

SCHEDULE 4

Article 2

Model provisions in respect of requirements

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Explanatory Note

Interpretation

1. In this Schedule—

“the 1990 Act” means the Town and Country Planning Act 1990;

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“the 2008 Act” means the Planning Act 2008;

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

“the authorised project” means the authorised development and the ancillary works authorised by this Order;

“the code of construction practice” means the code of construction practice agreed by *[insert relevant body]* on *[insert date]*;

“the environmental document” means the document certified as the environmental document by the decision-maker for the purposes of this Order;

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

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

“relevant planning authority” means—

- (i) the district planning authority for the area in which the land to which the provisions of this Order apply is situated unless the provisions relate to the construction or alteration of a hazardous waste facility, in which case it means the county planning authority;
- (ii) a National Park Authority;
- (iii) the Broads Authority; and
- (iv) the Greater London Authority if the land to which the provisions of this Order or requirements apply is situated in Greater London;

“stage” means a defined section or part of the authorised development, the extent of which is shown in a scheme submitted to and approved by the Commission pursuant to requirement 3 (stages of authorised development).

Time limits

2. The authorised development must be begun within *[insert number]* years of the date of this Order.

Stages of authorised development

3. No authorised development shall commence until a written scheme setting out all the stages of the authorised development has, after consultation with the relevant planning authority and highway authority, been submitted to and approved by the Commission.

Detailed design approval

4. No [stage of the] authorised development shall commence until [for that stage] written details of the following have, after consultation with the relevant planning authority, been submitted to and approved by the Commission—

[or

5. No [stage of the] authorised development shall commence until details of the layout, scale and external appearance of the following elements of the authorised development [within that stage] have, after consultation with the relevant planning authority, been submitted to and approved by the Commission]

6. The authorised development must be carried out in accordance with the approved details.

Provision of landscaping

7. No [stage of the] authorised development shall until commence a written landscaping scheme [for that stage] has, after consultation with the relevant planning authority, been submitted to and approved by the Commission. The landscaping scheme must include details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) vehicular and pedestrian access, parking and circulation areas;
- (f) minor structures, such as furniture, refuse or other storage units, signs and lighting;
- (g) proposed and existing functional services above and below ground, including drainage, power and communications cables and pipelines, manholes and supports;
- (h) details of existing trees to be retained, with measures for their protection during the construction period;
- (i) retained historic landscape features and proposals for restoration, where relevant; and
- (j) implementation timetables for all landscaping works.

Implementation and maintenance of landscaping

8.—(1) All landscaping works must be carried out in accordance with the landscaping scheme approved under requirement 7 and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(2) The landscaping works must be carried out in accordance with implementation timetables approved under requirement 6.

(3) Any tree or shrub planted as part of an approved landscaping scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the Commission, 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 Commission.

Trees

9.—(1) No [stage of the] authorised development shall commence until written details of any proposed tree planting and the proposed times of planting have, after consultation with the relevant planning authority, been approved in writing by the Commission; and all tree planting shall be carried out in accordance with those details and at those times.

(2) If within a period of [two years] beginning with the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, [or becomes, in the opinion of the Commission, seriously damaged or defective,] another tree of the same species and size as that originally planted shall be planted at the same place, unless the Commission gives its written consent to a variation.

Highway accesses

10.—(1) No [stage of the] authorised development shall commence until [for that stage,] written details of the siting, design and layout of any new permanent or temporary means of access to a highway to be used by vehicular traffic, or any alteration to an existing means of access to a highway

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used by vehicular traffic, has, after consultation with the relevant planning authority and highway authority, been submitted to and approved by the Commission.

(2) The highway accesses must be constructed in accordance with the approved details.

(3) No [stage of the] authorised development shall be begun until [for that stage,] a written Access Management Scheme has, after consultation with the relevant planning authority and highway authority, been submitted to and approved by the Commission.

(4) The Access Management Scheme must be carried out in accordance with the approved details.

