

202[] No. []

INFRASTRUCTURE PLANNING

The Cambridge Waste Water Treatment Plant Relocation Order 202[]

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - ***

CONTENTS

PART 1 PRELIMINARY

1. Citation and Commencement
2. Interpretation

PART 2 PRINCIPAL POWERS

3. Development consent etc granted by the Order
4. Authorisation of use
5. Maintenance of authorised development
6. Limits of Deviation
7. Benefit of Order
8. Transfer of benefit of Order
9. Defence to proceedings in respect of statutory nuisance

PART 3 STREETS

10. Street works
11. Power to alter layout, etc, of streets
12. Permanent stopping up of streets
13. Temporary stopping up of streets
14. Public rights of way – creation, substitution and stopping up and permissive paths
15. Public rights of way – temporary closure
16. Access to works
17. Maintenance of highway works
18. Speed limits
19. Traffic regulation

- 20. Agreements with street authorities

PART 4 SUPPLEMENTAL POWERS

- 21. Discharge of water
- 22. Protective works to buildings and structures
- 23. Authority to survey and investigate the land
- 24. Removal of human remains
- 25. Felling or lopping of trees and removal of hedgerows
- 26. Trees subject to tree preservation orders
- 27. Trees in conservation areas

PART 5 ACQUISITION AND POSSESSION OF LAND

- 28. Compulsory acquisition of land
- 29. Time limit for exercise of authority to acquire land compulsorily
- 30. Compulsory acquisition of rights and imposition of restrictive covenants
- 31. Acquisition of subsoil only
- 32. Acquisition of land limited to subsoil lying more than [] metres beneath surface
- 33. Private Rights
- 34. Power to override easements and other rights
- 35. Application of the 1981 Act
- 36. Modification of the 2017 Regulations
- 37. Modification of Part 1 of the Compulsory Purchase Act 1965
- 38. Temporary use of land for carrying out the authorised development
- 39. Temporary use of land for maintaining authorised development
- 40. Disregard of certain interests and improvements
- 41. Set-off for enhancement in value of retained land
- 42. No double recovery
- 43. Compulsory acquisition of land – incorporation of the mineral code
- 44. Statutory undertakers
- 45. Apparatus and rights of statutory undertakers in stopped-up streets
- 46. Recovery of costs of new connections
- 47. Public rights of navigation
- 48. Rights under or over streets

PART 6 MISCELLANEOUS AND GENERAL

- 49. Application of landlord and tenant law
- 50. Operational land for the purposes of the 1990 Act
- 51. Protection Provisions
- 52. Discharge of requirements and other approvals etc
- 53. Application, disapplication and modification of legislative provisions
- 54. Amendment of local legislation
- 55. Certification of plans etc
- 56. Arbitration

SCHEDULES

- SCHEDULE 1 — AUTHORISED DEVELOPMENT
 - PART 1 — AUTHORISED DEVELOPMENT
 - [PART 2 — ANCILLARY WORKS]
- SCHEDULE 2 — REQUIREMENTS
 - PART 1 — [TO BE INSERTED IN DUE COURSE]
 - PART 2 — PROCEDURE FOR DISCHARGE OF REQUIREMENTS ETC AND APPEALS
- SCHEDULE 3 — STREETS SUBJECT TO STREET WORKS
- SCHEDULE 4 — STREETS SUBJECT TO ALTERATION OF LAYOUT
- SCHEDULE 5 — STREETS TO BE PERMANENTLY STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED
- SCHEDULE 6 — PUBLIC RIGHTS OF WAY
 - PART 1 — PUBLIC RIGHTS OF WAY TO BE PERMANENTLY STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED
 - PART 2 — PUBLIC RIGHTS OF WAY TO BE PERMANENTLY STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED
 - PART 3 — NEW PUBLIC RIGHTS OF WAY TO BE CREATED
 - PART 4 — PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP
- SCHEDULE 7 — ACCESS TO WORKS
- SCHEDULE 8 — TRAFFIC REGULATION
 - PART 1 — TEMPORARY
 - PART 2 — PERMANENT
- SCHEDULE 9
 - PART 1 — LAND OF WHICH ONLY SUBSOIL MORE THAN [] METRES BENEATH THE SURFACE MAY BE ACQUIRED
 - PART 2 — LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED
- SCHEDULE 10 — LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN
- SCHEDULE 11 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS
- SCHEDULE 12 — PROTECTIVE PROVISIONS
 - PART 1 — FOR THE PROTECTION OF ELECTRICITY AND GAS UNDERTAKERS
 - PART 2 — FOR THE PROTECTION OF [UK POWER NETWORKS] AS ELECTRICITY UNDERTAKER
 - PART 3 — FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER
 - PART 4 — FOR THE PROTECTION OF THE ENVIRONMENT AGENCY
 - PART 5 — FOR THE PROTECTION OF NETWORK RAIL AS RAILWAY UNDERTAKER

PART 6	— FOR THE PROTECTION OF NATIONAL HIGHWAYS AS HIGHWAYS AUTHORITY
PART 7	— FOR THE PROTECTION OF LOCAL HIGHWAY AUTHORITIES
PART 8	— FOR THE PROTECTION OF THE CONSERVANCY
PART 9	— FOR THE PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS
PART 10	— FOR THE PROTECTION OF CAMBRIDGE WATER
SCHEDULE 13	— REMOVAL OF HEDGEROWS
SCHEDULE 14	— MISCELLANEOUS CONTROLS
PART 1	— PUBLIC GENERAL LEGISLATION
PART 2	— LOCAL LEGISLATION
SCHEDULE 15	— CERTIFICATION OF PLANS AND DOCUMENTS
SCHEDULE 16	— ARBITRATION RULES

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

The application was examined in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010 by a Panel of three members (“the Panel”) appointed by the Secretary of State in accordance with Chapter 2 of Part 6 of the 2008 Act.

The Panel, having examined the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with section 74(2) of the 2008 Act, made a report and recommendation to the Secretary of State.

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

The Secretary of State in exercise of the powers conferred by section 114, 115, 117, 120 and 122 of, and paragraphs 1 to 3, 10 to 15, 17, 19, 20, 22 to 24, 26, 33 to 37 of Schedule 5 to, the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and Commencement

1. This Order may be cited as The Cambridge Waste Water Treatment Plant Relocation Order 20XX and shall come into force on [] 20XX.

Interpretation

2.—(1) In this Order—

(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
(b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378 and S.I. 2019/734.

