
STATUTORY INSTRUMENTS

2024 No. 393

INFRASTRUCTURE PLANNING

The National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024

Made - - - - *14th March 2024*

Coming into force - - *5th April 2024*

An application has been made to the Secretary of State under section 37 of the Planning Act 2008⁽¹⁾ (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009⁽²⁾ for an Order granting development consent.

The application was examined by a panel as Examining authority appointed by the Secretary of State in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010⁽³⁾.

The Examining authority, having considered application together with the representations made and not withdrawn and the accompanying documents, has submitted a report and recommendation to the Secretary of State in accordance with section 74⁽⁴⁾ of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017⁽⁵⁾ and has had regard to the documents and matters referred to in section 104⁽²⁾⁽⁶⁾ of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122 and 123 of the 2008 Act, makes the following Order—

(1) [2008 c. 29](#). Section 37 was amended by Schedule 13 to the Localism Act [2011 \(c. 20\)](#).
(2) [S.I. 2009/2264](#).
(3) [S.I. 2010/103](#), amended by regulation 5 of [S.I. 2012/635](#).
(4) Section 74 was amended by the Localism Act [2011 \(c. 20\)](#) section 240(2), Schedule 13 paragraph 29(2) and Schedule 25 Part 20.
(5) [S.I. 2017/572](#).
(6) Section 104 was amended by section 58(5) of the Marine and Coastal Access Act [2009 \(c. 23\)](#) and by section 240(2) and Schedule 13, paragraph 49(1) to (6) of the Localism Act [2011 \(c. 20\)](#).

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024 and comes into force on 5th April 2024.

Interpretation

2.—(1) In this Order except where provided or context requires otherwise—

“the 1961 Act” means the Land Compensation Act 1961(7);

“the 1965 Act” means the Compulsory Purchase Act 1965(8);

“the 1980 Act” means the Highways Act 1980(9);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(10);

“the 1984 Act” means the Road Traffic Regulation Act 1984(11);

“the 1989 Act” means the Electricity Act 1989(12);

“the 1990 Act” means the Town and Country Planning Act 1990(13);

“the 1991 Act” means the New Roads and Street Works Act 1991(14);

“the 2003 Act” means the Communications Act 2003(15);

“the 2008 Act” means the Planning Act 2008(16);

“the 2016 Act” means the Housing and Planning Act 2016(17);

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016(18);

“access, rights of way and public rights of navigation plan” means the document of that description listed in Part 1 of Schedule 2 (plans, drawings and environmental statement) and certified by the Secretary of State as the access, rights of way and public rights of navigation plan for the purposes of this Order under article 48 (certification of plans, etc.);

“arboricultural impact assessment” means the document of that description certified by the Secretary of State as the arboricultural impact assessment under article 48 (certification of plans, etc.);

“archaeological written scheme of investigation” means the document of that description certified by the Secretary of State as the archaeological written scheme of investigation for the purposes of this Order under article 48 (certification of plans, etc.);

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order,

(7) 1961 c. 33.

(8) 1965 c. 56.

(9) 1980 c. 66.

(10) 1981 c. 66.

(11) 1984 c. 27.

(12) 1989 c. 29.

(13) 1990 c. 8.

(14) 1991 c. 22.

(15) 2003 c. 21.

(16) 2008 c. 29.

(17) 2016 c. 22.

(18) S.I. 2016/1154.

which is development within the meaning of section 32 (meaning of “development”) of the 2008 Act;

“biodiversity mitigation strategy” means the document of that description certified by the Secretary of State as the biodiversity mitigation strategy for the purposes of this Order under article 48 (certification of plans, etc.);

“book of reference” means the document of that description certified by the Secretary of State as the book of reference for the purposes of this Order under article 48 (certification of plans, etc);

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

“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(19);

“carriageway” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

“code of construction practice” means the document of that description certified by the Secretary of State as the code of construction practice for the purposes of this Order under article 48 (certification of plans, etc.);

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

“construction management plans” means the plans listed at Requirement 5(2) of Schedule 3 (Requirements);

“construction traffic management plan” means the document of that description certified by the Secretary of State as the construction traffic management plan for the purposes of this Order under article 48 (certification of plans, etc.);

“cycle track” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act and for the purposes of this Order includes a right of way on foot;

“design approach to site specific infrastructure” means the document of that description certified by the Secretary of State as the design approach to site specific infrastructure for the purposes of this Order under article 48 (certification of plans, etc.);

“design drawings” means the document of that description listed in Part 2 of Schedule 2 (plans, drawings and environmental statement) and certified by the Secretary of State as the design drawings for the purposes of this Order under article 48 (certification of plans, etc.);

“electric line” has the same meaning as in section 64 (interpretation etc. of Part 1) of the 1989 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;

“elevation plans” means the elevation plans included within the design drawings referenced within Schedule 2 (plans, drawings and environmental statement), Part 2 with Drawing Numbers DCO_DE/PS/14_03, DCO_DE/PS/15_03, DCO_DE/PS/16_03, DCO_DE/PS/17_03, DCO_DE/PS/18_03, DCO_DE/PS/19_03, DCO_DE/PS/20_03;

“environmental statement” means the environmental statement (Documents 5.1 to 5.4.18), environmental statement addendum (Document 5.2.22) and the documents contained in or named in the consolidated errata and changes (Document 5.2.19) and certified as the environmental statement by the Secretary of State for the purposes of this Order under article 48

(certification of plans, etc.) as listed in Part 8 of Schedule 2 (plans, drawings and environmental statement);

“extinguishment of easements, servitudes and other private rights plan” means the document of that description listed in Part 3 of Schedule 2 (plans, drawings and environmental statement) and certified by the Secretary of State as the extinguishment of easements, servitudes and other private rights plan under article 48 (certification of plans, etc.);

“foundations” means a foundation placed in land to support pylons and electric lines constructed upon those foundations;

“highway” has the same meaning as in section 328(1) (meaning of “highway”) of the 1980 Act;

“highway authority” means the relevant highway authority for the area of land to which the relevant provision of this Order relates and any successor in function;

“land plan” means the document of that description listed in Part 4 of Schedule 2 (plans, drawings and environmental statement) and certified as the land plan by the Secretary of State for the purposes of this Order under article 48 (certification of plans, etc.);

“limits of deviation” means the limits of deviation referred to in article 5 (limits of deviation) and shown on the works plan and design drawings;

“linear works” means those works shown on the works plan with a centreline;

“local authority” means the relevant local authority for the area of land to which the relevant provision of this Order relates and any successor in function;

“main river” has the same meaning as is in Part 4 of the Water Resources Act 1991⁽²⁰⁾;

“maintain” includes inspect, repair, adjust, alter, dismantle, remove, clear, refurbish, re-tension, paint, surface treat, decommission, improve, reconstruct or replace any part, but not remove, reconstruct or replace the whole of, the authorised development including through the use of robots, drones, gadgets or similar devices either remote controlled or autonomous, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, and any derivative of “maintain” must be construed accordingly;

“National Grid” means National Grid Electricity Transmission plc (registered company number 02366977);

“NGN” means Northern Gas Networks Limited (Company Number 05167070);

“NGN Works” means those works to NGN assets or equipment forming part of the authorised development, including Work No. U8;

“noise and vibration management plan” means the document of that description certified by the Secretary of State as the noise and vibration management plan for the purposes of this Order under article 48 (certification of plans, etc.);

“non-linear works” means those works identified on the works plan as non-linear works comprising substations and cable sealing end compounds;

“NPG” means Northern Powergrid (Northeast) PLC (registered company number 02906593) or Northern Powergrid (Yorkshire) PLC (registered company number 04112320) as appropriate for the NPG Work to which the relevant provision of this Order applies;

“NPG Works” means those works to NPG assets or equipment forming part of the authorised development, comprising—

- (a) in respect of Northern Powergrid (Northeast) PLC (registered company number 02906593), Work Nos. U1, U2, U3, U4, U5; and

(20) “main river” is defined in section 113 of the Water Resources Act 1991 (c. 57), as amended by Water Act 2014 (c. 21), Part 2, section 59(3).

(b) in respect of Northern Powergrid (Yorkshire) PLC (registered company number 04112320), U6, U7, U9, U10, U11, U12 and U13;

“Order land” means the land shown on the land plan which is within the limits of land to be acquired and described in the book of reference;

“the Order limits” means the limits shown on the land plan and on the works plan within which the authorised development may be carried out;

“outline landscape mitigation strategy” means the document of that description certified by the Secretary of State as the outline landscape mitigation strategy for the purposes of this Order under article 48 (certification of plans, etc.);

“outline soil management plan” means the document of that description certified by the Secretary of State as the outline soil management plan for the purposes of this Order under article 48 (certification of plans, etc.);

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(21);

“parameter plans” means the parameter plans included within the design drawings referenced within Schedule 2 (plans, drawings and environmental statement), Part 2 with Drawing Numbers DCO_DE/PS/14_01, DCO_DE/PS/15_01, DCO_DE/PS/16_01, DCO_DE/PS/17_01, DCO_DE/PS/18_01, DCO_DE/PS/19_01, DCO_DE/PS/20_01;

“permit scheme” means any scheme made under Part 3 of the Traffic Management Act 2004(22) as in force at the date on which this Order is made;

“public rights of way management plan” means the document of that description and certified by the Secretary of State as the public rights of way management plan for the purposes of this Order under article 48 (certification of plans, etc.);

“relevant drainage authorities” means the drainage board for the area of land to which the relevant provision of this Order applies within the meaning of section 23 (prohibition on obstructions etc, in watercourses) of the Land Drainage Act 1991(23);

“relevant planning authority” means the local planning authority for the area of land to which the relevant provision of this Order applies and any successor in function;

“requirements” means, or a reference to a numbered requirement is to, those matters set out in Schedule 3 (requirements) to this Order;

“sewerage undertaker” means a company appointed under the Water Industry Act 1991(24) to provide sewerage services in respect of a geographical area of England and Wales;

“statutory undertaker” means any person falling within section 127(8) (statutory undertakers’ land) of the 2008 Act and a public communications provider as defined in section 151 (interpretation of chapter 1) of the 2003 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act(25), together with land on the verge of a street or between two carriageways, and includes part of a street;

(21) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

(22) 2004 c. 18.

(23) 1991 c. 59. Section 23 was amended by the Environment Act 1995 (c. 29), Schedule 22, paragraph 192 and the Flood and Water Management Act 2010 (c. 29), Schedule 2, paragraph 32 and the Natural Resources Body for Wales (Functions) Order 2013/755 Schedule 2(1), paragraph 322(2).

(24) 1991 c. 56, as amended by S.I. 2009/3104.

(25) Section 48 was amended by section 124 of the Local Transport Act 2008 (c. 26).

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act⁽²⁶⁾;

“temporary construction works” means any of the temporary construction works described in Schedule 1 (authorised development) to the Order;

“traffic” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act;

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

“traffic regulation order plan” means the document of that description certified as the traffic regulation order plan by the Secretary of State for the purposes of this Order under article 498 (certification of plans, etc.);

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

“the undertaker”—

- (a) in relation to the authorised development, means National Grid;
- (b) in relation to the NPG Works and subject to Schedule 5 (benefit of the Order rules), includes NPG; and
- (c) in relation to the NGN Works and subject to Schedule 5 (benefit of the Order rules), includes NGN;

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

“works plan” means the document of that description certified as the works plan by the Secretary of State for the purposes of this Order under article 48 (certification of plans, etc.).

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

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work. All distances for scheduled linear works referred to in this Order are measured along the centre line of the limits of deviation for that work. All pylon identification numbers set out in this Order are identified by reference to the centreline of such works, and are subject to the limits of deviation for that work, such that the pylon numbering and location of pylons may adjust in accordance with the limits of deviation identified in article 5 (limits of deviation). Unless otherwise specified in Schedule 1 (authorised development), depths in this Order or on the works plan are measured from the proposed final ground level.

(4) All areas described in square metres in the book of reference are approximate.

(5) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(6) Unless otherwise stated, references in this Order to points identified by letters are to be construed as references to the points so lettered on the relevant plans.

(7) The expression “includes” is to be construed without limitation unless the contrary intention appears.

⁽²⁶⁾ “street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

(8) References in this Order to “document” followed by a number or numbers are references to documents submitted by the undertaker in support of the application for development consent that resulted in the making of this Order.

(9) For the purposes of this Order, “operational use” in relation to any part of the authorised development occurs when that part first transmits electricity at 275 kilovolts or above.

(10) References in this Order to any statute, order, regulation or similar instrument are to be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order and the requirements—

- (a) National Grid is granted development consent for the authorised development set out in Schedule 1 (authorised development) to be carried out within the Order limits;
- (b) subject to article 6 (benefit of the Order), NPG is granted development consent for the NPG Works; and
- (c) subject to article 6 (benefit of the Order) NGN is granted development consent for the NGN Works.

(2) National Grid may—

- (a) install and keep installed the authorised development; and
- (b) remove or replace any electric line including pylons that may require removal as part of the authorised development.

(3) NPG may—

- (a) subject to Schedule 5 (benefit of the Order rules), install the NPG Works;
- (b) keep installed the underground cables and telemetry included in the NPG Works; and
- (c) remove or replace any electric line including pylons or poles that may require removal in relation to the NPG Works.

(4) NGN may—

- (a) subject to Schedule 5 (benefit of the Order rules), install the NGN Works;
- (b) keep installed the underground gas pipelines included in the NGN Works; and
- (c) remove or replace any pipeline that may require removal in relation to the NGN Works.

(5) National Grid may operate and use the electric lines and any other elements of the authorised development (excluding the NPG Works and the NGN Works) as part of the high-voltage electricity transmission system in England and Wales.

(6) NPG may operate and use the electric line and any other elements of the NPG Works as part of the electricity distribution network.

(7) NGN may operate and use the gas pipeline and any other elements of the NGN Works as part of the gas distribution network.

(8) The authorised development must be constructed and installed in the lines and situations shown on the works plan, subject to article 5 (limits of deviation) and to Schedule 3 (requirements).

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

(10) Schedule 2 (plans, drawings and environmental statement) has effect.

Maintenance of authorised development

4.—(1) National Grid may at any time maintain the authorised development (excluding the NPG Works and the NGN Works), except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) NPG may at any time maintain the NPG Works, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

(3) NGN may at any time maintain the NGN Works, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

Limits of deviation

5.—(1) In carrying out, maintaining or diverting the authorised development for which it is granted development consent by article 3 (development consent etc. granted by the Order) the undertaker may—

- (a) deviate laterally from the centreline for the linear works forming part of the authorised development shown on the works plan within the limits of deviation relating to that work shown on those plans;
- (b) deviate laterally from the situations for the non-linear works forming part of the authorised development shown on the works plan and design drawings within the limits of deviation relating to that work shown on the design drawings;
- (c) in respect of the overhead lines and any pylon and temporary structures deviate vertically from the levels of the authorised development shown on the design drawings to any extent upwards not exceeding 6 metres;
- (d) deviate vertically for the linear works to such extent downwards as the undertaker considers necessary or convenient; and
- (e) carry out construction activities for the purposes of the authorised development anywhere within the Order limits.

(2) Without prejudice to paragraphs (5) and (6) of article 3 (development consent etc. granted by the Order) the removal, clearance, decommissioning and demolition of any existing electric line may take place within the Order limits.

(3) In respect of the non-linear works forming part of the authorised development—

- (a) the undertaker may deviate to any extent upwards not exceeding the maximum height shown on the relevant parameter plans measured from the finished site levels shown on the corresponding elevation plans; and
- (b) the authorised development is to be carried out within any parameters shown on the parameter plans within the design drawings.

(4) The maximum limits of deviation specified in sub-paragraph (1)(a) to (c) and paragraph (3) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority and any other person the Secretary of State considers appropriate having regard to the proposed deviation in question and the statutory roles and responsibilities of such person, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects to those identified in the environmental statement.

Benefit of the Order

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

- (a) National Grid in respect of the authorised development;
- (b) subject to Schedule 5 (benefit of the Order rules), NPG in respect of the NPG Works; and
- (c) subject to Schedule 5 (benefit of the Order rules), NGN in respect of the NGN Works.

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

(3) Schedule 5 (benefit of the Order rules) has effect.

Consent to transfer benefit of the Order

7.—(1) National Grid in relation to the authorised development, NPG in relation to the NPG Works and NGN in relation to the NGN Works, may, with the consent of the Secretary of State—

- (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 National Grid, NPG or NGN and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between National Grid, NPG or NGN 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 a transfer or grant has been made in accordance with paragraph (1) references in this Order to National Grid, NPG or NGN (as the case may be), except in paragraphs (4) and (5), is to 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, save where those benefits or rights are exercised by a statutory undertaker (which for the purposes of this article includes any entity listed in paragraph (7)), or by an owner or occupier of land pursuant to paragraph (2) of article 25 (compulsory acquisition of rights) of this Order, in which case liability for the payment of compensation remains with National Grid.

(4) Any rights or benefits in relation to the NPG Works that are transferred or granted by NPG under paragraph (1) are subject to Schedule 5 (benefit of the Order rules) as if they had remained exercisable by NPG.

(5) Any rights or benefits in relation to the NGN Works that are transferred or granted by NGN under paragraph (1) are subject to Schedule 5 (benefit of the Order rules) as if they had remained exercisable by NGN.

(6) The consent of the Secretary of State under this article is not required where the powers of article 25(1) (compulsory acquisition of rights) are, with the consent of the undertaker given under article 25(2) (compulsory acquisition of rights), proposed to be exercised by a statutory undertaker rather than by National Grid.

(7) The consent of the Secretary of State is not required under this article, where the transfer or grant is made, for the purpose of diverting or replacing their owned or managed structures, apparatus or equipment which forms part of the authorised development described in Schedule 1 and contained within the Order limits, to—

- (a) Openreach Limited (Company Number 10690039) whose registered office is at Kelvin House 123 Judd Street London WC1H 9NP;

- (b) EE Limited (Company Number 02382161) whose registered office is at 1 Braham Street, London, United Kingdom, E1 8EE;
- (c) Hutchison 3G UK Limited (Company Number 03885486) whose registered office is at 450 Longwater Avenue, Green Park, Reading, Berkshire, England, RG2 6GF;
- (d) Vodafone Limited (Company Number 01471587), whose registered office is at Vodafone House, The Connection, Newbury, Berkshire RG14 2FN; and
- (e) Yorkshire Water Services Limited (Company Number 02366682) whose registered office is at Western House, Halifax Road, Bradford, West Yorkshire, BD6 2SZ.

Planning Permission

8. If planning permission is issued or granted pursuant to the 1990 Act for development any part of which is within the Order limits that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

Application of the 1990 Act

9.—(1) Where land within the Order limits is used for temporary construction works, section 57(2) (planning permission required for development) of the 1990 Act applies as if the development consent granted by this Order were planning permission granted for a limited period.

(2) Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land for the purposes of that Act) of the 1990 Act.

(3) In the exercise of the power under paragraphs (1) and (2) of article 11 (street works) the undertaker is to be deemed to be the highway authority for the purposes of section 55(2)(b) (meaning of “development” and “new development”) of the 1990 Act.

Application of the Community Infrastructure Levy Regulations 2010

10.—(1) Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010⁽²⁷⁾ any building comprised in the authorised development is deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

(27) S.I. 2010/948.

PART 3

STREETS

Street works

11.—(1) The undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter upon so much of any of the streets specified in column (2) of Schedule 6 (streets subject to street works) as is within the Order limits and may without the consent of the street authority—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street, or carry out any works to strengthen or repair the street;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in the street (including signage);
- (e) maintain, renew or alter apparatus in or on the street or change its position;
- (f) execute any works to provide or improve sight lines required by the highway authority;
- (g) execute and maintain any works to provide hard and soft landscaping;
- (h) carry out re-lining and placement of new temporary markings; and
- (i) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (h).

(2) Without limiting the scope of the powers conferred by paragraph 1 but subject to the consent of the street authority, which consent must not be unreasonably withheld or delayed, the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes set out at sub-paragraph 1(a) to (i) and paragraph 3 of article 12 (application of the 1991 Act) applies.

(3) If a street authority that receives an application for consent under paragraph (2) fails to notify the undertaker of its decision within 28 days beginning with the date on which the application was received, that authority will be deemed to have granted consent.

(4) The authority given by paragraph (1) or (2) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(5) The powers conferred in paragraphs (1) and (2) are without limitation of the powers of the undertaker under the 1989 Act (**28**).

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

(7) Any application for consent under paragraph (2) must include a statement that the provisions of paragraph (3) apply to that application.

Application of the 1991 Act

12.—(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway must be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major highway works if—

- (a) they are of a description mentioned in any of sub-paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (highway authorities, highways and related matters) of the 1991 Act; or

- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts) or section 184 (vehicle crossings over footways and verges) of the 1980 Act.

(2) In Part 3 of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

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

- (a) section 53**(29)** (the street works register);
- (b) section 56**(30)** (power to give directions as to timing of street works);
- (c) section 56A**(31)** (power to give directions as to placing of apparatus);
- (d) section 58**(32)** (restrictions on works following substantial road works);
- (e) section 58A**(33)** (restriction on works following substantial street works);
- (f) section 73A**(34)** (power to require undertaker to re-surface street);
- (g) section 73B**(35)** (power to specify timing etc. of re-surfacing);
- (h) section 73C**(36)** (materials, workmanship and standard of re-surfacing);
- (i) section 78A**(37)** (contributions to costs of re-surfacing by undertaker); and
- (j) Schedule 3A**(38)** (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with necessary modifications) in relation to any closure, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 14 (temporary closure of streets, cycle tracks and public rights of way) whether or not the closure, alteration or diversion constitutes street works within the meaning of that Act.

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

- (a) section 54**(39)** (advance notice of certain works), subject to paragraph (6);
- (b) section 55**(40)** (notice of starting date of works), subject to paragraph (6);
- (c) section 57**(41)** (notice of emergency works);
- (d) section 59**(42)** (general duty of street authority to co-ordinate works);
- (e) section 60**(43)** (general duty of undertakers to co-operate);
- (f) section 68**(44)** (facilities to be afforded to street authority);

(29) Section 53 was added by section 45 of the Traffic Management Act 2004.

(30) Section 56 was amended by sections 40 and 43 of, and Schedule 1 to, the Traffic Management Act 2004.

(31) Section 56A was inserted by section 44 of the Traffic Management Act 2004.

(32) Section 58 was amended by sections 40 and 51 of, and Schedule 1 to, the Traffic Management Act 2004.

(33) Section 58A was inserted by section 52 of the Traffic Management Act 2004.

(34) Section 73A was inserted by section 55 of the Traffic Management Act 2004.

(35) Section 73B was inserted by section 55 of the Traffic Management Act 2004.

(36) Section 73C was inserted by section 55 of the Traffic Management Act 2004.

(37) Section 78A was inserted by section 57 of the Traffic Management Act 2004.

(38) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.

(39) Section 54 was amended by section 49(1) of the Traffic Management Act 2004

(40) Section 55 was amended by sections 49, 51 of, and schedule 1 to, the Traffic Management Act 2004 (c. 18).

(41) Section 57 was amended by section 52 of, and Schedule 1 to, the Traffic Management Act 2004.

(42) Section 59 was amended by section 42 of the Traffic Management Act 2004.

(43) Section 60 was amended by Schedule 1 to the Traffic Management Act 2004.

(44) Section 68 was amended by Schedule 1 to the Traffic Management Act 2004.

- (g) section 69(45) (works likely to affect other apparatus in the street);
- (h) section 71(46) (materials, workmanship and standard of reinstatement);
- (i) section 76(47) (liability for cost of temporary traffic regulation); and
- (j) section 77(48) (liability for cost of use of alternative route);

and all such other provisions as apply for the purposes of the provisions mentioned in sub-paragraphs (a) to (j).

(6) Sections 54 (advance notice of certain works) and 55 (notice of starting date of works) of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 (notice of emergency works) of that Act to emergency works were a reference to a temporary closure, stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Power to alter layout, etc. of streets

13.—(1) The undertaker may, for the purposes of carrying out the authorised development—

- (a) permanently alter the layout of, or carry out any works in, a street specified in column (1) Part 1 of Schedule 7 (streets subject to permanent alteration of layout) in the manner specified in relation to that street in column (2); and
- (b) temporarily alter the layout of, or carry out any works in, a street specified in column (1) Part 2 of Schedule 7 (streets subject to temporary alteration of layout) in the manner specified in relation to that street in column (2).

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street within or adjacent to the Order limits and the layout of any street having a junction with such a street; and, without limiting 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, central reservation or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track, central reservation or verge;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers and passing places;
- (f) execute any works of surfacing or resurfacing of the highway;
- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
- (h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians; and
- (i) execute any works to provide or improve sight lines required by the highway authority.

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

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

(45) Section 69 was amended by Schedule 1 to the Traffic Management Act 2004 (c. 18).

(46) Section 71 was amended by Schedule 1 to the Traffic Management Act 2004.

(47) 1991 c. 18.

(48) 1991 c. 18.

(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 received, it is deemed to have granted consent.

(6) Any application for consent under paragraph (4) must include a statement that the provisions of paragraph (5) apply to that application.

Temporary closure of streets, cycle tracks and public rights of way

14.—(1) During and for the purposes of carrying out the authorised development, the undertaker may temporarily close, alter or divert any street, cycle track or public right of way shown on the access, rights of way and public rights of navigation plans or within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street, cycle track or public right of way.

(2) Without limitation on the scope of paragraph (1), the undertaker may use as a temporary working site any street, cycle track or public right of way which has been temporarily closed, altered or diverted under the powers conferred by this article.

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

(4) Without limitation on the scope of paragraph (1), the undertaker may temporarily close, alter or divert the streets, cycle tracks or public rights of way specified in column (2) of Parts 1 and 2 of Schedule 8 (streets, cycle tracks or public rights of way to be temporarily closed) to the extent specified, by reference to the letters and numbers shown on the access, rights of way and public rights of navigation plan, in column (3) of that Schedule, and, if it does so in respect of a street, cycle track or public right of way specified in Part 1 of Schedule 8, must provide the temporary diversion as specified in column (4) of that Part.

(5) The undertaker must not temporarily close, alter or divert—

- (a) any street, cycle track or public right of way specified as mentioned in paragraph (4) without first consulting the street authority; and
- (b) any other street, cycle track or public right of way without the consent of the street authority which may attach reasonable conditions to any consent.

(6) Where the undertaker provides a temporary diversion under paragraph (4), the temporary alternative route is not required to be of a higher standard than the temporarily closed street, cycle track or public right of way in column (2) of Part 1 of Schedule 8 (streets, cycle tracks or public rights of way to be temporarily closed).

(7) 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 (determination of questions of disputed compensation) of the 1961 Act.

(8) If a street authority which receives an application for consent under paragraph (5)(b) 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 received, it is deemed to have granted consent.

(9) Any application for consent under paragraph (5)(b) must include a statement that the provisions of paragraph (8) apply to that application.

Use of private roads for construction

15.—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

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

Access to works

16.—(1) 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 location specified in column (2) of Schedule 9 (access to works); and
- (b) with the consent of the relevant planning authority (such consent not to be unreasonably withheld or delayed), after consultation with the relevant highway authority, 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.

(2) If a relevant planning authority which receives an application for consent under paragraph (1)(b) 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 received, it is deemed to have granted consent.

(3) Any application for consent under paragraph (1)(b) must include a statement that the provisions of paragraph (2) apply to that application.

Construction, alteration and maintenance of streets

17.—(1) Any street (other than any private streets) to be constructed under this Order must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by the street authority from its completion.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by the street authority from its completion.

(3) Where new land not previously part of the public highway is to form part of the public highway further to the provisions of this Order it must, unless otherwise agreed with the street authority, be deemed as dedicated as part of the public highway on the expiry of the period of 12 months from its completion.

(4) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;

- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed.

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(6) In determining who is the street authority in relation to a street for the purposes of Part III of the 1991 Act, any obligation of the undertaker to maintain the street under paragraph (1) or (2) must be disregarded.

Agreements with street authorities

- 18.**—(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 over or under an electric line authorised by this Order;
 - (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under an electric line authorised by this Order;
 - (c) any temporary closure, stopping up, alteration or diversion of a street authorised by this Order; or
 - (d) the carrying out in the street of any of the works referred to in article 11 (street works); or
 - (e) such other matters as the parties may agree.
- (2) Such an agreement may, without limitation on the scope 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;
 - (c) contain such terms as to payment and other matters as the parties consider appropriate; and
 - (d) such other matters as the parties may agree.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

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

any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(49).

(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 or delayed.

(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 or delayed; 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 pursuant to 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.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for an environmental permit) of the 2016 Regulations.

