaster</b>	Access X7 on the street plans	On the east boundary of Powder House Lane at a point 133 metres north of the centre of its crossroad junction with Barley Cop Lane over the width of the access
	Access X10 on the street plans	On the east boundary of Folly Lane at a point 109 metres south of the southern boundary of the property known as Brookside over the width of the access
	Access X13 on the street plans	On the east boundary of the A6 Lancaster Road at a point 85 metres north of the northern boundary of the property known as Geiranger over the width of the access
	Access X15 on the street plans	On the east boundary of the A6 Lancaster Road at a point 52 metres south of the southern boundary of the property known as Morlich over the width of the access
	Access X18 on the street plans	On the east boundary of Kellet Lane at a point 301 metres southwest of its junction with the entrance to Beaumont Grange over the width of the access
	Access X19 on the street plans	On the east boundary of Kellet Lane at a point 208 metres south-west of its junction with the entrance to Beaumont Grange over the width of the access
	Access X22 on the street plans	On the north boundary of Halton Road at a point 48 metres west of the centreline



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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private Access to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
		of the M6 Motorway over the width of the access
	Access X23 on the street plans	On the north boundary of the A683 Caton Road/Lancaster Road at a point 188 metres west of the centreline of the M6 Motorway over the width of the access
	Access X25 on the street plans	On the north boundary of the A683 Caton Road/Lancaster Road at a point 122 metres east of the centreline of the M6 Motorway over the width of the access
	Access X29 on the street plans	On the south boundary of the A683 Caton Road/Lancaster Road at a point 113 metres west of the centreline of the M6 Motorway over the width of the access

## SCHEDULE 7

Article 13

## TEMPORARY PROHIBITION OR RESTRICTION OF USE OF STREETS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Temporary prohibition or restriction of use of streets</i>	<i>(3)</i> <i>Extent of temporary prohibition or restriction of use of streets</i>
<b>City of Lancaster</b>	Northgate	Over a distance of 130 metres west and 100 metres east from its junction with A683 Lancaster – Morecambe Bypass, the length shown hatched on street plan Sheet 1, as required to ensure the safety of both the public and the workforce. Access to frontages to be maintained at all reasonable times.
	A683 Lancaster - Morecambe Bypass	Over a distance of 550 metres from 100 metres south-west of the junction with Northgate

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(1) Area	(2) Temporary prohibition or restriction of use of streets	(3) Extent of temporary prohibition or restriction of use of streets
		north-eastwards to the junction with A589/A683 Morecambe Road, the length shown hatched on street plan Sheet 1; as required to ensure the safety of both the public and the workforce.
	Lancaster to Morecambe Cycle Track	Short term closure across construction site as required to ensure the safety of both the public and the workforce, until new permanent route is available.
	Hadrian Road	From its present junction at the roundabout on A589/A683 Morecambe Road to a point 10 metres east from unnamed cul-de-sac outside No 2 Hadrian Road, as required to ensure the safety of both the public and the workforce, until new permanent route is available. Access to frontages to be maintained at all reasonable times.
	A589 Morecambe Road	Over a distance of 250 metres west from the present roundabout, as the length shown hatched on Street Plans, Sheet 1, as required to ensure the safety of both the public and the workforce..  Access to frontages to be maintained at all reasonable times. This street is not to be closed at the same time as B5321 Lancaster Road/ Torrisholme Road.
	A683 Morecambe Road	Over a distance of 180 metres east from the present roundabout, as the length shown hatched on street plan, Sheet 1, as required to ensure the safety of both the public and the workforce.

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(1) <i>Area</i>	(2) <i>Temporary prohibition or restriction of use of streets</i>	(3) <i>Extent of temporary prohibition or restriction of use of streets</i>
		Access to frontages to be maintained at all reasonable times. This street is not to be closed at the same time as B5321 Lancaster Road/Torrisholme Road.
	B5321 Lancaster Road/ Torrisholme Road	Over a distance of 190 metres east and south-east from No. 364 Lancaster Road (B5321) to 25 metres north-west of the Torrisholme Road (B5321) entrance to Lancaster and Morecambe College, as required to ensure the safety of both the public and the workforce.  Access to frontages to be maintained at all reasonable times. This street is not to be closed at the same time as A589/A683 Morecambe Road.
	Barley Cop Lane	From its junction with B5321 Lancaster Road/Torrisholme Road and Powder House Lane, as required to ensure the safety of both the public and the workforce. Access to frontages to be maintained at all reasonable times.
	Powder House Lane	From its junction with Barley Cop Lane to its junction with Hasty Brow Road, as required to ensure the safety of both the public and the workforce. Access to frontages to be maintained at all reasonable times.
	Folly Lane	North and west from its junction with Barley Cop Lane for a distance of 370 metres, as required to ensure the safety of both the public and the workforce. Access to