“the 1961 Act” means the Land Compensation Act 1961(a);
 “the 1965 Act” means the Compulsory Purchase Act 1965(b);
 “the 1980 Act” means the Highways Act 1980(c);
 “the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(d);
 “the 1984 Act” means the Road Traffic Regulation Act 1984(e);
 “the 1990 Act” means the Town and Country Planning Act 1990(f);
 “the 1991 Act” means the New Roads and Street Works Act 1991(g);

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- (a) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c.65). There are other amendments to the 1961 Act which are not relevant to this Order.
- (b) 1965 c.56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71). Section 5 was amended by section 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c.34). Subsection (1) of section 11 and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c.23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.
- (c) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); section 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted, and section 1(3) was amended, by section 259 of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c.71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11), by section 64(1) (2) and (3) of the Transport and Works Act (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37). Section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177. Section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule. There are other amendments which are not relevant to this Order.
- (d) 1981 c.66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and schedules 8 and 16 to the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of schedule 2 was amended by section 76 of and Part 2 of schedule 9 to the Housing Act 1988 (c. 50); section 161(4) of and schedule 19 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of and schedules 8 and 16 to the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of and Schedule 9 to the Housing Act 1988 and section 56 of and schedule 8 to the Housing and Regeneration Act 2008. Paragraph 2 of schedule 3 was repealed by section 277 of and Schedule 9 to the Inheritance Tax Act 1984 (c. 51). There are other amendments to the 1981 Act which are not relevant to this Order.
- (e) 1984 c. 27. Section 32 was amended by section 102 of , and Schedule 17 to the Local Government Act 1983 (c.51) and by section 168 of, and Schedule 8 to the New Roads and Street Works Act 1991 (c.22). There are other amendments which are not relevant to this Order.
- (f) 1990 c.8. Section 55 was amended by sections 13, 14, 31 and 84 of, and Schedules 6 and 19 to, the Planning and Compensation Act 1991 (c.34); sections 49, 118 and 120 of, and Schedules 6 and 9 to, the Planning and Compulsory Purchase Act 2004 (c.5); by regulation 19 of, and Schedule 4 to the Waste Management Licensing Regulations 1994 SI 1994/1956 and by regulation 35 of The Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulation 1999 SI 1999/293. Section 150 was amended by section 70 of, and Schedule 15 to, the Planning and Compensation Act 1999 and by section 175 of the Planning Act 2008. Section 198 was amended by sections 31, 32 and 84 of, and Schedule 6, 7 and 19 to, the Planning and Compensation Act 1991; by section 42 of the Planning and Compulsory Purchase Act 2004; and sections 192 and 238 of, and Schedules 6, 8 and 13 to, the Planning Act 2008. Section 211, 212 and 213 were amended by sections 36, 86, 192 and 238 of, and Schedules 2 and 8 to, the Planning Act 2008. Section 264 was amended by section 37 of, and Schedule 5 to, the Transport Act 2000 (c.38). Section 274 was amended by section 31 and 84 to, and Schedules 6 and 19 of the Planning and Compensation Act 1991; section 406 of, and Schedule 17 to, the Communications Act 2003 (c.21; and by article 3 of, and Schedule 1 to, the Postal Services Act 2000 (Consequential Modifications No.1) Order 2001 SI 2001/1149. There are other amendments not relevant to this Order.
- (g) 1991 c.22. Sections 46, 51, 56, 57, 58, 60, 65 to 71, 74, 80, 83 were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18). Sections 54 and 55 were amended by section 49, sections 55 and 58 were amended by section 51, section 56 was also amended by section 43, section 57 was also amended by section 52, section 58A was inserted by section 52, section 64 was amended by section 52, section 72 was amended by section 53 and 58, section 74 was also amended by section 52 and section 79 was amended by section 46 of the Traffic Management Act 2004. Section 64 was also amended by section 81 of, and Schedule 7 to the Road Traffic Act 1981 (c.40). Section 74 was also amended by sections 256 and 274 of the Transport Act 2000 (c.38). Sections 74A and 74B were inserted by section 255, section 75 was amended by section 58, and section 95A was inserted by section 41 of the Transport Act 200. There are other amendments not relevant to this Order.

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

“the 2017 Regulations” means the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017(b);

“access plans” means the plans of that description referred to in Schedule 15 (certification of plans and documents) and certified as the access plans by the Secretary of State for the purposes of this Order;

“agreed date” means the day agreed for the provision of further information pursuant to paragraph 4(5) of Part 2 of Schedule 2 (procedure for the discharge of requirements etc and appeals);

“ancillary works” means the ancillary works described in Part 2 of Schedule 1 (authorised development) and any other works authorised by the Order and which are not development within the meaning of section 32 (meaning of development) of the 2008 Act;

“Anglian Water Services Limited” means Anglian Water Services Limited (company registration number 02366656) as the statutory sewerage undertaker licensed under the Water Industry Act 1991(c) and statutory successors or any successor under a special administration order or otherwise;

“appeal documentation” means a copy of the application submitted to the discharging body and any supporting documentation which the undertaker may wish to provide;

“appeal parties” means the discharging authority, the undertaker, and (where relevant) a requirement consultee;

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

“the book of reference” means the document of that description referred to in Schedule 15 and certified by the Secretary of State as the book of reference for the purposes of this Order;

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

“business day” means a day other than a Saturday or Sunday or public holiday in England;

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

“completion of construction” means completion of construction of the authorised development so that the same is complete and has been commissioned pursuant to the relevant construction contract or contracts;

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

“discharging authority” means the body responsible for giving any consent, agreement or approval required by a requirement included in this Order or protective provision set out in Schedule 12 (protective provisions) to this Order;

“environmental statement” means the document of that description referred to in Schedule 15 and certified by the Secretary of State for the purposes of this Order;

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

“infrastructure provider” means any body designated by the Secretary of State for the Environment, Food and Rural Affairs or by the Water Services Regulation Authority (as the

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- (a) 2008 c.29. Paragraph (o) of subsection (1) of section 14 was amended by articles 2(1) and (2) of the Infrastructure Planning (Waste Water Transfer and Storage Order) 2012/1645. Section 29 was amended by articles 2(3) and 3 of the Infrastructure Planning (Waste Water Transfer and Storage) Order 2012/1645. Section 37 was amended by paragraphs 5(2) and (3) of Part 1 of Schedule 13 to the Localism Act 2011 (c.20). Section 127 was amended by section 128(2) of, and paragraphs 64 (1) and (2) of Part 1 of Schedule 13 to, the Localism Act 2011 and section 23(2) of the Growth and Infrastructure Act 2013 (c.27). Section 138 was amended subsections (1) and (4) of section 23 of the Growth and Infrastructure Act 2013. There are other amendments which are not relevant to this Order.
- (b) S.I. 2017 No. 3.
- (c) 1991 c.56. section 106 was amended by sections 36(2) and 99 of the Water Act 2003 (c.37). There are other amendments to this section which are not relevant to this Order.

case may be) in respect of the authorised development or part(s) of the authorised development under or by virtue of Section 36D of the Water Industry Act 1991 (as inserted by Section 35 of the Flood and Water Management Act 2010) or any successor under a special administration order or otherwise;

“land plans” means the plans of that description referred to in Schedule 15 and certified as the land plans by the Secretary of State for the purposes of this Order;