Public rights of way

11.—(1) No [stage of the] authorised development shall commence that would affect *[insert details of relevant right of way]* until a written implementation plan and specification for the making up of an alternative right of way has, after consultation with the relevant planning authority and highway authority, been submitted to and approved by the Commission.

(2) The alternative *[insert details of relevant right of way]* shall be implemented in accordance with the approved plan and specification.

Fencing – special roads

12.—(1) No [stage of the] authorised development shall commence until written details of the design and construction of any boundary fencing for special roads have, after consultation with the relevant planning authority and highway authority, been submitted to and approved by the Commission.

(2) The authorised development shall be carried out in accordance with the approved design and construction.

(3) “Special road” has the same meaning as in section 329 of the Highways Act 1980.

Fencing and other means of enclosure

13.—(1) No [stage of the] authorised development shall commence until written details of all proposed permanent and temporary fences, walls or other means of enclosure [for that stage] have, after consultation with the relevant planning authority, been submitted to and approved by the Commission.

(2) The *[insert description]*, and any construction sites, must remain securely fenced at all times during construction of the authorised development.

(3) Any temporary fencing must be removed on completion of the authorised development.

(4) Any approved permanent fencing of the new *[insert description]* must be completed before the *[insert description]* is brought into use.

Surface water drainage

14.—(1) No [stage of the] authorised development shall commence until [for that stage,] written details of the surface and foul water drainage system (including means of pollution control) have, after consultation with the relevant planning authority and the sewerage and drainage authority, been submitted to and approved by the Commission.

(2) The surface and foul water drainage system must be constructed in accordance with the approved details.

Contaminated land and groundwater

15.—(1) No [stage of the] authorised development shall commence until a written scheme [applicable to that stage,] to deal with the contamination of any land, including groundwater, within the Order limits which is likely to cause significant harm to persons or pollution of controlled waters or the environment has, after consultation with the relevant planning authority and the Environment Agency, been submitted to and approved by the Commission.

(2) The scheme shall include an investigation and assessment report, prepared by a specialist consultant approved by the relevant planning authority, to identify the extent of any contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a management plan which sets out long-term measures with respect to any contaminants remaining on the site.

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

Archaeology

16.—(1) No [stage of the] authorised development shall commence until [for that stage,] a written scheme for the investigation of areas of archaeological interest [as identified in section [] of the environmental document] has, after consultation with the relevant planning authority, been submitted to and approved by the Commission.

(2) The scheme shall identify areas where field work and/or a watching brief are required, and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.

(3) Any archaeological works or watching brief carried out under the scheme must be by a suitably qualified person or body approved by the Commission.

(4) Any archaeological works or watching brief must be carried out in accordance with the approved scheme.

Ecological management plan

17.—(1) No [stage of the] authorised development shall commence until a written ecological management plan [for that stage] reflecting the survey results and ecological mitigation and enhancement measures included in the environmental document, after consultation with the relevant planning authority, shall be submitted to and approved by the Commission.

(2) The ecological management plan shall include an implementation timetable and must be carried out as approved.

Code of construction practice

18. Construction works shall be carried out in accordance with the agreed code of construction practice, unless otherwise agreed by the Commission, after consultation with relevant planning authority.

[or

19.—(1) No [stage of the] authorised development shall commence until a code of construction practice shall, after consultation with the relevant planning authority, be submitted to and approved by the Commission.

(2) All construction works shall be undertaken in accordance with the approved code, unless otherwise agreed by the Commission.]

[Note: The code should specify measures designed to minimise the impacts of construction works, such as means of minimising pollution from dust, noise, vibration and lighting, wheel cleansing

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facilities, routes for construction traffic, working hours etc. To the extent that it does not, or does not do so adequately, separate conditions are likely to be required, some of which are indicated below].

Design of roads

20.—(1) No [stage of the] authorised development consisting of the construction or alteration of a street which is a trunk road or including any traffic management and control measures shall commence until written details of the design of the street shall, after consultation with the Highways Agency, be submitted to and approved by the Commission.