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Temporary prohibition or restriction of use of streets</i>	<i>(3)</i> <i>Extent of temporary prohibition or restriction of use of streets</i>
		frontages to be maintained at all reasonable times.
	A6 Lancaster Road	Over a distance of 800 metres southwards from the property known as Lonsdale to the access track by the pumping station 50 metres north of the entrance to Beaumont College, the length shown hatched on street plan, Sheet 4, as required to ensure the safety of both the public and the workforce. Access to frontages to be maintained at all reasonable times.
	Green Lane	From its junction with Bottomdale Road to the junction at Beaumont Hall bridge, as required to ensure the safety of both the public and the workforce. Access to frontages to be maintained at all reasonable times.
	Kellet Lane	<p>From its junction with Bottomdale Road to the junction with Halton Road, as required to ensure the safety of both the public and the workforce. Access to frontages to be maintained at all reasonable times.</p> <p>This street is not to be closed at the same time as Bottomdale Road and Halton Road.</p>
	Halton Road	From its junction with Kellet Lane to the junction with Church Brow, Halton, as required to ensure the safety of both the public and the workforce. Access to frontages to be maintained at all reasonable times.

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(1) Area	(2) Temporary prohibition or restriction of use of streets	(3) Extent of temporary prohibition or restriction of use of streets
		This street is not to be closed at the same time as Kellet Lane and Bottomdale Road.
	Bottomdale Road	<p>From its junction with Foundry Lane to the junction with Church Brow, Halton, as required to ensure the safety of both the public and the workforce. Access to frontages to be maintained at all reasonable times.</p> <p>This street is not to be closed at the same time as Kellet Lane and Halton Road.</p>
	A683 Caton Road/Lancaster Road	Over a distance of 800 metres west and then south-west from a point 50 metres east of the entrance to the property known as Tarn View to a point 40 metres south-west of the entrance to the Holiday Inn Hotel, the length shown hatched on street plan Sheet 8 as required to ensure safe operations for both the public and the workforce. Access to frontages to be maintained at all reasonable times.
	M6 Motorway	Overnight closure between junctions 33 & 34 to allow erection of new sign gantries across the motorway as required.
	Footpath FP7 (Slyne –with-Hest)	Short term closure across construction site as required to ensure the safety of both the public and the workforce when alternative safe route not feasible, until new permanent route is available.
	Footpath FP9 (Halton-with-Aughton)	Short term closure across construction site as required during construction of the Lune West Bridge (Work No. 1

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(1) <i>Area</i>	(2) <i>Temporary prohibition or restriction of use of streets</i>	(3) <i>Extent of temporary prohibition or restriction of use of streets</i>
		(xxvi)) to ensure the safety of both the public and the workforce when alternative safe route for pedestrians not feasible, until new permanent route is available.
	Footpath FP15 (Quernmore)	Short term closure across construction site as required during construction of the Lune West Bridge (Work No. 1 (xxvi)) to ensure the safety of both the public and the workforce when alternative safe route for pedestrians not feasible.
	Lune cycle path	Short term closure across construction site as required during construction of the Lune West Bridge (Work No. 1 (xxvi)) to ensure the safety of both the public and the workforce when alternative safe route for pedestrians not feasible.

SCHEDULE 8

Article 14

ACCESS TO AND FROM WORKS

PART 1

PUBLIC ACCESS TO AND FROM WORKS

(1) <i>Area</i>	(2) <i>Description of access</i>
<b>City of Lancaster</b>	New access north-east from College Junction on A589/A683 – street plans Reference a Footpath and cycle track west off B5321 Torrisholme Road – street plans Reference b

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of access</i>
	Footpath and cycle track east off B5321 Lancaster Road - within highway authority land – street plans Reference c
	Footpath west off Powder House Lane - within highway authority land – street plans Reference d
	Footpath west off Powder House Lane - within highway authority land – street plans Reference e
	Footpath and cycle track east off Folly Lane - within highway authority land – street plans Reference f
	Footpath and cycle track west off Lancaster Canal towpath - within highway authority land – street plans Reference g
	New access west off A6 Lancaster Road - Beaumont Link – street plans Reference h
	Footpath and cycle track south-west off A6 Lancaster Road - within highway authority land – street plans Reference i
	Footpath and bridleway east off Green Lane - within highway authority land – street plans Reference j
	Footpath and cycle track north-west off Kellet Lane - within highway authority land – street plans Reference k
	New access north off Halton Road – street plans Reference l
	Footpath, cycle track and bridleway north-west off Halton Road - within highway authority land – street plans Reference m
	New accesses north from Croskells junction, Caton Road – street plans Reference n
	Footpath and cycle track north off Caton Road - within highway authority land – street plans Reference o
	Footpath and cycle track south off Lune cycle path - within highway authority land – street plans Reference p
	New accesses south from Croskells junction, Caton Road – street plans Reference q

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(1) <i>Area</i>	(2) <i>Description of access</i>
	Footpath and cycle track north off Barley Cop Lane - within highway authority land – street plans Reference r