“lead local flood authority” means Cambridgeshire County Council or any successor in function as lead local flood authority or equivalent body;

“levels” means the levels shown on the sections;

“limits of deviation” means the limits referred to in article 6;

“maintain” includes inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, demolish, replace or improve the authorised development, so that it is fit for the purpose for which it was originally constructed, unless that activity would result in a significant environmental effect not assessed in the environmental statement and any derivative of “maintain” is to be construed accordingly;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily and described in the book of reference;

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

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

“permissive path” means any permissive path whether created by statute, agreement or otherwise;

“relevant planning authority” means as regards the operation and enforcement of any part of this Order the district planning authority within whose administrative boundary that part of the authorised development relevant to the operation or enforcement of the provision in question is situated;

“relevant navigation authority” means as provided in paragraph [] of Part [] of Schedule 12 (protective provisions);

“relevant time limits” means the time limits prescribed in Part 2 of Schedule 2 (procedure for the discharge of requirements etc and appeals) or set by the appointed person pursuant to Part 2 of Schedule 2;

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

“requirements” means those matters set out in Part 1 of Schedule 2 (requirements);

“the Secretary of State” means the Secretary of State for Environment, Food and Rural Affairs (or their successor);

“the sections” means the sections shown on the [] plans;

“special administration” means special administration as defined in the Water Industry Act 1991 Sections 23 to 25 and in relation to an infrastructure provider paragraph 7 of Schedule 1 of the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013(b);

“start date” means the date on which the appeal parties are notified of the person appointed to determine an appeal made under Part 2 of Schedule 2 (procedure for the discharge of requirements etc and appeals);

“statutory undertaker” means any person falling within section 127(8) of the 2008 Act;

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

(a) 1981 c.67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34).

(b) S.I. 2013/1582.

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

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

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

“undertaker” means the person who has the benefit of this Order in accordance with article 7 (benefit of Order) and or 8 (transfer of benefit of Order) of this Order;

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

“works plans” means the plans of that description referred to in Schedule 15 and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or 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, capacities and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work. Internal diameters for tunnels and shafts are the approximate internal dimensions after the construction of a tunnel lining. Unless otherwise stated in Schedule 1 (authorised development), depths are specified to invert level and are measured from the proposed final ground level.

(4) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(5) References in this Order to points identified by letters or numbers shall be construed as references to points so lettered or numbered on the plan to which the reference applies.

(6) 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.

(7) References in this Order to any statute, order, regulation or similar instrument shall 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.

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

PART 2

PRINCIPAL POWERS

Development consent etc granted by the Order

3. Subject to the provisions of this Order and to the requirements the undertaker is granted—

- (a) development consent for the authorised development; and
- (b) [consent for the ancillary works],

to be carried out within the Order limits.

Authorisation of use

4. Subject to the provisions of this Order and to the requirements the undertaker may operate and use the authorised development for the purposes for which it was designed and for any purposes ancillary to those purposes.

Maintenance of authorised development

5.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or any agreement under this Order provides otherwise.

(2) Paragraph (1) does not apply to the highway works the maintenance of which is governed by article [] (maintenance of highway works) and Parts 6 and 7 of Schedule 12 (protective provisions).

Limits of Deviation

6. In constructing or maintaining the authorised development the undertaker may deviate—

- (a) laterally from the lines, situations or positioning of the authorised development shown or indicated on the works plans to the extent of the limits of deviation shown on the works plans; and
- (b) vertically from the levels of the authorised development shown on the sections to any extent—
 - (i) not exceeding [] metres upwards; or
 - (ii) downwards as may be found to be necessary or convenient.

Benefit of Order

7. Subject to article 8 (transfer of benefit of Order), the provisions of this Order shall have effect solely for the benefit of Anglian Water Services Limited (save where the context requires otherwise) and any successor under a special administration order or otherwise.

Transfer of benefit of Order

8.—(1) The undertaker may transfer to an infrastructure provider any or all of the benefit of the provisions of this Order (save for the powers of compulsory acquisition in articles 28 (compulsory acquisition of land), 30 (compulsory acquisition of rights), 31 (acquisition of subsoil only), 32 (acquisition of land limited to subsoil lying more than [] metres beneath surface) and such related rights for such period as may be necessary for the construction, operation or maintenance of the authorised development as may be agreed between the undertaker and the infrastructure provider.

(2) Notwithstanding any transfer under paragraph (1) above the undertaker may with the consent of the Secretary of State transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (save for the powers of compulsory acquisition in articles 28 (compulsory acquisition of land), 30 (compulsory acquisition of rights and imposition of restrictive covenants), 31 (acquisition of subsoil only), 32 (acquisition of land limited to subsoil lying more than [] metres beneath surface) and such related rights for such period as may be necessary for the construction, operation or maintenance of the authorised development as may be agreed between the undertaker and the transferee.

(3) Where a transfer has been made in accordance with paragraph (1) or (2) references in this Order to the undertaker, except in paragraphs (1) and (4), shall include references to the infrastructure provider or transferee.

(4) The exercise by a person of any benefits or rights conferred in accordance with any transfer under paragraph (1) or (2) shall—

- (a) be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by Anglian Water Services Limited; and
- (b) not prevent Anglian Water Services Limited benefitting from those provisions of this Order notwithstanding that those provisions may also benefit the infrastructure provider or transferee.

(5) The undertaker must—

- (a) consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application; and

- (b) prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area and the relevant planning authority.

(6) A notice under paragraph (5) must—

(a) state—

- (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
- (ii) subject to paragraph (7), the date on which the transfer will take effect;
- (iii) the provisions to be transferred or granted;
- (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (4)(a), will apply to the person exercising the powers transferred or granted; and
- (v) where paragraph (1) does not apply, confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land; and

(b) be accompanied by—

- (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
- (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

(7) The date specified under paragraph (6)(a)(ii) in respect of a notice served in respect of paragraph 5(b) must not be earlier than the expiry of fourteen days from the date of the receipt of the notice.

(8) The notice given under paragraph 5(b) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

Defence to proceedings in respect of statutory nuisance

9.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of Section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order shall be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

- (a) 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;
- (b) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided;
- (c) is a consequence of the construction of the authorised development before completion of construction and that it cannot reasonably be avoided; or
- (d) 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 compliance with a requirement of this Order and that it cannot reasonably be avoided.

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

PART 3

STREETS

Street works

10.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street, or carry out works to strengthen or repair the carriageway;
- (c) place and keep apparatus, in or on the street;
- (d) maintain, renew or change the position of apparatus, in, on or under the street;
- (e) demolish, remove, replace and relocate any bus shelter and associated bus stop infrastructure;
- (f) execute and maintain any works to provide hard and soft landscaping;
- (g) carry out re-lining and placement of new temporary markings; and
- (h) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (g) above.

(2) The authority given by paragraph (1) 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^(a).