(2) The [authorised development] construction or alteration of the street or the taking of traffic management and control measures shall be carried out in accordance with the approved design.

External lighting

21. No [stage of the] authorised development, shall commence until written details of any external lighting to be installed at any of the construction sites [within that stage], including measures to prevent light spillage, shall, after consultation with the relevant planning authority and the highway authority, be submitted to and approved by the Commission; and any approved means of lighting must subsequently be installed and retained for the duration of the construction period.

Construction traffic

22.—(1) No [stage of the] authorised development shall commence until written details of the preferred route to be used by construction traffic shall, after consultation with the relevant planning authority and the highway authority, be submitted to and approved by the Commission.

(2) Notices shall be erected and maintained throughout the period of construction at every construction site exit, indicating to drivers the route agreed by the Commission for traffic entering and leaving the site.

Control of noise during construction and maintenance

23.—(1) No [stage of the] authorised development shall commence until, after consultation with the relevant planning authority, a written scheme for noise management during construction and maintenance [of that stage] has been submitted to and approved by the Commission.

(2) The scheme shall set out the particulars of—

- (a) the works, and the method by which they are to be carried out;
- (b) the noise attenuation measures to be taken to minimise noise resulting from the works, including any noise limits; and
- (c) a scheme for monitoring the noise during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.

(3) The approved noise management scheme must be implemented before and maintained during construction and maintenance of the [relevant stage of the] authorised development.

(4) The construction and maintenance works must be undertaken in accordance with the approved noise management scheme.

Construction hours

24.—(1) Construction work shall not take place other than between [0800 and 1800 hours on weekdays and 0800 and 1300 hours on Saturdays, excluding public holidays], unless otherwise agreed by the Commission.

(2) Nothing in paragraph (1) precludes a start-up period from [0730 to 0800] and a shut down period from [1800 to 1830] on weekdays (excluding public holidays).

Control of noise during operational phase

25.—(1) No authorised development shall commence operation until, after consultation with the relevant planning authority, a written scheme for noise management including monitoring and attenuation for the use of the authorised project has been submitted to and approved by the Commission.

(2) The noise management scheme must be implemented as approved and maintained for the duration of use of the authorised project.

Control of odour emissions

26.—(1) No [stage of the] authorised development shall commence until, after consultation with the relevant planning authority, a written scheme for the management and mitigation of odour emissions has been submitted to and approved by the Commission.

(2) The approved scheme for the management and mitigation of odour emissions must be implemented before and maintained during the construction, operation and decommissioning of the [relevant stage of the] authorised development.

Control of artificial light emissions

27.—(1) No [stage of the] authorised development shall commence until, after consultation with the relevant planning authority, a written scheme for the management and mitigation of artificial light emissions has been submitted to and approved by the Commission.

(2) The approved scheme for the management and mitigation of artificial light emissions must be implemented before and maintained during the construction, operation and decommissioning of the [relevant stage of the] authorised development.

Control of dust emissions

28.—(1) No [stage of the] authorised development shall commence until, after consultation with the relevant planning authority, a written scheme for the management and mitigation of dust emissions has been submitted to and approved by the Commission.

(2) The approved scheme for the management and mitigation of dust emissions must be implemented before and maintained during the construction, operation and decommissioning of the [relevant stage of the] authorised development

Control of smoke emissions

29.—(1) No [stage of the] authorised development shall commence until, after consultation with the relevant planning authority, a written scheme for the management and mitigation of smoke emissions has been submitted to and approved by the Commission.

(2) The approved scheme for the management and mitigation of smoke emissions must be implemented before and maintained during the construction, operation and decommissioning of the [relevant stage of the] authorised development.

Control of steam emissions

30.—(1) No [stage of the] authorised development shall commence until, after consultation with the relevant planning authority, a written scheme for the management and mitigation of steam emissions has been submitted to and approved by the Commission.

