

SCHEDULES

SCHEDULE 2

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

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

“European protected species” has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017⁽²⁾;

“HEMP” means the handover environmental management plan, to be developed and completed by the end of the construction, commissioning and handover stage of the authorised development which is to contain—

- (a) the environmental information needed for the future maintenance and operation of the authorised development;
- (b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development; and
- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies;

“the Manual of Contract Documents for Highway Works” means the document of that name published electronically by or on behalf of the strategic highway authorities for England, Scotland, Wales and Northern Ireland, or any equivalent replacement published for that document;

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

“outline CEMP” means the document of that description submitted with the application for this order and certified as the outline CEMP by the Secretary of State for the purposes of this Order; and

(1) 1990 c. 43. Section 78A was inserted by section 57 of the Environment Act 1995 (c. 25) and amended by section 86(2) of the Water Act 2003 (c. 37).

(2) S.I. 2017/1012.

(3) 1981 c. 69.

“REAC” means the register of environmental actions and commitments contained in the Outline CEMP.

Time limits

2. The authorised development must commence no later than the expiration of 5 years beginning with the date that this Order comes into force.

Detailed design – general design requirements

3.—(1) The authorised development must be designed in detail and carried out in accordance with the preliminary scheme design shown on the engineering drawings and sections unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its functions, provided that the Secretary of State is satisfied that any amendments to the engineering drawings and sections showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding engineering drawings and sections and the undertaker must make those amended details available in electronic form for inspection by members of the public.

Design of gas transfer buildings

(3) Except where carried out in accordance with the approved details submitted to comply with a condition issued by Gateshead Council on 4 March 2020 under reference DC/20/00059/NI no part of Work No. 10 or 12 may commence until the details of the layout, scale and external appearance (including materials which are proposed to be used and proposed finishes) of the above ground structures comprised in Work Nos. 10 and 12 have been submitted to and approved by the Secretary of State in consultation with the relevant planning authority. The approved details must not give rise to any materially new or materially different environmental effects in comparison to the approved details submitted to comply with a condition issued by Gateshead Council on 4 March 2020 under reference DC/20/00059/NI.

(4) Work Nos. 10 and 12 shall be constructed in accordance with the approved details submitted to comply with a condition issued by Gateshead Council on 4 March 2020 under reference DC/20/00059/NI or otherwise in accordance with the details approved under sub-paragraph (3).

(5) No part of Work No. 12 may be commenced by the undertaker until a scheme for the demolition of the existing gas transfer building (including the timescale for such demolition) has been submitted to and approved by the Secretary of State in consultation with the relevant planning authority. The demolition of the existing gas transfer building shall be carried out in accordance with the approved scheme.

(6) Without prejudice to article 6 (planning permission), nothing in sub-paragraphs (3) to (5) shall restrict Northern Gas Networks Limited from undertaking works authorised by a separate grant of planning permission or authorised in terms of the Town and Country Planning (General Permitted Development) (England) Order 2015(4).

Design of gantries

(7) No gantries shall be erected within the areas identified on the works plans as proposed new gantry areas until a signage strategy for the provision of signage in those areas (including the design and height of supporting gantries) has been submitted to and approved by the Secretary of State, in

(4) S.I. 2015/596.

consultation with the relevant planning authority. The signage strategy shall consider or take account of—

- (a) any replacement of the Design Manual for Roads and Bridges Interim Advice Note 144/16 Directional Signs on Motorway and All-Purpose Trunk Roads: Grade Separated Junctions and the need to relocate signs in the verge in place of super span gantries;
- (b) the use of single span gantries or cantilever gantries in substitution for super span gantries.
- (c) the potential impact of the gantries on the setting of the Angel of the North; and
- (d) the safety of road users, public safety in general, the need for directional signage and the safety of maintenance operatives.

(8) The authorised development shall be constructed in accordance with the approved signage strategy.

(9) Notwithstanding the terms of sub-paragraph (7), once the gantries have been erected in accordance with the approved signage strategy, the maintenance and, if necessary, replacement of the gantries shall be undertaken by the undertaker in accordance with the powers and duties of the 1980 Act. The carrying out of such maintenance and replacement in accordance with the 1980 Act shall not constitute a breach of this Order provided that such maintenance or replacement does not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

Design of structures

(10) No part of Work No. 5a other than ground treatment, piling, abutments and supporting piers is to be constructed until a scheme for the following elements of the design of the bridge deck forming part of that work have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, in relation to—

- (a) the colour scheme for the bridge beams;
- (b) the use of sustainable materials;
- (c) the parapet systems compliant with operational highway and railway requirements; and
- (d) soffits other than the design as shown on the engineering drawings and sections or which mirrors the existing Allerdene Bridge.

(11) Work No. 5a shall be constructed in accordance with the approved details.