(3) The provisions of sections 54 to 106 (save insofar as disapplied through the operation of article 55 (application, disapplication and modification of legislative provisions) and Schedule 14 (miscellaneous controls) to this Order) of the 1991 Act^(b) apply to any street works carried out under paragraph (1).

(4) In Part 3 of the 1991 Act, provisions relating to major highway works which refer to the highway authority concerned shall, in relation to works which are major highway works, be construed as references to the undertaker.

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

Power to alter layout, etc, of streets

11.—(1) The undertaker may for the purposes of constructing the authorised development, alter the layout of each of the streets specified in column (2) of Schedule 4 (streets subject to alteration of layout) in the manner specified in relation to that street in column (3).

(2) Without prejudice to the specific powers conferred by article 3 or paragraph (1) but subject to paragraph (3), the undertaker may, for the purposes of either constructing, using and/or maintaining the authorised development, alter the layout of any other 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, verge, or central reservation within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track, verge, or central reservation;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) execute any works of surfacing or re-surfacing of the highway;

(a) Section 51 is amended by section 40 of and Schedule 1 to the Traffic Management Act 2004 (c.18).

(b) Sections 54 to 106 are amended by Schedule 7 to the Road Traffic Act 1991 (c.40), Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c.60), sections 255 and 256 of the Transport Act 2000 (c.38), sections 40 to 64 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18), Schedule 3 to the Flood and Water Management Act 2010 (c.29), and regulation 17 of S.I. 2007/1951; there are other amendments that are not relevant to this Order.

- (f) execute any works necessary to alter existing facilities for the management and protection of pedestrians; and
- (g) make and maintain crossovers and passing places.

(3) The powers conferred by paragraph (1) must not be exercised without the consent of the local highway authority but such consent must not be unreasonably withheld and if the local highway authority has received an application for consent to exercise powers under paragraph (1) accompanied by all relevant information and fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application is submitted with all relevant information, it is deemed to have granted consent.

(4) The undertaker must restore any street which has been temporarily altered pursuant to this article to the reasonable satisfaction of the local highway authority.

(5) In Part 3 of the 1991 Act, provisions relating to major highway works which refer to the highway authority concerned shall, in relation to works which are major highway works, be construed as references to the undertaker.

(6) The provisions of sections 54 to 106 (save insofar as disappplied through the operation of article 55 (application, disapplication and modification of legislative provisions) and Schedule 14 (miscellaneous controls) Part 1 to this Order) of the 1991 Act apply to works carried out under paragraph (1) or (2) to the extent that those works involve the breaking up or opening of a street, or any sewer, drain, or tunnel under it, or tunnelling or boring under a street.

Permanent stopping up of streets

12.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up permanently the streets specified in column (2) of Schedule 5 (streets to be permanently stopped up for which a substitute is to be provided) to the extent specified, by reference to the letters shown on the access and rights of way plans, in column (3) of that Schedule.

(2) No street specified in column (2) of Schedule 5 is to be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, which is specified in column (4) of that Schedule, has been completed to the reasonable satisfaction of the relevant street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

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

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the street as is bounded on both sides by land owned by the undertaker.

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

(5) This article is subject to article 46 (apparatus and rights of statutory undertakers in stopped up streets).

Temporary stopping up of streets

13.—(1) The undertaker may during and for the purposes of carrying out the authorised development, temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2), prevent all persons from passing along the street.

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(3) The undertaker must not temporarily stop up, alter or divert any street for which it is not the street authority without the consent of the relevant street authority which may attach reasonable conditions to any consent (including specifying the time period during which the street may be stopped up, altered or diverted) but such consent must not be unreasonably withheld.

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

(5) If a street authority has received an application for consent under paragraph (3) accompanied by all relevant information and fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was submitted with all relevant information, it is deemed to have granted consent.

Public rights of way – creation, substitution and stopping up and permissive paths

14.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development—

- (a) stop up each of the public rights of way specified in columns (1) and (2) of Part 1 of Schedule 6 (public rights of way to be permanently stopped up for which a substitute is to be provided) to the extent specified in column (3) of that Part of that Schedule;
- (b) provide the substitute public rights of way described in column (4) of Part 1 of Schedule 6 between the specified terminus points and where specified, on a detailed alignment to be agreed with the local highway authority at the stage of the authorised development identified in column (5) of that Part of that Schedule;
- (c) temporarily stop up public rights of way to the extent agreed with the relevant highway authority and provide substitute temporary public rights of way on an alignment to be agreed with the local highway authority prior to the temporary stopping up of the public right of way concerned; and
- (d) stop up each of the public rights of way specified in columns (1) and (2) of Part 2 of Schedule 6 to the extent specified in column (3) of that Part of that Schedule at the stage of the authorised development identified in column (4) of that Part of that Schedule.

(2) No public right of way specified in columns (1) and (2) of Part 1 of Schedule 6 may be wholly or partly stopped up under this article unless the permanent substitute public rights of way referred to in column (4) of Part 1 of Schedule 6 or an alternative temporary substitute public right of way agreed by the local highway authority has first been provided by the undertaker, to the reasonable satisfaction of the local highway authority.

(3) Any temporary substitute right of way must be maintained by the undertaker with appropriate signage until the completion and opening of the permanent substitute public right of way specified in column (4) of Part 1 of Schedule 6.

(4) The undertaker must in connection with carrying out of the authorised development provide the new public rights of way specified in columns (1) and (2) of Part 3 of Schedule 6 (new public rights of way to be created) to the extent specified in column (3) of that Part of that Schedule at the stage of the authorised development in column (4) of that Part of that Schedule.

(5) For the purposes of paragraph (1), the undertaker shall be taken to have provided the alternative way or path when the way or path has been completed—

- (a) in accordance with any obligation under article 12 to complete the way or path to the reasonable satisfaction of the street authority, or
- (b) if no such obligation arises, to the reasonable satisfaction of the local highway authority.

Public rights of way – temporary closure

15.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development—

- (a) close each of the public rights of way specified in columns (1) and (2) of Part [] of Schedule 6 (public rights of way to be temporarily stopped) to the extent specified in column [] of that Part of that Schedule; and
- (b) temporarily stop up any other public right of way to the extent agreed with the relevant highway authority and provide substitute temporary public rights of way on an alignment to be agreed with the local highway authority prior to the temporary stopping up of the public right of way concerned.

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

(3) If within 56 days of receiving an application for consent under paragraph (5)(b) a local highway authority fails to notify the undertaker of its decision or refuses consent without giving any grounds for its refusal that local highway authority is deemed to have granted consent.

(4) This article is subject to paragraph [] of Schedule 12 (protective provisions) to this Order.

Access to works

16.—(1) The undertaker may, for the purposes of the construction, use and or maintenance 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 7 (access to works) for the purposes specified in column (3) of [Schedule 7]; and
- (b) with the approval of the relevant highway authority after consultation with the 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 the relevant highway authority has received an application for approval under paragraph (1) fails to notify the undertaker of its decision before the end of the period of 42 days starting with the date on which the application was made, it is deemed to have granted consent.

