

SCHEDULES

SCHEDULE 2

Article 3

REQUIREMENTS

PART 1

REQUIREMENTS

Interpretation

1. In this Schedule—

“AOD” means above Ordnance Datum;

“CCR area” means the area reserved for carbon capture readiness as shown on the work plans;

“commissioning” means the process during which plant components and systems forming part of the authorised development, having been constructed or modified, are made operational and are tested and verified to be in accordance with design assumptions and to have met the appropriate safety criteria;

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

“discharging authority” means any body responsible for giving any consent, agreement or approval required by a requirement included in Part 1 of this Schedule, or for giving any consent, agreement or approval further to any document referred to in any such requirement;

“LEMP” means the Landscape and Ecological Management Plan;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London, NW1 2DN) 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)⁽²⁾ 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;

“Network Rail property” means any railway belonging to Network Rail within the Order limits 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 for the purposes of such railway or works, apparatus or equipment; and

“requirement consultee” means any body named in a requirement as a body to be consulted by the discharging authority in discharging that requirement.

(1) 1990 c. 43.

(2) 2006 c. 46.

Status: This is the original version (as it was originally made).

Time limit

2. The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

Notice of commencement of authorised development

3. Notice of commencement of the authorised development must be given to the relevant planning authority within 7 days of the date on which the authorised development is commenced.

Detailed design

4.—(1) No part of the authorised development can commence until written details of the following for that part have been submitted to and approved by the relevant planning authority specifying—

- (a) the siting, design, external appearance, dimensions and floor levels of all permanent buildings and structures;
- (b) the colour, materials and surface finishes of all permanent buildings and structures; and
- (c) details of the provision made for cycle parking facilities for staff.

(2) The details to be submitted for approval under sub-paragraph 9(1) must—

- (a) be in accordance with the design principles statement;
- (b) include flood resistance and resilience measures for a flood level of up to 2.84m above Ordnance Survey datum for critical equipment; and
- (c) include appropriately scaled plans and sectional drawings.

(3) No works creating or affecting culverts in ordinary watercourses or the balancing pond east of Fort Road may be commenced unless the detail of such works has been approved by the relevant planning authority in consultation with Thurrock Council in its capacity as the lead local flood authority.

(4) In so far as the details submitted under paragraph (1) relate to Work no. 4, the relevant planning authority must consult Highways England on those details prior to issuing any approval under that paragraph.

(5) The authorised development must be designed in accordance with the parameters specified in Table 1 below and the works plans and constructed in accordance with approved plans and any other approvals given by the relevant planning authority pursuant to this requirement.

Table 1

<i>Parameter</i>	<i>Work no.s</i>	<i>Maximum value(s) and unit</i>
Gas engine exhaust stack height	1A(c)	43m AOD
Gas engine building(s) or equipment dimensions (in total)	1A(a, b, d, e, f)	Width: 135m Length: 265m Height: 20m
Battery building(s) or containers dimensions (in total)	1B	Width: 106m Length: 106m Height: 10m

<i>Parameter</i>	<i>Work no.s</i>	<i>Maximum value(s) and unit</i>
Customer substation equipment height	1C(1)	15m
Height of all equipment and structures within Work 1 not otherwise specified	1	10m
National grid gas connection compound dimensions	5A	Width: 50m Length: 50m Height: 5m
Gas pipeline(s) maximum excavation depth	4	4m for trenched or 5m below base of feature crossed for trenchless construction
Underground cable(s) maximum depth	3A	4 m for trenched or 5 m below base of feature crossed for trenchless construction
Road construction working corridor width	6	20 m
Gas pipeline construction working corridor width	4	23 m
CCR minimum area	n/a	32,100 m ²
Footbridge to replacement common land	13	Must be a clear span structure

(6) The buildings and structures identified in Table 1 must only be constructed within the area for the work of which they form part as shown in the works plans.

(7) The details submitted for Work no.12 under sub-paragraph (1) may only include details for either Work no.12(c) or Work no.12(d), and must specify which of Work no. 12(c) or Work no.12(d) is to be developed.