(12) In this requirement—

“cantilever gantry” means a gantry which spans a single carriageway with the support located in the verge of the carriageway only;

“single span gantry” means a portal gantry which spans a single carriageway of a dual carriageway with one support located in the central reserve and the other support in the verge of the carriageway which it crosses; and

“super span gantry” means a portal gantry which spans both carriageways of a dual carriageway with the supports located in the verges of each respective carriageway.

Construction and handover environmental management plans

4.—(1) Other than site clearance works carried out in terms of paragraph 16 (advance site clearance works), no part of the authorised development is to commence until a CEMP, substantially in accordance with the outline CEMP, for that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, the Environment Agency and Historic England to the extent that it relates to matters relevant to its function.

(2) The CEMP must be written in accordance with ISO14001 and must—

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- (a) be substantially in accordance with the mitigation measures set out in the REAC;
- (b) contain a record of all sensitive environmental features that have the potential to be affected by the construction of the proposed development;
- (c) require adherence to working hours of 07:00–19:00 Mondays to Fridays and 07:30–13:00 on Saturday except for—
 - (i) night-time closures for bridge demolition and installation;
 - (ii) any oversize deliveries or deliveries where daytime working would be excessively disruptive to normal traffic operation;
 - (iii) junction tie-in works;
 - (iv) works required in relation to the East Coast Main Line;
 - (v) overnight traffic management measures;
 - (vi) cases of emergency; and
 - (vii) as otherwise agreed by the local authority in advance;
- (d) include the following management plans—
 - (i) Communications Plan;
 - (ii) Construction Traffic Management Plan;
 - (iii) Landscape Management Plan;
 - (iv) Ecological Management Plan including the Invasive Non-Native Species Management Plan, Riparian Protection Management Plan;
 - (v) Soil Handling Strategy;
 - (vi) Materials Management Plan;
 - (vii) Site Waste Management Plan; Water Management Plan including the Temporary Surface Water Drainage Strategy; and
 - (viii) Any other specific management plans identified during subsequent stages of the authorised development.

(3) The construction of the authorised development must be carried out in accordance with the approved CEMP or such amendments to that CEMP as may be approved in writing by the Secretary of State following consultation with the relevant planning authority, the Environment Agency and Historic England to the extent that it relates to matters relevant to its function.

(4) A HEMP must be developed and completed by the end of the construction, commissioning and handover stage of the authorised development, in accordance with the process set out in the approved CEMP.

(5) The HEMP must address the matters set out in the approved CEMP that are relevant to the operation and maintenance of the authorised development, and must contain—

- (a) the environmental information needed for the future maintenance and operation of the authorised development;
- (b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development; and
- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies.

(6) The authorised development must be operated and maintained in accordance with the HEMP.

Landscaping

5.—(1) Other than site clearance works carried out in terms of paragraph 16, no part of the authorised development is to commence until a landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function.

(2) The landscaping scheme must be substantially in accordance with the mitigation measures set out in the REAC and must be based on either—

- (a) the illustrative environmental masterplan and landscape mitigation design annexed to the environmental statement; and
- (b) to the extent not consistent with sub-paragraph (a)—
 - (i) subject to sub-paragraph (3), Option 1 as set out on page 27 of the Southern Green Options Report;
 - (ii) subject to sub-paragraph (4), Option 2 as set out on page 29 of the Southern Green Options Report; or
 - (iii) subject to sub-paragraph (4), Option 3 as set out on page 31 of the Southern Green Options Report.

(3) Nothing shall require the landscaping scheme to be based on Option 1 of the Southern Green Options Report unless the relevant planning authority has entered into an agreement providing for any cost associated with Option 1 that is above the cost of the illustrative environmental masterplan and landscape mitigation design annexed to the environmental statement is to be paid or otherwise secured by the relevant planning authority.

(4) Nothing shall require the landscaping scheme to be based on Option 2 or Option 3 of the Southern Green Options Report unless the relevant planning authority has—

- (a) made provision for sufficient land for the installation and maintenance of replacement woodland planting to mitigate the effects of the implementation of Option 2 or Option 3; and
- (b) entered into an agreement providing for any cost of Option 2 or Option 3 that is above the cost of the illustrative masterplan and landscape design annexed to the environmental statement is to be paid or otherwise secured by the relevant planning authority.

(5) The landscaping scheme prepared under sub-paragraph (1) must include details of—

- (a) location, number, species mix, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) existing trees to be retained, with measures for their protection during the construction period;
- (d) proposed finished ground levels;
- (e) implementation timetables for all landscaping works; and
- (f) how the landscaping scheme addresses the guidance in paragraph 4.29 of the National Policy Statement for National Networks for the appearance of national network projects to demonstrate good aesthetics as far as possible.