(3) The relevant planning authority may attach any reasonable conditions to any approval given under paragraph (1)(b).

Maintenance of highway works

17.—(1) The highway works must be completed in accordance with the provisions of Parts [] and [] of Schedule 12] (protective provisions).

(2) With effect from the date of the handover certificate referred to in paragraph [] of Part [] of Schedule [] the highway works to which that certificate relates will be maintained by and at the expense of National Highways.

(3) With effect from the date of the final certificate referred to in paragraph [] of Part [] of Schedule [] the highway works to which that certificate relates will be maintained by and at the expense of the local highway authority.

(4) Where new land not previously part of the public highway is the subject of a provisional certificate under paragraph [] of Part [] of Schedule [] then it is deemed to be dedicated as part of the public highway on the issue of that certificate.

(5) Where new land not previously part of the public highway is the subject of a provisional certificate under paragraph [] of Part [] of Schedule [] then it is deemed to be dedicated as part of the public highway on the issue of that certificate.

(6) For the purposes of this article, the definition of “maintain” in article 2 (interpretation) does not apply and the word “maintain” is to be given its ordinary meaning when applied to highways.

Speed limits

18.—(1) The orders referred to in columns [] and [] of Part [] of Schedule [] are revoked or varied as set out in column [] of Part [] of Schedule [] upon the event listed in column [] occurring.

(2) Upon the event listed in column [] of Part [] of Schedule [] no person is to drive any motor vehicle at a speed exceeding 50 miles per hour on the lengths of highway identified in column [] of Part [] of Schedule [].

(3) Upon the event listed in column [] of Part [] of Schedule [] the lengths of highway specified in column [] of Part [] of Schedule [] cease to be restricted highways for the purpose of section 81 of the 1984 Act.

(4) During the period specified in column [] of Part [] of Schedule [] no person is to drive any motor vehicle at a speed exceeding the limit specified in column [] of Part [] of Schedule [] along the lengths of highway specified in column [] of Part [] of Schedule [].

(5) Without limiting the scope of the specific powers conferred by paragraph (4) but subject to the provisions of this article and the consent (such consent not to be unreasonably withheld) of the relevant traffic authority, which consent may be subject to reasonable conditions, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction, operation or maintenance of the authorised development, impose a temporary speed limit either at all times or at times, on days or during such periods, and on such highways as may be specified by the undertaker.

(6) The undertaker must not exercise the powers in paragraph (5) unless it has given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the relevant traffic authority.

(7) The speed limits imposed by this Order are deemed to have been imposed by an order under the 1984 Act and—

- (a) have the same effect; and
- (b) may be varied by the relevant traffic authority in the same manner, as any other speed limit imposed by an order under that Act.

(8) No speed limit imposed by this Order applies to vehicles falling within regulation 3(4) (regulations in relation to orders and notices under the 1984 Act) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(a) when used in accordance with regulation 3(5) of those Regulations.

Traffic regulation

19.—(1) Subject to the provisions of this article, the undertaker may at any time for the purposes of the—

- (a) construction of the authorised development temporarily regulate traffic further to Part 1 of Schedule 8 (traffic regulation), and
- (b) construction, operation or maintenance of the authorised development permanently regulate traffic further to Part 2 of Schedule 8,

in the manner specified in column (4) on those roads specified in column (2) and along the lengths and between the points specified, or to the extent otherwise described in column (3) of that Schedule.

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent (such consent not to be unreasonably withheld) of the traffic authority in whose area the road concerned is situated, which consent may be subject to reasonable conditions, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction, operation, or maintenance of the authorised development—

- (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 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 shall not exercise the powers in paragraphs (1) and (2) unless it has—
- (a) given not less than 4 weeks' notice in writing of its intention so to do 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 the traffic authority's receipt of notice of the undertaker's intention under subparagraph (a).
- (4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2) shall—
- (a) have effect as if duly made by, as the case may be—
 - (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 of the 1984 Act; and
 - (b) be deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement).
- (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 paragraph (2) at any time.
- (6) Before complying with the provisions of paragraph (3) the undertaker shall 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 shall 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 paragraph (2) the traffic authority is deemed to have given consent.

Agreements with street authorities

- 20.—**(1) The relevant highway authority and the undertaker may enter into agreements with a street authority with respect to—
- (a) the construction and/or maintenance of any new street including any structure carrying the street whether or not over or under any part of the authorised development;
 - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
 - (c) the maintenance of landscaping within a street constructed;
 - (d) the strengthening, improvement, repair or reconstruction of any highway under the powers conferred by this Order;
 - (e) the maintenance of highway related assets which fall outside of the extent of streets maintained by a relevant highway authority;
 - (f) the carrying out in the street of any of the works referred to in article 10(1) (street works) or their maintenance;
 - (g) the alteration of any street further to article 11(1) or (2) (power to alter the layout etc of streets); or
 - (h) such other works 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 street authority specifying a reasonable time for completion of the works;
- (c) provide for the dedication of any new street as public highway further to section 38 of the 1980 Act;
- (d) contain such terms as to payment as the parties consider appropriate; and
- (e) contain such other terms as the parties may agree between them.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

21.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, maintenance or use of the authorised development and for that purpose may inspect, 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 pursuant to paragraph (1) shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991(right to communicate with public sewers(a)).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not carry out any works to any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the carrying out of the works.

(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, unless otherwise authorised by this Order.

(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 pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters is prohibited by Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016(b).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker; and
- (b) other expressions excluding watercourse, which are used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016(a) have the same meaning as in that Act.

(9) If a person who has received an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of its decision within 28 days of receiving the application, that person is deemed to have granted consent or given approval as the case may be.

(a)
(b) S.I. 2010/675.

Protective works to buildings and structures

22.—(1) Save as otherwise agreed pursuant to paragraph 13, subject to the following provisions of this article, the undertaker may at its own expense carry out the protective works to any building or structure listed in Schedule [] to this Order which the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

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

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

- (a) any building or structure to which the power applies and any land within the Order limits; and
- (b) where reasonably necessary, any land which is adjacent to the building but outside the Order limits.

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

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

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building or structure;
- (b) a right under paragraph (3)(a) to enter a building and land within the Order limits;
- (c) a right under paragraph 3(b) to enter land;
- (d) a right under paragraph (4)(a) to enter a building and land within the Order limits; or
- (e) a right under paragraph (4)(b) to enter land,

the undertaker must serve on the owners and occupiers of the building or structure or land not less than 14 days' notice of its intention to exercise that power and, in a case falling within sub-paragraph (a), (d) or (e), specifying the planned protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (d) or (e), the owner and or occupier of the building or land concerned may, by serving a counter-notice within the period of 14 days beginning with the day on which the notice was served, require the question as to whether the protective works proposed by the undertaker are necessary or expedient to be referred to arbitration under article 56 (arbitration).