**PART 2**  
**PRIVATE ACCESS TO AND FROM WORKS**

(1) <i>Area</i>	(2) <i>Description of access</i>
<b>City of Lancaster</b>	New private means of access – street plans Reference Number 3
	New private means of access – street plans Reference Number 4
	New private means of access – street plans Reference Number 7
	New private means of access – street plans Reference Number 9
	New private means of access – street plans Reference Number 10
	New private means of access – street plans Reference Number 11
	New private means of access – street plans Reference Number 12
	New private means of access – street plans Reference Number 13
	New private means of access – street plans Reference Number 14
	New private means of access – street plans Reference Number 15
	New private means of access – street plans Reference Number 17
	New private means of access – street plans Reference Number 18
	New private means of access – street plans Reference Number 19
New private means of access – street plans Reference Number 21	



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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of access</i>
	New private means of access – street plans Reference Number 23
	New private means of access – street plans Reference Number 24
	New private means of access – street plans Reference Number 25
	New private means of access – street plans Reference Number 26
	New private means of access – street plans Reference Number 27
	New private means of access – street plans Reference Number 29
	New private means of access – street plans Reference Number 30
	New private means of access – street plans Reference Number 34
	New private means of access – street plans Reference Number 35
	New private means of access – street plans Reference Number 41

SCHEDULE 9

Article 22(2)

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights over the land may be acquired</i>
41	The right of access and the right to carry out and maintain landscaping works for 20 years.
42, 60 and 61	The right of access, the right to construct, keep, and maintain, and rights for working spaces, in relation to the following works: boundary fences and embankments; the carrying out, and maintenance for 20 years only, of landscaping works; a new access track; wingwalls; a retaining wall; the installation of drainage pipes over land and playing fields forming part of premises known as Lancaster and Morecambe College.

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<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights over the land may be acquired</i>
49	Right of access to neighbouring land.
52	The right to construct, keep, and maintain, and rights for working spaces, in relation to works to erect and maintain boundary fences and embankments; to install and maintain drainage pipes; to construct and maintain wingwalls and foundations; to construct and maintain a retaining wall and foundations; the carrying out, and maintenance for 20 years only, of landscaping works.
56	The right to construct, keep and maintain retaining wall over land to the rear, south and north of premises known as Meter House (water), including related rights for working spaces and access.
65a	The right to construct and maintain an open watercourse along the north-west foot of the Heysham to M6 Link Road embankment, south of Torrisholme Road, including related rights for working spaces and access.
65b	The right to construct and maintain an open watercourse along the north-west foot of the Heysham to M6 Link Road embankment, and the right to divert across this land and maintain two water mains south of Torrisholme Road, including related rights for working spaces and access.
65c	The right to construct and maintain a jointing pit for high voltage electricity cables and the right to divert across this land and maintain two water mains south of Torrisholme Road, including related rights for working spaces and access.
65d	The right to divert across this land and maintain two water mains south of Torrisholme Road, including related rights for working spaces and access.
69	The right of access, and to construct, keep and maintain, and rights for working spaces, relating to the installation of drainage pipes and construction of a drainage headwall on adjacent land.
94, 95 and 96	The right to construct, keep and maintain a bridge to carry the Heysham to M6 Link Road

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<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights over the land may be acquired</i>
	and earthworks for Folly Lane and Powder House Lane diversions; related rights for access and working spaces, including the right to swing the jib of a crane, loaded or unloaded, in connection with development on adjoining land through the air-space over land and railway track.
108,110 and 112	The right to construct, keep and maintain a new bridge to carry the Heysham to M6 Link Road and sheet pile canal protection, related rights for access and working spaces, including the right to swing the jib of a crane, loaded or unloaded, in connection with development on adjoining land through the air-space over land.
120a and 121a	Rights to construct, keep and maintain apparatus, to create working spaces and access with or without vehicles, plant and machinery; to construct and maintain a temporary diversion of Lancaster Road (A6) and to regrade land upon removal of temporary diversion.
130, 132, 135, 136, 175 and 176	Rights of access, and to construct, keep and maintain, and rights for working spaces and access, relating to new bridges, including the right to swing the jib of a crane, loaded or unloaded, in connection with development on adjoining land through the air-space over land; for inspection and maintenance of Habitat Creation Area; to maintain culverted watercourse and headwall over grassland, pasture land and cattle grid forming part of Beaumont Gate Farm, including related rights for working spaces and access.
139, 142 to 172 inclusive	The right of access, to construct, keep and maintain Slynedales culvert including manholes, headwall and outfall cascade, and related rights for working spaces and access across grassland and pasture land forming part of Beaumont Gate Farm, part of Howgill Brook and part of public footpath (FP7) situated east of Lancaster Road (A6), below the Lancaster Canal, along Moss Place, Woodlands Road and Halton Road and Open Space off Halton Road.
182, 184, 185 and 186	The right to carry out, and maintain for 20 years, landscaping works.