(2) The approved scheme for the management and mitigation of steam emissions must be implemented before and maintained during the construction, operation and decommissioning of the [relevant stage of the] authorised development.

Control of insects

31.—(1) No [stage of the] authorised development shall commence until, after consultation with the relevant planning authority, a written scheme to ensure the prevention of infestation or emanation of insects from the authorised development has been submitted to and approved by the Commission.

(2) The approved scheme for the prevention of infestation or emanation of insects must be implemented before and maintained during the construction, operation and decommissioning of the [relevant stage of the] authorised development.

(3) For the purposes of this requirement, “insects” excludes insects that are wild animals included in Schedule 5 to the Wildlife and Countryside Act 1981⁽¹⁾ (animals which are protected), unless they are included in respect of section 9(5) of that Act only.

Accumulations and deposits

32.—(1) No [stage of the] authorised development shall commence until, after consultation with the relevant planning authority, a written scheme for the management of any accumulations [or] and deposits whose effects may be harmful or visible or otherwise noticeable from outside the Order limits has been submitted to and approved by the Commission.

(2) The approved scheme for the management of accumulations and deposits must be implemented before and maintained during the construction, operation and decommissioning of the [relevant stage of the] authorised development.

Travel plan

33.—(1) No [stage of the] of the authorised development shall be begun until, after consultation with the relevant planning authority and the highway authority, a travel plan [for the contractor’s workforce], which must include details of the expected means of travel to and from [the authorised [project]] [the construction site] and any parking to be provided, has been submitted to and approved by the Commission.

(2) No part of the authorised project shall be brought into use until, after consultation with the relevant planning authority and the highway authority, a travel plan, which must include details of the expected means of travel to and from the authorised project and any parking to be provided, has been submitted to and approved by the Commission.

(3) The plan approved under paragraph (1) must be implemented during the construction of the authorised development and the plan approved under paragraph (2) must be implemented [within one month of the authorised project being brought into use] and shall continue to be implemented for as long as the authorised project is used.

(1) 1981 c.69. Relevant amendments were made by SI 1988/288, 1989/906, 1992/2350, 1998/878, 2007/1843, 2008/2172, SSI 2007/80. There are other amendments not relevant to this Order.

European protected species

34.—(1) No [stage of the] authorised development shall commence until [further] survey work has been carried out to establish whether a European protected species is present on any of the land affected, or likely to be affected, by the authorised development or in any of the trees to be lopped or felled or buildings to be demolished during [that stage of] the authorised development.

(2) Where a European protected species is shown to be present, no authorised development [of that stage] shall be begun until, after consultation with the relevant planning authority, Natural England and the Secretary of State for the Environment, Food and Rural Affairs, a scheme of protection and mitigation measures has been submitted to and approved by the Commission; and the authorised development shall be carried out in accordance with the approved scheme.

(3) “European protected species” has the same meaning as in regulations 38 and 42 of the Conservation (Natural Habitats, &c.) Regulations 1994⁽²⁾.

Restoration of land used temporarily for construction

35. Any land within the Order limits which is used temporarily for construction must be reinstated to its former condition, or such condition as the Commission may approve, within [six] months of completion of authorised development.

Requirement for written approval

36. Where under any of the above requirements the approval or agreement of the Commission or another person is required, that approval or agreement must be given in writing.

Amendments to approved details

37. With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the Commission, the approved details shall be taken to include any amendments that may subsequently be approved in writing by the Commission.

Requirement for consent of Civil Aviation Authority and Ministry of Defence

38. No [stage of the] authorised development shall commence until [for that stage], after consultation with the Civil Aviation Authority and the Ministry of Defence, written details for the operation of the authorised project [and its effect on radar] have been submitted to and agreed by the Commission.

[Note: This requirement is only relevant in the context of authorised development that involves a wind farm.]

(2) [S.I. 1994/2716](#).