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

(8) [Where—

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

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

(9) Nothing in this article shall relieve the undertaker from any liability to pay compensation under section 152(3) of the 2008 Act (compensation in cases where no right to claim as nuisance).

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

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of land under this article to the same extent as it applies in respect of the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works” in relation to a building or structure means those works listed in Schedule [] and any other works the purpose of which is to prevent damage which may be caused to the building or structure listed, which may include monitoring, underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

23.—(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 and or investigate the land;
- (b) without limitation to the scope of sub-paragraph (a), survey, monitor and or investigate the land and any buildings or structures on that land for the purpose of investigating the potential effects of the authorised development on that land or buildings or structures on that land or for enabling the construction, use and maintenance of the authorised development;
- (c) without limitation to the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and or subsoil and or to remove soil samples;
- (d) without limitation to the scope of sub-paragraph (a), carry out ecological and or archaeological investigations or monitoring on such land; and
- (e) place on, leave on and remove from the land apparatus for use in connection with the survey, monitoring and or investigation of land, the making of trial holes, and or the carrying out of ecological and or archaeological investigations.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) shall, if so required on entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey, investigation, monitoring, or to make the trial holes.

(4) No trial holes shall be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority;
- (b) in land forming a railway without the consent of Network Rail(a);
- (c) in land held by or in right of the Crown without the consent of the Crown; or
- (d) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld or delayed.

(5) If either a highway authority or a 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 under paragraph (4) that authority is deemed to have granted consent.

(a) As defined in Part [] of Schedule [] (Protection for Network Rail Infrastructure Limited).

(6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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

Removal of human remains

24.—(1) Before the undertaker carries out any development or works which will or may disturb any human remains within the Order limits it shall remove those human remains or cause them to be removed, in accordance with the following provisions of this article.

(2) Before any such remains are removed from within the Order limits the undertaker must give notice of the intended removal, describing the Order limits land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near the Order limits.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant planning authority.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred within the Order limits may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question shall be determined on the application of either party in a summary manner by a county court, and the court may make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(7) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(8) If—

- (a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land;
- (b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days;
- (c) within 56 days after any order is made by a county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks

suitable for the purpose; and, so far as possible, remains from individual graves shall be re-interred in individual containers which shall be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(10) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

(11) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(12) No notice is required under paragraph before the removal of any human remains where the undertaker is satisfied—

- (a) that the remains were interred more than 100 years ago; and
- (b) that no relative or personal representatives of the deceased is likely to object to the remains being removed in accordance with this article.

(13) In this article references to a relative of the deceased are to a person who—

- (a) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased;
- (b) is, or is a child of, a brother, sister, uncle or aunt of the deceased;
- (c) is the lawful executor of the estate of the deceased; or
- (d) is the lawful administrator of the estate of the deceased.

(14) Any jurisdiction or function conferred on a county court by this article may be exercised by the district judge of the court.

(15) Section 25 of the Burial Act 1857^(a) (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) shall not apply to a removal carried out in accordance with this article.

Felling or lopping of trees and removal of hedgerows

25.—(1) Save in respect of trees or shrubs which come within article 26 (trees subject to tree preservation orders), or article 27 (trees in conservation areas) the undertaker may fell or lop any tree or shrub 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 or shrub from obstructing or interfering with the construction, maintenance or use of the authorised development or any apparatus used in connection with the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and shall 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, shall be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(a) 1857 c.81. There are amendments to this Act which are not relevant to this Order.

(4) The undertaker may, for the purpose of the authorised development subject to paragraph (2) above, remove any hedgerows within the Order limits and specified in Schedule 13 (removal of hedgerows) that may be required for the purposes of carrying out the authorised development.

(5) In this article “hedgerow” has the same meaning as in the Hedgerows Regulations 1997(a).

Trees subject to tree preservation orders

26.—(1) The undertaker may fell or lop or cut back the roots of any tree or shrub which is subject to a tree preservation order with the prior approval of the relevant planning authority, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or use of the authorised development or any apparatus used in connection with the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 206(1) of the 1990 Act (replacement of trees) shall not apply.

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

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

Trees in conservation areas

27.—(1) Save in respect of trees or shrubs which come within article 26 (trees subject to tree preservation orders), the undertaker may fell or lop any tree or shrub which is situated within a conservation area (designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990), or cut back its roots if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, maintenance or use of the authorised development or any apparatus used in connection with the authorised development.

(2) Save for those trees identified on the approved plans, action may not be taken under paragraph (1) unless the undertaker has given written notice to the relevant planning authority of the intended action (with sufficient particulars to identify the tree), and either—

- (a) the relevant planning authority has indicated in writing that it has no objection to the works or that they fall within an exemption in paragraph (3) or (4), or
- (b) six weeks have elapsed from the date of the notice and a tree preservation order has not been made in respect of the tree or shrub.

(3) Paragraph (2) shall not apply where consent would not be needed for the proposed action if the tree or shrub were subject to a tree preservation order.

(4) Paragraph (2) shall not apply to any action which would be exempt in accordance with regulations under section 212 of the 1990 Act (disapplication of tree preservation offences).

(5) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker shall do no unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity; and
- (b) the duty contained in section 213(1) of the 1990 Act (replacement of trees) shall not apply.

(6) The authority given by paragraph (1) shall constitute an authorisation by an order granting development consent for the purposes of section 211(1A) of the 1990 Act.

(7) Any dispute as to a person’s entitlement to compensation under paragraph (5), or as to the amount of compensation, shall be determined under Part 1 of the 1961 Act.

PART 5

ACQUISITION AND POSSESSION OF LAND

Compulsory acquisition of land

28.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project or to facilitate, or is incidental, to it.

(2) This article is subject to article 29 (time limit for exercise of authority to acquire land compulsorily), paragraph (2) of article 30 (compulsory acquisition of rights and imposition of restrictive covenants), article 31 (acquisition of subsoil only), article 32 (acquisition of land limited to subsoil lying more than [] metres beneath surface) and article 39 (temporary use of land for carrying out the authorised development).

Time limit for exercise of authority to acquire land compulsorily

29.—(1) After the end of the period of 5 years beginning with the day on which this Order is made—

- (a) no notice to treat shall be served under Part 1 of the 1965 Act; and
- (b) no declaration shall be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981^(a) as applied by article 34 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 39 (temporary use of land for carrying out the authorised development) shall cease either at the end of the period referred to in paragraph (1) or at the end of the period as stated in article 35(3), whichever is the longer, save that nothing in this paragraph shall prevent the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights and imposition of restrictive covenants

30.—(1) Subject to the provisions of this article, the undertaker may acquire compulsorily such rights or impose such restrictive covenants over the Order land, including rights and restrictive covenants for the benefit of a statutory undertaker or any other person, as may be required for any purpose for which that land may be acquired under article 28 (compulsory acquisition of land), by creating them as well as by acquiring rights and the benefit of restrictions already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 9 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights and the imposition of such restrictive covenants for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act, and Schedule 2A (counter-notice requiring purchase of land) of the 1965 Act (as substituted by paragraph 10 of Schedule 11 (modification of compensation and compulsory purchase enactments for the creation of new rights), where the undertaker creates a new right or acquires an existing right over land or imposes a restrictive covenant under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 11 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 restrictive covenant.