<i>(1)</i> <i>Number of land shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights over the land may be acquired</i>
192b, 193, 194 and 196	The right to construct, keep and maintain high pressure gas pipelines and medium pressure gas mains for National Grid in the Shefferlands area, and related rights for working spaces and access.
203	Right to install and maintain telecommunication ducts over land and access track.
220	The right to construct, keep and maintain drainage pipes and manholes to connect into existing Highways Agency drainage system including related rights for working spaces and access over land, verge and embankment, except those held by or on behalf of the Crown.
222	The right to construct, keep and maintain a new bridge to carry the Heysham to M6 Link Road, and related rights for working spaces and access including the right to swing the jib of a crane, loaded or unloaded, in connection with development on adjoining land through the air-space over land and the River Lune.
228	The right to construct, keep and maintain a new bridge to carry the Heysham to M6 Link Road, a reshaped existing cutting slope, a footpath and cycle track, and a culvert; related rights for working spaces and access, including the right to swing the jib of a crane, loaded or unloaded, in connection with development on adjoining land through the air-space over land (former railway), path, embankments and the Lune cycle path.
238 and 239	The right of access, and to maintain an existing culvert in, on, over or under land, car park, landscaped areas forming part of hotel premises known as Holiday Inn Lancaster and footpath (former railway), embankments and the Lune cycle path.
263	The right to construct, keep and maintain retaining wall forming part of Hudson's farm; related rights for working spaces and access.
271	The right to carry out, and maintain for 20 years, landscaping works.
275, 277 and 278	The right to carry out, and maintain for 20 years, landscaping works.

## SCHEDULE 10

Article 22(3)

## 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 as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(21) has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(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 4—

- (a) for the words “land is acquired or taken” there are substituted the words “a right over land is purchased from”; and
- (b) for the words “acquired or taken from him” there are substituted the words “over which the right is exercisable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

- (a) for the word “part” in paragraphs (a) and (b) there are substituted the words “a right over land consisting”;
- (b) for the word “severance” there are substituted the words “right over the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there are substituted the words “right proposed”; and
- (d) for the words “part is” there are substituted the words “right is”.

*Application of the 1965 Act*

3.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation in case of severance) there is substituted the following section—

“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

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(21) 1973 c. 26.

the right is to be acquired 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.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there is substituted the following section—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013(22) (“the Order”), in relation to that person, ceases to authorise the purchase of the right and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section is to be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

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

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(22) S.I. 2013/675.

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7. Section 11 of the 1965 Act (powers of entry) is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) 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 in question.

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

## SCHEDULE 11

Article 28

## LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of land shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
<b>City of Lancaster</b>	8	Temporary working area to construct property boundary	Work No. 1(iv)
	9	Temporary working area to strengthen existing bridge	Work No. 1(iii)
	37	Temporary working area to provide new access off Morecambe Road (A589); new egress onto a road connecting to Hadrian Road and to reconfigure internal circulation and car parking layout	Work Nos. 1(v) and (vii)
	38	Temporary working area to construct and improve the existing access	Work No. 7

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<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of land shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
	39, 40, 43, 47, 48 and 50	Access and temporary working area to undertake accommodation works including erection of boundary fencing and gates, extending existing car parking area, construction of new access road and car parking areas and other mitigation works.	Work No. 7
	41	Temporary working area to construct screening mound	Work No. 7
	44	Temporary working area to demolish neighbouring buildings	Work No. 7
	67	Temporary working area to regrade existing ground	Work No. 1(x)
	82, 89, 99, 103, 116, 118, 122, 181, 197 and 207	Storage areas for soil arising and other materials	Work Nos. 1-17
	85	Temporary working area to construct new access	Work No. 1(xiii)
	89a	Temporary working area to lay down beams and other associated materials and to erect cranes in connection with the construction of the new railway bridge on adjoining land	Work No. 1(xiii)
	93	Temporary working area in connection with the construction of the new railway bridge	Work No. 1(xiii)



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	100	Temporary working area to construct new access	Work No. 1(xiii)
	102, 104, 105, 106 , 107, 113 and 115	Temporary working area in connection with the construction of the new canal bridge including construction and maintenance of a temporary bridge over the canal and connection of new footpath and cycle track to canal towpath	Work Nos. 1(xiv) and (xv)
	120	Temporary working area to construct and maintain temporary diversion of Lancaster Road (A6) and to regrade land upon removal of temporary diversion	Work No. 1(xvii)
	121	Storage areas for soil arising and to regrade land upon removal soil arising	Work No. 1(xvii)
	125, 127 and 128	Temporary working area on part of Beaumont Gate Farm to regrade existing ground to new level of Lancaster Road (A6) and to improve existing accesses off the stopped up section of Lancaster Road (A6)	Work No. 1(xvii)
	129, 131, 133 and 134	Temporary working area in connection with the construction of the new farm occupation bridge and access track, including regrading land	Work No. 9