(8) In so far as the details submitted under paragraph (1) relate to Work nos. 4, 6 and 7, the relevant planning authority must consult Network Rail on those details where the relevant works may impact Network Rail property and ensure:

- (a) in respect of Work no. 4, any part of that work is situated over 200 metres from Network Rail property;
- (b) in respect of Work no. 6, any part of that work is situated over 15 metres from Network Rail property; and
- (c) in respect of Work no. 7, any part of that work is situated over 15 metres from Network Rail property.

Code of construction practice

5.—(1) No part of the authorised development can commence until a code of construction practice for that part has been submitted to and approved by the relevant planning authority.

(2) The code of construction practice must be substantially in accordance with the outline code of construction practice and—

Status: This is the original version (as it was originally made).

- (a) include relevant measures relied on in the environmental statement; and
 - (b) include management plans, working methods and mitigation measures including—
 - (i) details of lighting during construction;
 - (ii) pollution incident control plan;
 - (iii) soil management strategy; and
 - (iv) dust management and monitoring plan.
- (3) Construction of the authorised development must be carried out in accordance with the approved code of construction practice.

Construction traffic management plan

6.—(1) No part of the authorised development can commence until a construction traffic management plan for that part has been submitted to and approved by the relevant planning authority in consultation with the highway authority, Highways England, Network Rail, Port of Tilbury London Limited and Royal Mail.

- (2) The construction traffic management plan must—
- (a) specify measures to manage the impacts of construction traffic during the construction works; and
 - (b) be substantially in accordance with the outline construction traffic management plan.
- (3) Construction works for the authorised development must be carried out in accordance with the approved construction traffic management plan for that part.

Construction worker travel plan

7.—(1) No part of the authorised development can commence until a construction worker travel plan for that part has been submitted to and approved by the relevant planning authority in consultation with the highway authority, Highways England, Network Rail and Port of Tilbury London Limited.

- (2) The construction worker travel plan must be substantially in accordance with the outline construction worker travel plan.
- (3) Construction works for the authorised development must be carried out in accordance with the approved construction worker travel plan for that part.

External lighting

8.—(1) No part of the authorised development where use of artificial lighting is proposed in operation can be externally lit between 18:00 and 07:00 until a scheme for the management and mitigation of artificial light emissions during the operation of that part of the authorised development has been submitted to and approved by the relevant planning authority.

- (2) The scheme approved under sub-paragraph (1) must be implemented and maintained as approved during the operational phase.

Construction hours

- 9.—(1) Subject to sub-paragraph (2), no construction works are to take place except between—
- (a) 08:00 to 18:00 Monday to Friday; and
 - (b) 08:00 to 13:00 on Saturday;
- unless otherwise agreed by the relevant planning authority.

- (2) The following works are permitted outside the hours referred to in sub-paragraph (1)—
- (a) works that cannot be interrupted or emergency works; and
 - (b) works which do not cause noise that is more than 5dB above the pre-construction ambient noise at the nearest residential property to the Order limits, subject to lower cut-off values of 65dB, 55dB and 45dB LAeqT from site noise alone, for the daytime, evening and night-time periods, respectively, determined in accordance with Annex E of BS 5228-1:2009+A1:2014.
- (3) Any emergency works carried out under sub-paragraph (2)(a) must be notified to the relevant planning authority within 72 hours of their commencement.

Surface and foul water drainage

10.—(1) No part of the authorised development can commence until written details for that part have been submitted to and approved by the relevant planning authority.

- (2) The details submitted under sub-paragraph (1) must include—
- (a) the means of pollution control;
 - (b) connection points to existing drainage network with consideration to directing drainage away from the West Tilbury Main catchment; and
 - (c) ground raising and effects on the routing of flood waters.
- (3) The details submitted under sub-paragraph (1) must be in accordance with the conceptual drainage strategy certified under article 38.
- (4) The surface and foul water drainage system for the relevant part of the authorised development must be constructed and maintained in accordance with the approved details unless otherwise agreed in writing by the relevant planning authority.

Flood evacuation plan

- 11.**—(1) The undertaker must, prior to the commencement of the authorised development, put in place a flood evacuation plan for the authorised development. The flood evacuation plan must be maintained and kept up to date throughout the operational life of the authorised development and be made available for inspection by all users of the site and displayed in a visible location at all times.
- (2) A copy of the flood evacuation plan must be provided to the relevant planning authority or Thurrock Council acting as lead local flood authority on request.