(6) All landscaping works must be carried out in accordance with the scheme referred to in sub-paragraph (1) to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(7) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the

same species and size as that originally planted, unless the Secretary of State, following consultation with the relevant planning authority on matters related to its function, gives consent to a variation.

(8) Planting will be undertaken at Longacre Wood to replace any trees that were intended to be retained which are felled or die as a result of construction works. The size, species and location of replacement trees will be included in the landscaping scheme required by sub-paragraph (1).

Contaminated land and groundwater

6.—(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(2) Where the undertaker determines that remediation of the contaminated land is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its function and the Environment Agency.

(3) A suitable capping layer, comprising either 400mm layer of “clean” soil or a shallow thickness with a geotextile marker layer, will be constructed in any areas of soft landscape planting located over areas of made ground contaminated with asbestos. The details of any such capping layers shall be included within any remedial measures required in terms of sub-paragraph (2).

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

Protected species

7.—(1) Other than site clearance works carried out in terms of paragraph 16, no part of the authorised development is to commence until for that part final pre-construction survey work has been carried out to confirm whether European or nationally protected species are present on any of the land affected or likely to be affected by any part of the relevant works, or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Following pre-construction survey work or at any time when carrying out the authorised development, where—

- (a) a protected species is shown to be present, or where there is a reasonable likelihood of it being present;
- (b) application of the relevant assessment methods used in the environmental statement show that a significant effect is likely to occur which was not previously identified in the environmental statement; and
- (c) that effect is not addressed by any prior approved scheme of protection and mitigation established in accordance with this paragraph, the relevant parts of the relevant works must cease until a scheme of protection and mitigation measures has been submitted to and approved in writing by the Secretary of State.

(3) The undertaker must consult with Natural England on the scheme referred to in sub-paragraph (2) prior to submission to the Secretary of State for approval, except where a suitably qualified and experienced ecologist, holding where relevant and appropriate a licence relating to the species in question, determines that the relevant works do not require a protected species licence.

(4) The relevant works under sub-paragraph (2) must be carried out in accordance with the approved scheme, unless otherwise agreed by the Secretary of State after consultation with Natural England, and under any necessary licences.

Surface and foul water drainage

8.—(1) Other than site clearance works carried out in terms of paragraph 16, no part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, in substantial accordance with the mitigation measures set out in the REAC including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its function.

(2) The written details required by sub-paragraph (1) shall include culvert design. Where possible, culverts will be designed to include natural beds (between 100mm and 200mm) to maintain and assist fish passage. To mitigate for potential downstream impacts and maintain passage along watercourses, baffles or similar structures shall be included within existing culverts.

(3) The surface and foul water drainage system must be constructed in accordance with the approved details, unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its function, provided that the Secretary of State is satisfied that any amendments to the approved details would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

Archaeological remains

9.—(1) Other than site clearance works carried out in terms of paragraph 16, no part of the authorised development is to commence until for that part a final written scheme of investigation (FWSI) of areas of archaeological interest has been submitted to and approved in writing by the Secretary of State, in consultation with the relevant planning authority and Historic England on matters related to its function. The FWSI shall be substantially in accordance with the mitigation measures included in the REAC and the outline written scheme of investigation and shall include a programme of archaeological reporting, post excavation and publication including a timescale for such reporting and publication.

(2) The authorised development must be carried out in accordance with the scheme referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State.

(3) A copy of any analysis, reporting, publication or archiving required as part of the FWSI must be agreed with the relevant planning authority and in consultation with Historic England and deposited with the Historic Environment Record of the relevant planning authority within one year of the date of completion of the authorised development or such other period as may be agreed in writing by the relevant planning authority or specified in the written scheme referred to in sub-paragraph (1).

(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in situ and reported to the relevant planning authority, and to Historic England in the case of the scheduled monument area, as soon as reasonably practicable from the date they are identified.

(5) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (4) for a period of 14 days from the date of any notice served under sub-paragraph (4) unless otherwise agreed in writing by the relevant planning authority or, in the case of the scheduled monument area, Historic England.

(6) If the relevant planning authority or, in the case of a scheduled monument, Historic England determines in writing that the archaeological remains referred to in sub-paragraph (4) require further investigation or mitigation, no construction operations are to take place within 10 metres of the remains until provision has been made for such mitigation or the further investigation and recording of the remains in accordance with details to be submitted in writing to, and approved in writing by, the relevant planning authority or, in the case of a scheduled monument, Historic England.

Traffic management

10.—(1) Other than site clearance works carried out in terms of paragraph 16, no part of the authorised development is to commence until a traffic management plan for that part has been submitted to and approved in writing by the Secretary of State, following consultation with Sunderland City Council and the relevant planning authority on matters related to its function.

(2) The authorised development must be carried out in accordance with the traffic management plan referred to in sub-paragraph (1).