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	139, 142 to 173	Temporary working area	Work No. 5
	140 and 141	Temporary right of access	Work No. 5
	180	Temporary working area to regrade existing ground to new level of Green Lane	Work No. 1(xix)
	182, 184, 185 and 186	Temporary working area to regrade and divert watercourse known as How Gill Brook	Work Nos. 1(xx) and 4
	183, 189, 190, 192 and 192a	Temporary working area to construct and maintain temporary diversion of Kellet Lane and to regrade existing ground to new level of Kellet Lane	Work No. 1(xxi)
	192b, 193, 194 and 196	temporary working area	Work No. 1(xxii)
	211 and 212	Temporary working area to regrade watercourse known as Cote Beck	Work No. 1(xxiii)
	217	Temporary working area to construct and reconfigure existing main access and entrance gate to Halton Training Camp off Halton Road	Work No. 8
	218	Compounds and ancillary features	Work Nos. 1-17
	227, 231, 232, 234 and 236	Temporary working area to construct the new bridge over the River Lune, to lay down beams and other associated materials, erect cranes	Work No. 1(xxvi)

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		and to construct a footpath and cycle track forming part of the Lancaster to Caton Cycle Track – River Lune Cycleway (No. 69) and River Lune Millennium Path	
	240	Temporary working area to construct and improve the existing access to the hotel known as Holiday Inn Lancaster	Work No. 1(xxix)
	241	Temporary right of access along access way to the west of the hotel known as Holiday Inn Lancaster	Work Nos. 1(xxvi) and (xxix)
	242	Temporary right of access along land (former railway), public footpath (No. 15) and the Lancaster to Caton Cycle Track – River Lune Cycleway (No. 69) and River Lune Millennium Path, Lune Valley Ramble, the Caton Trail and Halton Circular Walk	Work No. 1(xxix)
	261	Temporary working area to construct access track and fence for the premises known as Cuckoo Farm or Ridge Farm	Work No. 1(xxviii)
	262, 264 and 266	Temporary working area to erect retaining wall and to construct new access off Caton Road (A683), and to regrade existing	Work Nos. 1(xxviii) and (xxxi)

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		ground, for the property known as Hudson's Farm	
	267, 268 and 269	Temporary working area to improve the existing access off Caton Road (A683) for the properties known as Tarn View and Three Acres	Work No. 1(xxx)
	271	Temporary working area to construct access track, regrade existing ground, and install drainage	Work No. 1(xxx)
	275, 277 and 278	Temporary working area to realign Grimeshaw Lane	Work No. 1(xxxiv)
	280, 283, 285 and 287	Temporary working area to construct foundations and erect new sign gantry	Work No. 1(xxxii)

SCHEDULE 12

Article 35

TREES SUBJECT TO TREE PRESERVATION ORDERS

<i>(1)</i> <i>Type of tree</i>	<i>(2)</i> <i>Number of tree on land plan</i>	<i>(3)</i> <i>Work to be carried out</i>
Sessile Oak <i>(Quercus petraea)</i>	TPO -1  (Barley Cop Lane – south verge 10 metres west of junction with Powder House Lane)	Lopping overhanging branches to prevent damage by construction traffic
Common Ash <i>(Fraxinus excelsior)</i>	TPO -2  (Powder House Lane – west verge 50 metres south of	Lopping overhanging branches to prevent damage by construction traffic

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(1) <i>Type of tree</i>	(2) <i>Number of tree on land plan</i>	(3) <i>Work to be carried out</i>
	junction with Barley Cop Lane)	
Sycamore <i>(Acer pseudoplatanus)</i>	TPO -3  (Powder House Lane – west verge 90 metres south of junction with Barley Cop Lane)	Lopping overhanging branches to prevent damage by construction traffic
Sycamore <i>(Acer pseudoplatanus)</i>	TPO 4  (Powder House Lane – west verge 100 metres south of junction with Barley Cop Lane)	Lopping overhanging branches to prevent damage by construction traffic
Sycamore <i>(Acer pseudoplatanus)</i>	TPO -5  (Powder House Lane – west verge 110 metres south of junction with Barley Cop Lane)	Lopping overhanging branches to prevent damage by construction traffic

## SCHEDULE 13

Article 39

## FOR THE PROTECTION OF THE CANAL &amp; RIVER TRUST

*Interpretation*

1.—(1) For the protection of the Trust the following provisions of this Schedule, unless otherwise agreed in writing between the undertaker and the Trust, have effect.