Contaminated land

- 12.**—(1) If contaminated land is found during permitted preliminary works or construction of the authorised development, no further development can be carried out in the affected area until an investigation and remediation scheme has been submitted to and approved by the relevant planning authority; and the scheme must include details of—
- (a) how the contaminated land is to be identified and assessed;
 - (b) where remediation is required by the scheme, the remediation measures;
 - (c) timescales for carrying out the remediation measures; and
 - (d) any ongoing monitoring or mitigation requirements.
- (2) Any remediation measures, monitoring or mitigation requirements identified in the investigation and remediation scheme mentioned in sub-paragraph (1) must be carried out in accordance with the approved scheme.

Archaeology

13.—(1) No part of the authorised development with the potential to affect buried archaeological assets can commence until for that part a written scheme of archaeological investigation of areas of archaeological interest has been submitted to and approved by the relevant planning authority following consultation with Historic England.

(2) The scheme approved under sub-paragraph (1) must be substantially in accordance with the outline written scheme of archaeological investigation, and identify the measures to be taken to investigate, protect, record or preserve any significant archaeological remains that may be found.

(3) Any archaeological works carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.

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

Landscaping and ecological management plan

14.—(1) No part of the authorised development can commence until a LEMP for that part, substantially in accordance with the outline ecological management plan and illustrative landscape plan, including—

- (a) where necessary, measures to protect water voles;
- (b) ecological mitigation and enhancement measures;
- (c) details of all proposed soft landscaping works, including location, number, species, size and planting density of any proposed planting;
- (d) proposed finished ground levels;
- (e) details of existing trees to be retained, with measures for their protection during the construction period;
- (f) implementation timetables for all ecological and landscaping works; and
- (g) maintenance proposals,

has been submitted to and approved by the relevant planning authority in consultation with Natural England.

(2) The authorised development, including maintenance, must be carried out in accordance with the approved LEMP and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

Construction compound restoration

15.—(1) Prior to the completion of construction of Work no.1, the undertaker must submit a plan to the relevant planning authority for approval detailing how all of the construction compound areas which do not form part of the permanent works will be restored, including—

- (a) details of the use and condition of the land before it was used as a construction compound;
- (b) proposed finished ground levels;
- (c) details of any soft landscaping works to be undertaken as part of the restoration;
- (d) details of any hard landscaping to be undertaken as part of the restoration including paving, surfacing, gates and fencing; and
- (e) implementation timetables for the restoration works.

(2) The restoration of the construction compounds must be carried out in accordance with the approved plan.

Operational noise

16.—(1) Between 23.00 and 07.00 hours, noise arising from normal operation of the site may not exceed a rating level of 45 dB $L_{A,Tf}$ at any residential property which is lawfully inhabited at the date of the making of this Order.

(2) The level set out in sub-paragraph (1) is to be as measured in accordance with British Standard 4142:2014+A1:2019 (Methods for rating and assessing industrial and commercial sound) and British Standard 7445-3:1991 (Description and measurement of environmental noise. Guide to application to noise limits) or any standards replacing those.

(3) Prior to the commencement of the authorised development, the undertaker must submit a plan to the relevant planning authority for approval detailing how noise monitoring will be undertaken during construction and within a six month period beginning with the date of first commercial export of electricity from Work no. 1A. That plan must specify a monitoring location point, which must be in as close proximity as the undertaker can lawfully access, or at a point representative of, the nearest residential property which is lawfully inhabited at the date of the making of this Order.

(4) Noise monitoring must be undertaken by the undertaker in accordance with the plan approved under sub-paragraph (3); and the results of this monitoring must be submitted by the undertaker to the relevant planning authority at the intervals set out in the plan.

(5) Where the results of the monitoring undertaken in accordance with sub-paragraphs (3) and (4), show any exceedance of the level set out in sub-paragraph (1), the undertaker must, within 10 working days, submit to the relevant planning authority for approval a mitigation plan detailing how the exceedance will be mitigated and including a timetable for carrying out any works required to deliver such mitigation.

(6) The undertaker must comply with any plan approved under sub-paragraph (5).