(8) This article does not permit any activity listed in paragraph 3(1) of Schedule 21 (water discharge activities) to the 2016 Regulations.

(9) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, a harbour authority within the meaning of section 57 (interpretation) of the Harbours Act 1964 (50), an internal drainage board, a joint planning board, a local authority, the highway authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

(b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(51) have the same meaning as in that Act.

(10) Any application for consent under paragraph (3) or approval under paragraph (4)(a) must include a statement that the provisions of paragraph (9) apply to that application.

(11) In relation to any works executed under this Order, Section 66 of the Land Drainage Act 1991(52) is amended after paragraph (9) to insert—

“(10) Where an application is made to an internal drainage board for their consent under a byelaw made under this section—

(a) the consent is not to be unreasonably withheld; and

(b) if the internal drainage board fail within 28 days after receipt of the application to notify the applicant in writing of their determination, the internal drainage board are deemed to have consented to the application.

(49) 1991 c. 56. Section 106 was amended by sections 35(1) and (8) and 43(2) of the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and section 49 of, and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(50) 1964 c. 40. Paragraph 9B was inserted into Schedule 2 by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 9(1) and (2), subject to transitional provisions specified in S.I. 1992/1347 article 3.

(51) 1991 c. 57.

(52) 1991 c. 23.

(11) No consent is required under any byelaw made by an internal drainage board under this section if it relates solely to the oversail of an overhead electric line which meets the minimum statutory clearances contained in Schedule 2 of the Electricity Safety, Quality and Continuity Regulations 2002⁽⁵³⁾ when measured from the top of the bank of any watercourse maintained by an internal drainage board.”

Protective work to land, buildings, structures, apparatus or equipment

20.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any land, building, structure, apparatus or equipment lying within the Order limits or which may be affected by the authorised development 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 land, building, structure, apparatus or equipment of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the land, building, structure, apparatus or equipment 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 brought into operational use.

(3) For the purpose of determining how the functions under this article are to be exercised, the undertaker may enter and survey—

- (a) any land, building, structure, apparatus or equipment, falling within paragraph (1) and any land within its curtilage; and
- (b) where reasonably necessary, any land which is adjacent to the land, building, structure, apparatus or equipment, whether or not within Order limits,

and place on, leave on and remove from the building, structure, apparatus or equipment any apparatus and equipment for use in connection with the survey.

(4) For the purpose of carrying out protective works under this article to land, building, structure, apparatus or equipment the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the land, building, structure, apparatus or equipment 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 land, buildings, structures, apparatus or equipment;
- (b) a right under paragraph (2) to enter land, building, structure, apparatus or equipment and land within its curtilage;
- (c) a right under paragraph (3)(a) to enter any land, building, structure, apparatus or equipment and land within its curtilage; or
- (d) a right under paragraph (3)(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.

⁽⁵³⁾ *SI: 2002/2665*. There are amendments to the Electricity Safety, Quality and Continuity Regulations 2002 which are not relevant to this section.

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the land, building, structure, apparatus, equipment or curtilage 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 land, building, structure, apparatus, equipment or curtilage land to be referred to arbitration under article 52 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any of the land, building, structure, apparatus, equipment or curtilage 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.

(8) Where—

- (a) protective works are carried out under this article to the land, building, structure, apparatus or equipment; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development constructed in the vicinity of the land, building, structure, apparatus or equipment is first brought into operational use it appears that the protective works are inadequate to protect the building against damage caused by the construction or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the land, building, structure, apparatus or equipment for any loss or damage sustained by them.

(9) Without affecting article 31 (no double recovery), nothing in this article relieves the undertaker from any liability to pay compensation under section 152(54) 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) Section 13(55) (refusal to give possession to acquiring authority) of the 1965 Act applies to entry onto, or possession 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(56) (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works” in relation to land, building, structure, apparatus or equipment means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the land, building, structure, apparatus or equipment by the construction, 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 land, building, structure, apparatus or equipment by the construction, maintenance or use of the authorised development.

Authority to survey and investigate the land

21.—(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, monitor or investigate the land; (including any watercourses, groundwater, static water bodies or vegetation on the land);

(54) As amended by Schedule 1, paragraph 293 of S.I. 2009/1307.

(55) As amended by sections 62(3) and 139(4) to (9) of, paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(56) As amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).

- (b) without prejudice to the generality of sub-paragraph (a), survey, monitor or investigate the land and any buildings on that land for the purpose of investigating the potential effects of the authorised development on that land or buildings on that land or for enabling the construction, use and maintenance of the authorised development;
 - (c) without limitation on the scope of sub-paragraph (a), make trial holes, boreholes, excavations or take horizontal cores in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil, groundwater and other materials below ground level or remove soil, rock, water or other material samples and discharge water from sampling operations on to the land;
 - (d) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations and monitoring on the land, including making any excavations or trial holes on the land for such purposes; and
 - (e) place on, leave on and remove from the land apparatus (including but not limited to welfare facilities and security facilities) for use in connection with the survey, monitoring or investigation of land, making of trial holes, boreholes, excavations, cores, or the carrying out of ecological or archaeological investigations or monitoring.
- (2) The power conferred by paragraph (1) includes without prejudice to the generality of that paragraph the power to take, and process, samples of or from any of the following found on, in or over the land—
- (a) water;
 - (b) air;
 - (c) soil or rock;
 - (d) flora;
 - (e) bodily excretions or dead bodies of non-human creatures; or
 - (f) any non-living thing present as a result of human action.
- (3) 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.
- (4) Any person entering land under this article on behalf of the undertaker—
- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so;
 - (b) must, before entering the land, provide in the notice details of the purpose specified in paragraph (1) to survey and investigate the land; and
 - (c) may take onto the land such vehicles and equipment as are necessary to carry out the survey, monitoring or investigation or to make the trial holes.
- (5) No trial holes, boreholes, excavations or horizontal cores may be made under this article—
- (a) on land located within the highway boundary without the consent of the relevant highway authority; or
 - (b) in a private street without the consent of the street authority;
- but such consent must not be unreasonably withheld or delayed.
- (6) As soon as reasonably practicable following the completion of any activities carried out under paragraph (1), the undertaker must remove any apparatus and restore the land to the reasonable satisfaction of the owners of the land.
- (7) 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).

(8) If a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under sub-paragraph (5)(a) in the case of a highway authority; or
- (b) under sub-paragraph (5)(b) in the case of a street authority,

that authority is deemed to have granted consent.

(9) 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).

(10) Any application for consent under paragraph (5) must include a statement that the provisions of paragraph (8) apply to that application.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

22.—(1) National Grid may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or is incidental to it.

(2) This article is subject to article 23 (compulsory acquisition of land – incorporation of the mineral code), article 24 (time limit for exercise of authority to acquire land and rights compulsorily), paragraph (3) of article 25 (compulsory acquisition of rights), articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG) and 38 (temporary use of land by NGN).

Compulsory acquisition of land – incorporation of the mineral code

23. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981⁽⁵⁷⁾ are incorporated into this Order subject to the following modifications—

- (a) paragraph 8(3) is not incorporated;
- (b) for “the acquiring authority” substitute “the undertaker”; and
- (c) for “undertaking” substitute “authorised development”.

Time limit for exercise of authority to acquire land and rights compulsorily

24.—(1) After the end of the period of 5 years beginning on the day on which this Order is made (and subject to article 32 (Modification of Part 1 of the 1965 Act) and article 33 (Application of the 1981 Act))—

- (a) no notice to treat may be served under Part 1 of the 1965 Act (which makes provision for compulsory purchase under the Acquisition of Land Act 1981); and
- (b) no declaration may be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 33 (application of the 1981 Act).

(2) The authority conferred by articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG) and 38 (temporary use of land by NGN) ceases at the end of the period referred

⁽⁵⁷⁾ 1981 c. 67. Words substituted by the Coal Industry Act 1994 (c. 21) Schedule 9 paragraph 27(3).

to in paragraph (1), except that nothing in this paragraph prevents the undertaker, NPG or NGN from 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

25.—(1) Subject to the provisions of this article the undertaker may acquire compulsorily the rights, and impose the restrictions, over the Order land, described in the book of reference and detailed in Schedule 13 (land in which only new rights and restrictive covenants etc, may be acquired), by creating them as well as by acquiring rights and the benefits of restrictions already in existence.

(2) This article is subject to articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG) and 38 (temporary use of land by NGN).

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

(4) Schedule 10 to this Order has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restriction.

(5) In any case where the acquisition of rights or the imposition of a restriction under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights or impose such restrictions to the relevant statutory undertaker other than in respect of the NGN Works or the NPG Works where no such consent is required.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) Nothing in this article authorises the acquisition of rights over, or the imposition of restrictions affecting, an interest which is for the time being held by or on behalf of the Crown.

Extinguishment and suspension of private rights

26.—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition or the compulsory acquisition of rights or the imposition of restrictions under the Order (including those shown on the extinguishment of easements, servitudes and other private rights plan) shall be extinguished or suspended in so far as their continuance would be inconsistent with the exercise of the right acquired or the burden of the restriction imposed—

- (a) as from the date of the acquisition of the land or of the right or the benefit of the restriction 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; or
- (c) on the carrying out of any activity authorised by the Order which interferes with or breaches those rights,

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights and restrictive covenants over land owned by the undertaker which, being within the Order limits, is required for the purposes of this

Order, are extinguished on the carrying out of any activity authorised by this Order which interferes with or breaches such rights or such restrictive covenants.

(3) Subject to the provisions of this article and article 27 (Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession), all private rights or restrictive covenants 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 and in so far as their continuation would be inconsistent with the exercise of the powers under this Order or a breach of a restriction as to the user of land arising by virtue of a contract.

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

(5) 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 40 (statutory undertakers) applies.

(6) Paragraphs (1) to (4) have effect subject to—

(a) any notice given by the undertaker before—

- (i) the completion of the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
- (ii) the undertaker's appropriation of it;
- (iii) the undertaker's entry onto it; or
- (iv) the undertaker's taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; and

(b) any agreement made, in so far as it relates to the authorised development, at any time between the undertaker and the person in or to whom the right or restrictive covenant in question is vested, belongs or benefits.

(7) If any such agreement as is referred to in paragraph (6)(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.

(8) A reference in this article to private rights and restrictive covenants over land includes any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support and including restrictions as to the user of land arising by virtue of a contract.

Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession

27.—(1) This article applies to any Order land specified in Part 1 (National Grid), Part 2 (NPG) and Part 3 (NGN) of Schedule 11 (extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession) and any other Order land of which National Grid takes temporary possession under article 36 (temporary use of land by National Grid) or NPG takes temporary possession under article 37 (temporary use of land by NPG) or NGN takes temporary possession under article 38 (temporary use of land by NGN).

(2) All private rights or restrictive covenants in relation to apparatus belonging to National Grid, NPG or NGN removed from any land to which this article applies are extinguished from the date on which National Grid, NPG or NGN give up temporary possession of that land under articles 36(5) and 36(6), or 37(5) and 37(6), or 38(5) and 38(6), as the case may be.

(3) The extinguishment of rights by paragraph (2) does not give rise to any cause of action relating to the presence on or in the land of any foundations (save for those which lie less than 1.5 metres underground) referred to in articles 36(5)(c) and 36(6)(c), or 37(5)(c) and 37(6)(c), or 38(5)(c) and 38(6)(c) (National Grid, NPG and NGN not required to remove foundations when giving up temporary possession).

(4) Schedule 11 (extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession) has effect.

Power to override easements and other rights

28.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article “authorised activity” means—

- (a) the erection, construction or maintenance of any part of the authorised development;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land (including the temporary use of land).

(3) The interests and rights to which this article applies include any easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support including restrictions as to the user of land arising by the virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a person deriving title under the undertaker by whom the land in question was acquired—

- (a) is liable to pay compensation by virtue of paragraph (4); and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker in accordance with section 204(3) (compensation for overridden easements etc) of the 2016 Act.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

(7) In this article “authorised activity” means—

- (a) the erection, construction or maintenance of any part of the authorised development;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land (including the temporary use of land).

Disregard of certain interests and improvements

29.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works carried out or improvement or alteration made on the relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the carrying out of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works constructed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.

Set-off for enhancement in value of retained land

30.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 25 (compulsory acquisition of rights), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2) as if this Order were a local enactment for the purposes of that Act.

No double recovery

31. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

Modification of Part 1 of the 1965 Act

32.—(1) —Part 1 of the 1965 Act, as applied to this Order by section 125(58)(application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(58) Section 125 was amended by section 190 of, and paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).

(2) In section 4A(1)(59) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)(60), the five year period mentioned in article 24 (time limit for exercise of authority to acquire land and rights compulsorily) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024”.

(3) In section 11A(61) (powers of entry: further notice of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 24 (time limit for exercise of authority to acquire land and rights compulsorily) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024”.

(5) In Schedule 2A(62) (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 34 (acquisition of subsoil or airspace only) on the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024, which excludes the acquisition of subsoil or airspace only from this schedule”;

(b) after paragraph 29, end insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under articles 20 (protective works to buildings), articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG) and 38 (temporary use of land by NGN) or 39 (temporary use of land for maintaining the authorised development) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024.”

Application of the 1981 Act

33.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

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

(3) In section 1 (application of Act) for subsection (2) substitute—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”

(4) In section 5 (earliest date for execution of declaration), subsection (2) is omitted.

(59) Section 4A(1) was inserted by Part 7, section 202(1) of the Housing and Planning Act 2016 (c. 22), subject to the transitional provisions specified in S.I. 2016/733 regulation 9.

(60) Section 118 was amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25 to, the Localism Act 2011 (c. 20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c. 2).

(61) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22) subject to the transitional provisions specified in S.I. 2017/75 regulation 3.

(62) Schedule 2A was inserted by section 216(3) of, and paragraph 3 of Schedule 17 to, the Housing and Planning Act 2016 (c. 22), subject to the transitional provisions specified in S.I. 2017/75 regulation 5.

(5) Section 5A is omitted⁽⁶³⁾.

(6) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 of the 2008 Act (application of compulsory acquisition provisions) to the compulsory acquisition of land under this Order.

(7) In section 5B(1)⁽⁶⁴⁾ (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118(f) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 24 (time limit for exercise of authority to acquire land and rights compulsorily) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024”.

(8) In section 6⁽⁶⁵⁾ (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(9) In section (7)⁽⁶⁶⁾ (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(10) In Schedule A1⁽⁶⁷⁾ (counter-notice requiring purchase of land not in general vesting declaration) for paragraph 1(2) substitute—

“(2) But see article 34(3) (acquisition of subsoil or airspace only) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024, which excludes the acquisition of subsoil or airspace only from this Schedule.”

(11) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125⁽⁶⁸⁾ (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 32 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

34.—(1) The undertaker may compulsorily acquire so much of, or such rights, and impose such restrictions, in the subsoil of, or the air-space of, the land referred to in article 25 (compulsory acquisition of rights) and article 22 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired or for which rights over or under the land may be acquired under those provisions instead of acquiring the rights or imposing restrictions over the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, or imposes any restriction 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.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 32 (modification of Part 1 of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

⁽⁶³⁾ Section 5A to the 1981 Act was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

⁽⁶⁴⁾ Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).

⁽⁶⁵⁾ Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22).

⁽⁶⁶⁾ Section 7(1) was substituted by paragraphs 1 and 3 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

⁽⁶⁷⁾ Schedule A1 was inserted by paragraphs 1 and 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

⁽⁶⁸⁾ Section 125 was amended by section 216(3) of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).

- (c) section 153(4A)(c) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

Use of subsoil under or airspace over streets

35.—(1) The undertaker may enter on and use so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development or for any other purpose ancillary to the authorised development and may use the subsoil or airspace for those purposes.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without 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 appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act⁽⁶⁹⁾.

(5) Compensation is not payable under paragraph (4) to any person who is a statutory undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act⁽⁷⁰⁾ applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land by National Grid

36.—(1) National Grid may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) so much of the land specified in column (1) of Part 1 of Schedule 12 (land of which temporary possession may be taken) to exercise the powers described in the book of reference and for the purpose specified in relation to that land in column (2) of Part 1 of that Schedule relating to the part of the authorised development specified in column (3) of Part 1 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 1981 Act;
- (b) remove any electric line, electrical plant, buildings, archaeological artefact, structures, pylons, apparatus 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 works specified in relation to that land in column (2) of Part 1 of Schedule 12, or any other mitigation works.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article, National Grid must serve notice of the intended entry on the owners and occupiers of the land.

⁽⁶⁹⁾ Part 1 was amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 9).

⁽⁷⁰⁾ There are no amendments relevant to section 85 of the act.

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

- (a) in the case of land referred to in paragraph 1(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Part 1 of Schedule 12, or
- (b) in the case of 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 National Grid has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) National Grid must provide the owner of any land of which temporary possession has been taken under this article with written notice of the date of completion of the works for which temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(i), unless otherwise agreed with the owners of the land, National Grid must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, but National Grid is not required to—

- (a) replace a building, structure, apparatus, equipment, archaeological artefact, electric line, electrical plant or pylon removed under this article;
- (b) restore the land on which any works have been carried out under paragraph (1)(d) insofar as the element of works shown in column (4) of Part 1 of Schedule 12 is concerned;
- (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level which had been placed in that land to support pylons and electric lines constructed upon those foundations; or
- (d) remove any pylons or electric lines or underground cables constructed or installed on, over, under, or in that land as part of the authorised development.

(6) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(ii), unless otherwise agreed by the owners of the land, National Grid must either acquire the land or interest on, over, or in the land in accordance with the provisions of paragraph (3) (b) or remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but National Grid is not required to—

- (a) replace a building, structure, apparatus, equipment, archaeological artefact, electric line, electrical plant or pylon removed under this article;
- (b) restore the land on which any works have been carried out under paragraph (1)(d) insofar as the element of works shown in column (4) of Part 1 of Schedule 12 is concerned;
- (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level which had been placed in that land to support pylons and electric lines constructed upon those foundations; or
- (d) remove any pylons or electric lines or underground cables constructed or installed on, over, under, or in that land as part of the authorised development.

(7) National Grid 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.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(9) 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 (7).

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

(11) 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).

(12) Nothing in this article prevents National Grid from taking temporary possession more than once in relation to any land specified in Part 1 of Schedule 12.

(13) The provisions of the Neighbourhood Planning Act 2017(71) insofar as they relate to temporary possession of land under this article 36, article 37 (temporary use of land by NPG), 38 (temporary use of land by NGN) and article 39 (temporary use of land for maintaining the authorised development) of this Order do not apply in relation to the construction, operation and maintenance of the authorised development.

Temporary use of land by NPG

37.—(1) NPG may, in connection with the carrying out of the NPG works—

- (a) enter on and take temporary possession of—
 - (i) so much of the land specified in column (1) of Part 2 of Schedule 12 (land of which temporary possession may be taken) to exercise the powers described in the book of reference and for the purpose specified in relation to that land in column (2) of Part 2 of that Schedule relating to the part of the authorised development specified in column (3) of Part 2 of that Schedule; and
 - (ii) any other Order land in respect of the NPG works 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 1981 Act;
- (b) remove any electric lines, electrical plant, buildings, archaeological artefact, structures, pylons, apparatus 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 works specified in relation to that land in column (2) of Part 2 of Schedule 12, or any other mitigation works.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article, NPG must serve notice of the intended entry on the owners and occupiers of the land.

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

- (a) in the case of land referred to in paragraph 1(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Part 2 of Schedule 12, or
- (b) in the case of land referred to in paragraph 1(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry

under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) NPG must provide the owner of any land of which temporary possession has been taken under this article with written notice of the date of completion of the works for which temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(i), NPG must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but NPG is not required to—

- (a) replace a building, structure, archaeological artefact, electric line, electrical plant or pylon removed under this article;
- (b) remove any pylons, electric lines or underground cables constructed or installed on, over, under or in that land as part of the NPG works;
- (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level which had been placed in that land to support pylons and electric lines constructed upon those foundations;
- (d) remove any pylons or electric lines or underground cables constructed or installed on, over, under or in that land as part of the NPG Works or
- (e) restore the land on which any works have been carried out under paragraph 1(d) insofar as the element of works shown in column (4) of Part 2 of Schedule 12 is concerned.

(6) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(ii), unless otherwise agreed by the owners of the land, NPG must either acquire the interest on, over, or in the land in accordance with the provisions of paragraph (3)(b) or remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but NPG is not required to—

- (a) replace a building, structure, archaeological artefact, electric line, electrical plant or pylon removed under this article;
- (b) remove any pylons, electric lines or underground cables constructed or installed on, over, under or in that land as part of the NPG works;
- (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level which had been placed in that land to support pylons and electric lines constructed upon those foundations; or
- (d) restore the land on which any works have been carried out under paragraph 1(d) insofar as the element of works shown in column (4) of Part 2 of Schedule 12 is concerned.

(7) NPG 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.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(9) 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 (7).

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

(11) 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).

(12) Nothing in this article prevents—

- (a) NPG from taking temporary possession more than once in relation to any land specified in Part 2 of Schedule 12; or
- (b) National Grid from taking temporary possession more than once in relation to any land specified in Schedule 12.

Temporary use of land by NGN

38.—(1) NGN may, in connection with the carrying out of the NGN works—

(a) enter on and take temporary possession of—

- (i) so much of the land specified in column (1) of Schedule 12 (land of which temporary possession may be taken) to exercise the powers described in the book of reference and for the purpose specified in relation to that land in column (2) of Part 2 of that Schedule relating to the part of the authorised development specified in column (3) of Part 2 of that Schedule; and
- (ii) any other Order land in respect of the NGN works 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 1981 Act;

(b) remove any electric lines, plant, buildings, structures, pylons, archaeological artefact, apparatus, equipment 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 works specified in relation to that land in column (2) of Part 2 of Schedule 12, or any other mitigation works.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article, NGN must serve notice of the intended entry on the owners and occupiers of the land.

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

(a) in the case of land referred to in paragraph 1(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Part 2 of Schedule 12, or

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

(4) NGN must provide the owner of any land of which temporary possession has been taken under this article with written notice of the date of completion of the works for which temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(i), NGN must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but NGN is not required to—

(a) replace a building, structure, archaeological artefact, electric line, apparatus, equipment, plant or pylon removed under this article;

- (b) remove any pylons, electric lines or underground cables constructed or installed on, over, under or in that land as part of the NGN works;
 - (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level; or
 - (d) restore the land on which any works have been carried out under paragraph 1(d) insofar as the element of works shown in column (4) of Part 2 of Schedule 12 is concerned.
- (6) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(ii), unless otherwise agreed by the owners of the land, NGN must either acquire the interest on, over, or in the land in accordance with the provisions of paragraph (3)(b) or remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but NGN is not required to—
- (a) replace a building, structure, archaeological artefact, electric line, apparatus, equipment, plant or pylon removed under this article;
 - (b) remove any pylons, electric lines or underground cables constructed or installed on, over, under or in that land as part of the NGN works;
 - (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level; or
 - (d) restore the land on which any works have been carried out under paragraph 1(d) insofar as the element of works shown in column (4) of Part 2 of Schedule 12 is concerned.
- (7) NGN 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.
- (8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.
- (9) 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 (7).
- (10) Where NGN takes possession of land under this article, NGN is not required to acquire the land or any interest in it.
- (11) 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).
- (12) Nothing in this article prevents NGN from taking temporary possession more than once in relation to any land specified in Part 3 of Schedule 12; or
- (13) National Grid from taking temporary possession more than once in relation to any land specified in Schedule 12.

Temporary use of land for maintaining the authorised development

- 39.**—(1) Subject to paragraph (2), at any time during the maintenance periods relating to any part of the authorised development, the undertaker may—
- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;
 - (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; and

- (c) enter on any land within the Order limits for the purpose of gaining access as is reasonably required for the purpose of maintaining the authorised development.
- (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 remain in possession of land under this article only 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, must 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 maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).
- (9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.
- (10) Section 13 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).
- (11) In this article “the maintenance periods” in relation to any part of the authorised development means the period of five years beginning with the date on which that part of the authorised development is brought into operational use, except where the authorised development is mitigation planting where “the maintenance periods” means the period of five years beginning with the date on which that part of the mitigation planting is completed.

Statutory undertakers

- 40.**—(1) Subject to the provisions of article 25 (compulsory acquisition of rights), Schedule 15 (protective provisions) and paragraph (2), the undertaker may—
- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, any Order land belonging to statutory undertakers; and
 - (b) extinguish the rights of, or remove or reposition the apparatus belonging to, statutory undertakers over or within the Order land.
- (2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which Part 3 (street works in England and Wales) of the 1991 Act(72) applies.

(72) 1991 c. 22. Part 3 was amended by 2004 (c. 18) perspective changes to Part 3 are still to come into force, S.I. 2007/1952, S.I. 2008/102 (w. 55) and 2003 (c. 21).

Recovery of costs of new connections

41.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 40 (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 39 (temporary use of land for maintaining the authorised development), any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003(73); and

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

PART 6

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

42.—(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

(73) Section 151 was implemented by Article 1, Section 2 and Schedule 1 of S.I. 2003/1900, Article 3 of S.I. 2003/3142; as amended by Schedule 1 of S.I. 2011/1210. There are other amendments to section 151 which are not relevant to this Order.

- (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.

Defence to proceedings in respect of statutory nuisance

43.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990⁽⁷⁴⁾ in relation to a nuisance falling within paragraphs (g) (noise emitted from premises so as to be prejudicial to health or a nuisance) and (ga) (noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order must be made, and no fine may be imposed, under section 82(2) (summary proceedings by persons aggrieved by statutory nuisances) 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 sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974⁽⁷⁵⁾; or
 - (ii) 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 the controls and measures relating to noise as described in the code of construction practice or the construction management plans or in accordance with the noise levels set out in an environmental permit relating to the construction, maintenance or operation of the authorised development; or
 - (iii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
 - (iv) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
- (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in accordance with the noise and vibration management plan prepared under requirement 5 of Schedule 3 (requirements) to this Order; or
 - (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) For the purposes of paragraph (1) above, compliance with the controls and measures relating to noise described in the code of construction practice and the noise and vibration management plan will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Where a relevant planning authority is acting in accordance with section 60(4) (control of noise on construction sites) and section 61(4) (prior consent for work on construction sites) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the

⁽⁷⁴⁾ 1990 c. 43. There are amendments to this sub-section which are not relevant to this Order.

⁽⁷⁵⁾ 1974 c. 40. Section 61 was amended by section 162(1) of, and paragraph 15(3) of Schedule 15 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to section 61 but none are relevant to this Order.

local authority must also have regard to the controls and measures relating to noise referred to in the code of construction practice and the construction management plans.

(4) Section 61(9) (prior consent for work on construction sites) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Maintenance of drainage works

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

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(76).

Traffic regulation

45.—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may at any time, for the purposes of the construction of the authorised development or for purposes ancillary to it prohibit vehicular access and prohibit waiting of vehicles in the manner specified in Part 1 of Schedule 14 (traffic regulation) on those roads specified in column 1 and along the lengths and between the points specified in column 2 in the manner specified in column 3 of that Part of that Schedule.

(2) Without limiting the scope of the specific power conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld or delayed, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction of the authorised development, or for purposes ancillary to it, at any time prior to when the authorised development is first brought into operational use—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the maximum speed, direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road, either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The undertaker must not exercise the powers in paragraphs (1) and (2) unless it has—

- (a) given not less than 28 days’ notice in writing of its intention to do so to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker’s intention as provided for in subparagraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2)—

- (a) has effect as if duly made by—

(76) 1991 c. 59, definition substituted by Part V, section 100(2) of the Environment Act 1995 (c. 25).

- (i) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
- (ii) the local authority in whose area the road is situated as an order under section 32 (power of local authorities to provide parking places) of the 1984 Act, and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 14 (traffic regulation)) to which the prohibition, restriction or other provision is subject; and

(b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004⁽⁷⁷⁾.

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraphs (1) and (2) at any time prior to the part of the authorised development to which it relates being brought into operational use.

(6) Before complying with the provisions of paragraph (3) the undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated.

(7) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(8) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraphs (1) and (2) the traffic authority is deemed to have granted consent.

(9) Any application for consent under paragraphs (1) and (2) must include a statement that the provisions of paragraph (8) apply to that application.

Felling or lopping of trees and removal of hedgerows

46.—(1) The undertaker may fell, lop, prune, coppice, pollard, or reduce in height or width any tree, shrub, shrubbery, hedgerow, or important hedgerow under or within or overhanging or near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, shrub, shrubbery, hedgerow or important hedgerow—

- (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, constructing, maintaining, or operating the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause any unnecessary damage to any tree, shrub, shrubbery or hedgerow, or important hedgerow 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, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) Development consent granted by this Order is to be treated as planning permission pursuant to Part 3 of the 1990 Act for the purposes of regulation 14 (exceptions) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012⁽⁷⁸⁾ and the duty contained in section 206(1) (replacement of trees) of the 1990 Act does not apply.