(5) In any case where the acquisition of new rights or imposition of a restriction under paragraph (1) or (2) 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 to the statutory undertaker in question.

(a) 1981 c.66.

(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.

Acquisition of subsoil only

31.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of the land referred to in paragraph (1) of article 28 (compulsory acquisition of land) or article 30 (compulsory acquisition of rights and imposition of restrictive covenants) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of 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 only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) Section 153(4A) (reference of objection to Upper Tribunal: general) of the Town and Country Planning Act 1990.

(4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Acquisition of land limited to subsoil lying more than [] metres beneath surface

32.—(1) This article applies to the land specified in Schedule 9 (land of which only subsoil more than [] metres beneath surface may be acquired).

(2) In the case of land to which this article applies, the undertaker may only acquire compulsorily under article 28 (compulsory acquisition of land) so much of, or such rights in, the subsoil of the land as may be required for the purposes of the authorised development.

(3) Where the undertaker acquires any part of, or rights in, the subsoil of the land to which this article applies, the undertaker shall not be required to acquire a greater interest in the land or an interest in any other part of it.

(4) References in this article to the subsoil of land are references to the subsoil lying more than [] metres beneath the level of the surface of the land; and for this purpose “level of the surface of the land” means—

- (a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building;
- (b) in the case of a watercourse or other water area, the level of the surface of the ground nearest to it which is at all times above water level; or
- (c) in any other case, ground surface level.

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

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) Section 153(4A) (reference of objection to Upper Tribunal: general) of the Town and Country Planning Act 1990.

Private Rights

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

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 30 (compulsory acquisition of rights and imposition of restrictive covenants) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

- (a) as from the date of the acquisition of the right or the imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of lease of the land by agreement); or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights 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.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenants under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(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 45 (statutory undertakers) applies.

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

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker's appropriation of the land,
 - (iii) the undertaker's entry onto the land, or
 - (iv) the undertaker's taking temporary possession of the land,that any or all of those paragraphs do not apply to any right specified in the notice; or
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement 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,

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

(8) Reference in this article to private rights over land includes reference to any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Power to override easements and other rights

34.—(1) The carrying out or use of development authorised by this Order (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) and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) (nuisance: statutory authority) of the 2008 Act, 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 use of land arising by virtue of contract.

(2) Subject to article 43 (no double recovery), where any interest, right or restriction to which this article applies is interfered with or breached under paragraph (1), unless otherwise agreed, 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 way 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.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and any restrictions as to the use of land arising by virtue of a contract.

(4) 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 (3); and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(5) 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)

(6) Subsection (2) of section 10 of the 1965 Act applies to paragraph (2) by virtue of section 152(5) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(7) Any rule or principle applied to the construction of section 10 of the 1965 Act applies to the construction of paragraph (2) with any necessary modifications.

Application of the 1981 Act

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

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of Act), in subsection (1), omit the words “in themselves”.

(4) 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.”

(5) In section 4 (execution of declaration), for subsection (1) substitute—

“(1) The acquiring authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form vesting the land in themselves, or in the case of land or a right that they are authorised to acquire for the benefit of a third party in the third party in question, from the end of such period as may be specified in the declaration (not being less than 3 months from the date on which the service of notices required by section 6 is completed).”

(6) In section 5(2) (earliest date for execution of declaration) omit the words from “, and this subsection” to the end.

(7) Section 5A (time limit for general vesting declaration)(a) is omitted.

(8) In section 5B (extension of time limit during challenge)(b) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order) substitute “section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent) the five year period mentioned in article 29 (time limit for exercise of authority to acquire land compulsorily) of the Cambridge Waste Water Treatment Plant Relocation Order [20xx]”.

(9) In section 6 (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”.

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

(11) In section 8 (vesting and right to enter and take possession), after subsection (3), insert—

“(4) In this section references to the acquiring authority include any third party referred to in section 4(1).”

(12) In section 10 (acquiring authority's liability arising on vesting of the land), in subsection (1), after “vested in an acquiring authority” insert “or a third party”.

(13) In section 11 (recovery of compensation overpaid), for subsection (1) substitute—

“(1) This section applies where after the execution of a general vesting declaration a person (“the claimant”) claims compensation in respect of the acquisition of an interest in land by virtue of the declaration, and the acquiring authority pay compensation in respect of that interest.”

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

“(2) But see article 31 (acquisition of subsoil only) and article 32 (acquisition of land limited to subsoil lying more than [] metre below surface) of the Cambridge Waste Water Treatment Plant Relocation Order [202X], which excludes the acquisition of subsoil only from this Schedule.”

(15) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 38 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of land under this Order.

Modification of the 2017 Regulations

36.—(1) Schedule 1 to the 2017 Regulations is modified as follows.

(2) In paragraph (3) of Form 1, after “from the date on which the service of notices required by section 6 of the Act is completed”, insert—

“(1A) The [*insert land or rights or both*] described in Part [*insert number*] of the Schedule hereto as being for the benefit of third parties and more particularly delineated on the plan annexed hereto vests in the third parties in question as from the end of the period of [*insert period of 3 months or longer*] from the date on which the service of notices required by section 6 of the Act is complete.”

(3) References to Form 2 to “in themselves” is substituted with “in themselves and any identified third parties”.

(4) In paragraph (b) of the notes on use of Form 2—

(a)
(b)

- (a) after “Insert the name of the authority” insert “and where the context requires insert a reference to third parties”; and
- (b) omit “Thereafter rely on that definition wherever “b” appears in the text”.

Modification of Part 1 of the Compulsory Purchase Act 1965

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

(2) In section 4A(1)(a) (extension of time limit during challenge)—

- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and
- (b) for “the three year period mentioned in section 4” substitute “the five year period mentioned in article 27 of the Cambridge Waste Water Treatment Plant Relocation Order 202X”.

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

- (a) in subsection (1)(a), after “land” insert “under that provision”; and
- (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 27 of the Cambridge Waste Water Treatment Plant Relocation Order 202X”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat) after paragraph 29, insert—

- (a) for paragraphs 1(2) and 14(2) substitute—
“(2) But see article 31(3) (acquisition of subsoil only) and article 32(5) (acquisition of land limited to subsoil lying more than [] metre below surface of the (name of this order), which exclude the acquisition of subsoil only from this Schedule”; and
- (b) at the end insert—

“PART 4

INTERPRETATION

“**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 38 (temporary use of land for carrying out the authorised development) or 39 (temporary use of land for maintaining the authorised development) of the Cambridge Waste Water Treatment Plant Order 202X.”