(3) The formation of a construction compound or working compound may not commence until details of the siting, design and layout (including visibility splays and construction specification) of any new or modified permanent or temporary means of access between that compound and the public highway to be used by vehicular traffic during construction, and the means of reinstating any temporary means of access after construction (where reinstatement is to take place) has been submitted to and approved by the Secretary of State, in consultation with the local highway authority. The access to the construction and working compounds must be constructed in accordance with the approved details.

Amendments to approved details

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

Design of North Dene Footbridge

12.—(1) The North Dene Footbridge shall be replaced in terms of Work No.18 in its current location with a new footbridge which will have a single drawstring truss.

(2) The existing North Dene Footbridge shall not be demolished and no part of the replacement bridge to be constructed in terms of Work No. 18 may commence until the details of the demolition of the existing bridge, design of the replacement bridge (including how the design addresses the guidance in paragraph 4.29 of the National Policy Statement for National Networks for the appearance of national network projects to demonstrate good aesthetics as far as possible), together with details of the timings for the demolition and construction works have been submitted to and approved by the Secretary of State in consultation with the relevant planning authority.

(3) Work No. 18 shall be constructed in accordance with the details approved under sub-paragraph (2).

Fencing

13. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with Volume 1, Series 0300 of the Manual of Contract Documents for Highway Works except—

- (a) where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development; or
- (b) where the fencing or enclosure is an acoustic barrier which is required by an entry in the REAC.

Allerdene bridge replacement

14. The undertaker is restricted to carrying out Work No.5a as one of the works specified in paragraph (i), (ii), (iii) or (iv) of Work No. 5a as follows—

- (a) in the event that the Work No. 5a is to comprise a single span bridge structure in terms of paragraph (i) of Work No. 5a then it shall be carried out substantially in accordance with Sheet 3 of the structures engineering drawings and sections;
- (b) in the event that the Work No. 5a is to comprise a three span bridge structure in terms of paragraph (ii) of Work No. 5a then it shall be carried out substantially in accordance with Sheet 16 of the structures engineering drawings and sections;
- (c) in the event that the Work No. 5a is to comprise a six span bridge structure in terms of paragraph (iii) of Work No. 5a then it shall be carried out substantially in accordance with Sheet 4 of the structures engineering drawings and sections; or
- (d) in the event that the Work No. 5a is to comprise a seven span bridge structure in terms of paragraph (iv) of Work No. 5a then it shall be carried out substantially in accordance with Sheet 5 of the structures engineering drawings and sections.

Primary Design Mitigation

15. The Scheme shall include the following primary mitigation measures—

- (a) a retaining wall will be included to retain the access road located adjacent to junction 65 (Birtley) southbound exit slip to ensure access is maintained to properties which use Northside to the north east of the A1 serving the Bowes Incline hotel and Angel of the North fishing lakes; and
- (b) the earthworks design for the highway widening at Longacre Wood shall use a 1:2 slope at Longacre Wood so as to minimise land take at this location as illustrated on the General Arrangement Drawings.

Advance site clearance works

16.—(1) No vegetation clearance shall take place until a construction management plan for vegetation clearance to be undertaken as part of the authorised works has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, the Environment Agency and Historic England to the extent that it relates to matters relevant to the function of the relevant consulted party.

(2) The construction management plan required by sub-paragraph (1) shall include measures to address items G4, A1, A2, L1, L3, B5, B6, B7, B8, B12, B13, B15, B18, B22, B24, B25, M6 and N5 of the REAC insofar as they relate to vegetation clearance.

(3) The vegetation clearance comprised in the authorised works shall be carried out in accordance with the construction management plan approved in terms of sub-paragraph (1).

Details of construction compound

17.—(1) Subject to sub-paragraph (3), in the event that the undertaker proposes to undertake Work No. 5a as provided in paragraph (iii) or (iv) of Work No. 5a comprising a six span or seven span viaduct respectively then the undertaker may only exercise powers of temporary possession over plot 3/13a of the land plans where a plan based upon those in Appendix A to the CEMP showing the extent and layout of the construction compound to be established at Junction 67 within the land delineated by a broken blue line on the Northern Gas Networks Land Ownership Plan has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) In considering the details to be submitted in terms of sub-paragraph (1), the undertaker and the Secretary of State shall have regard to—

- (a) the construction requirements of the chosen engineering design for Work No. 5a; and

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(b) the need to minimise the temporary possession of land within plot 3/13a of the land plans so far as reasonably practical.

(3) In the event that the undertaker proposes to undertake Work No. 5a as provided in paragraph (iii) or (iv) of Work No.5a then the undertaker shall be restricted to exercising the power of temporary possession over plot 3/13a to that part of the land identified in the details approved in terms of sub-paragraph (1).