(5) The undertaker may not pursuant to paragraph (1) fell or lop a tree within or overhanging the extent of the public highway without the consent of the relevant highway authority.

⁽⁷⁷⁾ 2004 c. 18.

⁽⁷⁸⁾ S.I. 2012/605.

(6) If the relevant highway authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (5) the relevant highway authority is deemed to have granted consent.

(7) The power conferred by paragraph (1) removes any obligation upon the undertaker to secure any consent to remove—

- (a) the hedgerows listed in Schedule 17 (hedgerows which may be removed); or
- (b) subject to consultation with the relevant planning authority, any hedgerow within the Order limits that may be identified and that is not otherwise described in Schedule 17 (hedgerows which may be removed)
under the Hedgerows Regulations 1997⁽⁷⁹⁾.

(8) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerow Regulations 1997.

(9) Any application for consent under paragraph (5) must include a statement that the provisions of paragraph (6) apply to that application.

Protection of interests

47. Schedule 15 (protective provisions) has effect.

Certification of plans, etc.

48.—(1) National Grid must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the access, rights of way and public rights of navigation plan (Document 2.7.1 – 2.7.6);
- (b) the arboricultural impact assessment (Document 5.3.3I);
- (c) the book of reference (Document 4.3);
- (d) the environmental statement (Documents 5.1 to 5.4.18, 5.2.19 and 5.2.22);
- (e) the code of construction practice (Document 5.3.3B);
- (f) the archaeological written scheme of investigation (Document 5.3.3C);
- (g) the biodiversity mitigation strategy (Document 5.3.3D);
- (h) the construction traffic management plan (Document 5.3.3F);
- (i) the public rights of way management plan (Document 5.3.3G);
- (j) the noise and vibration management plan (Document 5.3.3H);
- (k) the outline landscape mitigation strategy (Figure 3.10 – 3.12, Document 5.4.3);
- (l) the outline soil management plan (Document 5.3.3E);
- (m) the design drawings (Document 2.15);
- (n) the land plan (Document 2.5.1–2.5.6);
- (o) the extinguishment of easements, servitudes and other private rights plan (Document 2.14);
- (p) the traffic regulation order plan (Document 2.12.1–2.12.6);
- (q) the works plan (Document 2.6.1–2.6.6);
- (r) the design approach to site specific infrastructure (Document 8.18);

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

⁽⁷⁹⁾ S.I. 1997/1160.

(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

49.—(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 written consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978⁽⁸⁰⁾ 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) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

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

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

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

⁽⁸⁰⁾ 1978 c. 30.

- (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”, in relation to a notice or document, 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.

Procedure regarding certain approvals, etc.

50.—(1) Where an application or request is submitted to a relevant planning authority, the highway authority, a street authority or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of the provisions of the Order such consent, agreement or approval, if given, must be given in writing, such agreement not to be unreasonably withheld.

(2) Schedule 4 (discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld under Schedule 3 (requirements), and any document referred to in Schedule 3 (requirements).

(3) The procedure set out in paragraphs (3) to (5) of Schedule 4 (discharge of requirements) has effect in relation to any other consent, agreement or approval required under this Order where such consent, agreement or approval is granted subject to any condition to which the undertaker objects, or is refused or is withheld.

Amendment of local legislation

51.—(1) The local enactments specified in Part 1 of Schedule 16 (amendment of local legislation), and any byelaws or other provisions made under any of those enactments, and the local byelaws specified in Part 2 of that Schedule are hereby excluded and do not apply insofar as inconsistent with a provision of, or a power conferred by, this Order.

(2) For the purpose of paragraph (1) a provision is inconsistent with the exercise of a power conferred by this Order if and insofar as (in particular)—

- (a) it would make it an offence to take action, or not to take action, in pursuance of a power conferred by this Order;
- (b) action taken in pursuance of a power conferred by this Order would cause the provision to apply so as to enable a person to require the taking of remedial or other action or so as to enable remedial or other action to be taken;

action taken in pursuance of a power or duty under the provisions would or might interfere with the exercise of any work authorised by this Order.

(3) Where any person notifies the undertaker in writing that anything done or proposed to be done by the undertaker or by virtue of this Order would amount to a contravention of a statutory provision of local application, the undertaker must as soon as reasonably practicable, and at any rate within 14 days of receipt of the notice, respond in writing setting out—

- (a) whether the undertaker agrees that the action taken or proposed does or would contravene the provision of local application;
- (b) if the undertaker does agree, the grounds (if any) on which the undertaker believes that the provision is excluded by this article; and
- (c) the extent of that exclusion.

Arbitration

52. Subject to article 50 (procedure regarding certain approvals, etc.) and except where otherwise expressly provided for in this Order or unless otherwise agreed between the parties, any difference under any provision of this Order must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Temporary closure of, and works in, the river Ouse

53.—(1) The undertaker may, subject to Part 3 of Schedule 15 (protective provisions), in connection with the construction and maintenance of the authorised development, temporarily interfere with the relevant part of the river for the purposes of the removal, installation and maintenance of the overhead electric lines comprised in Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development) and any associated development in connection with it.

(2) Without limitation on the powers conferred by paragraph (1) but subject to paragraphs (3) and (4) the undertaker may, in connection with the construction and maintenance of the authorised development on grounds of health and safety only, temporarily close to navigation the relevant part of the river.

(3) The power conferred by paragraphs (1) and (2) must be exercised in such a way which secures—

- (a) that no more of the relevant part of the river 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 river 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.

(4) During the period of any closure referred to in paragraph (2) all rights of navigation and other rights relating to and any obligations of the Trust to manage the relevant part of the river so closed are to be suspended and unenforceable against the Trust.

(5) Any person who as a result of the exercise of powers conferred by this article, suffers loss by reason of the interference with any private rights of navigation is entitled to be paid compensation for such loss by the undertaker, to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) In this article, “the relevant part of the river” means so much of the River Ouse as is within the Order limits and the “Trust” means the Canal & River Trust.

Signed by authority of the Secretary of State for Energy Security and Net Zero

14th March 2024

Fiona Mettam
Director, Energy Development
Department for Energy Security and Net Zero

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

A nationally significant infrastructure project as defined in sections 14 and 16 of the 2008 Act and associated development within the meaning of section 115(2) of the 2008 Act comprising—

OSBALDWICK SUBSTATION

Work No. 1 – Osbaldwick Substation and YR overhead electric line

In the city of York

Works at the existing Osbaldwick Substation to reconfigure the existing layout and YR overhead electric line shown on section A, sheet 1 of the works plan, comprising—

- (a) the installation of conductors, insulators and fittings from YR001A to YR001C;
- (b) the dismantling and removal of existing conductors, insulators and fittings on and between YR001A and YR001-T;
- (c) the installation of gantry YR001C, support structures, switchgear and equipment, underground cables and cable terminations; and
- (d) the dismantling and removal of gantry YR001-T, associated support structures, switchgear and equipment.

OVERHEAD ELECTRIC LINES AND OVERTON SUBSTATION (NORTH WEST OF YORK)

Work No. 2 – YR/2TW overhead electric line and YN overhead electric line

In North Yorkshire and the city of York

Works to reconfigure the YR overhead electric line and construction and installation of the YN overhead electric line as shown on section B, sheet 1 of the works plan, comprising—

- (a) the reconductoring of the YR/2TW overhead electric line from YR036 to 2TW169, replacement of conductors, fittings, insulators, and fibre optic earthwires, including modifications to existing pylons;
- (b) the construction and installation of a temporary diversion of the YR overhead electric line from YR038 to 2TW169, including conductors, fibre optic earthwires, insulators, fittings and two temporary structures;
- (c) the construction and installation of an overhead electric line from YR040 to YN004 including five pylons, conductors, fibre optic earthwires, insulators, fittings and connections into the new Shipton North and Shipton South cable sealing end compounds referred to at paragraph (f) .

In North Yorkshire

- (d) the installation of an underground cable to facilitate a connection between Shipton North and Shipton South cable sealing end compounds referred to at paragraph (f);

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- (e) the dismantling and removal of existing pylon YR040T, including foundations;
- (f) the construction and installation of two cable sealing end compounds, Shipton North and Shipton South, containing sealing end equipment, including anchor blocks at Shipton North and a gantry at Shipton South, switchgear, earthing and protection control systems, and connections to the overhead electric line;
- (g) the installation of one temporary construction compound; and

In the city of York

- (h) the installation of one temporary construction compound.

Work No. U1 – Utility Undergrounding

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section B, sheet 1 of the works plan.

Work No. 3 – YN overhead electric line

In North Yorkshire and the city of York

Works to construct and install the YN overhead electric line shown on section B, sheets 1 and 2 of the works plan, comprising—

- (a) the construction and installation of an overhead electric line from YN004 to YN008, YN008 to YN009, and YN008 to YN010, including four pylons, conductors, fibre optic earthwires, insulators, fittings and connections into the Overton Substation referred to within Work No. 4; and
- (b) the installation of two temporary construction compounds.

Work No. U2

In the city of York

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section B, sheets 1 and 2 of the works plan.

Work No. U3

In the city of York

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section B, sheet 2 of the works plan.

Work No. 4 – Overton Substation

In North Yorkshire

Works to construct and install a new substation at Overton, to facilitate connections to the YN, SP and XC overhead electric lines shown, on section B, sheet 2 of the works plan, comprising the construction and installation of Overton Substation including six gantries for termination of the new overhead electric lines, four supergrid transformers, noise enclosures, switchgear, plant and equipment, operational and ancillary buildings and permanent landscaping works, the construction of gates and fencing, hardstanding and drainage for Overton Substation.

Work No. 5 – SP and XCP overhead electric lines

In North Yorkshire and the city of York

Works to construct and install the SP overhead electric line and dismantle the XCP overhead electric line shown on section B, sheets 2 and 3 of the works plan, comprising—

- (a) the construction and installation of an overhead electric line from SP001 to SP003, SP002 to SP003, and SP003 to SP007, including four pylons, conductors, fibre optic earthwires, insulators, fittings, modifications to existing pylons and connections into Overton Substation referred to at Work No. 4 above; and

In North Yorkshire

- (b) the dismantling and removal of existing pylon XCP013, including removal of conductors, insulators, fittings, fibre optic earthwires, and foundations.

Work No. 6 – XC and XCP overhead electric lines, and XC overhead electric line

In the city of York and in North Yorkshire

Works to reconfigure the XC overhead electric line, through reconductoring and installation of new sections of overhead electric lines, and dismantling of the XCP overhead electric line and sections of the XC overhead electric line shown on section B, sheets 2 to 5 of the works plan, comprising—

In North Yorkshire

- (a) the construction and installation of a temporary overhead electric line span from XC416 to SP003, including insulators and fittings;

In the city of York and in North Yorkshire

- (b) the construction and installation of an electric overhead line from XC414 to XC416, XC415 to XC416, and XC416 to XC429 including 14 pylons, conductors, fibre optic earthwires, insulators, fittings and connections into Overton Substation referred to at Work No. 4 above;
- (c) the dismantling and removal of existing pylons XCP012 to XC429T including removal of 14 pylons, conductors, insulators, fittings, fibre optic earthwires and foundations;
- (d) the construction and installation of a temporary diversion of the existing XCP overhead electric line from XC421 to XCP003, including conductors, insulators, fittings and four temporary structures;

In North Yorkshire

- (e) the reconductoring of the XC overhead electric line from XC429 to XC430, including modifications to existing pylons and foundations, and the replacement of conductors, fittings, insulators and fibre optic earthwires; and
- (f) the construction and installation of a temporary diversion of the XC overhead electric line from XC428T to XC430, including conductors, insulators, fittings and one temporary structure.

Work No. U4

In the city of York

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section B, sheet 3 and 4 of the works plan.

Work No. U5

In North Yorkshire

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The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section B, sheet 5 of the works plan.

OVERHEAD ELECTRIC LINES (MOOR MONKTON TO TADCASTER)

Work No. 7 – XC overhead electric line

In North Yorkshire

Works to upgrade, modify and reconductor the existing XC overhead electric line shown on section C, sheet 1 to section D, sheet 1 of the works plan comprising the reconductoring of the XC overhead electric line from XC430 to XC480, including modifications to existing pylons and foundations, replacement of conductors, fibre optic earthwires, fittings, and insulators.

Work No. U6

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section C, sheet 9 of the works plan.

OVERHEAD ELECTRIC LINES (TADCASTER)

Work No. 8 – XC and XD overhead electric lines

In the city of Leeds and in North Yorkshire

Works to upgrade, modify and reconductor the XC overhead electric line, and modify the XD overhead electric line shown on section D, sheets 1 and 2 of the works plan, comprising—

In North Yorkshire

- (a) the reconductoring of the XC overhead electric line from XC480 to XC482, including modifications to existing pylons and foundations, replacement of conductors, fibre optic earthwires, fittings, and insulators;
- (b) the construction and installation of a temporary diversion of the existing XD overhead electric line from XC481 to XD003, including conductors, insulators, fibre optic earthwires, fittings and two temporary structures;
- (c) the construction and installation of an overhead electric line from XC481 to the Tadcaster Tee East cable sealing end compound referred to at paragraph (f) and from XD001 into the Tadcaster Tee West cable sealing end compound referred to at paragraph (f), including conductors, fibre optic earthwires, insulators and fittings;
- (d) the construction and installation of underground cables to connect the Tadcaster Tee East cable sealing end compound referred to at paragraph (f) with the Tadcaster Tee West cable sealing end compound referred to at paragraph (f);
- (e) the dismantling and removal of existing pylon XD001T and its associated foundations, and the removal of a single circuit of redundant conductors between XD001 and XC481;
- (f) the construction and installation of two cable sealing end compounds, Tadcaster Tee East and Tadcaster Tee West, containing sealing end equipment, including anchor blocks in Tadcaster Tee East and a gantry in Tadcaster Tee West, switchgear, earthing and protection control systems, connections to the overhead electric line, and permanent landscaping works;
- (g) the installation of one temporary construction compound; and

In the city of Leeds and in North Yorkshire

(h) modifications to conductors, insulators and fittings between XC481 and XD007.

Work No. U7

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section D, sheets 1 and 2 of the works plan.

Work No. U8

In North Yorkshire

The diversion of an underground gas pipeline and removal of redundant section of gas pipeline shown on section D, sheet 1 of the works plan.

OVERHEAD ELECTRIC LINES (TADCASTER TO MONK FRYSTON)

Work No. 9 – XC overhead electric line

In North Yorkshire

Works to upgrade, modify and reconductor the XC overhead electric line shown on section D, sheet 1 to section E, sheet 7 of the works plan, comprising the reconductoring of the XC overhead electric line from XC482 to XC521, including modifications to existing pylons and foundations, replacement of conductors, fibre optic earthwire, fittings and insulators.

Work No. U9

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section E, sheet 2 of the works plan.

Work No. U10

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section E, sheet 3 of the works plan.

Work No. U11

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section E, sheet 3 of the works plan.

Work No. U12

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section E, sheet 5 of the works plan.

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Work No. U13

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section E, sheet 6 of the works plan.

OVERHEAD ELECTRIC LINES AND MONK FRYSTON SUBSTATION

Work No. 10 – XC overhead electric line

In North Yorkshire

Works to reconfigure the XC overhead electric line through construction and installation of new sections and dismantling of existing sections shown on section E, sheet 7 and section F, sheet 1 of the works plan, comprising—

- (a) the construction and installation of an overhead electric line from XC521 to XC526 and from XC526 to XC527, and from XC526 to XC528, including the construction and installation of five pylons, conductors, fibre optic earthwires, insulators, fittings, and connections into the Monk Fryston Substation referred to at Work No. 11;
- (b) the dismantling and removal of an overhead electric line from XC521 to XC525T, including removal of four pylons, conductors, insulators, fittings, fibre optic earthwires and foundations;
- (c) the construction and installation of a temporary diversion of the existing XC overhead electric line from XC522T to XC525T, including conductors, insulators, fittings and two temporary structures; and
- (d) the installation of one temporary construction compound.

Work No. 11 – Monk Fryston Substation

In North Yorkshire

Works to construct and install a new substation at Monk Fryston, including modifications to the existing Monk Fryston Substation, XC overhead electric line and 4YS overhead electric line connections shown on Section F, sheet 1 of the works plan, comprising—

- (a) the dismantling and removal of four gantries MF L, MF R, MF L-T and MF R-T, comprising the removal of conductors, insulators, fittings, and fibre optic earthwires, including between 4YS029 and 4ZZ001A;
- (b) the construction and installation of an overhead electric line from 4YS029 to 4YS030 and from 4YS029 to 4YS031, including two gantries, the installation of conductors, fibre optic earthwires, insulators, fittings, and connections into the new Monk Fryston Substation referred to at paragraph (d);
- (c) the installation of one temporary construction compound;
- (d) the construction and installation of the new Monk Fryston Substation including four gantries for termination of new overhead electric line entries, four supergrid transformers, noise enclosures, switchgear, plant and equipment, operational and ancillary buildings and permanent landscaping works; and
- (e) modifications to the existing Monk Fryston Substation including structures, plant and equipment, perimeter fencing, drainage systems, lighting and site furniture.

Such associated development not listed above, within the Order limits, as may be necessary or expedient for the purposes of or in connection with the construction or maintenance of the above Work Nos. or any of them, which may include—

- (a) ramps, means of access, footpaths, cycleways, bridleways and trackways;
- (b) embankments, bridges, aprons, abutments, foundations, retaining walls, drainage, wing walls, headwalls, culverts and fencing including stock-proof fencing;
- (c) works to alter the course of, or otherwise interfere with a watercourse, drainage works, attenuation ponds, and culverts;
- (d) landscaping and other works to mitigate any adverse effects of construction, maintenance, operation or use, together with means of access;
- (e) tree, hedgerow and vegetation planting and maintenance works;
- (f) works for the benefit or protection of the environment;
- (g) works for the benefit or protection of land, structures, apparatus or equipment affected by the authorised development (including earthing and works for monitoring);
- (h) works required for the strengthening, improvement, maintenance, or reconstruction of any streets;
- (i) works to streets and any alteration, removal or installation of street furniture, traffic signage and signals, and road lining, including where required to facilitate the construction of temporary accesses;
- (j) site preparation works, site clearance (including scaffolding, fencing, vegetation removal, demolition of existing buildings or structures and the creation of alternative footpaths, cycleways, bridleways and trackways);
- (k) earthworks (including soil stripping and storage, site levelling, ground improvement, berms and bunding);
- (l) works within temporary construction compounds, comprising temporary laydown, assembly and storage areas, temporary offices, security cabins, temporary vehicle parking, construction fencing, gates and hoarding, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction and security lighting and haulage roads, provision of services, generators, lighting, waste management facilities, drainage works, attenuation ponds, access roads, wheel cleaning facilities, biosecurity measures, fencing and hoarding;
- (m) works within cable sealing end compounds and substations, comprising the installation of switchgear, above and below ground services, troughs and cables, perimeter fencing, gates and hoarding, drainage systems, attenuation ponds, pollution control, generators, earthing and protection control systems, supervisory control and data acquisition communications, lighting, waste management facilities, drainage works, attenuation ponds, access roads, wheel cleaning facilities, biosecurity measures, parking areas;
- (n) works to allow for the provision of services, including power supplies, electric vehicle charging points and communication equipment;
- (o) installation of wires, cables, ducts, pipes and conductors including establishment of winching points;
- (p) the changing of name plates;
- (q) such other works, including scaffolding and crossing protection, working areas, and works of demolition (which includes but is not limited to demolition of residential properties), as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development and which do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement;
- (r) the construction and installation of permanent vehicle access roads, gates and fencing, hardstanding, and drainage;

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- (s) works to place, alter, divert, relocate, protect, remove or maintain the position of apparatus (including statutory undertakers’ apparatus), services, plant and other equipment in, under or above a street, or in other land, including mains, sewers, drains, pipes, lights, conductors, cables, fencing and other boundary treatments; and
- (t) such other works as may be necessary or expedient for the purposes of or in connection with the construction, installation, operation or maintenance of the authorised development and which do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

SCHEDULE 2

Article 3

PLANS, DRAWINGS AND ENVIRONMENTAL STATEMENT

PART 1

ACCESS, RIGHTS OF WAY AND PUBLIC RIGHTS OF NAVIGATION PLAN

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_A/AC/KP/01	A
Access, Rights of Way and Public Rights of Navigation Plan	DCO_A/AC/PS/01	B
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_B/AC/KP/01	B
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_B/AC/KPD/01	C
Access, Rights of Way and Public Rights of Navigation Plan	DCO_B/AC/PS/01	C
Access, Rights of Way and Public Rights of Navigation Plan	DCO_B/AC/PS/02	C
Access, Rights of Way and Public Rights of Navigation Plan	DCO_B/AC/PS/03	C
Access, Rights of Way and Public Rights of Navigation Plan	DCO_B/AC/PS/04	C

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Access, Rights of Way and Public Rights of Navigation Plan	DCO_B/AC/PS/05	C
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_C/AC/KP/01	A
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_C/AC/KPD/01	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/01	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/02	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/03	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/04	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/05	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/06	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/07	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/08	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/09	B
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_D/AC/KP/01	A
Access, Rights of Way and Public Rights of Navigation Plan	DCO_D/AC/PS/01	B

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Access, Rights of Way and Public Rights of Navigation Plan	DCO_D/AC/PS/02	B
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_E/AC/KP/01	A
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/01	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/02	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/03	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/04	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/05	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/06	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/07	B
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_F/AC/KP/01	A
Access, Rights of Way and Public Rights of Navigation Plan	DCO_F/AC/PS/01	B

PART 2

DESIGN DRAWINGS

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
List Of Design Drawings	DCO_DE/KP/01_01	C
List Of Design Drawings	DCO_DE/KP/01_02	C
Design Drawing: Explanatory Overhead Line Profile	DCO_DE/PS/01_01	A

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Design Drawing: Indicative Overhead Line Profiles 2TW/YR	DCO_DE/PS/03_01	A
Design Drawing: Indicative Overhead Line Profiles YN	DCO_DE/PS/04_01	A
Design Drawing: Indicative Overhead Line Profiles YN	DCO_DE/PS/04_02	A
Design Drawing: Indicative Overhead Line Profiles SP	DCO_DE/PS/05_01	A
Design Drawing: Indicative Overhead Line Profiles SP	DCO_DE/PS/05_02	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_01	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_02	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_03	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_04	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_05	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_06	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_07	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_08	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_09	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_10	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_11	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_12	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_13	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_14	A
Design Drawing: Indicative Overhead Line Profiles XD	DCO_DE/PS/07_01	A

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Design Drawing: Indicative Overhead Line Profiles XD	DCO_DE/PS/07_02	A
Design Drawing: Indicative Overhead Line Profiles 4YS	DCO_DE/PS/08_01	A
Design Drawing: Indicative Overhead Line Profiles Temporary Alignment XCP	DCO_DE/PS/09_01	A
Design Drawing: Indicative Overhead Line Profiles Temporary Alignment XC	DCO_DE/PS/10_01	A
Design Drawing: Indicative Overhead Line Profiles Temporary Alignment XC	DCO_DE/PS/10_02	A
Design Drawing: Indicative Overhead Line Profiles Temporary Alignment XD	DCO_DE/PS/11_01	A
Design Drawing: Indicative Overhead Line Profiles Temporary Alignment YR	DCO_DE/PS/12_01	A
Design Drawing: Indicative Maximum And Minimum Lattice Pylon Heights	DCO_DE/PS/13_01	A
Design Drawing: Substation Parameter Plan - Overton	DCO_DE/PS/14_01	B
Design Drawing: Indicative Substation Layout - Overton	DCO_DE/PS/14_02	B
Design Drawing: Indicative Substation Elevation - Overton	DCO_DE/PS/14_03	B
Design Drawing: Substation Parameter Plan - Monk Fryston	DCO_DE/PS/15_01	B
Design Drawing: Indicative Substation Layout - Monk Fryston	DCO_DE/PS/15_02	B
Design Drawing: Indicative Substation Elevation - Monk Fryston	DCO_DE/PS/15_03	B
Design Drawing: Substation Parameter Plan - Osbaldwick	DCO_DE/PS/16_01	B
Design Drawing: Indicative Substation Layout - Osbaldwick	DCO_DE/PS/16_02	B

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Design Drawing: Indicative Substation Elevation - Osbaldwick	DCO_DE/PS/16_03	B
Design Drawing: Parameter Plan For Shipton North 400kv Cable Sealing End Compound	DCO_DE/PS/17_01	C
Design Drawing: Indicative Cable Sealing End Compound Layout - Shipton North 400kv Cable Sealing End Compound	DCO_DE/PS/17_02	C
Design Drawing: Indicative Cable Sealing End Compound Elevation - Shipton North 400kv Cable Sealing End Compound	DCO_DE/PS/17_03	C
Design Drawing: Parameter Plan For Shipton South 400kv Cable Sealing End Compound	DCO_DE/PS/18_01	C
Design Drawing: Indicative Cable Sealing End Compound Layout - Shipton South 400kv Cable Sealing End Compound	DCO_DE/PS/18_02	C
Design Drawing: Indicative Cable Sealing End Compound Elevation - Shipton South 400kv Cable Sealing End Compound	DCO_DE/PS/18_03	C
Design Drawing: Parameter Plan For Tadcaster West 275kv Cable Sealing End Compound	DCO_DE/PS/19_01	B
Design Drawing: Indicative Cable Sealing End Compound Layout - Tadcaster West 275kv Cable Sealing End Compound	DCO_DE/PS/19_02	B
Design Drawing: Indicative Cable Sealing End Compound Elevation - Tadcaster West 275kv Cable Sealing End Compound	DCO_DE/PS/19_03	B
Design Drawing: Parameter Plan For Tadcaster East 275kv Cable Sealing End Compound	DCO_DE/PS/20_01	B
Design Drawing: Indicative Cable Sealing End Compound	DCO_DE/PS/20_02	B

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Layout - Tadcaster East 275kv Cable Sealing End Compound		
Design Drawing: Indicative Cable Sealing End Compound Elevation - Tadcaster East 275kv Cable Sealing End Compound	DCO_DE/PS/20_03	B
Design Drawing: Indicative Earthworks Layout - Overton	DCO_DE/PS/21_01	A
Design Drawing: Indicative Earthworks Long Sections - Overton	DCO_DE/PS/21_02	A
Design Drawings: Indicative Earthworks Layout - Monk Fryston	DCO_DE/PS/22_01	A
Design Drawings: Indicative Earthworks Long Sections - Monk Fryston	DCO_DE/PS/22_02	A

PART 3

EXTINGUISHMENT OF EASEMENTS, SERVITUDES AND OTHER PRIVATE RIGHTS PLANS

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Master key to section identification plan for extinguishment of easements, servitudes and other private rights plan	DCO_MKP/EX/01	B
Extinguishment of easements, servitudes and other private rights key plan	DCO_D/EX/KP/01	A
Extinguishment of easements, servitudes and other private rights plan	DCO_D/EX/PS/01	A
Extinguishment of easements, servitudes and other private rights plan	DCO_D/EX/PS/02	A

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PART 4 LAND PLAN

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Land Key Plan	DCO_A/LP/KP/01	A
Land Plan	DCO_A/LP/PS/01	B
Land Key Plan	DCO_B/LP/KP/01	B
Land Plan	DCO_B/LP/PS/01	D
Land Plan	DCO_B/LP/PS/02	D
Land Plan	DCO_B/LP/PS/03	D
Land Plan	DCO_B/LP/PS/04	D
Land Plan	DCO_B/LP/PS/05	D
Land Key Plan	DCO_C/LP/KP/01	A
Land Plan	DCO_C/LP/PS/01	C
Land Plan	DCO_C/LP/PS/02	C
Land Plan	DCO_C/LP/PS/03	C
Land Plan	DCO_C/LP/PS/04	C
Land Plan	DCO_C/LP/PS/05	C
Land Plan	DCO_C/LP/PS/06	C
Land Plan	DCO_C/LP/PS/07	C
Land Plan	DCO_C/LP/PS/08	C
Land Plan	DCO_C/LP/PS/09	C
Land Key Plan	DCO_D/LP/KP/01	A
Land Plan	DCO_D/LP/PS/01	B
Land Plan	DCO_D/LP/PS/02	B
Land Key Plan	DCO_E/LP/KP/01	A
Land Plan	DCO_E/LP/PS/01	B
Land Plan	DCO_E/LP/PS/02	B
Land Plan	DCO_E/LP/PS/03	B
Land Plan	DCO_E/LP/PS/04	B
Land Plan	DCO_E/LP/PS/05	B
Land Plan	DCO_E/LP/PS/06	B
Land Plan	DCO_E/LP/PS/07	B
Land Key Plan	DCO_F/LP/KP/01	A
Land Plan	DCO_F/LP/PS/01	B