(2) In this Schedule

“Authorised works” means the construction of any works authorised by this Order;

“construction”, in relation to any specified work or protective work, includes—

- (a) the execution and placing of that work; and
- (b) any relaying, renewal, or maintenance of that work as may be carried out during the period of 12 months from the completion of that work;

and “construct” and “constructed” have corresponding meanings;

“detriment” means any damage to the waterway or any other property of the Trust and, without limitation on the scope of that meaning, includes—

- (i) any obstruction of, or interference with, or hindrance or danger to, navigation or to any use of the waterway (including towing paths);
- (ii) the erosion of the bed or banks of the waterway, or the impairment of the stability of any works, lands or premises forming part of the waterway;

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- (iii) the deposit of materials or the siltation of the waterway so as to materially damage the waterway;
- (iv) the pollution of the waterway;
- (v) any significant alteration in the water level of the waterway, or significant interference with the supply of water to it, or drainage of water from it;
- (vi) any material harm to the ecology of the waterway (including any material adverse impact on any site of special scientific interest comprised in the Trust's network); and
- (vii) (any interference with the exercise by any person of rights over the Trust's network;

"the engineer" means an engineer appointed by the Trust for the purpose in question;

"plans" includes sections, designs, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction) and programmes;

"practical completion" means practical completion of all of the specified work notwithstanding that items which would ordinarily be considered snagging items remain outstanding, and the expression "practically complete" and "practically completed" are to be construed accordingly

"protective work" means a work constructed under paragraph 6(3)(a);

"specified work" means so much of any of the authorised works as is situated upon, across, under, over or within 15 metres of, or may in any way affect the waterway;

"towing path" means the towing path forming part of the waterway;

"the Trust" means the Canal & River Trust;

"the Trust's network" means the Trust's network of waterways;

"the waterway" means the Lancaster Canal, and includes any works, lands or premises belonging to the Trust, or under its management or control, and held or used by the Trust in connection with that canal.

#### *Powers requiring Canal & River Trust consent*

2.—(1) The undertaker must not under the powers conferred by this Order acquire compulsorily any land of the Trust or any easement or other right over such land, or use any such land, unless such acquisition or use is with the consent of the Trust.

(2) The undertaker must not in the exercise of the powers conferred by this Order obstruct or interfere with pedestrian or vehicular access to the waterway unless such obstruction or interference with such access is with the consent of the Trust.

(3) The undertaker must not exercise the powers conferred by article 13 (temporary prohibition or restriction of use of streets) in relation to any way over land comprised in the waterway unless such exercise is with the consent of the Trust.

(4) Nothing in article 18 (temporary closure of, and works in, the canal) authorises the undertaker—

- (a) to discharge any water directly or indirectly into the waterway; or
- (b) to carry out any works to, or make any opening in, or otherwise interfere with, the waterway (including its banks and bed),

except with the consent of the Trust and on terms that the Trust may reasonably require, and in accordance with plans approved by, and under the supervision (if given) of, the engineer.

(5) The undertaker must not exercise any power conferred by this Order in such a way as to interfere with the supply of water to or the drainage of water from the waterway unless such exercise is with the consent of the Trust.

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(6) The undertaker must not exercise the powers conferred by article 18, or article 19 (authority to survey and investigate land) or section 11(3) of the 1965 Act (power of entry for surveying land), in relation to the waterway unless such exercise is with the consent of the Trust.

(7) The undertaker must not exercise the powers conferred by section 271 of the Town and Country Planning Act 1990, in respect of any right of access to the waterway, unless such exercise is with the consent of the Trust.

(8) The consent of the Trust under sub-paragraphs (1) to (7) and the approval of plans under sub-paragraph (4) must not be unreasonably withheld or delayed but may be given subject to reasonable terms and conditions which in the case of article 6 (discharge of water) may include conditions—

- (a) specifying the maximum volume of water which may be discharged in any period; and
- (b) authorising the Trust on giving reasonable notice (except in an emergency, when the Trust may require immediate suspension) to the undertaker to require the undertaker to suspend the discharge of water or reduce the flow of water where this is necessary by reason of any operational or environmental requirement of the Trust.

#### *Vehicles, plant and machinery*

3. The undertaker must not use any land or property of the Trust forming part of the waterway for the passage or siting of vehicles, plant or machinery employed in the construction of the specified works other than—

- (a) with the consent in writing of the engineer whose consent must not be unreasonably withheld; and
- (b) subject to compliance with such reasonable requirements as the engineer may from time to time specify—
  - (i) for the prevention of detriment; or
  - (ii) in order to avoid or reduce any inconvenience to the Trust, its officers and agents and all other persons lawfully on such land or property,

but nothing in this paragraph applies in relation to anything done in accordance with any approval given by the Trust under paragraph 7.

#### *Fencing*

4. Where so required by the engineer the undertaker must to the reasonable satisfaction of the engineer fence off a specified work or a protective work or take such other steps as the engineer may reasonably require to be taken for the purpose of separating a specified work or a protective work from the waterway, whether on a temporary or permanent basis or both.

#### *Survey of waterway*

5.—(1) Before the commencement of the initial construction of any part of the specified works and again following practical completion of the specified works the undertaker must appoint a qualified engineer (“the surveyor”), to be approved by the Trust and must bear the reasonable cost of the carrying out by the surveyor of a topographical survey (including a dip-survey to measure the depth of the waterway) (“the survey”) of so much of the waterway and of any land and existing works of the undertaker which may provide support for the waterway as will or may be affected by the specified works.