Local employment and skills strategy

17. No part of the authorised development can commence until a local employment and skills strategy, substantially in accordance with the outline local employment and skills strategy has been submitted to and approved by the relevant planning authority.

Operational hours

18. Work no.1A (the gas fired electricity generating station) may only be operated for the purposes of generating electricity up to a maximum of 4,000 hours per calendar year.

Details to accord with Environmental Statement

19. Any plans, details, schemes or other documents which require approval by the discharging authority pursuant to any requirement must comply with the parameters set out in the Environmental Statement and, where applicable, the outline plans certified under article 38.

Carbon capture readiness

20. Until such time as the authorised development is decommissioned, the undertaker must not, without the consent of the Secretary of State—

- (a) dispose of any interest in the CCR area; or
- (b) do anything, or allow anything to be done or to occur,

which may reasonably be expected to diminish the undertaker's ability, within two years of such action or occurrence, to prepare the carbon capture readiness land for the installation and operation of carbon capture equipment, should it be deemed necessary to do so.

Carbon capture readiness monitoring report

21.—(1) The undertaker must make a report (‘carbon capture readiness monitoring report’) to the Secretary of State—

- (a) no later than three months from the date of first commercial operation of Work no.1A (or any first phase thereof); and
- (b) within one month of the third anniversary, and each subsequent three year anniversary, of that date.

(2) Each carbon capture readiness monitoring report must provide evidence that the undertaker has complied with requirement 20—

- (a) in the case of the first carbon capture readiness monitoring report, since commencement of the authorised development; and
- (b) in the case of any subsequent report, since the making of the previous carbon capture readiness monitoring report, and explain how the undertaker expects to continue to comply with requirement 20 over the next three years.

(3) Each carbon capture readiness monitoring report must state whether the undertaker considers the retrofit of carbon capture technology is feasible explaining the reasons for any such conclusion and whether any impediments could be overcome.

(4) Each carbon capture readiness monitoring report must state, with reasons, whether the undertaker has decided to seek any additional regulatory clearances, or to modify any existing regulatory clearances, in respect of any carbon capture readiness proposals.

Amendments to approved plans, etc.

22.—(1) With respect to any plans, details, schemes or other documents which require approval by the discharging authority pursuant to any requirement (the “approved plans”), the undertaker may submit to the discharging authority for approval any amendments to the approved plans and following any such approval by the discharging authority the approved plans are to be taken to include the amendments approved pursuant to this sub-paragraph.

(2) Approval under sub-paragraph (1) must not be given except where it has been demonstrated to the satisfaction of the discharging authority that the subject-matter of the approval sought does not give rise to any materially new or materially different environmental effects to those identified in the environmental statement.

Anticipatory steps

23. If before this Order comes into force the undertaker or any other person has taken any step in compliance with any requirement in Part 1 of this Schedule, that step may be taken into account to determine compliance with that requirement provided that step would have been a valid step for the purpose of the requirement if it had been taken after this Order came into force.

Submissions and approvals

24.—(1) Where, under any requirement, approval of any plans, details, schemes or other documents is required, the plan, details, scheme or other documents submitted for approval must be in writing.

(2) Where under any requirement the approval or agreement of the discharging authority or another person is required, that approval or agreement must be provided in writing.

(3) A copy of any approval or amendment to an approval issued under these requirements by a discharging authority other than the relevant planning authority must be copied to the relevant planning authority at the same time as it is issued to the undertaker.

PART 2

APPROVAL OF MATTERS SPECIFIED IN REQUIREMENTS

Applications made under requirements

25. Where an application has been made to the discharging authority for any agreement or approval required pursuant to a requirement included in this Order, the discharging authority must give notice to the undertaker of their decision, including the reasons, on the application, within a period of 13 weeks beginning with—

- (a) the day immediately following that on which the application is received by the discharging authority; or
- (b) such longer period as may be agreed by the undertaker and the discharging authority.

Further information

26.—(1) Where an application has been made under paragraph 25 the discharging authority has the right to request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) If the discharging authority considers further information is needed, and the requirement does not specify that consultation with a requirement consultee is required, it must, within 21 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement indicates that consultation must take place with a consultee the discharging authority must issue the consultation to the requirement consultee within 5 working days of receipt of the application. Where the consultee requires further information they must notify the discharging authority in writing specifying the further information required within 21 days of receipt of the consultation. The discharging authority must notify the undertaker in writing specifying any further information requested by the consultee within 5 working days of receipt of such a request.