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PART 5

OUTLINE LANDSCAPE MITIGATION STRATEGY

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
5.4.3 ES Chapter 3: Description of the Project Figure 3.10 Outline Landscape Mitigation Strategy (Overton)	DCO/OLMP/3.10	C
5.4.3 ES Chapter 3: Description of the Project Figure 3.11 Outline Landscape Mitigation Strategy (Tadcaster)	DCO/OLMP/3.11	C
5.4.3 ES Chapter 3: Description of the Project Figure 3.12 Outline Landscape Mitigation Strategy (Monk Fryston)	DCO/OLMP/3.12	C

PART 6

TRAFFIC REGULATION ORDER PLAN

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
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Traffic Regulations Order Plan	DCO_A/TRO/PS/01	A
Traffic Regulations Order Key Plan	DCO_B/TRO/KP/01	B
Traffic Regulations Order Plan	DCO_B/TRO/PS/01	B
Traffic Regulations Order Plan	DCO_B/TRO/PS/02	B
Traffic Regulations Order Plan	DCO_B/TRO/PS/03	B
Traffic Regulations Order Plan	DCO_B/TRO/PS/04	B
Traffic Regulations Order Plan	DCO_B/TRO/PS/05	B
Traffic Regulations Order Key Plan	DCO_C/TRO/KP/01	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/01	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/02	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/03	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/04	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/05	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/06	A

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Traffic Regulations Order Plan	DCO_C/TRO/PS/07	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/08	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/09	A
Traffic Regulations Order Key Plan	DCO_D/TRO/KP/01	A
Traffic Regulations Order Plan	DCO_D/TRO/PS/01	A
Traffic Regulations Order Plan	DCO_D/TRO/PS/02	A
Traffic Regulations Order Key Plan	DCO_E/TRO/KP/01	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/01	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/02	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/03	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/04	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/05	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/06	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/07	A
Traffic Regulations Order Key Plan	DCO_F/TRO/KP/01	A
Traffic Regulations Order Plan	DCO_F/TRO/PS/01	A

PART 7 WORKS PLAN

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
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Works Plan	DCO_A/WO/PS/01	B
Works Key Plan	DCO_B/WO/KP/01	B
Works Plan	DCO_B/WO/PS/01	C
Works Plan	DCO_B/WO/PS/02	C
Works Plan	DCO_B/WO/PS/03	C
Works Plan	DCO_B/WO/PS/04	C
Works Plan	DCO_B/WO/PS/05	C
Works Key Plan	DCO_C/WO/KP/01	A
Works Plan	DCO_C/WO/PS/01	C
Works Plan	DCO_C/WO/PS/02	C

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Works Plan	DCO_C/WO/PS/03	C
Works Plan	DCO_C/WO/PS/04	C
Works Plan	DCO_C/WO/PS/05	C
Works Plan	DCO_C/WO/PS/06	C
Works Plan	DCO_C/WO/PS/07	C
Works Plan	DCO_C/WO/PS/08	C
Works Plan	DCO_C/WO/PS/09	C
Works Key Plan	DCO_D/WO/KP/01	A
Works Plan	DCO_D/WO/PS/01	C
Works Plan	DCO_D/WO/PS/02	C
Works Key Plan	DCO_E/WO/KP/01	A
Works Plan	DCO_E/WO/PS/01	C
Works Plan	DCO_E/WO/PS/02	C
Works Plan	DCO_E/WO/PS/03	C
Works Plan	DCO_E/WO/PS/04	C
Works Plan	DCO_E/WO/PS/05	C
Works Plan	DCO_E/WO/PS/06	C
Works Plan	DCO_E/WO/PS/07	C
Works Key Plan	DCO_F/WO/KP/01	A
Works Plan	DCO_F/WO/PS/01	B

PART 8

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ES Chapter 2 Project Need and Alternatives	5.2.2	A
ES Chapter 3 Description of the Project	5.2.3	A
ES Chapter 4 Approach to preparing the ES	5.2.4	A
ES Chapter 5 Legislative and Policy Overview	5.2.5	A
ES Chapter 6 Landscape and Visual	5.2.6	A
ES Chapter 7 Historic Environment	5.2.7	A
ES Chapter 8 Biodiversity	5.2.8	A

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ES Chapter 10 Geology and Hydrogeology	5.2.10	A
ES Chapter 11 Agriculture and Soils	5.2.11	A
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ES Chapter 6 Landscape and Visual Figures (Part 4 of 15)	5.4.6 (Part 4 of 15)	A
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SCHEDULE 3

Article 2

REQUIREMENTS

Interpretation

1.—(1) In this Schedule unless the context requires otherwise—

“commence” means the carrying out of a material operation, as defined in section 155 (when development begins) of the 2008 Act, comprised in or carried out for the purposes of the authorised development, but does not include any pre-commencement works;

“the core working hours” means the core hours within which construction works may be undertaken as described in paragraphs (1) and (2) of requirement 7 (construction hours).

“mean high water level” means the average height of the high water level over a period of time;

“pre-commencement works” means

- (a) archaeological investigations and mitigation works;
- (b) environmental surveys and monitoring;
- (c) environmental mitigation works;
- (d) investigations for the purpose of assessing and monitoring ground conditions and levels;
- (e) remedial work in respect of any contamination or other adverse ground conditions;
- (f) erection of any temporary means of enclosure;
- (g) temporary hard standing;
- (h) receipt and erection of construction plant and equipment;
- (i) diversion and laying of underground apparatus and utilities;
- (j) protection works comprising utilities protection works or fencing and protection slabs;
- (k) site clearance;
- (l) temporary construction compound set-up; and
- (m) the temporary display of site notices or advertisements;

“relevant drainage authority” means the drainage authority or the Lead Local Flood Authority for the area to which the relevant works relate;

“stage” means a defined stage of the authorised development, as described in a scheme submitted to the relevant planning authority pursuant to requirement 4 (stages of authorised development);

“start up and close down activities” means general works that will not create an audible disturbance to local residents, including but not restricted to—

- (a) arrival and departure of workforce and staff at site and movement to and from places of work;
- (b) general refuelling of plant;
- (c) site inspections and safety checks;
- (d) site meetings (daily briefings and quiet inspections/walkovers);

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- (e) site clean-up (site housekeeping that does not require the use of plant);
- (f) general site maintenance; and
- (g) low key maintenance and safety checking of plant and machinery; and

“Travellers’ Encampment” means plots E7-34 and E7-40 as shown on the land plan to the extent and for the duration that these plots are occupied as a travellers’ encampment.

(2) Where under this Schedule the approval or agreement of the highway authority or the relevant planning authority is required, that approval must be given in writing.

(3) Where an approval is required under this Schedule or a document referred to in a Requirement, or any Requirement specifies “unless otherwise approved”, “unless otherwise agreed” or “that may subsequently be approved” by the highway authority or the relevant planning authority such approval or agreement may only be given where it has been demonstrated to the satisfaction of the highway authority or the relevant planning authority that the subject matter of the approval or agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(4) Where this Schedule requires the authorised development to be carried out in accordance or general accordance with the details approved by the highway authority or by the relevant planning authority, the approved details are to be taken to include any amendments that may subsequently be approved in writing by the highway authority or by the relevant planning authority.

Time limits

2.—(1) The authorised development must be commenced within 5 years of the date of this Order.

(2) If any proceedings are begun to challenge that validity of this Order, the period specified in sub-paragraph (1) is extended by—

- (a) a period equivalent to the period beginning with the day the application is made and ending on the day it is withdrawn or finally determined, or
- (b) if shorter, one year.

(3) An application is not finally determined for the purposes of subsection (2)(a) if an appeal in respect of the application—

- (a) could be brought (ignoring any possibility of an appeal out of time with permission), or
- (b) has been made and not withdrawn or finally determined.

Design drawings

3.—(1) The authorised development must be carried out in general accordance with the design drawings.

(2) The authorised development will not be in general accordance with the design drawings to the extent that any departure from the design drawings gives rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Stages of authorised development

4.—(1) The authorised development may not commence until a written scheme setting out the stages of the authorised development has been submitted to the relevant planning authority, which scheme may subsequently be amended from time to time as notified to the relevant planning authority.

(2) The authorised development must be constructed in accordance with the written scheme setting out the stages of the authorised development submitted under paragraph (1).

Construction management plans

5.—(1) All construction works for the authorised development must be carried out in accordance with the construction management plans referred to in paragraph (2), unless otherwise agreed with the relevant planning authority or the highway authority, as may be appropriate to the relevant plan, scheme or strategy concerned.

(2) The construction management plans, which specify the measures to be used to minimise the impacts of construction works, are the following plans, schemes and strategies—

- (a) the code of construction practice;
- (b) the archaeological written scheme of investigation;
- (c) the biodiversity mitigation strategy;
- (d) the construction traffic management plan;
- (e) the public rights of way management plan; and
- (f) the noise and vibration management plan.

(3) For the avoidance of doubt, all pre-commencement works must be carried out in accordance with the construction management plans and the outline soil management plan.

Construction management plans to be approved

6.—(1) No stage of the authorised development may commence until, for that stage, the following plans, schemes and strategies as relevant to that stage to minimise the impacts of construction works have been submitted to and approved by the relevant planning authority—

- (a) soil and aftercare management plan;
- (b) drainage management plan;
- (c) pollution incident control plan;
- (d) lighting scheme;
- (e) emergency response plan for flood events;
- (f) site waste management plan; and
- (g) tree and hedgerow protection strategy.

(2) The plans, schemes and strategies referred to in paragraph (1) to be submitted for approval must accord with the relevant plans, schemes and strategies referred to in requirement 5 (construction management plans) and in the case of the soil and aftercare management plan must be substantially in accordance with the outline soil management plan.

(3) The construction works for each stage of the authorised development and mitigation works to minimise the impact of construction must be carried out in accordance with the approved plans, schemes and strategies referred to in paragraph (1) or with any amended plans, schemes or strategies that may subsequently be approved by the relevant planning authority.

(4) The drainage management plan referred to in paragraph (1)(b) must contain written details of the surface and foul water drainage system (including means of pollution control and details of maintenance arrangements where required) for both permanent and temporary works, and any surface or foul water drainage system must be constructed and maintained in accordance with the details approved by the relevant planning authority under paragraph (1), following consultation with the relevant drainage authority.

(5) The lighting scheme referred to in paragraph 1(d) must contain written details of the temporary and permanent external lighting to be installed, and any external lighting must be installed in accordance with the details approved by the relevant planning authority under paragraph (1).

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Construction hours

7.—(1) Subject to paragraphs (2) and (3) construction works may only take place between 0700 and 1900 Mondays to Fridays and between 0800 and 1700 on Saturdays, Sundays and Bank Holidays.

(2) Piling operations must take place only between 0800 and 1700 on Mondays to Fridays and 0900 to 1400 on Saturdays.

(3) The following operations may take place outside the core working hours referred to in paragraph (1) and (2)—

- (a) the jointing of underground cables, with the exception of cable cutting which must take place only during core working hours;
- (b) installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines or watercourses;
- (c) the completion of operations commenced during the core working hours which cannot safely be stopped;
- (d) any highway works requested by the relevant highway authority to be undertaken on a Saturday or a Sunday or outside the core working hours;
- (e) oil processing of transformers or reactors in substation sites;
- (f) the testing or commissioning of any electrical plant installed as part of the authorised development;
- (g) the completion of works delayed or held up by severe weather conditions which disrupted or interrupted normal construction activities;
- (h) start up and close down activities, which may take place one hour immediately prior to or one hour immediately after the core working hours; and
- (i) security monitoring.

Landscaping at Overton, Tadcaster and Monk Fryston

8.—(1) Unless otherwise agreed with the relevant planning authority, no stage of the authorised development in connection with the non-linear works at Overton, Tadcaster and Monk Fryston may commence until, where relevant for that stage, a landscape strategy that accords with the outline landscape mitigation strategy has been submitted to and approved by the relevant planning authority.

(2) The landscape strategy submitted under paragraph (1) must include details appropriate for the relevant stage, including—

- (a) the location of planting and a schedule of plants noting quantities, species, size and planting density of any proposed planting or seeding;
- (b) cultivation, importing of materials and other operations to ensure plant and seed establishment;
- (c) details of the five year maintenance regime, including monitoring and management, and the management regime for any woodland planting in years six to fifteen; and
- (d) details of the design of the proposed levels and slope profiles of any permanent earthworks.

(3) The landscape strategy referred to in paragraph (1) must be implemented as approved, by no later than the first available planting season after the authorised development is first brought into operational use and carried out to a reasonable standard in accordance with the relevant recommendations of the appropriate British Standard or other recognised codes of good practice.

(4) Any landscape planting, including trees or shrubs planted as part of a landscape strategy that, within a period of five 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 and size as that originally planted, unless otherwise approved by the relevant planning authority.

Retention and protection of existing trees

9.—(1) No stage of the authorised development may commence until, for that stage, a tree and hedgerow protection strategy (THPS) as referred to in requirement 6 (construction management plans to be approved) and prepared in accordance with the Arboricultural Impact Assessment report (Document 5.3.3I) and BS 5837:2012 (Trees in relation to design, demolition and construction) identifying the trees and groups of trees to be retained during that stage has been submitted to and approved by the relevant planning authority.

(2) The THPS referred to in paragraph (1) must include—

- (a) tree protection plans detailing the alignment of temporary physical tree protection measures according to BS 5837:2012;
- (b) a schedule of all proposed tree and hedgerow removal and management;
- (c) specifications for temporary physical protection for trees; and
- (d) details of an auditable system of compliance with the approved protection measures.

(3) The relevant stage of the authorised development must not commence until the approved protection measures referred to in paragraph (1) are in place, and they must thereafter be maintained during the construction of the relevant stage of the authorised development unless otherwise agreed in writing with the relevant planning authority.

Replacement planting

10.—(1) Subject to paragraph (2), unless otherwise agreed with the relevant planning authority, no stage of the authorised development may commence until, where relevant for that stage, a replacement planting scheme in accordance with the principles contained in the code of construction practice which replaces the trees and hedgerows identified to be removed in the tree and hedgerow protection strategy approved under Requirement 9, has been submitted to and approved by the relevant planning authority.

(2) Paragraph (1) does not apply in connection with the non-linear works at Overton, Tadcaster and Monk Fryston to the extent that replacement planting is included in the landscape strategy under Requirement 8.

(3) The scheme for replacement planting submitted under paragraph (1) must include details appropriate for the relevant stage, including—

- (a) the location of planting and a schedule of plants noting quantities, species, size and planting density of any proposed planting or seeding;
- (b) cultivation, importing of materials and other operations to ensure plant and seed establishment; and
- (c) details of the five year maintenance regime including monitoring and management.

(4) The scheme for replacement planting referred to in paragraph (1) must be implemented as approved, by no later than the first available planting season after the authorised development is first brought into operation use and carried out to a reasonable standard in accordance with the relevant recommendations of the appropriate British Standard or other recognised codes of good practice.

(5) Any replacement planting, including trees and hedgerows planted as part of an approved replacement planting scheme that, within a period of five years after planting, is removed, dies or becomes in the opinion of the relevant planning authority seriously damaged or diseased, must be

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replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

Reinstatement schemes

11.—(1) Subject to paragraph (2), any land within the Order limits which is used temporarily for construction is to be reinstated to its former condition, or such condition as the relevant planning authority may approve, within twelve months of completion of construction of the stage of authorised development for which it was required, or such further time as may be approved by the relevant planning authority.

(2) The requirement to reinstate the land to its former condition is subject to the provisions of articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG), 38 (temporary use of land by NGN) and article 39 (temporary use of land for maintaining the authorised development).

Contamination of land or groundwater and controlled waters

12.—(1) If during any stage of the authorised development, contamination within the Order limits is identified as a result of the confirmatory ground investigations or unexpected contamination discovery procedures described in chapter 10, Geology and Hydrogeology, of the environmental statement (Document 5.4.10) and the code of construction practice, and this contamination is considered to present a significant possibility of significant harm to persons or pollution of controlled waters or the environment then, except in the case of emergency, no further development in the vicinity of the contamination may be carried out until a written scheme to identify the extent of the contamination and any mitigation or remedial measures to be taken to render the land fit for its intended purpose has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency.

(2) Should mitigation or remedial measures be required then they must be carried out in accordance with the approved scheme referred to in paragraph (1) and, if remedial measures are required, their implementation and validation documented in a verification report submitted to the planning authority.

(3) In this requirement (contamination of land or groundwater and controlled waters), “controlled waters” has the same meaning as in Part 2A of the Environmental Protection Act 1990⁽⁸¹⁾.

Removal of temporary bridges and culverts

13. Any temporary bridge or culvert required in connection with any stage of the authorised development must be removed within twelve months of completion of the construction of that stage of authorised development for which it was required, or such further time that may subsequently be approved by the relevant planning authority, after consultation with the Environment Agency or the relevant drainage authority as appropriate.

Highway works

14.—(1) No work to construct or temporarily alter any new or existing means of access to a highway to be used by vehicular traffic may commence until written details of the design and layout of that means of access has been submitted to and approved by the relevant highway authority.

(2) The highway accesses must be constructed in accordance with the details approved under paragraph (1) unless otherwise agreed in writing with the relevant highway authority.

(81) 1990 c. 43.

Removal of existing overhead line

15. All sections of existing overhead line to be dismantled must be removed no later than 12 months after the authorised development is first brought into operational use unless otherwise agreed in writing with the relevant planning authority.

Decommissioning

16.—(1) In the event that, at some future date, the authorised development, or any part of it, is to be decommissioned, a written scheme of decommissioning must be submitted for approval by the relevant planning authority at least six months prior to any decommissioning works.

(2) The approved scheme must be implemented as approved following the decommissioning of the authorised development or relevant part of it.

(3) This requirement (decommissioning) does not apply to the authorised development and associated development described in Schedule 1 (authorised development) for the dismantling and removal of existing infrastructure or apparatus.

Clearance over the River Ouse

17. No part of any overhead electric line shall be installed or maintained directly above the River Ouse at a height of less than 10 metres above the mean high water level of that river.

Approval of details having regard to the Design Approach to Site Specific Infrastructure

18.—(1) Any permanent buildings (including relocated buildings) and the acoustic enclosures at—

- (a) Overton Substation; and
- (b) Monk Fryston Substation,

must not be commenced until details of the external colour and surface finish of the permanent buildings and the external colour of the acoustic enclosures have been submitted to and approved by the relevant planning authority.

(2) Any non-linear site permanent security fencing at—

- (a) Shipton Tee Cable Sealing End Compounds;
- (b) Overton Substation;
- (c) Tadcaster Tee Cable Sealing End Compounds; and
- (d) Monk Fryston Substation,

must not be commenced until details of the colour or type of the fencing, which must comply with Technical Specification TS2.10.02 Perimeter Security, has been submitted to and approved by the relevant planning authority.

(3) Any details to be approved under sub-paragraphs (1) and (2) must be produced having regard to the design approach to site specific infrastructure and must be implemented as approved.

Site specific mitigation scheme

19.—(1) No part of Work No. 10 that affects the Travellers' Encampment may commence until a scheme to mitigate the impacts of construction activities arising from those works, including noise, dust, vibration, and visual effects (including from lighting), has been submitted to and approved in writing by the relevant planning authority.

(2) The scheme referred to in sub-paragraph (1) must include the approach to liaison for the Travellers' Encampment during the construction period.

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(3) In the event that significant effects of noise or vibration are identified on receptors SEL16 and SEL17 as shown within the Noise and Vibration Figures (Document 5.4.14), the scheme referred to in sub-paragraph (1) must include mitigation measures to reduce the significant effects as far as practicable.

(4) The construction works for that part of Work No. 10 which affects the Travellers' Encampment must be carried out in accordance with the approved scheme referred to in sub-paragraph (1) above, unless otherwise agreed with the relevant planning authority.

SCHEDULE 4

Article 50

DISCHARGE OF REQUIREMENTS

Applications made under requirements

1.—(1) Where an application has been made to a relevant authority for any consent, agreement or approval required under Schedule 3 (requirements), the relevant authority must give notice to the undertaker of its decision on the application within a period of 35 days beginning with—

- (a) where no further information is requested under paragraph 1(2), the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under paragraph 1(2), the day immediately following that on which further information has been supplied by the undertaker; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) Where an application has been made under paragraph 1(1) the relevant authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(3) If the relevant authority considers further information is necessary and the Requirement does not specify that consultation with a requirement consultee is required, the relevant authority must, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(4) If the Requirement specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within 3 business days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 3 business days of receipt of such a request and in any event within 21 business days of receipt of the application.

(5) If the relevant authority does not give the notification mentioned in sub-paragraph (3) or (4) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

Fees

2.—(1) Where an application is made to a relevant authority for any consent, agreement or approval required under Schedule 3 (requirements), a fee must be paid to the relevant authority as follows—

- (a) a fee of £116 per request; or
- (b) such other fee as may be prescribed (under sections 303 (fees for planning applications etc.) and 333(2A) (regulations and orders) of the 1990 Act for the discharge of conditions attached to a planning permission).

- (2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of—
 - (a) the application being rejected as invalidly made; or
 - (b) the relevant authority failing to determine the application within the decision period as determined under paragraph 1, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant authority and credited in respect of a future application.

Appeals

- 3.—(1) The undertaker may appeal if—
 - (a) the relevant authority refuses an application for any consent, agreement or approval required by—
 - (i) a Requirement and any document referred to in any Requirement; or
 - (ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;
 - (b) the relevant authority does not give notice of its decision to the undertaker within the period specified in paragraph 1(1) (applications made under requirements);
 - (c) having received a request for further information under paragraph 1(3) (applications made under requirements) the undertaker considers that either the whole or part of the specified information requested by the relevant authority is not necessary for consideration of the application; or
 - (d) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.
- (2) The procedure for appeals is as follows—
 - (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
 - (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
 - (c) as soon as is practicable after receiving the appeals documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;
 - (d) the relevant authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
 - (e) the appeal parties may make any counter-submissions to the appointed person within 10 business days beginning with the first day immediately following the date of receipt of written representations pursuant to paragraph (d) above; and
 - (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.
- (3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the

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further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.

(6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).

Outcome of appeals

4.—(1) On an appeal under paragraph 3 (appeals), the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not) and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed or set by the appointed person under this Schedule.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(5) Any consent, agreement or approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of Schedule 3 (requirements) as if it had been given by the relevant authority.

(6) The relevant authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(7) Except where a direction is given pursuant to sub-paragraph (8) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.

(8) On application by the relevant authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid.

(9) In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance or any guidance which may from time to time replace it.

Interpretation of Schedule 4

5. In this Schedule—

- “application” includes an application made in part or in full as the context so requires;
- “the appeal parties” means the relevant authority, the requirement consultee and the undertaker;

“relevant authority” means the relevant planning authority, highway authority, street authority, Environment Agency, relevant drainage authority or relevant owner of a watercourse, sewer or drain as may be appropriate to the consent or approval sought; and

“requirement consultee” means any body named in a Requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that Requirement.

SCHEDULE 5

Article 6

BENEFIT OF THE ORDER RULES

NPG Works

1. NPG may not carry out the NPG Works under sub-paragraph (3)(a) of article 3 (development consent etc. granted by the Order) except in accordance with the written consent of National Grid, which may be granted subject to reasonable conditions.
2. If NPG fails to carry out any of the NPG Works in accordance with National Grid’s consent, National Grid may give NPG and the Secretary of State notice that National Grid intends to carry out the NPG Works.
3. On the date specified in any notice under paragraph (2) of this schedule—
 - (a) NPG is to cease to have the benefit of sub-paragraph (1) of article 3 (development consent etc. granted by the Order) and sub-paragraph (1) of article 6 (benefit of the Order);
 - (b) NPG is to cease to be an undertaker for the installation of the NPG Works but remains an undertaker for the purposes of keeping installed and maintaining the electric lines included in the NPG Works; and
 - (c) references to NPG in article 39 (temporary use of land for maintaining the authorised development) are to be read as including National Grid.
4. Where a notice is issued under paragraph (2), paragraph (3) does not affect the following insofar as they apply to NPG—
 - (a) the operation of the following articles of this Order—
 - (i) article 3(3)(b), (5) and (6);
 - (ii) article 4(2);
 - (iii) article 5;
 - (iv) article 6; and
 - (b) works done and actions undertaken prior to the date specified in that notice.

NGN Works

5. NGN may not carry out the NGN Works under sub-paragraph (4)(a) of article 3 (development consent etc. granted by the Order) except in accordance with the written consent of National Grid, which may be granted subject to reasonable conditions.
6. If NGN fails to carry out any of the NGN Works in accordance with National Grid’s consent, National Grid may give NGN and the Secretary of State notice that National Grid intends to carry out the NGN Works.
7. On the date specified in any notice under paragraph (6) of this schedule—

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- (a) NGN is to cease to have the benefit of sub-paragraph (1) of article 3 (development consent etc. granted by the Order) and sub-paragraph (1) of article 6 (benefit of the Order);
 - (b) NGN is to cease to be an undertaker for the installation of the NGN Works but remains an undertaker for the purposes of keeping installed the underground gas pipelines included in the NGN Works; and
 - (c) references to NGN in article 39 (temporary use of land for maintaining the authorised development) are to be read as including National Grid.
- 8.** Where a notice is issued under paragraph (6), paragraph (7) does not affect the following insofar as they apply to NGN—
- (a) the operation of the following articles of this Order—
 - (i) article 3(4)(b), (5) and (7);
 - (ii) article 4(2);
 - (iii) article 5;
 - (iv) article 6; and
 - (b) works done and actions undertaken prior to the date specified in that notice.

General

- 9.** The exercise by NPG or NGN of any benefits or rights conferred on it by this Order is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by National Grid.
- 10.** Article 52 (arbitration) has effect in relation to any dispute under the terms of this schedule.

SCHEDULE 6

Article 11

STREETS SUBJECT TO STREET WORKS

<i>(1) Authority</i>	<i>(2) Street subject to street works</i>
City of York Council	Planville Lane
North Yorkshire Council/City of York Council	C92 (Corban Lane)
North Yorkshire Council	U1720 (ORPA)
North Yorkshire Council/City of York Council	A19 (Main Street)
North Yorkshire Council	U1724 (Overton Road)
North Yorkshire Council/City of York Council	U1724 (Stripe Lane)
City of York Council	Common Croft Lane
North Yorkshire Council	U3396 (Church Lane)
North Yorkshire Council	U3397 (Red House Lane)
North Yorkshire Council	A59 (Roman Road)
North Yorkshire Council	C283 (Marston Lane)
North Yorkshire Council	C283 (Atterwith Lane)

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<i>(1) Authority</i>	<i>(2) Street subject to street works</i>
North Yorkshire Council	C273 (Tockwith Road)
North Yorkshire Council	B1224 (Weatherby Road)
North Yorkshire Council	U737 (Healaugh Lane)
North Yorkshire Council	C268 (Wighill Lane)
North Yorkshire Council	C288 (Wighill Lane)
North Yorkshire Council	A659 (Kelcbar Hill)
North Yorkshire Council	A659 (Roman Road)
North Yorkshire Council	C305 (Garnet Lane)
North Yorkshire Council	B1217
North Yorkshire Council	U785 (Coldhill Lane)
North Yorkshire Council	C311 (Coldhill Lane)
North Yorkshire Council	U1092 (Laith Staid Lane)
North Yorkshire Council	B1222
North Yorkshire Council	C320 (Whitecote Lane)
North Yorkshire Council	U1288 (Westfield Lane)
North Yorkshire Council	A63
North Yorkshire Council	U1038 (Rawfield Lane)

SCHEDULE 7

Article 13

STREETS SUBJECT TO ALTERATION OF LAYOUT

PART 1

STREETS SUBJECT TO PERMANENT ALTERATION OF LAYOUT

North Yorkshire Council

<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
Overton Road	Provision of carriageway widening to aid heavy goods vehicle manoeuvres and access/egress to the proposed Overton Substation. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required as shown as JW02 Section B, Sheet 2.