(2) For the purposes of the survey the undertaker must—

- (a) on being given reasonable notice (except in case of emergency, when immediate access must be afforded) afford reasonable facilities to the surveyor for access to the site of the specified works and to any land and to existing works of the undertaker which may provide support for the waterway as will or may be affected by the specified works; and
  - (b) supply the surveyor as soon as reasonably practicable with all such information as the surveyor may reasonably require with regard to such existing works of the undertaker and to the specified works or the method of their construction.
- (3) The reasonable costs of the survey are to include the costs of any dewatering or reduction of the water level of any part of the waterway (where reasonably required) which may be effected to facilitate the carrying out of the survey and the provisions of this Schedule apply with all necessary modifications to any such dewatering or reduction in the water level as though the same were specified works.
- (4) Copies of the report of the survey must be provided to both the Trust and the undertaker at no cost to the Trust.

*Approval of plans, protective works etc.*

6.—(1) The undertaker must before commencing construction of any specified work including any temporary works supply to the Trust proper and sufficient plans of that work and such further particulars available to it as the Trust may within 14 days of the submission of the plans reasonably require for the approval of the engineer and must not commence such construction of a specified work until plans of that work have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld or delayed, and if within 28 days after such plans (including any other particulars reasonably required under sub-paragraph (1)) have been supplied to the Trust the engineer has not intimated disapproval of those plans and the grounds of disapproval the engineer is deemed to have approved the plans as submitted.

(3) When signifying approval of the plans the engineer may specify—

- (a) any protective work (whether temporary or permanent) which in the reasonable opinion of the engineer should be carried out before the commencement of a specified work to prevent detriment; and
- (b) such other requirements as may be reasonably necessary to prevent detriment;

and such protective works must be constructed by the undertaker or by the Trust at the undertaker's request without unnecessary delay and the undertaker must not commence the construction of a specified work until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

(4) The undertaker must pay to the Trust a capitalised sum representing the reasonably increased or additional cost of maintaining and, when necessary, renewing any works, including any permanent protective works provided under sub-paragraph (3), and of carrying out any additional dredging of the waterway necessitated by the exercise of any of the powers of this Order but if the cost of maintaining the waterway, or of works of renewal of the waterway, is reduced in consequence of any such works, a capitalised sum representing such reasonable saving must be set off against any sum payable by the undertaker to the Trust under this paragraph.

(5) In the event that the undertaker fails to complete the construction of, or part of, the specified works the Trust may, if it is reasonably required in order to avoid detriment, construct any of the specified works, or part of such works, (together with any adjoining works) in order to complete the construction of, or part of, the specified works or make such works and the undertaker must reimburse the Trust all costs, fees, charges and expenses it has reasonably incurred in carrying out such works.



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### *Design of works*

7. Without affecting its obligations under the provisions of this Schedule the undertaker must consult, collaborate and respond constructively to any approach, suggestion, proposal or initiative made by the Trust on—

- (a) the design and appearance of the specified works, including the materials to be used for their construction; and
- (b) the environmental effects of the specified works;

and must have regard to such views as may be expressed by the Trust to the extent that these accord with the requirements of the relevant planning authority in response to such consultation pursuant in particular to the requirements imposed on the Trust by section 22 (general environmental and recreational duties) of the British Waterways Act 1995<sup>(23)</sup> and to the interest of the Trust in preserving and enhancing the environment of its waterways.

### *Notice of works*

8. The undertaker must give to the engineer 28 days' notice of its intention to commence the construction of any of the specified or protective works, or, in the case of repair carried out in an emergency, such notice as may be reasonably practicable so that, in particular, the Trust may where appropriate arrange for the publication of notices bringing those works to the attention of users of the Trust's network.

### *Lighting*

9. The undertaker must provide and maintain at its own expense in the vicinity of the specified or protective works such temporary lighting and such signal lights for the control of navigation as the engineer may reasonably require during the construction or failure of the specified or protective works.

### *Construction of specified works*

10.—(1) Any specified or protective works must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled in accordance with this Schedule and with any requirements made under paragraph 6(3) and paragraph 8;
- (b) under the supervision (if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little detriment as is reasonably practicable;
- (d) in such manner as to cause as little inconvenience as is reasonably practicable to the Trust, its officers and agents and all other persons lawfully using the waterways, except to the extent that temporary obstruction has otherwise been agreed by the Trust.

(2) Nothing in this Order authorises the undertaker to make or maintain any permanent works in or over the waterway so as to impede or prevent passage of any vessel which is of a kind (as to its dimensions) for which the Trust is required by section 105(1)(b) and (2) of the Transport Act 1968<sup>(24)</sup> to maintain the waterway.

(3) Following the completion of the construction of the specified works the undertaker must restore the waterway to a condition no less satisfactory than its condition immediately prior to the commencement of those works.