(4) In the event that the discharging authority does not give such notification as specified in subparagraph (2) or (3) 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.

Provision of information by Consultees

27.—(1) Any consultee who receives a consultation under paragraph 26(3) must respond to that request within 28 days from receipt unless sub paragraph (2) of this paragraph applies.

(2) Where any consultee requests further information in accordance with the timescales set out in paragraph 26(3) then they must respond to the consultation within 10 working days from the receipt of the further information requested.

Fees

28.—(1) Where an application is made to the discharging authority for agreement or approval in respect of a requirement the fee for the discharge of conditions as specified in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England)

Regulations 2012(3) (or any regulations replacing the same) is to be paid by the undertaker to the discharging authority in accordance with these regulations.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 4 weeks of the application being rejected as invalidly made.

Appeal

29.—(1) The undertaker may appeal in the event that—

- (a) the discharging authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions; or
- (b) the discharging authority does not give notice of its decision to the undertaker within the time period specified in paragraph 25.

(2) The appeal process is to be as follows—

- (a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal (together with the undertaker, these are the “appeal parties”);
- (b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person (“the appointed person”) to determine the appeal and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (2);
- (c) the relevant planning authority and any consultee required to be consulted pursuant to the requirement which is the subject of the appeal must submit written representations to the appointed person in respect of the appeal within ten working days of the start date 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;
- (d) the appeal parties must make any counter-submissions to the appointed person within ten working days of receipt of written representations pursuant to sub-paragraph (2)(c); and
- (e) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within thirty working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (2)(d).

(3) The appointment of the person pursuant to sub-paragraph (2)(b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to consider the appeal, the appointed person must notify the appeal parties in writing specifying the further information required and the date by which the information is to be submitted and the appointed person must make any notification and set the date for the receipt of such further information having regard to the timescales in sub-paragraph (2).

(5) Any further information required under sub-paragraph (4) must be provided by the appeal party from whom the further information was requested to the appointed person and other appeal parties, the relevant planning authority and any consultee required to be consulted pursuant to the requirement the subject of the appeal on the date specified by the appointed person (the “specified date”), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten working days of the specified date but otherwise is to be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (2)(e).

(3) [S.I. 2012/2920](#).

- (6) On an appeal under this sub-paragraph, the appointed person may—
 - (a) allow or dismiss the appeal; or
 - (b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not).
- (7) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.
- (8) The appointed person may proceed to a decision even though no written representations have been made within the relevant 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 and may deal with the application as if it had been made to the appointed person in the first instance.
- (9) The decision of the appointed person on an appeal is to be 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.
- (10) If an approval is given by the appointed person pursuant to this article, it is to be deemed to be an approval for the purpose of Schedule 2 as if it had been given by the relevant planning authority. The relevant planning 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) is not to be taken to affect or invalidate the effect of the appointed person's determination.
- (11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.
- (12) On application by the relevant planning 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. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

Documents

- 30.**—(1) The undertaker must amend the land plans and special category land plans (document number A2.2) and the book of reference (document number A4.3) in order to—
- (a) on the land plans and special category land plans, remove the colouring of plots in ownership of the Port of Tilbury London Limited and RWE; and
 - (b) in the book of reference delete the plots in the ownership of the Port of Tilbury London Limited and RWE.
- (2) Under paragraph (1), the plots concerned are—
- (a) plots in ownership of the Port of Tilbury London Limited: 01/04, 01/33, 01/35, 01/36, 05/01, 05/02, 05/03, 05/04 and 05/07; and
 - (b) plots in ownership of RWE: 01/04, 01/11, 01/19, 01/20, 01/21, 01/22, 01/28, 01/30, 01/31, 01/32, 01/34 01/37, 04/01, 04/03 and 04/05.
- (3) The undertaker must submit the land plans and special category land plans and the book of reference, as amended, to the Secretary of State for approval.
- (4) The undertaker must not commence work under this Order, or exercise any powers under the Order, until the Secretary of State has given such approval.