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<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
U1720 (ORPA)	At bellmouth AP98 as shown on Section B, Sheet 1 the creation of an access point of sufficient size to accommodate access and egress of vehicles for operation and maintenance requirements of the site. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required.
A659	At bellmouth AP31 as shown on Section D Sheet 1 the creation of an access point of sufficient size to accommodate access and egress of vehicles for operation and maintenance requirements. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required.
Garnet Lane	At bellmouth AP34 as shown on Section D Sheet 1 the creation of an access point of sufficient size to accommodate access and egress of vehicles for operation and maintenance requirements. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required.
Rawfield Lane	At bellmouth AP3 as shown on Section F Sheet 1 the creation of an access point of sufficient size to accommodate access and egress of vehicles for operation and maintenance requirements. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required.
Overton Road	At bellmouth AP89 as shown on Section B Sheet 2 the creation of an access point of sufficient size to accommodate access and egress of vehicles for operation and maintenance requirements. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required.

PART 2

STREETS SUBJECT TO TEMPORARY ALTERATION OF LAYOUT

City of York Council

<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
Planville Lane	At AP101 as shown on Section B, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
At the Junction of Corban Lane/U1720 (ORPA)	At JW01 (adjacent to AP95) as shown on Section B, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Corban Lane	At AP94 as shown on Section B, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Common Croft Lane	At AP78 as shown on Section B, Sheet 4 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.

North Yorkshire Council

<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
U1720 (ORPA)	Between AP95 and AP98 on Section B, Sheet 1 the provision of passing places to allow for safe two way passage of traffic.
U1720 (ORPA)	At AP96 as shown on Section B, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.

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<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
U1720 (ORPA)	At AP97 as shown on Section B, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A19	At AP93 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A19	At AP91 as shown on Section B, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP86 as shown on Section B, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP87 as shown on Section B, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP90 as shown on Section B, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP82 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP84 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the

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<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
	installation of a new road surface and a suitable drainage system.
Overton Road	At AP85 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Stripe Lane	At AP80 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Stripe Lane	At AP81 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Church Lane	At AP77 as shown on Section C, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Church Lane	At AP74 as shown on Section C, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A59	At AP72 as shown on Section C, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Marston Lane	At AP68 as shown on Section C, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.

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<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
Marston Lane	At AP69 as shown on Section C, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Marston Lane	At AP70 as shown on Section C, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Marston Lane	At AP71 as shown on Section C, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Atterwith Lane	At AP65 as shown on Section C, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Atterwith Lane	At AP66 as shown on Section C, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Tockwith Road	At AP62 as shown on Section C, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Tockwith Road	At AP63 as shown on Section C, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Tockwith Road	At AP64 as shown on Section C, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the

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<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
	installation of a new road surface and a suitable drainage system.
B1224 Weatherby Road	At AP61 as shown on Section C, Sheet 4 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Healaugh Lane	At AP59 as shown on Section C, Sheet 4 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP56 as shown on Section C, Sheet 6 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP55 as shown on Section C, Sheet 6 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP54 as shown on Section C, Sheet 7 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP53 as shown on Section C, Sheet 7 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP52 as shown on Section C, Sheet 8 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.

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<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
Wighill Lane	At AP50 as shown on Section C, Sheet 8 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP49 as shown on Section C, Sheet 8 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP45 as shown on Section C, Sheet 8 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP47 as shown on Section C, Sheet 8 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP44 as shown on Section C, Sheet 9 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP41 as shown on Section C, Sheet 9 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Garnet Lane	At AP33 as shown on Section D, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP29 as shown on Section D, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the

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<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
	installation of a new road surface and a suitable drainage system.
A659	At AP30 as shown on Section D, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP32 as shown on Section D, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659/A64 Onslip Road	At AP28 as shown on Section D, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
B1217 Wakefield Road	At AP26 as shown on Section E, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Coldhill Lane	At AP22 as shown on Section E, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Coldhill Lane	At AP21 as shown on Section E, Sheet 4 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Coldhill Lane	At AP20 as shown on Section E, Sheet 4 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.

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<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
Laith Staid Lane	At AP18 as shown on Section E, Sheet 5 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Laith Staid Lane	At AP19 as shown on Section E, Sheet 5 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
B1222	At AP17 as shown on Section E, Sheet 5 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
B1222	At AP16 as shown on Section E, Sheet 6 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
B1222	At AP14 as shown on Section E, Sheet 6 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Whitecote Lane	At AP11 as shown on Section E, Sheet 6 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Westfield Lane	At AP10 as shown on Section E, Sheet 7 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Westfield Lane	At AP9 as shown on Section E, Sheet 7 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the

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<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
	installation of a new road surface and a suitable drainage system.
A63	At AP7 as shown on Section E, Sheet 7 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A63	At AP6 as shown on Section F, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Rawfield Lane	At AP5 as shown on Section F, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Rawfield Lane	At AP4 as shown on Section F, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Rawfield Lane	At AP2 as shown on Section F, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.

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SCHEDULE 8

Article 14

STREETS, CYCLE TRACKS OR PUBLIC RIGHTS
OF WAY TO BE TEMPORARILY CLOSED

PART 1

STREETS, CYCLE TRACKS OR PUBLIC RIGHTS OF WAY TO BE
TEMPORARILY CLOSED FOR WHICH A DIVERSION IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Street, cycle track or public right of way to be temporarily closed</i>	<i>(3) Extent of temporary closure as shown on the access, rights of way and public rights of navigation plan</i>	<i>(4) Temporary diversion as shown on the access, rights of way and public rights of navigation plan</i>
City of York Council and North Yorkshire Council	U1720 (ORPA)	Between points RWS01 and RWS02 as shown on Section B, Sheet 1	Between points RWD01 and RWD02 as shown on Section B, Sheet 1.
North Yorkshire Council	35.55/5/1	Between points RWS03 and RWS04 as shown on Section E, Sheet 3	Between points RWD03 and RWD04 as shown on Section E, Sheet 3.

PART 2

STREETS, CYCLE TRACKS OR PUBLIC RIGHTS OF WAY TO BE
TEMPORARILY CLOSED FOR WHICH NO DIVERSION IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Street, cycle track or public right of way to be temporarily closed</i>	<i>(3) Extent of temporary closure as shown on the access, rights of way and public rights of navigation plan</i>
North Yorkshire Council	10.129/U1720/50	Between points RW01 to RW02 as shown on Section B, Sheet 1
City of York Council	11/8/40; 11/8/30 and 11/8/20	Between points RW03 to RW04 as shown on Section B, Sheet 1
North Yorkshire Council	10.115/2/3 and 10.115/4/1	Between points RW05 to RW06 as shown on Section B, Sheet 3
City of York Council	10/3/2020	Between points RW07 to RW08 as shown on Section B, Sheet 3
City of York Council	10/1/10 and 10/2/10	Between points RW09 to RW10 as shown on Section B, Sheet 4
North Yorkshire Council	15.95/5/2 and 15.95/3	Between points RW11 to RW12 as shown on Section B, Sheet 5

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<i>(1) Area</i>		<i>(2) Street, cycle track or public right of way to be temporarily closed</i>	<i>(3) Extent of temporary closure as shown on the access, rights of way and public rights of navigation plan</i>
North Council	Yorkshire	15.95/2/3 and 15.95/6/1	Between points RW13 to RW14 as shown on Section B, Sheet 5
North Council	Yorkshire	15.95/7/1	Between points RW15 to RW16 as shown on Section C, Sheet 2
North Council	Yorkshire	15.83/1/1	Between points RW17 to RW18 as shown on Section C, Sheet 3
North Council	Yorkshire	35.33/1/1; 35.33/1/2; and 15.10/4/1	Between points RW19 to RW20 as shown on Section C, Sheet 5
North Council	Yorkshire	35.33/6/7	Between points RW21 to RW22 as shown on Section C, Sheet 8
North Council	Yorkshire	35.64/1/1; 35.64/17/1; and 35.50/3/1	Between points RW23 to RW24 as shown on Section C, Sheet 8
North Council	Yorkshire	35.64/13/2 and 35.64/13/3	Between points RW25 to RW26 as shown on Section C, Sheet 9
North Council	Yorkshire	35.63/6/3	Between points RW27 to RW28 as shown on Section E, Sheet 1
North Council	Yorkshire	35.44/4/1; 35.44/1/2; 35.63/3/1; and 35.55/6/1	Between points RW29 to RW30 as shown on Section E, Sheets 1 and 2
North Council	Yorkshire	35.44/1/1	Between points RW31 to RW32 as shown on Section E, Sheet 3 of the Access and Rights of Way Plan
North Council	Yorkshire	35.55/5/1	Between points RW33 to RW34 as shown on Section E, Sheet 3
North Council	Yorkshire	35.4/1/1	Between points RW35 to RW36 as shown on Section E, Sheet 4
North Council	Yorkshire	35.59/U1315/30	Between points RW37 to RW38 as shown on Section E, Sheet 7 of the Access and Rights of Way Plan
North Council	Yorkshire	35.59/26/1	Between points RW39 to RW40 as shown on Section E, Sheet 7
North Council	Yorkshire	35.59/U1289/70 and 35.59/13/1	Between points RW41 to RW42 as shown on Section E, Sheet 7

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SCHEDULE 9

Article 16

ACCESS TO WORKS

PART 1

CITY OF YORK COUNCIL

<i>(1) Street name</i>	<i>(2) Access reference as shown on the access, rights of way and public rights of navigation plan</i>	<i>(3) Plan Reference for the access, rights of way and public rights of navigation plan</i>
Common Croft Lane	AP78	Section B, Sheet 4
A19	AP93	Section B, Sheet 3
Corban Lane	AP94, AP95	Section B, Sheet 1
Plainville Lane	AP101, AP102	Section B, Sheet 1
Murton Way	AP103, AP104	Section A, Sheet 1

PART 2

LEEDS CITY COUNCIL

<i>(1) Street name</i>	<i>(2) Access reference as shown on the access, rights of way and public rights of navigation plan</i>	<i>(3) Plan Reference for the access, rights of way and public rights of navigation plan</i>
Warren Lane	AP36, AP37, AP38	Section D, Sheet 2 of the Access and Rights of Way plans

PART 3

NORTH YORKSHIRE COUNCIL

<i>(1) Street name</i>	<i>(2) Access reference as shown on the access, rights of way and public rights of navigation plan</i>	<i>(3) Plan Reference for the access, rights of way and public rights of navigation plan</i>
A162	AP1	Section F, Sheet 1
Rawfield Lane	AP2, AP3, AP4, AP5	Section F, Sheet 1
A63	AP6	Section F, Sheet 1
A63	AP7	Section E, Sheet 7
Red Hill Lane	AP8	Section E, Sheet 7
Westfield Lane	AP9, AP10	Section E, Sheet 7

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<i>(1) Street name</i>	<i>(2) Access reference as shown on the access, rights of way and public rights of navigation plan</i>	<i>(3) Plan Reference for the access, rights of way and public rights of navigation plan</i>
Whitecote Lane	AP11, AP12	Section E, Sheet 6
B1222	AP13, A14, AP15, AP16	Section E, Sheet 6
B1222	AP17	Section E, Sheet 5
Laith Staid Lane	AP18, AP19	Section E, Sheet 5
Coldhill Lane	AP20, AP21	Section E, Sheet 4
Coldhill Lane	AP22, AP23, AP24	Section E, Sheet 3
B1217	AP25, AP26	Section E, Sheet 3
B1217	AP27	Section E, Sheet 2
A64/A659 Westbound Onslip	AP28	Section D, Sheet 1
A659	AP29, AP30, AP31, AP32	Section D, Sheet 1
Garnet Lane	AP33, AP34, AP35	Section D, Sheet 1 of the Access and Rights of Way Plans
C305/Garnet Lane	AP39	Section D, Sheet 1
A659	AP40, AP41, AP42, AP43, AP44	Section C, Sheet 9
A659	AP45, AP46, AP47	Section C, Sheet 8
Wighill Lane	AP48, AP49, AP50, AP51, AP52	Section C, Sheet 8
Wighill Lane	AP53, AP54	Section C, Sheet 7
Wighill Lane	AP55, AP56, AP57	Section C, Sheet 6
Healaugh Lane	AP58	Section C, Sheet 5
Healaugh Lane	AP59	Section C, Sheet 4
B1224	AP60, AP61	Section C, Sheet 4
Tockwith Road	AP62, AP63, AP64	Section C, Sheet 3
Atterwith Lane	AP65, AP66	Section C, Sheet 3
Marston Lane	AP67, AP68, AP69, AP70, AP71	Section C, Sheet 2
A59	AP72	Section C, Sheet 1
Red House Lane	AP73	Section C, Sheet 1
Church Lane	AP74, AP75, AP76, AP77	Section C, Sheet 1
Overton Road	AP82, AP83, AP84, AP85, AP86, AP87	Section B, Sheet 3
Overton Road	AP88, AP89, AP90	Section B, Sheet 2

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<i>(1) Street name</i>	<i>(2) Access reference as shown on the access, rights of way and public rights of navigation plan</i>	<i>(3) Plan Reference for the access, rights of way and public rights of navigation plan</i>
A19	AP91, AP92	Section B, Sheet 2
Stripe Lane	AP79, AP80, AP81	Section B, Sheet 3
U1720 (ORPA)	AP96, AP97, AP98, AP99	Section B, Sheet 1
Bull Lane	AP100	Section B, Sheet 1

SCHEDULE 10

Article 25

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

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restriction 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⁽⁸²⁾ 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 of this Schedule—

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

(3) For section 58(1)⁽⁸³⁾ (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 of this Schedule, substitute—

“(1) In determining under section 8(1) or 34(2) of the Compulsory Purchase Act 1965, or section 166(2) of the Town and Country Planning Act 1990 whether—

- (a) a right over or a restrictive covenant affecting land consisting of a house, building or manufactory can be taken or imposed without material detriment or damage to the house, building or manufactory; or
- (b) a right over or a restrictive covenant affecting land consisting of a park or garden belonging to a house can be taken or imposed without seriously affecting the amenity or convenience of the house,

⁽⁸²⁾ 1973 c. 26.

⁽⁸³⁾ Section 58(1) was amended by section 16(3) of the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66), section 4 of, and paragraph 29(1) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11), and Schedule 1 of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009. S.I. 2009/1307.

the Upper Tribunal must take into account not only the effect of the acquisition of the right or imposition of the restrictive covenant but also the use to be made of the right or restrictive covenant proposed to be acquired or imposed, and, in a case where the right or restrictive covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.”

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, or to the imposition under this Order of a restrictive covenant, 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 the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(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 or, in relation to the imposition of a restriction, with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation) substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant 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) substitute—

“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 or the imposition of the restrictive covenant would apart from this section fall to be determined by 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 or the restrictive covenant imposed without material detriment to that land; or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024 (“the Order”) ceases, in relation to that person, to authorise the purchase of the right or imposition of a restriction 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

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

7. Section 11(84) of the 1965 Act (powers of entry) is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restriction, it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(85) (penalty for unauthorised entry) and 13(86) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20(87) 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 or the enforcement of the restrictive covenant in question.

9. Section 22 of the 1965 Act (protection of acquiring authority’s possession where by inadvertence an estate, right or interest has not been got in) is modified 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 or to enforce the restriction imposed, subject to compliance with that section as respects compensation.

(84) Section 11 was amended by section 34(1) of, and Schedule 4, paragraph 14(3)(a) to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), and section 186 of the Housing and Planning Act 2016 (c. 22). S.I. 2009/1307.

(85) Section 12, and 12(3) were amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).

(86) Section 13 was amended by section 139(4) to (9) and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(87) Section 20 was amended by paragraph 4 of Schedule 15(1) to the Planning and Compensation Act 1991 (c. 34) and Schedule 1, paragraph 70. S.I. 2009/1307.

SCHEDULE 11

Article 27

EXTINGUISHMENT OF PRIVATE RIGHTS AND RESTRICTIVE COVENANTS RELATING TO APPARATUS REMOVED FROM LAND SUBJECT TO TEMPORARY POSSESSION

PART 1

NATIONAL GRID

<i>(1) Area</i>	<i>(2) Plot</i>
City of York Council	A1-02, A1-03, B3-59, B3-62, B3-64, B3-68
City of York Council and County of North Yorkshire Council	B3-33, B3-58, B4-25
County of North Yorkshire Council	B3-29, B3-30, B3-32, B3-34, B3-39, B3-40, B3-41, B3-46, B3-49, B3-52, B3-54, B3-55, B3-56, B3-57, B5-03, B5-04, B5-05, B5-06, B5-08, B5-11, B5-12, B5-15, B5-24, B5-27, B5-28, B5-29, B5-30, B5-33, E7-19, E7-35, E7-36, E7-37, E7-38, E7-39, E7-40, E7-41, E7-43, E7-44, E7-46, E7-48, E7-49, E7-53, F1-05, F1-07, F1-23, F1-24, F1-29, F1-31, F1-33, F1-36

PART 2

NPG

<i>(1) Area</i>	<i>(2) Plot</i>
City of York Council	B3-68

SCHEDULE 12

Articles 36, 37 and 38

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

PART 1

NATIONAL GRID

City of York Council

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
B1-20, B1-21, B1-36, B1-39	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 2	
B2-02, B2-04, B2-11, B2-16, B2-17	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 3	
B2-06, B2-12, B2-21	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 4	
B3-58, B3-59	Temporary use for dismantling of redundant electrical infrastructure	Work No. 6	
B3-62	Temporary use for dismantling of redundant electrical infrastructure	Work No. 6	Removal of pylon foundations only to a depth of 1.5 metres
B3-63, B4-06, B4-09, B4-10, B4-12, B4-14, B4-18, B4-19, B4-23, B4-24	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 6	

North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
B1-19	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 2, U1	

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
B1-20, B1-21, B1-22	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 2	
B1-25	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 2	Removal of pylon foundations only to a depth of 1.5 metres
B1-33B, B1-39, B1-40A, B1-54, B1-55	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 2	
B2-06, B2-12, B2-14, B2-21, B2-28, B2-34, B2-48, B2-49, B2-55, B2-61, B2-64, B2-70, B2-71	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 4	
B2-16, B2-17, B2-20, B2-22	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 3	
B2-31, B3-25	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 5	
B3-29, B3-30, B3-32, B3-34	Temporary use for dismantling of redundant electrical infrastructure	Work No. 5	
B3-39, B3-40, B3-41, B3-49, B3-58	Temporary use for dismantling of redundant electrical infrastructure	Work No. 6	

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
B3-31, B3-44, B3-45, B3-73, B5-21, B5-58, B5-59	Temporary use for access	Work No. 6	
B3-40, B3-46, B3-52, B3-57	Temporary use for dismantling of redundant electrical infrastructure	Work No. 6	Removal of pylon foundations only to a depth of 1.5 metres
B3-54, B3-55	Temporary use for dismantling of redundant electrical infrastructure	Work No. 6	
B4-14, B4-18, B4-23, B4-24, B5-02, B5-06, B5-10, B5-16, B5-28, B5-29, B5-30, B5-37, B5-38, B5-39	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 6	
B5-03, B5-27	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 6	Removal of pylon foundations only to a depth of 1.5 metres
B5-24	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 6	Removal of 2x pylon foundations only to a depth of 1.5 metres
C9-37, C9-40	Temporary use for access	Work No. 8	
D1-18, D1-21, D1-69, D1-70, D1-72, D1-80, D1-81	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 8, U7	
D1-26, D1-53	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 8	Removal of pylon foundations only to a depth of 1.5 metres

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
D1-34, D1-37, D1-47, D1-62, D1-78, D1-83	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 8	
D1-35, D1-85	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 8, U8	
E2-06, E2-07	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 9, U9	
E4-12	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 9	
E6-13, E6-31	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 9, U13	
E7-16	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 11	
E7-27, E7-34, E7-37, E7-42, E7-43, F1-16, F1-26, F1-29, F1-31, F1-32, F1-34, F1-35, F1-37, F1-38	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 10	
E7-35	Temporary use for construction, mitigation,	Work No. 10	Removal of pylon foundations only to a depth of 1.5 metres

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
	maintenance dismantling and/or access		
F1-09	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 11	

PART 2

NPG

North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
B1-19	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 2, U1	
D1-18, D1-21, D1-69, D1-70, D1-72, D1-80, D1-81, D1-82	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 8, U7	
E2-06, E2-07	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 9, U9	
E6-13, E6-31	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 9, U13	

PART 3

NGN

North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
D1-35, D1-85	Class 4 – Temporary Construction & Mitigation	Work Nos. 8, U8	

SCHEDULE 13

Article 25

LAND IN WHICH ONLY NEW RIGHTS AND RESTRICTIVE COVENANTS ETC. MAY BE ACQUIRED

PART 1

NATIONAL GRID

City of York Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
A1-01, A1-02	Compulsory acquisition of rights for the authorised development	Work No. 1
A1-04	Compulsory acquisition of rights of access	Work No. 1
B1-01, B1-02, B1-05, B1-08, B1-09, B1-13, B1-15, B1-16, B1-23A, B1-27, B1-28, B1-29, B1-31	Compulsory acquisition of rights for the authorised development	Work No. 2
B1-03, B1-04, B1-06, B1-07, B1-10, B1-11, B1-26, B1-32, B1-35, B1-37, B1-42, B1-50A	Compulsory acquisition of rights of access	Work No. 2
B1-64, B2-08, B2-13	Compulsory acquisition of rights for the authorised development	Work No. 3
B1-65, B1-66	Compulsory acquisition of rights for the authorised development	Work Nos. 3, U2

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
B2-03, B2-09, B2-23a, B2-23b	Compulsory acquisition of rights of access	Work No. 3
B2-10	Compulsory acquisition of rights for the authorised development	Work No. 4
B2-27	Compulsory acquisition of rights for the authorised development	Work Nos. 5, 6
B2-74, B2-75, B2-79	Compulsory acquisition of rights for the authorised development	Work Nos. 3, U3
B2-78	Compulsory acquisition of rights for the authorised development	Work No. 3
B3-26A	Compulsory acquisition of rights of access	Work No. 5
B3-09A, B3-14A	Compulsory acquisition of rights of access	Work Nos. 5
B3-15, B3-18, B3-27, B3-33, B3-35, B3-36, B3-37, B3-38	Compulsory acquisition of rights for the authorised development	Work No. 5
B3-61, B3-64, B3-71, B4-11, B4-13, B4-15, B4-16, B4-21, B4-22, B4-25	Compulsory acquisition of rights for the authorised development	Work No. 6
B3-67, B3-68, B3-69, B3-70, B3-72, B4-26	Compulsory acquisition of rights for the authorised development	Work No. 6, U4
B4-01, B4-02, B4-03, B4-04, B4-05, B4-07, B4-08, B4-17, B4-20	Compulsory acquisition of rights of access	Work No. 6

Leeds City Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
D1-65, D2-02, D2-03, D2-04, D2-05	Compulsory acquisition of rights of access	Work No. 8
D1-66, D2-01, D2-06	Compulsory acquisition of rights for the authorised development	Work No. 8

North Yorkshire Council

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
B1-12, B1-14, B1-17, B1-24, B1-35, B1-38, B1-44, B1-50A, B1-52, B1-56, B1-57	Compulsory acquisition of rights of access	Work No. 2
B1-16, B1-18, B1-23A, B1-33A, B1-34A, B1-47A, B1-51, B1-53, B1-58, B1-59, B1-62	Compulsory acquisition of rights for the authorised development	Work No. 2
B1-60, B1-61, B1-63	Compulsory acquisition of rights for the authorised development	Work No. 2, U1
B2-05, B2-07, B2-29, B2-33, B2-38, B2-45, B2-52, B2-56, B2-58, B2-69	Compulsory acquisition of rights of access	Work No. 4
B2-10, B2-15, B2-43, B2-62, B2-63, B2-68	Compulsory acquisition of rights for the authorised development	Work No. 4
B2-13, B2-19, B2-24, B2-26, B2-78	Compulsory acquisition of rights for the authorised development	Work No. 3
B2-23, B2-23a, B2-23b, B2-76, B2-77	Compulsory acquisition of rights of access	Work No. 3
B2-27	Compulsory acquisition of rights for the authorised development	Work Nos. 5, 6
B2-36, B2-37, B2-40, B2-41, B2-46, B2-50, B2-51, B2-73, B3-28, B3-42, B3-43, B3-47, B3-48, B3-60, B3-61, B4-15, B4-16, B4-21, B4-22, B4-25, B5-04, B5-09, B5-11, B5-12, B5-14, B5-22, B5-23, B5-26, B5-33, B5-36, B5-40, B5-50, B5-51, B5-57	Compulsory acquisition of rights for the authorised development	Work No. 6
B2-42, B2-53, B2-54, B2-57, B2-72, B3-50, B3-51, B3-53, B3-56, B5-01, B5-05, B5-07, B5-08, B5-13, B5-15, B5-17, B5-18, B5-19, B5-20, B5-25, B5-31, B5-32, B5-34, B5-35, B5-43, B5-49, C1-01	Compulsory acquisition of rights of access	Work No. 6
B3-33, B3-35, B3-38, B3-15, B3-16, B3-18, B3-19, B3-21, B3-27	Compulsory acquisition of rights for the authorised development	Work No. 5

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
B3-22, B3-23, B3-24	Compulsory acquisition of rights of access	Work No. 5
B5-54, B5-55, B5--56	Compulsory acquisition of rights for the authorised development	Work Nos. 6, U5
B5-41, B5-42, B5-45, B5-47, C1-02, C1-16	Compulsory acquisition of rights of access	Work No. 7
B5-44, B5-46, B5-48, B5-52, B5-53, C1-03, C1-04, C1-12, C1-13, C1-15, C1-17, C1-18, C2-07, C2-07a, C2-08, C2-09, C2-10, C2-12, C2-14, C2-15, C3-13, C3-14, C3-16, C3-17, C3-18, C3-21, C3-22, C3-24, C4-03, C4-04, C4-08, C4-09, C4-11, C4-12, C4-13, C4-14, C4-16, C5-05, C5-06, C6-04, C6-05, C6-06, C7-01, C7-02, C7-04, C7-05, C8-07, C8-08, C8-09, C8-13, C8-20, C8-25, C8-27, C8-28, C8-29, C8-32, C9-01, C9-02, C9-03, C9-04, C9-05, C9-06, C9-07, C9-08, C9-10, C9-11, C9-13, C9-14, C9-15, C9-20, C9-21, C9-22, C9-23, C9-30, C9-43, C9-46, C9-47	Compulsory acquisition of rights for the authorised development	Work No. 7
C1-05, C1-06, C1-07, C1-08, C1-09, C1-09a, C1-10, C1-11, C1-14, C2-02, C2-03, C2-04, C2-05, C2-06, C2-11, C2-13, C2-16, C2-16a, C3-01, C3-02, C3-03, C3-04, C3-05, C3-06, C3-07, C3-08, C3-09, C3-10, C3-11, C3-12, C3-15, C3-19, C3-20, C3-23, C3-25, C3-26, C4-01, C4-02, C4-05, C4-06, C4-07, C4-10, C4-15, C4-17, C4-18, C5-01, C5-02, C5-03, C5-07, C5-08, C6-01, C6-02, C6-03, C6-07, C6-08, C6-09, C6-10, C6-11, C7-03, C7-06, C7-07, C7-08, C7-09, C7-10, C7-11, C7-12, C8-01, C8-02, C8-03, C8-04, C8-05, C8-06, C8-10, C8-11, C8-12, C8-14, C8-15, C8-16, C8-17, C8-18,	Compulsory acquisition of rights of access	Work No. 7

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
C8-19, C8-21, C8-22, C8-23, C8-24, C8-26, C8-30, C8-31, C8-33, C8-34, C9-09, C9-12, C9-16, C9-17, C9-18, C9-19, C9-24, C9-25, C9-26, C9-27, C9-31, C9-32, C9-34		
C9-33, C9-36, C9-38, C9-41, D1-02, D1-03, D1-12, D1-24, D1-31, D1-48, D1-50, D1-55, D1-58, D1-63, D1-79	Compulsory acquisition of rights of access	Work No. 8
C9-35, C9-39, C9-52, D1-01, D1-16	Compulsory acquisition of rights for the authorised development	Work Nos. 8, U7
C9-42, C9-44, C9-45	Compulsory acquisition of rights for the authorised development	Work Nos. 7, U6
C9-48, C9-50	Compulsory acquisition of rights for the authorised development	Work Nos. 7
D1-04, D1-08	To extinguish private rights of access	Work No. 8
D1-06, D1-07, D1-11, D1-13, D1-17, D1-20, D1-22, D1-36, D1-38, D1-40, D1-44, D1-45, D1-49, D1-64, D1-66	Compulsory acquisition of rights for the authorised development	Work No. 8
D1-10, D1-23, D1-27	Compulsory acquisition of rights for the authorised development	Work Nos. 8, U8
D1-25, D1-28, D1-29, D1-39, D1-42, D1-43, D1-46, D1-51, D1-52, D1-54, D1-56, D1-60, E1-03, E1-04, E1-06, E1-07, E1-08, E1-09, E1-10, E1-11, E2-01, E2-02, E2-03, E2-09, E2-10, E2-11, E3-01, E3-02, E3-03, E3-05, E3-06, E3-09, E3-10, E3-12, E3-14, E3-16, E3-20, E3-24, E3-25, E3-26, E3-27, E3-28, E3-29, E3-30, E3-31, E3-32, E4-01, E4-04, E4-06, E4-08, E4-13, E4-14, E4-15, E4-16, E4-17, E4-18, E4-19, E5-01, E5-02, E5-03, E5-04, E5-05, E5-06, E5-07, E5-08, E5-09, E5-18, E5-19,	Compulsory acquisition of rights of access	Work No. 9