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<sup>(23)</sup> 1995 c. i

<sup>(24)</sup> 1968 c. 73. This is amended by Schedule 2 to S.I. 2012/1659.

### *Prevention of pollution*

**11.** The undertaker must not in the course of constructing a specified work or a protective work or otherwise in connection with those works do or permit anything which may result in the pollution of the waterway or the deposit of materials in it and must take such steps as the engineer may reasonably require to avoid or make good any breach of its obligations under this paragraph.

### *Access to work: provision of information*

- 12.—**(1) The undertaker on being given reasonable notice must—
- (a) at all times allow reasonable facilities to the engineer for access to a specified work during its construction; and
  - (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.
- (2) The Trust on being given reasonable notice must—
- (a) at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by the Trust under this Schedule during their construction; and
  - (b) supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them and the undertaker must reimburse the Trust's reasonable costs in relation to the supply of such information.

### *Alterations to waterway*

**13.—**(1) If during the construction of a specified work or a protective work or during a period of 12 months after the completion of those works any alterations or additions, either permanent or temporary, to the waterway are reasonably necessary in consequence of the construction of the specified work or the protective work in order to avoid detriment, the Trust must give to the undertaker reasonable notice in writing specifying the alterations or additions which it considers necessary to avoid detriment and the undertaker must at its own expense and within a time period to be agreed with the Trust carry out such alterations or additions or must pay to the Trust the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by the Trust in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If the cost of maintaining, working or renewing the waterway is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to the Trust under this paragraph.

### *Maintenance of works*

**14.** If at any time after the completion of a specified work or a protective work, not being a work vested in the Trust, the Trust gives reasonable notice to the undertaker informing it that the state of maintenance of the work appears to the Trust such that the work is causing or likely to cause detriment, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put the work in such state of maintenance as not to cause such detriment and the Trust must afford the undertaker such access as is required in order for the undertaker to carry out any such works.

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*Repayment of Canal & River Trust fees, etc.*

15. The undertaker must repay to the Trust all fees, costs, charges and expenses reasonably incurred by the Trust —

- (a) in constructing any protective works under the provisions of paragraph 6(3)(a);
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction or repair of a specified work and any protective works;
- (c) in respect of the employment during the construction of the specified works or any protective works of any inspectors, watchkeepers and other persons whom it is reasonably necessary to appoint for inspecting, watching and lighting any waterway and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified works or any protective works; and
- (d) in bringing the specified works or any protective works to the notice of users of the Trust's network.

*Costs of alterations, etc.*

16. Any additional expenses which the Trust may reasonably incur in altering, reconstructing or maintaining the waterway under any powers existing at the date when this Order was made by reason of the existence of a specified work, provided that 28 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, must be repaid by the undertaker to the Trust .

*Making good of detriment; compensation and indemnity, etc.*

17.—(1) If any detriment is caused by the construction or failure of the specified works or the protective works if carried out by the undertaker, the undertaker (if so required by the Trust ) must make good such detriment and pay to the Trust all reasonable expenses to which the Trust may be put, and compensation for any loss which the Trust may sustain, in making good or otherwise by reason of the detriment.

(2) The undertaker is responsible for and must make good to the Trust all costs, charges, damages, expenses and losses not otherwise provided for in this Schedule which may be occasioned to or reasonably incurred by the Trust—

- (a) by reason of the construction of a specified work or a protective work or the failure of such a work; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the construction of a specified work or a protective work;

and subject to sub-paragraph (4) the undertaker must effectively indemnify and hold harmless the Trust from and against all claims and demands arising out of or in connection with any of the matters referred to in paragraphs (a) and (b).

(3) The fact that any act or thing may have been done by the Trust on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision or in accordance with any directions or awards of an arbitrator does not (if it was done without negligence on the part of the Trust or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this paragraph.

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(4) The Trust must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand is to be made without the prior consent of the undertaker.

*Details of capitalised sums to be provided*

**18.** If the Trust or the undertaker cannot jointly agree the formula by which the capitalised sum is calculated it is to be settled by arbitration in accordance with article 42 (arbitration).

*Arbitration*

**19.** Any difference arising between the undertaker and the Trust under this Schedule (other than a difference as to the meaning or construction of this Schedule) is to be referred to and settled by arbitration in accordance with article 42 (arbitration).

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises Lancashire County Council (referred to in this Order as the undertaker) to construct a new dual carriageway road starting at junction 34 of the M6 motorway and ending at the eastern end of the Heysham M6 Link Phase 1 road at the A683/A589 Morecambe Road roundabout, and carry out all associated works. The Order permits the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose. The Order also makes provision in connection with the maintenance of the new section of highway.

A copy of the Order plans and the book of reference mentioned in this Order and certified in accordance with article 40 of this Order (certification of plans, etc.) may be inspected free of charge during working hours at Lancashire County Council, County Hall, Preston, Lancashire, PR1 0LD.