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
E5-20, E6-01, E6-02, E6-03, E6-04, E6-05, E6-06, E6-07, E6-08, E6-09, E6-11, E6-14, E6-15, E6-16, E6-17, E6-32, E6-33, E6-34, E6-35, E6-36, E6-37, E6-38, E6-39, E6-40, E7-01, E7-02, E7-03, E7-04, E7-07, E7-09, E7-11, E7-13, E7-13a, E7-14, E7-15, E7-26, E7-56, E7-57		
D1-32, D1-57, E1-01, E1-02, E1-05, E2-04, E3-04, E3-07, E3-08, E3-11, E3-13, E3-15, E3-17, E3-18, E3-21, E3-22, E3-23, E3-23a, E3-36, E3-37, E3-38, E3-39, E3-39a, E3-44, E3-47, E4-02, E4-03, E4-05, E4-07, E4-09, E4-10, E4-11, E5-10, E5-11, E5-12, E5-13, E5-14, E5-15, E5-16, E5-17, E5-21, E5-22, E6-10, E6-18, E6-19, E6-20, E6-21, E6-22, E6-23, E6-24, E6-25, E6-26, E6-27, E6-28, E6-29, E6-30, E7-05, E7-06, E7-08, E7-10, E7-12, E7-53, E7-54, E7-55	Compulsory acquisition of rights for the authorised development	Work No. 9
D1-59, D1-61, D1-67, D1-68, D1-74, D1-76	Compulsory acquisition of rights for the authorised development	Work Nos. 8, U7
D1-71, D1-82	Compulsory acquisition of rights of access	Work Nos. 8, U7
D1-84	Compulsory acquisition of rights for the authorised development	Work Nos. 8, U8
E2-05, E2-08, E2-12, E2-13, E2-14, E2-15, E2-16, E2-17, E2-18	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U9
E3-19, E3-33, E3-34, E3-35, E3-40, E3-41, E3-41a, E3-42, E3-43	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U10
E3-45, E3-46, E3-48, E3-49	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U11

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
E5-23	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U12
E6-12, E6-41, E6-42, E6-43, E6-44, E6-45, E6-46, E6-47	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U13
F1-01, F1-02, F1-11, F1-12	Compulsory acquisition of rights of access	Work No. 11
E7-17, E7-18, E7-20, E7-21, E7-22, E7-23, E7-24, E7-25, E7-31, E7-36, E7-39, F1-17, F1-19, F1-22, F1-24, F1-28, F1-30	Compulsory acquisition of rights of access	Work No. 10
E7-19, E7-28, E7-29, E7-30, E7-32, E7-33, E7-38, E7-38a, E7-40, E7-41, E7-41a, E7-44, E7-44a, E7-45, E7-46, E7-47, E7-48, E7-49, E7-50, E7-51, E7-52, F1-13, F1-14, F1-18, F1-20, F1-27, F1-33, F1-36, F1-39	Compulsory acquisition of rights for the authorised development	Work No. 10
F1-03, F1-04	Compulsory acquisition of rights for the authorised development	Work No. 11

PART 2

NPG

City of York Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
B1-65, B1-66	Compulsory acquisition of rights for the authorised development	Work Nos. 3, U2
B2-74, B2-75, B2-79	Compulsory acquisition of rights for the authorised development	Work Nos. 3, U3
B3-67, B3-68, B3-69, B3-70, B3-72	Compulsory acquisition of rights for the authorised development	Work Nos. 6, U4

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<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
B4-26	Compulsory acquisition of rights for the authorised development	Work Nos. 6, U4

North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
B1-60, B1-61, B1-63	Compulsory acquisition of rights for the authorised development	Work Nos. 2, U1
B5-50, B5-51	Compulsory acquisition of rights for the authorised development	Work No. 6
B5-54, B5-55, B5-56	Compulsory acquisition of rights for the authorised development	Work Nos. 6, U5
C9-35, C9-39, C9-52, D1-01, D1-16, D1-30, D1-59, D1-61, D1-67, D1-68, D1-73, D1-74, D1-75, D1-76	Compulsory acquisition of rights for the authorised development	Work Nos. 8, U7
C9-42, C9-44, C9-45	Compulsory acquisition of rights for the authorised development	Work Nos. 7, U6
E2-05, E2-08, E2-12, E2-13, E2-14, E2-15, E2-16, E2-17, E2-18	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U9
E3-19, E3-33, E3-34, E3-35, E3-40, E3-41, E3-41a, E3-42, E3-43	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U10
E3-45, E3-46, E3-48, E3-49	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U11
E5-23	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U12
E6-12, E6-41, E6-42, E6-43, E6-44, E6-46, E6-47	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U13
E7-30, E7-38a, E7-41a, E7-44a	Compulsory acquisition of rights for the authorised development	Work No. 10

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PART 3

NGN

North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
D1-10	Compulsory Acquisition of Rights for Authorised Development	Work Nos. 8, U8
D1-15, D1-19, D1-84	Compulsory Acquisition of Rights for Authorised Development	Work Nos. 8, U8

SCHEDULE 14

Article 45

TRAFFIC REGULATION

<i>Highway Authority</i>	<i>(1) Road</i>	<i>(2) Extent as shown on the traffic regulation order plan</i>	<i>(3) Note</i>
City of York Council and North Yorkshire Council	Plainville Lane and Bull Lane	Between points TR01, and TR02 as shown on Section B, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	U1720 (ORPA)	Between points TR03 and TR04 as shown on Section B, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council/City of York Council	Corban Lane	Between points TR05 and TR06 as shown on Section B, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	A19	Between points TR07 and TR08 as shown on Section B, Sheet 2.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.

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<i>Highway Authority</i>	<i>(1) Road</i>	<i>(2) Extent as shown on the traffic regulation order plan</i>	<i>(3) Note</i>
North Yorkshire Council	Overton Road	Between points TR09 and TR10 as shown on Section B, Sheets 2 and 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council/City of York Council	Stripe Lane	Between points TR11 and TR12 as shown on Section B, Sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
City of York Council	Common Croft Lane	Between points TR15 and TR16 as shown on Section B, Sheet 4.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Church Lane	Between points TR17 and TR18 as shown on Section C, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	A59	Between points TR19 and TR20 as shown on Section C, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Marston Lane	Between points TR21 and TR22 as shown on Section C, Sheet 2.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Atterwith Lane	Between points TR23 to TR24 as shown on Section C, Sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Tockwith Road	Between the point TR25 and TR26 as shown on Section C, Sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to

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<i>Highway Authority</i>	<i>(1) Road</i>	<i>(2) Extent as shown on the traffic regulation order plan</i>	<i>(3) Note</i>
			07:00pm Monday to Sunday.
North Yorkshire Council	B1224	Between the point TR27 and TR28 as shown on Section C, Sheet 4.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Healaugh Lane	Between the point TR29 and TR30 as shown on Section C, Sheet 4.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Wighill Lane	Between the point TR31 and TR32 as shown on Section C, Sheet 6.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Wighill Lane	Between the point TR33 and TR34 as shown on Section C, Sheet 8.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	A659	Between the point TR35 and TR36 as shown on Section C, Sheet 8.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	A659	Between the point TR37 and TR38 as shown on Section C, Sheet 9.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Garnett Lane	Between the point TR39 and TR40 as shown on Section D, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.

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<i>Highway Authority</i>	<i>(1) Road</i>	<i>(2) Extent as shown on the traffic regulation order plan</i>	<i>(3) Note</i>
North Yorkshire Council	A659	Between the point TR41 and TR42 as shown on Section D, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
Leeds City Council	Warren Lane	Between the point TR43 and TR44 as shown on Section D, Sheet 2.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
National Highways	A64	Between the point TR45 and TR46 as shown on Section D, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
National Highways	A659/A64 Westbound Onslip	Between the point TR47 and TR48 as shown on Section D, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	B1217	Between the points TR49 and TR50 as shown on Section E, Sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Coldhill Lane	Between the points TR51 and TR52 as shown on Section E, Sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Coldhill Lane	Between the points TR53 and TR54 as shown on Section E, Sheet 4.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Laith Staid Lane	Between the points TR55 and TR56 as shown on Section E, Sheet 5.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to

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<i>Highway Authority</i>	<i>(1) Road</i>	<i>(2) Extent as shown on the traffic regulation order plan</i>	<i>(3) Note</i>
			07:00pm Monday to Sunday.
North Yorkshire Council	B1222	Between the points TR57 and TR58 as shown on Section E, Sheet 5.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	B1222	Between the points TR59 and TR60 as shown on Section E, Sheet 6.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Whitecote Lane	Between the points TR61 and TR62 as shown on Section E, Sheet 6.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Westfield Lane	Between the points TR63 and TR64 as shown on Section E, Sheet 7.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	A63	Between the points TR65 and TR66 as shown on Section E, Sheet 7.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Rawfield Lane	Between the points TR67 and TR68 as shown on Section F, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.

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SCHEDULE 15

Article 47

PROTECTIVE PROVISIONS

PART 1

PROTECTION FOR ELECTRICITY, GAS,
WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the statutory undertakers referred to in this Part of this Schedule the following provisions, unless otherwise agreed in writing between the undertaker and the statutory undertaker concerned, have effect.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the relevant statutory undertaker to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the 1989 Act⁽⁸⁸⁾), belonging to or maintained by that electricity undertaker for the purposes of electricity supply;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by that gas undertaker for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other water apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in that undertaker under the Water Industry Act 1991⁽⁸⁹⁾; and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act, and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

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

“relevant statutory undertaker” means, in relation to any apparatus, the statutory undertaker that owns the apparatus or is responsible for its maintenance; and

“statutory undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the 1989 Act;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986⁽⁹⁰⁾;

⁽⁸⁸⁾ 1989 c. 29.

⁽⁸⁹⁾ 1991 c. 56.

⁽⁹⁰⁾ 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991, for the area of the authorised development.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the statutory undertaker are regulated by the provisions of Part 3 of the 1991 Act.

4.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of a statutory undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the relevant statutory undertaker.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the relevant statutory undertaker written notice of that requirement, together with a plan and section of the work proposed.

(3) If alternative apparatus or any part of such apparatus is to be constructed as a consequence of the removal of apparatus placed on the land referred to in sub-paragraph (2), the relevant statutory undertaker, must on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in other land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the relevant statutory undertaker and the undertaker or in default of agreement settled by arbitration in accordance with article 52 (arbitration).

(5) The relevant statutory undertaker must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 52 (arbitration), and after the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the relevant statutory undertaker that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus, that work, instead of being executed by the statutory undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the statutory undertaker.

(7) If the relevant statutory undertaker fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of the relevant statutory undertaker or its contractors.

5.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 4(2) that are near to, or will affect, any apparatus the removal of which has not been required by the undertaker under paragraph 4(2), the undertaker must submit to the relevant statutory undertaker a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be

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made in accordance with sub-paragraph (3) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a statutory undertaker under sub-paragraph (2) must be made within a period of 28 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a statutory undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) apply as if the removal of the apparatus had been required by the undertaker under paragraph 4(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the relevant statutory undertaker notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

6.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to the relevant statutory undertaker the proper and reasonable expenses reasonably incurred by that statutory undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus.

(2) The value of any apparatus removed under the provisions of this Part of the Schedule is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 52 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the relevant statutory undertaker by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

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

- (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.

(5) An amount which apart from this sub-paragraph would be payable to a statutory undertaker in respect of works by virtue of sub-paragraph (1) 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 relevant statutory undertaker 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.

PART 2

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

7.—(1) For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

(2) In this Part of this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003⁽⁹¹⁾;

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the Communications Act 2003; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 (application of the electronic communications code) of the Communications Act 2003; and

“operator” means the operator of an electronic communications code network.

8. The exercise of the powers of article 40 (statutory undertakers) are subject to paragraph 23 of Schedule 2 (the telecommunications code) to the Telecommunications Act 1984⁽⁹²⁾.

9.—(1) Subject to sub-paragraphs (2) to (3), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator) the undertaker must bear and pay the cost reasonably and properly incurred by the operator in making good such damage.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

⁽⁹¹⁾ 2003 c. 21. See section 106.

⁽⁹²⁾ 1984 c. 12. Paragraph 23 of Schedule 2 has been repealed by the Digital Economy Act 2017 (c. 30), Part 2 Section 4(1) and subject to the transitional provisions specified in section 4(10) and Schedule 2 and S.I. 2017/1008 regulations 3 and 5.

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(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which consent must not be unreasonably withheld or delayed.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 52 (arbitration).

10. This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

11. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF THE CANAL & RIVER TRUST

Interpretation

12.—(1) For the protection of the Trust the following provisions of this part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and the Trust, in relation to the removal, installation and maintenance of the overhead electric lines comprised in Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development) and any associated development in connection with it.

(2) In this part of this Schedule—

“Code of Practice” means the Code of Practice for Works Affecting the Canal and River Trust (April 2023) or any updates or amendments thereto (provided any such updates or amendments do not adversely impact the ability of the undertaker to construct and maintain Work No.6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development) and any associated development in connection with it);

“detriment” means any damage to the waterway or any other property of the Trust caused by the presence of Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development) and any associated development in connection with it and, without prejudice to the generality of that meaning, includes—

- (a) any obstruction of, or interference with, or hindrance or danger to, navigation or to any use of the waterway (including towing paths);
- (b) 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;
- (c) the deposit of materials or the siltation of the waterway so as to damage the waterway;
- (d) the pollution of the waterway;
- (e) 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 navigational risk assessments, plans, 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” is to be construed accordingly;

“specified work” means so much of Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development) and any associated development in connection with it as is, may be, or takes place in, on, under or over the surface of land below the water level forming part of the waterway; or may affect the waterway or any function of the Trust, including any projection over the waterway by any authorised work or any plant or machinery;

“the Trust” means the Canal & River Trust;

“the Trust’s network” means the Trust’s network of waterways;

“the waterway” means each and every part of the River Ouse, 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 river.

(3) The Code of Practice applies to any specified work and where there is an inconsistency between these protective provisions and the Code of Practice, the part of the Code of Practice that is inconsistent with these protective provisions does not apply and these protective provisions apply.

Notice to be given prior to specified works

13.—(1) Unless 28 days’ prior written notice is given by the undertaker to the Trust (or such other period as is agreed in writing between the undertaker and the Trust), the undertaker will not construct or, to the extent that it would affect the waterway or any function of the Trust, maintain any specified work between—

- (a) 10pm and 6am during the months April to October; or
- (b) 7pm and 7am during the months November to March.

(2) The undertaker will not construct or, to the extent that it would affect the waterway or any function of the Trust, maintain any specified work outside of the timescales provided for within subparagraphs (1)(a) and (1)(b) unless otherwise agreed in writing between the undertaker and the Trust.

(3) Paragraphs (1) and (2) will not apply in the case of emergency, in which case no prior written notice is required and immediate access must be afforded by the Trust.

Fencing

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

Survey of waterway

15.—(1) Before the initial construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of any part of the specified work and again following practical completion of the specified work the undertaker must bear the reasonable and proper cost of the carrying out by a qualified engineer (the “surveyor”), to be approved by the Trust and the undertaker (such approval not to be unreasonably withheld), of a survey (“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 work.

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

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- (a) on being given reasonable notice (save in case of emergency, when immediate access must be afforded) afford reasonable facilities to the surveyor for access to the site of the specified work and to any land and existing works of the undertaker which may provide support for the waterway as will or may be affected by the specified work; and
 - (b) supply the surveyor as soon as reasonably practicable with all such information as he may reasonably require and which the undertaker holds with regard to such existing works of the undertaker and to the specified work or the method of their construction.
- (3) Copies of the survey must be provided to both the Trust and the undertaker at no cost to the Trust.
- (4) The surveyor must undertake the survey required under sub-paragraph (1) in a timely manner so as to cause no unreasonable delay to the initial construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of any part of the specified work.

Approval of plans etc.

16.—(1) The undertaker must before the initial construction or, to the extent that it would affect the waterway or any function of the Trust, commencement of maintenance of any specified work including any temporary works supply to the Trust proper and sufficient plans of that work having regard to the Trust’s Code of Practice 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 or, to the extent that it would affect the waterway or any function of the Trust, maintenance of a specified work until plans of that work have been approved in writing by the engineer or settled by arbitration.

(2) Subject to sub-paragraph (3), an application for approval under this paragraph is deemed to have been approved if it is neither given nor refused within 28 days of the specified day.

(3) An approval of the engineer under this paragraph is not deemed to have been unreasonably withheld if approval within the time specified by sub-paragraph (2) has not been given pending the outcome of any consultation on the approval in question that the Trust is obliged to carry out in the proper exercise of its functions.

(4) In this paragraph “the specified day” means, in relation to any specified works—

- (a) the day on which plans and sections of that work are submitted to the Trust under sub-paragraph (1); or
- (b) the day on which the undertaker provides the Trust with all further particulars of the work that have been requested by the Trust under that sub-paragraph,

whichever is the later.

Failure to complete specified works

17. In the event that the undertaker fails to complete the construction of, or part of, the specified work by the end of the construction period for the stage within which the specified work is included the Trust may, if it is reasonably required in order to avoid detriment, serve on the undertaker a notice in writing requesting that the specified work be completed. Any notice served under this paragraph must state the works that are to be completed by the undertaker and lay out a reasonable timetable for the works’ completion. The undertaker must complete the specified work as soon as reasonably practicable following receipt of any such notice. If the undertaker fails to comply with this notice within 35 days, the Trust may, so far as it is capable, construct any of the specified works, or part of such works, (together with any adjoining works), except for Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development), in order to complete the specified work, or part of them, and the undertaker must reimburse the Trust all costs, fees, charges and expenses it has reasonably incurred in carrying out such works.

Lighting

18. The undertaker must provide and maintain at its own expense in the vicinity of the specified work such temporary lighting and such signal lights for the control of navigation as the engineer may reasonably require during the construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of the specified work.

Construction of specified works

19.—(1) Any specified work must, be constructed and maintained—

- (a) with all reasonable dispatch in accordance with any such plans approved or deemed to have been approved or settled as aforesaid and with any specifications made under paragraph 16 of this Part;
- (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 any temporary obstruction or restriction or diversion of the rights of navigation have otherwise been agreed by the Trust or are permitted under this Part;
- (e) in such a manner as to ensure that no materials are discharged or deposited into the waterway under this Order otherwise than in accordance with article 19 (discharge of water); and
- (f) in compliance with the Code of Practice.

(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 (whether by reducing the width of the waterway or otherwise) the 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) (maintenance of waterways) of the Transport Act 1968 to maintain the waterway.

(3) Following the completion of the construction and, to the extent that it would affect the waterway or any function of the Trust, any maintenance of the specified work the undertaker must restore the waterway, save in respect of the retention of the new permanent overhead line comprised in Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development), to a condition no less satisfactory than its condition immediately prior to construction or maintenance of that work, unless otherwise agreed between the undertaker and the Trust.

(4) In assessing whether the condition of the waterway is no less satisfactory than its condition immediately prior to the works pursuant to sub-paragraph (3), the Trust and the undertaker must take account of any survey issued pursuant to paragraph 15 and any other information agreed between them pursuant to this Part.

Access to work – provision of information

20.—(1) The undertaker on being given reasonable notice must—

- (a) at all reasonable times allow reasonable facilities to the engineer for access to a specified work during its construction and, to the extent that it would affect the waterway or any function of the Trust, maintenance; 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 and maintaining it.

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(2) The Trust on being given reasonable notice must 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.

Maintenance of works

21. If at any time after the completion of a specified work, not being a work vested in the Trust, the Trust gives notice to the undertaker informing it that it reasonably considers that the state of maintenance of the work appears to be 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.

Repayment of the Trust's fees, etc.

22.—(1) The undertaker must repay to the Trust in accordance with the Code of Practice all fees, costs, charges and expenses reasonably incurred by the Trust—

- (a) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of a specified work;
- (b) in respect of the employment during the construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of the specified work of any inspectors, watchmen 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 work;
- (c) in bringing the specified work to the notice of users of the Trust's network; and
- (d) in constructing and/or carrying out any measures as a result of any specified work which are reasonably required by the Trust to ensure the safe navigation of the waterway save that nothing is to require the Trust to construct and/or carry out any measures.

(2) If the Trust considers that a fee, charge, cost or expense will be payable by the undertaker pursuant to sub-paragraph (1), the Trust will first provide an estimate of that fee, charge, cost or expense and supporting information in relation to the estimate to the undertaker along with a proposed timescale for payment for consideration and the undertaker may, within a period of twenty-one days—

- (a) provide confirmation to the Trust that the estimate is agreed and pay to the Trust, by the date stipulated, that fee, charge, cost or expense; or
- (b) provide confirmation to the Trust that the estimate is not accepted along with a revised estimate and a proposal as to how or why the undertaker considers that the estimate can be reduced and/or paid at a later date.

(3) The Trust must take in to account any representations made by the undertaker in accordance with this paragraph 22 and must, within twenty-one days of receipt of the information pursuant to sub-paragraph (1), confirm the amount of the fee, charge, cost or expense to be paid by the undertaker (if any) and the date by which this is to be paid.

(4) any dispute as to the fee, charge, cost or expense specified by the Trust pursuant to sub-paragraph (3) will be settled by arbitration in accordance with article 52 (arbitration) of this Order.

Making good of detriment; compensation and indemnity, etc.

23.—(1) If any detriment is caused by the construction or failure of the specified work if carried out by the undertaker, the undertaker (if so required by the Trust) must make good such detriment and

must pay to the Trust all reasonable and proper expenses incurred by the Trust, and compensation for any loss sustained by the Trust in making good or otherwise by reason of the detriment.

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

- (a) by reason of the construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of a specified 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 or, to the extent that it would affect the waterway or any function of the Trust, maintenance of a specified 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 subparagraphs (a) and (b) (provided that the Trust is not entitled to recover from the undertaker any consequential losses which are not reasonably foreseeable) subject to a maximum sum of £10 million (ten million pounds).

(3) Nothing in sub-paragraph (2) imposes any liability on the undertaker with respect to any detriment, damage, loss or interruption to the extent that it is attributable to the act, neglect or default of the Trust, its officers, servants, contractors or agents.

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

Arbitration

24. Any difference arising between the undertaker and the Trust under this Part (other than a difference as to the meaning or construction of this Part) must be referred to and settled by arbitration in accordance with article 52 (arbitration) of this Order.

As built drawings

25. As soon as reasonably practicable following the completion of the construction of the authorised development, the undertaker must provide to the Trust as built drawings of any specified work to show the position of that work in relation to the waterway.

PART 4

FOR THE PROTECTION OF RAILWAY INTERESTS

26. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 40 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

27. In this Part of this Schedule—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form reasonably prescribed from time to time by Network Rail save for matters concerning requirements imposed by Network Rail in order for Network Rail to comply with its statutory duties, regulatory duties or the terms of its network licence in which case such matters shall be in Network Rail’s absolute discretion and in determining whether or not such matters fall within those constraints Network Rail shall at all times act reasonably;

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“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London, SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

“regulatory consents” means any consent or approval required under—

- (a) the Railways Act 1993;
- (b) the network licence; and/or
- (c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 39 (temporary use of land for maintaining the authorised development) in respect of such works.

28.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

29.—(1) Subject to sub-paragraph (2) the undertaker must not exercise in respect of any railway property the powers conferred by this Order in—

- (a) article 19 (discharge of water);
- (b) article 21 (authority to survey and investigate the land);
- (c) article 26 (extinguishment and suspension of private rights of way);

(2) The powers in sub-paragraph (1) shall not be exercised in respect of any railway property unless the exercise of such powers is with the consent of Network Rail such consent not to be unreasonably withheld and if by the end of the period of 28 days beginning with the date on which such request for Network Rail's consent was made Network Rail has not intimated their refusal together with the grounds of any such refusal of such consent the undertaker may serve upon Network Rail written notice requiring Network Rail to intimate approval or disapproval within a further period of 14 days beginning with the date upon which Network Rail receives written notice from the undertaker. If by the expiry of the further 14 days Network Rail has not intimated consent or refusal of consent, Network Rail is deemed to have given consent for the exercise of the respective powers.

(3) The undertaker must not in the exercise of any of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(4) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 26 (extinguishment and suspension of private rights), article 28 (power to override easements and other rights or private rights of way) or article 40 (statutory undertakers), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

30.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 52 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval together with the grounds of any such disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 14 days beginning with the date upon which the engineer receives written notice

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from the undertaker. If by the expiry of the further 14 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker and if reasonably required by the undertaker upon reasonable prior written notice Network Rail will construct any adjoining part of the specified work (“adjoining work”) without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker subject to—

- (a) such adjoining work being located on railway property;
- (b) Network Rail having sufficient rights to carry out such adjoining work;
- (c) the undertaker first providing Network Rail with the requisite plans, specifications and any other information reasonably required by Network Rail to enable it to carry out such adjoining work;
- (d) the engineer’s approval of such adjoining work; and
- (e) Network Rail being able to recover its costs of carrying out such adjoining work pursuant to paragraph 40(1).

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the opinion of the engineer must be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified work), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case with all reasonable dispatch and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

31.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 30(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 30;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to operational railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must,

notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

32. The undertaker must—

- (a) at all times afford 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.

33. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

34.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work, in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice) , and within 42 days of receipt of an invoice (or other evidence of the liability incurred in carrying out the alterations and additions) from Network Rail the undertaker must pay to Network Rail 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 Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 30(3), pay to Network Rail all reasonable and proper expenses to which Network Rail may be put and compensation for any loss which it suffers by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 40(1)(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property 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 Network Rail under this paragraph.

35. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 30(3) or in constructing any protective works under the provisions of

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- paragraph 30(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
 - (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
 - (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, need to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
 - (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work,

provided that any costs incurred arising from an act or omission of Network Rail, will not be paid by the undertaker.

36.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph 36 applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 30(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI risks and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter continue to consult with Network Rail (both before and after formal submission of plans under paragraph 30(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) the undertaker must provide an EMI interface study (such study to include consideration of transferred voltage potentials, radiated interference to signalling equipment and compliance with the Control of Electromagnetic field at Work Regulations 2016 and British Standard EN 50122 as applicable) for approval, such approval not to be unreasonably withheld or delayed but may be provided subject to reasonable conditions;

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- (c) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and
 - (d) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).
- (5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but Network Rail may, in its reasonable discretion, select the means of prevention and the method of their execution, and in relation to such modifications paragraph 30(1) has effect subject to this sub-paragraph.
- (6) The undertaker shall use reasonable endeavours not to allow the use or operation of the authorised development in a manner that causes EMI and which introduces an intolerable risk to the operation of the railway or the safety of the track workers (such intolerable risk would include introducing exposure to electric and magnetic fields in excess of the requirements of the Control of Electromagnetic field at Work Regulations 2016, unacceptable transferred voltage potentials and interference impacting the safe operation of the signalling equipment), until measures have been taken in accordance with this paragraph to reduce the risk to tolerable levels of EMI.
- (7) In the event of EMI having occurred—
- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
 - (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and
 - (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.
- (8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—
- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
 - (b) Any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 31.
- (9) To the extent that it would not otherwise do so, the indemnity in paragraph 40(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.
- (10) For the purpose of paragraph 35(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.
- (11) In relation to any dispute arising under this paragraph the reference in article 52 (arbitration) to the Secretary of State shall be read as a reference to the President of the Institution of Engineering and Technology.

37. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

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38. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

39. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail upon the receipt of a VAT invoice.

40.—(1) The undertaker must pay to Network Rail all reasonable and proper costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to the provisions of this paragraph) which may be occasioned to or reasonably incurred by Network Rail by reason of—

- (a) the construction, maintenance or operation of a specified work or the failure of such a work; or
- (b) any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development; or
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others; or
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development; and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail 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 shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such sums referred to in sub-paragraph (1) as soon as reasonably possible after Network Rail become aware of the same
- (b) not make any payment without the prior consent of the undertaker;
- (c) take all reasonable steps to mitigate any liabilities; and
- (d) keep the undertaker informed and have regard to the undertaker's representations in relation to any such sums referred to in sub-paragraph (1).

(3) In no circumstances is the undertaker liable to Network Rail under sub-paragraph (1) for any indirect or consequential loss or loss of profits, save that the sums payable by the undertaker under that sub-paragraph shall, if relevant, include a sum equivalent to the relevant costs in circumstances where Network Rail is liable to make payment of the relevant costs pursuant to the terms of an agreement between Network Rail and a train operator, and Network Rail shall use reasonable endeavours in advance of any such liability occurring to assist the undertaker in obtaining copies of

any agreements with train operators which may be relevant the purposes of sub-paragraph (1) and identifying the basis of calculation of such relevant costs.

(4) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of Network Rail, its officers, servants, contractors or agents.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the amount, timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(7) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by a train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

41. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 40) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

42. In the assessment of any sums payable to Network Rail under this Part there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.

43. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works plan and land plan and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

44. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

45. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State’s consent, under article 7 (consent to transfer benefit of the Order) of this Order and any such notice must be given no later than 14 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and

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(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

46. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 48 (certification of plans etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in an electronic format specified by Network Rail.

PART 5

FOR THE PROTECTION OF NORTHERN POWERGRID

47. For the protection of Northern Powergrid the following provisions have effect, unless otherwise agreed in writing between the undertaker and Northern Powergrid.

48. In this Part of this Schedule—

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

“alternative apparatus” means alternative apparatus adequate to enable Northern Powergrid to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means existing electric lines or electrical plant (as defined in the Electricity Act 1989), belonging to or maintained by Northern Powergrid within the Order limits and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“authorised works” means so much of the works authorised by this Order, which do not form NPG Works or NGN Works which affect existing Northern Powergrid’s apparatus within the Order limits; “functions” includes powers and duties;

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

“plan” includes all designs, drawings, specifications, method statements, programmes, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed and shall include measures proposed by the undertaker to ensure the grant of sufficient land or rights in land necessary to mitigate the impacts of the works on Northern Powergrid’s undertaking; and

“Northern Powergrid” means Northern Powergrid (Yorkshire) PLC (Company Number 04112320) whose registered address is Lloyds Court, 78 Grey Street, Newcastle upon Tyne NE1 6AF.

49. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Northern Powergrid are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

50. Regardless of any provision in this Order or anything shown on the land plans, or contained in the book of reference, the undertaker shall not acquire any apparatus, or override any easement or other interest of Northern Powergrid otherwise than by agreement with Northern Powergrid, such agreement not to be unreasonably withheld or delayed.

51.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that Northern Powergrid’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Northern Powergrid to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided pursuant to a completed

easement for a tenure no less than exists to the apparatus being relocated or diverted, all to the reasonable satisfaction of Northern Powergrid in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Northern Powergrid 42 days' advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Northern Powergrid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Northern Powergrid the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker within the Order limits and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Northern Powergrid must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable and at the cost of the undertaker (subject to prior approval by the undertaker of its estimate of costs of doing so) use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Northern Powergrid to use its compulsory purchase powers to this end unless—

- (a) the undertaker has first used reasonable endeavours to acquire the relevant land, rights and/or interests and provided reasonable evidence of the same to Northern Powergrid in accordance with the measures set out in the plan (in default of agreement, the reasonableness of any such measures to be determined through arbitration under article 52 (arbitration)); and
- (b) the undertaker and Northern Powergrid agree (or in default of agreement, it is determined through arbitration under article 52 (arbitration)) that the promotion of compulsory purchase powers by the undertaker would be significantly more onerous than the exercise of Northern Powergrid's own compulsory powers.

(4) Any alternative apparatus to be constructed in land of the undertaker within the order limits under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Northern Powergrid and the undertaker or in default of agreement settled by arbitration in accordance with article 52 (arbitration).

(5) Northern Powergrid must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 52 (arbitration), and after the grant to Northern Powergrid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

52.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Northern Powergrid facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Northern Powergrid or in default of agreement settled by arbitration in accordance with article 52 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Northern Powergrid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and

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conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Northern Powergrid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

53.—(1) Not less than 48 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are within 15m of any above ground apparatus and / or to a depth of between 0.4m below ground level of apparatus (including conducting any activities whether intentionally or unintentionally, through for example ground or machinery collapse, which may affect Northern Powergrid’s apparatus or encroach on safety distances to live equipment) or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 51(2), the undertaker must submit to Northern Powergrid a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Northern Powergrid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Northern Powergrid is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Northern Powergrid under sub-paragraph (2) must be made within a period of 42 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If Northern Powergrid in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 47 to 52 apply as if the removal of the apparatus had been required by the undertaker under paragraph (2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 35 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to Northern Powergrid notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

54.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Northern Powergrid all reasonable and proper expenses costs or charges incurred by Northern Powergrid—

- (a) in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 51(2) including—
 - (i) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that it is agreed Northern Powergrid elects to use compulsory purchase powers to acquire any necessary rights under paragraph 51(3) all costs reasonably incurred as a result of such action;
 - (ii) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
 - (iii) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

- (iv) the approval of plans;
 - (v) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
 - (vi) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule); and
- (b) in assessing and preparing a design for its apparatus to address and accommodate the proposals of the undertaker whether or not the undertaker proceeds to implement those proposals or alternative or none at all,

provided that if it so prefers Northern Powergrid may abandon apparatus that the undertaker does not seek to remove in accordance with paragraph 51(1) having first decommissioned such apparatus.

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal and for the avoidance of doubt, if the apparatus removed under the provisions of this Part of this Schedule has nil value, no sum will be deducted from the amount payable under sub-paragraph (1) if in accordance with the provisions of this Part of this Schedule—

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 52 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Northern Powergrid by virtue of sub-paragraph (1) is to be reduced by the amount of that excess save where it is not possible on account of project time limits and/or supply issues to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs shall be borne by the undertaker.

(3) For the purposes of sub-paragraph (2)—

- (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 where such extension is required in consequence of the execution of any such works as are referred to in paragraph 51(2); 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.

(4) Where any payment falls due pursuant to paragraph 54 (1), NPG shall—

- (i) provide an itemised invoice or reasonable expenses claim to the Undertaker; and
- (ii) provide ‘reminder letters’ to the undertaker for payment to be made within the fifty days on the following days after the invoice or reasonable expenses claim to the undertaker—
 - (aa) 15 days (‘reminder letter 1’)
 - (bb) 29 days (‘reminder letter 2’)
 - (cc) 43 days (‘reminder letter 3’)

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(iii) commence debt proceedings to recover any unpaid itemised invoice or reasonable expenses claim on the fiftieth day of receipt of the same where payment has not been made.

55.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in in paragraph 51(2), or in consequence of the, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Schedule or any subsidence resulting from any of these works any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Northern Powergrid, or there is any interruption in any service provided by Northern Powergrid, or Northern Powergrid becomes liable to pay any amount to a third party as a consequence of any default, negligence or omission by the undertaker in carrying out the authorised works, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Northern Powergrid in making good such damage or restoring the supply; and
- (b) reimburse Northern Powergrid for any other expenses, loss, damages, penalty, proceedings, claims or costs incurred by or recovered from Northern Powergrid,

by reason or in consequence of any such damage or interruption or Northern Powergrid becoming liable to any third party.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Northern Powergrid, its officers, employees, servants, contractors or agents.

(3) Northern Powergrid must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Northern Powergrid must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which this paragraph applies. If requested to do so by the undertaker, Northern Powergrid must provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph (1). The undertaker shall only be liable under this paragraph for claims reasonably incurred by Northern Powergrid.

56. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Northern Powergrid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

57. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Northern Powergrid requires the removal of apparatus under paragraph 51 or otherwise or Northern Powergrid makes requirements for the protection or alteration of apparatus under paragraph 53, the undertaker shall use its reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the need to ensure the safe and efficient operation of Northern Powergrid's undertaking taking into account the undertaker's desire for the efficient and economic execution of the authorised development and the undertaker and Northern Powergrid shall use reasonable endeavours to co-operate with each other for those purposes.

58. If in consequence of an agreement reached in accordance with paragraph 56 or the powers granted under this Order the access to any apparatus or alternative apparatus is materially obstructed, the undertaker shall provide such alternative means of access to such apparatus or alternative apparatus as will enable Northern Powergrid to maintain or use the said apparatus no less effectively than was possible before such obstruction.

59. The plans submitted to Northern Powergrid by the undertaker pursuant to this Part of the Schedule must be sent to Northern Powergrid at property@northernpowergrid.com or such other address as Northern Powergrid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

60. Where practicable, the undertaker and Northern Powergrid will make reasonable efforts to liaise and co-operate in respect of information that is relevant to the safe and efficient construction operation and maintenance of the authorised development. Such liaison shall be carried out where any works are—

- (a) within 15m of any above ground apparatus and / or;
- (b) are to a depth of between 0 – 4m below ground level of apparatus.

PART 6

FOR THE PROTECTION OF NATIONAL HIGHWAYS LIMITED

Application etc.,

61.—(1) The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways.

(2) Except where expressly amended by the Order the operation of the powers and duties of National Highways or the Secretary of State under the 1980 Act, the 1984 Act, the 1991 Act, the Transport Act 2000, or Town and Country Planning (General Permitted Development) (England) Order 2015 shall continue to apply in respect of the exercise of all National Highways' statutory functions.

Interpretation

62.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with subparagraph (2) the latter prevail.

(2) In this Part of this Schedule—

“as built information” means one electronic copy of the following information—

- (a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document;
- (b) list of suppliers and materials used, as well as any relevant test results and CCTV surveys (if required to comply with DMRB standards);
- (c) product data sheets and technical specifications for all materials used;
- (d) as constructed information for any utilities discovered or moved during the works;
- (e) method statements for the works carried out;
- (f) in relation to road lighting, signs, and traffic signals any information required by Series 1300 and 1400 of the Specification for Highway Works or any replacement or modification of it;
- (g) organisation and methods manuals for all products used;
- (h) as constructed programme;
- (i) test results and records as required by the highway detailed design information and during construction phase of the project;

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- (j) a stage 3 road safety audit subject to any exceptions to the road safety audit standard as agreed by the undertaker and National Highways;
- (k) the health and safety file; and
- (l) such other information as is required by National Highways to be used to update all relevant databases and to ensure compliance with National Highway's Asset Data Management Manual as is in operation at the relevant time;

“the bond sum” means the sum equal to 200% of the cost of the carrying out the specified works (to include all costs plus any commuted sum) or such other sum agreed between the undertaker and National Highways;

“the cash surety” means the sum agreed between the undertaker and National Highways;

“commuted sum” means such sum calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 or any successor guidance, for which an estimate is to be provided prior to the commencement of the specified works, to be used to fund the future cost of maintaining the specified works;

“condition survey” means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the specified works;

“contractor” means any contractor or subcontractor appointed by the undertaker to carry out the specified works;

“defects period” means the period from the date of the provisional certificate to the date of the final certificate which shall be no less than 12 months from the date of the provisional certificate;

“reconducting detailed design information” means such of the following drawings specifications and calculations as are relevant to the development—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) road restraints systems and supporting road restraint risk appraisal process assessment;
- (d) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage Surveys standards for Highways;
- (e) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;
- (f) landscaping;
- (g) traffic signs and road markings;
- (h) stage 1 and stage 2 road safety audits and exceptions agreed;
- (i) topographical survey;
- (j) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it;
- (k) health and safety information including any asbestos survey required by GG105 or any successor document; and
- (l) other such information that may be required by National Highways to be used to inform the detailed design of the specified works;

“highway detailed design information” means such of the following drawings specifications and calculations as are relevant to the development—

- (a) site clearance details;

- (b) boundary, environmental and mitigation fencing;
- (c) road restraints systems and supporting road restraint risk appraisal process assessment;
- (d) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways
- (e) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;
- (f) pavement, pavement foundations, kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) traffic signal equipment and associated signal phasing and timing detail;
- (i) road lighting (including columns and brackets);
- (j) regime of California Bearing Ratio testing;
- (k) electrical work for road lighting, traffic signs and signals;
- (l) motorway communications as required by DMRB;
- (m) highway structures and any required structural approval in principle;
- (n) landscaping;
- (o) proposed departures from DMRB standards;
- (p) walking, cycling and horse riding assessment and review report;
- (q) stage 1 and stage 2 road safety audits and exceptions agreed;
- (r) utilities diversions;
- (s) topographical survey;
- (t) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it;
- (u) health and safety information including any asbestos survey required by GG105 or any successor document; and
- (v) other such information that may be required by National Highways to be used to inform the detailed design of the specified works;

“DBFO contract” means the contract between National Highways and the highway operations and maintenance contractor for the maintenance and operation of parts of the strategic road network which are within the Order Limits or any successor or replacement contract that may be current at the relevant time;

“DMRB” means the Design Manual for Roads and Bridges or any replacement or modification of it;

“final certificate” means the certificate relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways pursuant to paragraph 74;

“the health and safety file” means the file or other permanent record containing the relevant health and safety information for the authorised development required by the Construction Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

“highway operations and maintenance contractor” means the contractor appointed by National Highways under the DBFO contract;

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“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

“programme of works” means a document setting out the sequence and timetabling of the specified works;

“provisional certificate” means the certificate of provisional completion relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways in accordance with paragraph 70 when it considers the specified works are substantially complete and may be opened for traffic;

“road safety audit” means an audit carried out in accordance with the road safety audit standard;

“road safety audit standard” means DMRB Standard HD GG119 or any replacement or modification of it;

“road space booking” means road space bookings in accordance with National Highways’ Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy;

“Specification for Highways Works” means the specification for highways works forming part of the manual of contract documents for highway works published by National Highways and setting out the requirements and approvals procedures for work, goods or materials used in the construction, improvement or maintenance of the strategic road network;

“specified works” means so much of any work, including highway works and signalisation, authorised by this Order including any maintenance of that work, as is on, in, under or over the strategic road network for which National Highways is the highway authority;

“strategic road network” means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway;

“utilities” means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991; and

“winter maintenance” means maintenance of the road surface to deal with snow and ice.

(3) References to any standards, manuals, contracts, Regulations and Directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

General

63. In respect of any part of the strategic road network that is managed under a DBFO contract both National Highways and the highway operations and maintenance contractor shall have the benefit of this Part of Schedule 15 but for the purposes of any approvals required under this Part of Schedule 15 the undertaker shall liaise directly with National Highways.

64. Notwithstanding the limits of deviation permitted pursuant to article 5 (limits of deviation) of this Order, no works in carrying out, maintaining or diverting the authorised development may be carried out on, under or over the strategic road network at a distance within 5.5 metres vertically of the lowest point of the ground unless with the express consent of National Highways save in respect of any temporary oversailing equipment which falls below the 5.5m height temporarily during construction, provided that such equipment’s installed position is above 5.5m, where such express consent is not required.

65. References to any standards, manuals, contracts, regulations and directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

Works outside the Order limits

66. If the undertaker proposes to carry out works to the strategic road network that are outside of the Order Limits in connection with the authorised development, the undertaker must enter into an agreement with National Highways in respect of the carrying out of those works prior to the commencement of those works.

Prior approvals and security

67.—(1) In respect of any specified works being at least 5.5 metres above the surface of the strategic road network (including any temporary oversailing equipment which falls below the 5.5m height temporarily during construction, provided that such equipment's installed position is above 5.5m), such works must not commence until—

- (a) evidence that a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways;
- (b) the programme of works has been approved by National Highways;
- (c) the reconditioning detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—
 - (i) the detailed design information, including scaffolding to oversail the strategic road network, incorporating all recommendations and any exceptions approved by National Highways under sub-paragraph (a);
 - (ii) details of the proposed road space bookings;
 - (iii) the identity and suitability of the contractor and nominated persons;
 - (iv) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;
 - (v) information demonstrating that the walking, cycling and horse riding assessment and review process undertaken by the undertaker in relation to the specified works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding; and
- (d) where necessary, a scheme of traffic management has been submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time, unless otherwise agreed by National Highways.

(2) In respect of specified works save for those which fall under sub-paragraph (1), such works must not commence until—

- (a) a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways;
- (b) the programme of works has been approved by National Highways;
- (c) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—

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- (i) the highway detailed design information, incorporating all recommendations and any exceptions approved by National Highways under sub-paragraph (a);
 - (ii) details of the proposed road space bookings;
 - (iii) the identity and suitability of the contractor and nominated persons;
 - (iv) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;
 - (v) information demonstrating that the walking, cycling and horse riding assessment and review process undertaken by the undertaker in relation to the specified works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding; and
- (d) a scheme of traffic management has been submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;
 - (e) stakeholder liaison has taken place in accordance with the process for such liaison agreed between the undertaker and National Highways under sub-paragraph (c)(v) above;
 - (f) National Highways has approved the audit brief and CVs for all road safety audits and exceptions to items raised in accordance with the road safety audit standard;
 - (g) the undertaker has agreed the estimate of the commuted sum with National Highways;
 - (h) the scope of all maintenance operations (routine inspections, incident management, reactive and third party damage) to be carried out by the undertaker during the construction of the specified works (which must include winter maintenance) has been agreed in writing by National Highways;
 - (i) the undertaker has procured to National Highways collateral warranties in a form reasonably approved by National Highways from the contractor and designer of the specified works in favour of National Highways to include covenants requiring the contractor and designer to exercise all reasonable skill care and diligence in designing and constructing the specified works, including in the selection of materials, goods, equipment and plant; and
 - (j) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways considers will be affected by the specified works, has been agreed in writing by National Highways,
unless otherwise agreed by National Highways.
- (3) The undertaker must not exercise—
- (a) article 14 (temporary closure of streets, cycle tracks and public rights of way);
 - (b) article 19 (discharge of water);
 - (c) article 20 (protective works to buildings);
 - (d) article 21 (authority to survey and investigate the land);
 - (e) article 45(2) (Traffic regulation) of this Order,

over any part of the strategic road network without the consent of National Highways, and National Highways may in connection with any such exercise require the undertaker to provide details of any proposed road space bookings and/or submit a scheme of traffic management for National Highways' approval. The undertaker must provide 28 days' notice of the exercise of Article 45(1) (Traffic regulation) and National Highways may in connection with any such exercise require the undertaker to provide details of any proposed road space bookings and/or submit a scheme of traffic management for National Highways' approval.

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(4) National Highways must prior to the commencement of the specified works or the exercise of any power referenced in sub-paragraph (3) inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraph (1), (2), (3) or (4).

(5) Any approval of National Highways required under this paragraph—

- (a) must not be unreasonably withheld;
- (b) must be given in writing;
- (c) may be subject to any conditions as National Highways considers necessary;
- (d) in respect of any approval under sub-paragraph (1), must be given by the end of the period of 28 days, beginning with the date on which any request for approval has been made and if National Highways has not intimated disapproval of those works and the grounds of disapproval within that period, the undertaker may serve upon National Highways written notice requiring National Highways to intimate approval or disapproval within a further period of 28 days beginning with the date upon which National Highways receives written notice from the undertaker; and
- (e) in respect of any approval under sub-paragraph (2), shall be deemed to have been refused if neither given nor refused within 56 days of receipt of the information for approval or, where further particulars are requested by National Highways within 56 days of receipt of the information to which the request for further particulars relate.

(6) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways immediately and details of their suitability to deliver the specified works will be provided on request and in respect of any specified works under sub-paragraph (2), collateral warranties in a form agreed by National Highways will be provided.

(7) Any change to the detailed design of the specified works must be approved by National Highways in accordance with this paragraph.

Construction of the specified works

68.—(1) The undertaker must give National Highways 28 days' notice in writing of the date on which the specified works will start unless otherwise agreed by National Highways.

(2) The undertaker must comply with National Highways' road space booking procedures prior to and during the carrying out of the specified works and no specified works for which a road space booking is required shall commence without a road space booking having first been secured from National Highways.

(3) The specified works must be carried out by the undertaker to the satisfaction of National Highways in accordance with—

- (a) the relevant detailed design information and programme of works approved pursuant to paragraph 67(1) or 67(2) as appropriate or as subsequently varied by agreement between the undertaker and National Highways;
- (b) the DMRB, the Manual of Contract Documents for Highway Works, including the Specification for Highway Works, together with all other relevant standards as required by National Highways to include, inter alia; all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016 save to the extent that exceptions from those standards apply which have been approved by National Highways; and
- (c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same and in particular the undertaker, as client, must ensure that all client duties (as defined in the said regulations) are undertaken to the satisfaction of National Highways.

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(4) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(5) If any part of the specified works is constructed—

- (a) other than in accordance with the requirements of this Part of this Schedule; or
- (b) in a way that causes damage to the strategic road network or any other land of National Highways used for its undertaking,

National Highways acting properly and reasonably may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the reasonable satisfaction of National Highways.

(6) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways acting properly and reasonably may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(7) If within 28 days on which a notice under sub-paragraph (6) or sub-paragraph (7) is served on the undertaker (or in the event of there being, in the opinion of National Highways, a danger to road users, within such lesser period as National Highways may stipulate), the undertaker has failed to take the steps required by that notice, National Highways may carry out the steps required of the undertaker and may recover any expenditure incurred by National Highways in so doing such sum to be payable within 30 days of demand.

(8) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing.

(9) In constructing the specified works, the undertaker must at its own expense divert or protect all utilities and all agreed alterations and reinstatement of highway over existing utilities must be constructed to the reasonable satisfaction of National Highways.

(10) During the construction of the specified works approved under paragraph 67(2), the undertaker must carry out all maintenance (including winter maintenance) in accordance with the scope of maintenance operations agreed by National Highways pursuant to paragraph 67(2)(h) and the undertaker must carry out such maintenance at its own cost.

(11) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme pursuant to sub-paragraph 67(1)(b) or 67(2)(b) of this Part or suspends the carrying out of any specified work beyond a reasonable period of time and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.

Payments

69.—(1) The undertaker must pay to National Highways a sum equal to the whole of any reasonable and proper costs and expenses which National Highways incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works and in relation to any approvals sought under this Order, or otherwise incurred under this Part, including—

- (a) the checking and approval of the information required under paragraph 67;
- (b) the supervision of the specified works;

- (c) the checking and approval of the information required to determine approvals under this Order;
- (d) all costs in relation to the transfer of any land required for the specified works; and
- (e) all legal and administrative costs and disbursements incurred by National Highways in connection with the Order and sub-paragraphs (a)-(d); and
- (f) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs, together comprising “the NH costs”.

(2) The undertaker must pay to National Highways upon demand and prior to such costs being incurred the total costs that National Highways believe will be properly and necessarily incurred by National Highways in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the authorised development.

(3) National Highways must provide the undertaker with a schedule showing its estimate of the NH costs prior to the commencement of the specified works and the undertaker must pay to National Highways the estimate of the NH costs prior to commencing the specified works and in any event prior to National Highways incurring any cost but the absence of such estimate will not inhibit the commencement of the specified works by the undertaker.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, National Highways reasonably believes that the NH costs will exceed the estimated NH costs it may give notice to the undertaker of the amount that it believes the NH costs will exceed the estimate of the NH costs (the excess) and the undertaker must pay to National Highways within 30 days of the date of the notice a sum equal to the excess.

(5) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above within 91 days of the issue of the provisional certificate issued pursuant to paragraph 70(4).

(6) Within 30 days of the issue of the final account—

- (a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it;
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(7) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 3% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

Provisional Certificate

70.—(1) Following any closure or partial closure of any of the strategic road network for the purposes of carrying out the specified works, National Highways will carry out a site inspection to satisfy itself that the strategic road network is, in its opinion, safe for traffic and the undertaker must comply with any requirements of National Highways prior to reopening the strategic road network.

(2) As soon as the undertaker considers that the provisional certificate may be properly issued it must apply to National Highways for the provisional certificate.

(3) Following an application for a provisional certificate, National Highways must as soon as reasonably practicable—

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- (a) inspect the specified works; and
 - (b) provide the undertaker with a written list of works that are required for the provisional certificate to be issued or confirmation that no further works are required for this purpose.
- (4) When—
- (a) a stage 3 road safety audit for the specified works has been carried out and all recommendations raised including remedial works have (subject to any exceptions agreed) been approved by National Highways;
 - (b) the specified works incorporating the approved remedial works under sub-paragraph (4) (a) and any further works notified to the undertaker pursuant to sub-paragraph (3)(b) have been completed to the satisfaction of National Highways;
 - (c) the as built information has been provided to National Highways; and
 - (d) in respect of any specified works captured by paragraph 67(2), the undertaker has paid the commuted sum to National Highways,

National Highways must issue the provisional certificate.

(5) On the issue of the provisional certificate the bond sum (if applicable) shall be reduced to 20% of the total bond sum save insofar as any claim or claims have been made against the bond before that date in which case National Highways will retain a sufficient sum to ensure it does not have to meet any costs for or arising from the specified works.

(6) The undertaker must submit a stage 4 road safety audit as required by and in line with the timescales stipulated in the road safety audit standard. The undertaker must comply with the findings of the stage 4 road safety audit and must pay all costs of and incidental to such and provide updated as-built information to National Highways.

Opening

71. The undertaker must notify National Highways not less than 56 days in advance of the intended date of opening to the public of the strategic road network and the undertaker must notify National Highways of the actual date the strategic road network will be opened to the public within 14 days of that date.

Final condition survey

72.—(1) In respect of any specified works approved under paragraph 67(1) or 67(2)—

(2) The undertaker must, as soon as reasonably practicable after making its application for a provisional certificate pursuant to paragraph 70(2), arrange for the highways structures and assets that were the subject of the condition survey to be re-surveyed and must submit the re-survey to National Highways for its approval. The re-survey will include a renewed geotechnical assessment required by DMRB CD622 if the specified works include any works beneath the strategic road network.

(3) If the re-survey carried out pursuant to sub-paragraph (1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways for its approval in writing and the undertaker must carry out the remedial works at its own cost and in accordance with the scheme submitted.

(4) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, National Highways may carry out the steps required of the undertaker and may recover any expenditure it reasonably incurs in so doing.

(5) National Highways may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to sub-paragraph (1) give notice in writing that National Highways will remedy

any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing.

(6) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

Defects Period

73.—(1) In respect of any specified works approved under paragraph 67(2)—

(2) The undertaker must at its own expense remedy any defects in the strategic road network as are reasonably required by National Highways to be remedied during the defects period. All identified defects must be remedied in accordance with the following timescales—

- (a) in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of National Highways);
- (b) in respect of matters which National Highways considers to be serious defects or faults, within 14 days of receiving notification of the same; and
- (c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same.

(3) Following the expiry of the defects period National Highways has responsibility for routine maintenance of the strategic road network save for any soft landscaping works which must be established and which must thereafter be maintained for a period of 3 years by and at the expense of the undertaker.

Final Certificate

74.—(1) In respect of any specified works approved under paragraph 67(2)—

- (a) the undertaker must apply to National Highways for the final certificate no sooner than 12 months from the date of the provisional certificate.
- (b) following receipt of the application for the final certificate, National Highways must as soon as reasonably practicable—
 - (i) inspect the strategic road network; and
 - (ii) provide the undertaker with a written list of any further works required to remedy or make good any defect or damage in the strategic road network or confirmation that no such works are required for this purpose.
- (c) The undertaker must carry out such works notified to it pursuant to sub-paragraph 67(2).
- (d) When National Highways is satisfied that—
 - (i) any defects or damage arising from defects during the defects period and any defects notified to the undertaker pursuant to sub-paragraph 67(2) and any remedial works required as a result of the stage 4 road safety audit have been made good to the satisfaction of National Highways; and
 - (ii) the NH costs have been paid to National Highways in full;
 - (iii) National Highways must issue the final certificate after which the bond shall be released in full.
- (e) The undertaker must pay to National Highways within 30 days of demand the costs reasonably incurred by National Highways in identifying the defects and supervising and inspecting the undertaker's work to remedy the defects that it is required to remedy pursuant to these provisions.

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(2) In respect of any specified works approved under paragraph 67(1), the undertaker may apply for a final certificate at any time following issue of the provisional certificate, whereupon National Highways must issue a final certificate forthwith.

Security

75.—(1) In respect of any specified works approved under paragraph 67(2), the works must not commence until—

(2) the undertaker procures that the specified works are secured by a bond from a bondsman first approved by National Highways in the agreed form between the undertaker and National Highways to indemnify National Highways against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of the exercise of the powers under this Order and the specified works under the provisions of this Part of this Schedule provided that the maximum liability of the bond must not exceed the bond sum; and

(3) the undertaker has provided the cash surety which may be utilised by National Highways in the event of the undertaker failing to meet its obligations to make payments under paragraph 69 or to carry out works the need for which arises from a breach of one or more of the obligations of the undertaker under the provisions of this Part of this Schedule.

Insurance

76. Prior to the commencement of the specified works the undertaker must effect public liability insurance with an insurer in the minimum sum of £10,000,000.00 (ten million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of specified works or use of the strategic road network by the undertaker.

Indemnity

77. The undertaker fully indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways directly arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 30 days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways.

Maintenance of the specified works

78.—(1) The undertaker must, prior to the commencement of any works of maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required shall commence without a road space booking having first been secured (save for in the event of an emergency situation).

(3) The undertaker must comply with any requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 7 days' in advance of the planned commencement date of the maintenance works.

(4) The provisions of paragraph 71 shall apply to the opening of any part of the strategic road network following occupation of any road space under this paragraph.

Land

79.—(1) Following the issue of a final certificate pursuant to paragraph 74, National Highways may serve notice on the undertaker that it wishes to take a freehold transfer of land within the extent of strategic road network boundary which is not in the ownership of National Highways but has been acquired by the undertaker for the purposes of carrying out the specified works approved under paragraph 67(2).

(2) If the undertaker receives notice under sub-paragraph (1) then the undertaker must effect a freehold transfer of the land which is the subject of the notice and complete such transfer as soon as reasonably practicable at no cost to National Highways.

(3) The undertaker must not under the powers of this Order—

(a) acquire freehold land forming part of; and/or

(b) seek to impose or extinguish any restrictive covenants over

any part of the strategic road network or extinguish any existing rights of National Highways in respect of land owned by National Highways used for its undertaking and any third party property used for National Highways' undertaking, except with the consent of National Highways by written request to legalservicesinbox@nationalhighways.co.uk.

(4) Where any land or interest is proposed to be acquired for the benefit of National Highways, the undertaker must, unless otherwise agreed by National Highways, exercise article 22 (compulsory acquisition of land) and article 25 (compulsory acquisition of rights) as applied by articles 32 (modification of Part 1 of the 1965 Act) and article 33 (application of the 1981 Act) of this Order to directly vest in National Highways any such land or interest.

Arbitration

80. Any dispute under this Part of this Schedule shall be settled by arbitration in accordance with article 52 (arbitration).

PART 7

FOR THE PROTECTION OF NATIONAL GAS TRANSMISSION PLC AS GAS UNDERTAKER

Application

81.—(1) For the protection of National Gas Transmission PLC (“NGT”) as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and NGT.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and NGT, where the benefit of this Order is transferred or granted to another person under article 7 (Consent to transfer benefit of the Order)—

(a) any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between NGT and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to NGT on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to NGT (but without prejudice to 91(4)(b)).

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Interpretation

82. In this Part of this Schedule—

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

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: (i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance shall include (without limitation)—

- (a) a waiver of subrogation and an indemnity to principal clause in favour of NGT; or
- (b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either—

- (a) evidence provided to NGT’s reasonable satisfaction that the undertaker has a tangible net worth of not less than £100,000,000.00 (One Hundred Million Pounds) (or an equivalent financial measure); or
- (b) bank bond or letter of credit from an acceptable credit provider in favour of NGT to cover the undertaker’s liability to NGT for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to NGT);

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of NGT to enable NGT to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by NGT for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of NGT for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

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“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by NGT (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for NGT’s approval a ground mitigation scheme;

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

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

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of NGT: construct, use, repair, alter, inspect, renew or remove the apparatus;

“NGT” means National Gas Transmission PLC (Company Number 02006000) whose registered office is at National Grid House Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Network Code” means the network code prepared by NGT pursuant to Standard Special Condition A11(3) of its Gas Transporter’s Licence, which incorporates the Uniform Network Code, as defined in Standard Special Condition A11(6) of NGT’s Gas Transporter’s Licence, as both documents are amended from time to time;

“Network Code Claims” means—

- (a) any claim made against NGT by any person or loss suffered by NGT under the Network Code arising out of any failure by NGT to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the gas national transmission system as a result of the authorised works; or
- (b) any costs and/or expenses incurred by NGT as a result of it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the gas national transmission system which has arisen as a direct result of the authorised works;

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

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by NGT acting reasonably;

“specified works” means any of the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 87(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 87(2) or otherwise; and/or
- (c) includes any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (NGT’s policies for safe working in proximity to gas apparatus “Specification for safe working

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in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW/22) to the extent that such activities may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 87(2) or otherwise.

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

On Street Apparatus

83. Except for paragraphs 84 (apparatus of NGT in affected streets), 89 (retained apparatus: protection), 90 (expenses) and 91 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of NGT, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and NGT are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of NGT in affected streets

84.—(1) Where any street is permanently stopped up under any article of this Order, if NGT has any apparatus in the street or accessed via that street NGT has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to NGT, or procure the granting to NGT of, legal easements reasonably satisfactory to NGT in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph affects any right of the undertaker or NGT to require the removal of that apparatus or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works.

(2) Notwithstanding the temporary closure or diversion of any highway under the powers of article 14 (temporary closure of streets, cycle tracks and public rights of way), NGT is at liberty at all times to take all necessary access across any such closed highway and to execute and do all such works and things in, upon or under any such highway as are reasonably necessary to carry out at the time of the temporary closure to enable it to maintain any apparatus which at the time of the closure or diversion was in that highway.

Protective works to buildings

85. The undertaker, in the case of the powers conferred by article 20 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of NGT.

Acquisition of land

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

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the specified works (or in such other timeframe as may be agreed between NGT and the undertaker) that will cause any conflict with or breach the terms of any easement or other legal or land interest of NGT or affect the provisions of any enactment or agreement regulating the relations between NGT and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as NGT reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between NGT and the undertaker acting reasonably and which must be no less favourable on the whole to NGT unless otherwise agreed by NGT, and it will be the responsibility of the undertaker to procure and/or secure the consent and

entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between NGT and the undertaker the undertaker and NGT agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by NGT and/or other enactments relied upon by NGT as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by NGT under paragraph 89 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

87.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of NGT to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of NGT in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to NGT advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order NGT reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to NGT to its satisfaction (taking into account paragraph 88(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, NGT may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for NGT to use its compulsory purchase powers to this end unless it elects to so do.

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

(5) NGT must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to NGT of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) The provisions of this paragraph 87 only apply to the extent that the apparatus to be removed by the undertaker forms part of NGT's undertaking and has not already been abandoned

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or decommissioned by NGT and any existing rights in respect of the abandoned or decommissioned apparatus have been surrendered.

Facilities and rights for alternative apparatus

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

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to NGT than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 95 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to NGT as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection

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

(2) In relation to specified works the plan to be submitted to NGT under sub-paragraph (1) must include a method statement and describe—

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

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

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

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (6); and
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, NGT may require, within 21 days of submission of a plan by the undertaker under sub-paragraph (1), such modifications to be made to the plans as is reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (5), as approved or as amended from

time to time by agreement between the undertaker and NGT and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by NGT for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and NGT will be entitled to watch and inspect the execution of those works.

(7) Where NGT requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to NGTs' satisfaction prior to the commencement of any specified works for which protective works are required and NGT must give notice of its requirement for such works within 21 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If NGT in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1), (2), (3), (6) and (7) apply as if the removal of the apparatus had been required by the undertaker under paragraph 87(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to NGT notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub paragraph (11) at all times;

(11) At all times when carrying out any specified works NGT must comply with NGT's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that NGT retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 90.

Expenses

90.—(1) Save where otherwise agreed in writing between NGT and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to NGT within 30 days of receipt of an itemised VAT invoice or claim from NGT all charges, costs and expenses or reasonably and properly incurred by NGT in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which is required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by NGT in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by NGT as a consequence of NGT—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 87(3); or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting NGT;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

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- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
 - (d) the approval of plans;
 - (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
 - (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.
- (2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.
- (3) If in accordance with the provisions of this Part of this Schedule—
- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
 - (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,
- and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 95 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to NGT by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.
- (4) For the purposes of sub-paragraph (3)—
- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
 - (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.
- (5) Any amount which apart from this sub-paragraph would be payable to NGT in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on NGT any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

91.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in direct consequence of the construction of any works authorised by or in direct consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such authorised works, including works carried out by the undertaker under this Part of this Schedule or any subsidence resulting directly from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which

is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of NGT, or there is any loss resulting directly from interruption in any service provided, or in the supply of any goods or energy, by NGT, or NGT becomes liable to pay any amount to any third party, the undertaker will—

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

(2) For the avoidance of doubt, these indemnities shall not apply to penalties; or any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working) arising from any such damage or interruption, which is not reasonably foreseeable.

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

(4) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of NGT, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by NGT as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (consent to transfer benefit of the Order) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-paragraph will be subject to the full terms of this Part of this Schedule including this paragraph 91; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

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

(6) NGT must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(7) NGT must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within NGT’s reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of NGT’s control and if reasonably requested to do so by the undertaker NGT must provide an explanation of how the claim has been minimised, where relevant.

(8) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by NGT or in respect of which NGT has an easement or

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wayleave for its apparatus or any other interest or to carry out any works within 15 metres of NGT's apparatus until the following conditions are satisfied—

- (a) unless and until NGT is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and NGT has confirmed the same to the undertaker in writing; and
- (b) unless and until NGT is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to NGT that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and NGT has confirmed the same in writing to the undertaker.

(9) In the event that the undertaker fails to comply with (7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent NGT from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

92. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between NGT and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and NGT in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

93.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or NGT requires the removal of apparatus under paragraph 87(2) or NGT makes requirements for the protection or alteration of apparatus under paragraph 89, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of NGT's undertaking and NGT shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever NGT's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

94. Subject to paragraph 84, if in consequence of the agreement reached in accordance with paragraph 86(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable NGT to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

95. Any difference or dispute arising between the undertaker and NGT under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and NGT, be determined by arbitration in accordance with article 52 (arbitration).

Notices

96. Notwithstanding article 49 (Service of Notices), any plans submitted to NGT by the undertaker pursuant to paragraph 89 must be submitted to <https://lsbud.co.uk/> or such other address as NGT may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 8

FOR THE PROTECTION OF NORTHERN GAS NETWORK'S APPARATUS

Application

97. For the protection of the statutory undertaker the following provisions shall, unless otherwise agreed in writing between the undertaker and the statutory undertaker, have effect.

Interpretation

98. In this Part—

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

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of the Statutory undertaker to enable the Statutory undertaker to fulfil its statutory functions in a manner no less efficient than previously;

“commence” has the same meaning as in Schedule 3 of the Order;

“functions” includes powers and duties;

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

“maintain” and “maintenance” shall include the ability and right to do any of the following: construct, use, repair, alter, inspect, renew or remove;

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

“statutory undertaker” means Northern Gas Networks Limited (Company Number 05167070) whose registered office is at 1100 Century Way, Colton, Leeds, LS15 8TU;

99. Except for paragraphs 100 (apparatus of Statutory undertaker in affected streets), 104 (retained apparatus: protection) and 105 (expenses), this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the statutory undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of Statutory undertaker in affected streets

100. Where any street is temporarily closed or diverted under the powers of article 14 (temporary closure of streets, cycle tracks and public rights of way) of this Order, the Statutory undertaker shall be at liberty at all times to take all necessary access across any such closed highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the closure or diversion was in that highway, subject always to the undertaker's unimpeded ability to carry out the Works.

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Acquisition of land

101. Regardless of any provision in the Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker shall not acquire any apparatus owned by the Statutory undertaker or override any easement or other interest of the statutory undertaker otherwise than by agreement.

Removal or diversion of apparatus

102.—(1) If the undertaker acquires any interest in land in which the statutory undertaker's apparatus is placed, that apparatus shall not be removed and any right of a statutory undertaker to maintain that apparatus in that land shall not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the statutory undertaker provided that the statutory undertaker shall use all reasonable endeavours to construct and install such alternative apparatus as soon as reasonably practicable.

(2) If, for the purpose of executing any Works, the undertaker requires the removal or diversion of any apparatus, it shall give to the statutory undertaker written notice of that requirement, together with a plan of the Works and the removal or diversion works proposed, the proposed position of the alternative apparatus, and the proposed timeline for the works. The statutory undertaker shall reasonably approve these details within 28 days of receipt of such plan. The undertaker shall afford to the statutory undertaker to their reasonable satisfaction the necessary facilities and rights for—

- (a) the construction of alternative apparatus in other land either within the order land or otherwise; and
- (b) the maintenance of that apparatus

and the statutory undertaker shall complete the works using its reasonable endeavours to meet the undertaker's proposed timeline, and in any event without undue delay, in accordance with the details provided by the undertaker under this sub-paragraph or as otherwise reasonably agreed by the Undertaker.

(3) If, in consequence of the Works carried out by the undertaker, the statutory undertaker reasonably needs to remove or divert any of its apparatus, it shall without undue delay give the undertaker written notice of that requirement, together with a plan of the work proposed, the proposed position of the alternative apparatus and the proposed timeline for the works. The undertaker shall reasonably approve these details and shall afford to the statutory undertaker to their reasonable satisfaction the necessary facilities and rights for—

- (a) the construction of alternative apparatus; and
- (b) the maintenance of that apparatus

and the statutory undertaker shall complete the works without undue delay and in accordance with the approved details. If agreement cannot be reached the statutory undertaker reserves the right to terminate the Deed with immediate effect without liability.

(4) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraphs (2) and (3), the statutory undertaker shall, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed, but this obligation shall not require the statutory undertaker to use its compulsory purchase powers unless it elects to so do.

(5) Paragraph 105 (Expenses) of this Schedule applies to removal or diversions works under this paragraph 102, but the statutory undertaker must provide to the undertaker a reasonable cost estimate for works that it proposes to carry out for the undertaker's approval.

Facilities and rights for alternative apparatus

103.—(1) Where, in accordance with the provisions of this Schedule, the undertaker affords to the statutory undertaker facilities and rights for the construction and maintenance in the undertaker's land of alternative apparatus in substitution for apparatus to be removed, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the undertaker and the statutory undertaker and shall be no less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed, unless otherwise reasonably agreed.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus in the undertaker's land are less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed, then the undertaker and the statutory undertaker shall agree appropriate compensation for the extent to which the new facilities and rights render the statutory undertaker less able to effectively carry out its undertaking or require it to do so at greater cost. If the amount of compensation cannot be agreed, then either the undertaker or the statutory undertaker may refer the matter to arbitration as per article 52 (arbitration) of this Order.

Retained apparatus: protection

104.—(1) Not less than 28 days before commencing the execution of any Works that will or may affect any apparatus, the removal or diversion of which has not been required by the undertaker under paragraph 102(2) or otherwise or by the statutory undertaker under paragraph 102(3), the undertaker shall submit to the statutory undertaker in question a plan showing the Works and the apparatus.

(2) In relation to works which will or may be situated on, over, under or within 15 metres measured in any direction of any apparatus, or (wherever situated) impose any load directly upon any apparatus or involve embankment works within 15 metres of any apparatus, the plan to be submitted to the statutory undertaker under sub-paragraph (1) shall be detailed including a method statement and describing—

- (a) the exact position of the Works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made close to (within 15 metres of) any apparatus.

(3) The undertaker shall not commence the construction or renewal of any works to which sub-paragraphs (1) or (2) apply until the statutory undertaker has given written approval of the plan so submitted.

(4) Any approval of the statutory undertaker required under sub-paragraph (3)—

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

(5) In relation to works to which sub-paragraph (2) applies, the statutory undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its system against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under the Order to which this paragraph 104 applies shall be executed only in accordance with the relevant plan, notified under sub-paragraph (1) and approved (with conditions,

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if applicable) under sub-paragraph (4), as amended from time to time by agreement between the undertaker and the statutory undertaker. The statutory undertaker shall be entitled to watch and inspect the execution of those Works.

(7) Where the statutory undertaker requires any protective works or subsidence monitoring to be carried out either by itself or by the undertaker (whether of a temporary or permanent nature), the statutory undertaker shall give the undertaker notice of such requirement in its approval under sub-paragraph (3), and—

- (a) such protective works shall be carried out to the statutory undertakers' reasonable satisfaction prior to the carrying out of the relevant part of the Works;
- (b) ground subsidence monitoring shall be carried out in accordance with a scheme approved by the statutory undertaker (such approval not to be unreasonably withheld or delayed), which shall set out—
 - (i) the apparatus which is to be subject to such monitoring;
 - (ii) the extent of land to be monitored;
 - (iii) the manner in which ground levels are to be monitored;
 - (iv) the timescales of any monitoring activities; and
 - (v) the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for the statutory undertaker's approval a ground subsidence mitigation scheme in respect of such subsidence;
- (c) if a subsidence mitigation scheme is required, it shall be carried out as approved by the statutory undertaker (such approval not to be unreasonably withheld or delayed).

(8) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of the relevant Works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(9) The undertaker shall not be required to comply with sub-paragraphs (1) or (2) where it needs to carry out emergency works as defined in the 1991 Act, but in that case it shall give to the statutory undertaker notice as soon as is reasonably practicable and a plan of those works shall comply with the other requirements in this paragraph insofar as is reasonably practicable in the circumstances, provided that it always complies with sub-paragraph (10).

(10) At all times when carrying out any works authorised under the Order that may or will affect the apparatus, the undertaker shall comply with the statutory undertaker's policies for safe working in proximity to gas apparatus including the "Specification for safe working in the vicinity of Northern Gas Networks, Gas pipelines and associated installation requirements for third parties "NGN/SPSSW22" and the Health and Safety Executive guidance document "HS(G)47 Avoiding Danger from underground services".

Expenses

105.—(1) Subject to the following provisions of this paragraph, the undertaker shall repay to the statutory undertaker as soon as reasonably practicable all charges, costs and expenses reasonably and properly incurred by the statutory undertaker in, or in connection with, the inspection, removal or diversion, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus which may be reasonably required and necessary in consequence of the execution of the Works, including without limitation—

- (a) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus, including without limitation in the event that the statutory undertaker elects to use compulsory purchase powers to acquire any necessary rights under 102(4);

- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any works carried out pursuant to this Schedule; and
- (g) any statutory loss of supply payments under the 'Guaranteed Standards of Service' regime that the statutory undertaker may incur in consequence of the works, but in the event that such payments are likely to become payable, the statutory undertaker shall give the undertaker notice as soon as reasonably practicable of the payments and the likely amount.

(2) The statutory undertaker shall use its reasonable endeavours to mitigate in whole or in part, and in any event to minimise, any expenses capable of being claimed under sub-paragraph (1). If requested to do so by the undertaker, the statutory undertaker shall provide an explanation of how the claimed expenses have been minimised. The undertaker shall only be liable to pay expenses that have been reasonably incurred.

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

(4) If in accordance with the provisions of this part of this Schedule—

- (a) apparatus 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 situated,

then, if this incurs greater expense than would have been incurred by a like-for-like (or as close as practicable to like-for like) replacement at the same depth, the undertaker shall not be liable for this additional expense.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus.

Enactments and agreements

106. Nothing in this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the undertaker and the statutory undertaker in respect of any apparatus laid or erected in land belonging to the undertaker.

Co-operation

107. Where in consequence of the proposed construction of any of the Works the undertaker or the statutory undertaker requires the removal of apparatus in accordance with the provisions of these Protective Provisions, each party shall use all reasonable endeavours to co-ordinate the execution of such works in the interests of safety and the efficient and economic execution of such works, taking into account the absolute need to ensure the safe and efficient operation of the statutory undertaker's undertaking and its apparatus and the safe and efficient operation of the undertaker's apparatus.

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Access

108. If in consequence of the powers granted under the Order, the access to any apparatus is materially obstructed, the undertaker shall provide such alternative means of access to such apparatus as will enable the statutory undertaker to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

109. Any difference or dispute arising between the undertaker and the statutory undertaker under this Schedule shall, unless otherwise agreed in writing between the undertaker and that statutory undertaker, be determined by arbitration in accordance with the relevant article of the Order.

Works falling outside of development authorised by the Order

110. Nothing in this schedule shall require the undertaker to carry out works, or require the undertaker to enable the statutory undertaker to carry out works, that are not authorised by the Order. The statutory undertaker shall not request any alteration, diversion, protective work or any other work which is not authorised to be carried out under the Order (but for the avoidance of doubt, it may elect to carry out such works itself under any other planning permission, permitted development rights or statutory powers (including those of compulsory acquisition) available to it).

Cathodic protection testing

111. Where in the reasonable opinion of either party—

- (a) the Authorised Development might interfere with the existing cathodic protection forming part of the apparatus; or
- (b) the apparatus might interfere with the proposed or existing cathodic protection forming part of the Authorised Development,

the parties shall co-operate in undertaking the tests which they consider reasonably necessary for ascertaining the nature and extent of such interference and measures for providing or preserving cathodic protection.

SCHEDULE 16

Article 51

AMENDMENT OF LOCAL LEGISLATION

PART 1

LOCAL ENACTMENTS

<i>Year</i>	<i>Chapter</i>	<i>Title</i>	<i>Section</i>
1980	XIV	West Yorkshire Act	9 and 44

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PART 2 BYELAWS

(1) <i>Title</i>	(2) <i>Byelaw to be disapplied</i>
Byelaws for the good rule and government of the City of Leeds and for the prevention of nuisances made by the Council of the City in pursuance of Section 235 of the Local Government Act 1972	5, 10, 11 and 17.

SCHEDULE 17

Article 46

HEDGEROWS WHICH MAY BE REMOVED

(1) <i>Hedgerow</i>	(2) <i>Grid reference</i>	(3) <i>Importance</i>	(4) <i>Sheet number on Figure 8.6(B) (Volume 5, Document 5.4.8(C))</i>
HE001	SE 57926 60107	Important	Sheet 1
HE002	SE 56766 59769	Important	Sheet 1
HE003	SE 56528 59909	Important	Sheet 1
HE004	SE 56383 59858	Important	Sheet 1
HE005	SE 56375 59877	Important	Sheet 1
HE006	SE 56228 59999	Important	Sheet 1
HE007	SE 56613 59612	Important	Sheet 1
HE008	SE 56395 59455	Important	Sheet 1
HE009	SE 56466 59439	Important	Sheet 1
HE010	SE 56594 59226	Important	Sheet 1
HE011	SE 56592 58923	Important	Sheet 1
HE012	SE 56590 58905	Important	Sheet 1
HE013	SE 56286 58301	Important	Sheet 1
HE014	SE 55984 57930	Important	Sheet 2
HE015	SE 55423 57809	Not Important	Sheet 2
HE016	SE 55821 57613	Important	Sheet 2
HE019	SE 55941 56647	Not Important	Sheet 2
HE020	SE 56054 56443	Not Important	Sheet 3
HE021	SE 56095 56337	Not Important	Sheet 3

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<i>(1) Hedgerow</i>	<i>(2) Grid reference</i>	<i>(3) Importance</i>	<i>(4) Sheet number on Figure 8.6(B) (Volume 5, Document 5.4.8(C))</i>
HE022	SE 56199 55768	Not Important	Sheet 3
HE023	SE 56030 56061	Not Important	Sheet 3
HE024	SE 55311 56091	Important	Sheet 3
HE025	SE 55430 56997	Important	Sheet 2
HE026	SE 55425 57100	Important	Sheet 2
HE027	SE 55396 57127	Important	Sheet 2
HE028	SE 55402 57199	Important	Sheet 2
HE029	SE 55176 57051	Not Important	Sheet 2
HE030	SE 54714 56776	Important	Sheet 2
HE031	SE 54195 56282	Important	Sheet 3
HE032	SE 54062 56250	Important	Sheet 3
HE033	SE 53845 55776	Important	Sheet 3
HE034	SE 54044 55433	Important	Sheet 3
HE035	SE 54105 55306	Important	Sheet 3
HE036	SE 54661 54929	Not Important	Sheet 3
HE037	SE 54767 54889	Important	Sheet 3
HE038	SE 54897 54831	Important	Sheet 3
HE039	SE 54915 54811	Important	Sheet 3
HE040	SE 52567 56254	Important	Sheet 4
HE041	SE 52393 56293	Important	Sheet 4
HE042	SE 52378 56407	Important	Sheet 4
HE043	SE 52327 56401	Important	Sheet 4
HE044	SE 52297 56319	Important	Sheet 4
HE045	SE 51974 56589	Not Important	Sheet 4
HE046	SE 51492 56433	Not Important	Sheet 4
HE047	SE 51418 56409	Important	Sheet 4
HE048	SE 51315 56313	Important	Sheet 4
HE049	SE 50992 56234	Important	Sheet 4
HE050	SE 51002 56207	Not Important	Sheet 4
HE051	SE 51192 56053	Important	Sheet 4
HE052	SE 51118 55837	Important	Sheet 4

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<i>(1) Hedgerow</i>	<i>(2) Grid reference</i>	<i>(3) Importance</i>	<i>(4) Sheet number on Figure 8.6(B) (Volume 5, Document 5.4.8(C))</i>
HE053	SE 514925 5393	Important	Sheet 4
HE054	SE 51147 54638	Not Important	Sheet 5
HE055	SE 50777 54702	Important	Sheet 5
HE056	SE 51028 54457	Important	Sheet 5
HE057	SE 51041 54448	Important	Sheet 5
HE058	SE 50672 54388	Important	Sheet 5
HE059	SE 50391 53678	Important	Sheet 5
HE060	SE 50323 53469	Not Important	Sheet 5
HE061	SE 49062 52067	Important	Sheet 6
HE062	SE 49050 52058	Important	Sheet 6
HE063	SE 48992 52055	Important	Sheet 6
HE064	SE 49251 51962	Important	Sheet 6
HE065	SE 49224 51921	Important	Sheet 6
HE066	SE 49481 51810	Important	Sheet 6
HR067	SE 49045 50836	Important	Sheet 6
HE068	SE 49062 50805	Important	Sheet 6
HE069	SE 48914 50331	Not Important	Sheet 7
HE070	SE 48638 48964	Important	Sheet 7
HE071	SE 48925 48439	Important	Sheet 7
HE072	SE 47954 46665	Important	Sheet 8
HE073	SE 48452 46027	Important	Sheet 8
HE074	SE 47649 45031	Important	Sheet 8
HE075	SE 47612 45002	Important	Sheet 8
HE076	SE 47501 44507	Important	Sheet 8
HE077	SE 46923 42815	Important	Sheet 9
HE078	SE 46856 42552	Important	Sheet 9
HE079	SE 46266 42420	Important	Sheet 9
HE080	SE 46467 42212	Important	Sheet 9
HE081	SE 46287 41936	Important	Sheet 9
HE082	SE 46407 41818	Not Important	Sheet 9
HE083	SE 46401 41805	Not Important	Sheet 9

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<i>(1) Hedgerow</i>	<i>(2) Grid reference</i>	<i>(3) Importance</i>	<i>(4) Sheet number on Figure 8.6(B) (Volume 5, Document 5.4.8(C))</i>
HE084	SE 45808 41712	Not Important	Sheet 9
HE085	SE 45796 41720	Important	Sheet 9
HE086	SE 45430 41955	Important	Sheet 9
HE087	SE 45627 40876	Important	Sheet 9
HE088	SE 46432 38155	Important	Sheet 10
HE089	SE 46114 38043	Important	Sheet 10
HE090	SE 46154 37942	Important	Sheet 10
HE091	SE 46462 37988	Important	Sheet 10
HE092	SE 46386 37801	Important	Sheet 10
HE093	SE 46733 36981	Important	Sheet 10
HE094	SE 46722 36956	Important	Sheet 10
HE095	SE 46976 35119	Important	Sheet 11
HE096	SE 47840 33184	Important	Sheet 12
HE097	SE 47043 32182	Important	Sheet 12
HE098	SE 47172 30889	Important	Sheet 13
HE099	SE 47219 30876	Important	Sheet 13
HE100	SE 47168 30858	Important	Sheet 13
HE101	SE 48403 30402	Important	Sheet 13
HE102	SE 47535 29902	Not Important	Sheet 13
HE103	SE 47553 29662	Not Important	Sheet 13
HE104	SE 48421 29425	Important	Sheet 13
HE105	SE 48437 29327	Important	Sheet 13
HE106	SE 48625 29000	Important	Sheet 13

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises National Grid to undertake works to the national electricity transmission system between the existing substation at Monk Fryston to the existing substation at Osbaldwick.

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The proposed development is required to provide sufficient transmission capacity to enable the connection of new electricity generation projects in the region, and to carry out all associated works. The Order also makes provision in connection with the maintenance of the authorised development. The Order permits National Grid to acquire compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 48 (certification of plans, etc.) of this Order may be inspected free of charge during working hours at the offices of National Grid Electricity Transmission plc, 1-3 Strand, London WC2N 5EH.