Temporary use of land for carrying out the authorised development

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

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 10 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;

(a) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).
(b)

- (b) remove any buildings and vegetation from that land that reasonably need to be removed in connection with the carrying out of the authorised development;
- (c) construct works (including the provision of means of access) and buildings on that land;
- (d) use the land for the purposes of a working site with access to the working site in connection with the authorised development;
- (e) construct any works, or use the land, as specified in relation to that land in column 3 of Schedule [], or any mitigation works;
- (f) construct such works on that land as are mentioned in Part 1 of Schedule 1 (authorised development); and
- (g) carry out mitigation works required pursuant to the requirements in Schedule 1.

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

(3) The undertaker is not required to serve notice under paragraph (2) where the undertaker has identified a potential risk to the safety of any of—

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment.

(4) The undertaker may not, without the agreement of the owners or any lessee of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of the end of construction work for that part of the authorised development specified in relation to that land in column (4) of Schedule 10 (land of which temporary possession may be taken); 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 the end of construction work for which temporary possession of this land was taken unless the undertaker has, before 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 or has otherwise acquired the land subject to temporary possession.

(5) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, before giving up possession of land of which temporary possession has been taken, unless otherwise agreed by the owners of the land, the undertaker shall remove all works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker shall not be required to—

- (a) replace any building, structure, drain or electric line removed under this article;
- (b) remove any drainage works installed by the undertaker under this article;
- (c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to street works);
- (d) restore the land on which any permanent works have been constructed under paragraph (1)(e) or (1)(f);
- (e) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;
- (f) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development;
- (g) remove or reposition any apparatus belonging to statutory undertakers or necessary mitigation works; or
- (h) restore the land on which any works have been carried out under paragraph (1)(g) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Schedule 1.

(6) The undertaker shall 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 any power conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(8) Subject to article 43 (no double recovery) 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 project, other than loss or damage for which compensation is payable under paragraph (6).

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

- (a) acquiring new rights or imposing restrictive covenants over any part of that land under article 30 (compulsory acquisition of rights);
- (b) acquiring any part of the subsoil of (or rights in the subsoil of) of that land under article 31 (acquisition of subsoil only) or article 32 (acquisition of land limited to subsoil lying more than [] metre below surface);
- (c) carrying out protective works under article 22 (protective works to buildings and structures); or
- (d) carrying out a survey of that land under article 23 (authority to survey and investigate the land).

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

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) shall apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

Temporary use of land for maintaining authorised development

39.—(1) Subject to paragraph (2) the undertaker may—

- (a) enter on and take temporary possession of any land within the Order land if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) shall 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 on and taking temporary possession of land under this article the undertaker shall serve notice of the intended entry on the owners and occupiers of the land. Such notice shall include details of the proposed works.

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

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

(6) The undertaker shall 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.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, shall be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provisions as to compensation for injurious affection) 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) The undertaker is not required to serve notice under paragraph 3 where the undertaker has identified a potential risk to the safety of any of—

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment.

(10) Where the undertaker takes possession of land under this article, the undertaker 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).

Disregard of certain interests and improvements

40.—(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 executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution 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 executed 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

41.—(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 30 (compulsory acquisition of rights and restrictive covenants), the tribunal shall set off against the value of the rights or restrictive covenants so acquired—

- (a) any increase in the value of the land over which the new rights or restrictive covenants 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 shall have effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

No double recovery

42. Compensation is not be 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.

Compulsory acquisition of land – incorporation of the mineral code

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

- (a) for “the acquiring authority” substitute “the undertaker”;
- (b) for the “undertaking” substitute “authorised development”; and
- (c) for “compulsory purchase order” substitute “this Order”.

Statutory undertakers

44. Subject to the provisions of Schedule 12 (protective provisions) article 30 (compulsory acquisition of rights and impositions of restrictive covenants) the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land; and
- (b) extinguish the rights of, or restrictions for the benefit of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Apparatus and rights of statutory undertakers in stopped-up streets

45.—(1) Where a street is stopped up under article 12 (permanent stopping up of streets) or article 13 (temporary stopping up of streets), any statutory utility whose apparatus is under, in, on, along or across the street shall have the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 12 or article 13, any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker will pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

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

that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) shall be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall 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 cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) In this article—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003 (interpretation)(a).

Recovery of costs of new connections

46.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 44 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be 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) shall not apply in the case of the removal of a public sewer but where such a sewer is removed under article 45, 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,

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

(3) This article shall not have effect in relation to apparatus to which article 46 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

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

“public utility undertaker” has the same meaning as in the 1980 Act.

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

(b) 2003 c.21. There are amendments to section 151 that are not relevant to this Order.

Public rights of navigation

47.—(1) The public rights of navigation over that section of the River Cam where any of the authorised development, including any foundations, are located are—

- (a) temporarily suspended in relation to that section of the River Cam identified on [] for the purposes of constructing or carrying out that part of the authorised development comprised in Work no. []; and
- (b) permanently extinguished in relation to the area identified on [].

(2) The public rights of navigation over any part of the river may be temporarily suspended with the written consent of the relevant navigation authority as provided in paragraph [] of Part [] of Schedule 12 (protective provisions).

Rights under or over streets

48.—(1) The undertaker may enter onto and use so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes.

(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) shall not apply in relation to—

- (a) any subway, tunnel or underground building; or
- (b) any cellar, vault, arch, projection, 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 which is entered onto and used under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

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

(6) The undertaker shall as soon as reasonably practicable and in any case no later than 14 days before entering the subsoil or airspace, serve notice of the use under this article, on the owner and or occupier of the subsoil or airspace proposed to be used, and such notice will be accompanied by plans showing in sufficient detail the subsoil and airspace to be used under this article and upon written request the undertaker will supply a copy of such notice and plans to the local authority and (if different) the local highway authority.

(7) If at any time following the use pursuant to paragraph (1) the subsoil or airspace is no longer required to be used under this article for the purposes of the authorised development—

- (a) the undertaker will serve notice on the owner that the subsoil or airspace is no longer required;
- (b) upon service of notice to the owner the right of the undertaker to use the subsoil or airspace given by paragraphs (1) and (2) will cease; and
- (c) the undertaker (or if different the owner for the time being of the part of the authorised development occupying the subsoil or airspace) will within a reasonable time following the written request of the owner to do so, remove its equipment from the subsoil or airspace and restore the subsoil or airspace to the reasonable satisfaction of the owner and deliver up vacant possession of it.

PART 6

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

49.—(1) Unless otherwise agreed by the undertaker, 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 or use 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 shall prejudice the operation of any agreement to which this article applies.

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

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

Operational land for the purposes of the 1990 Act

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

Protective Provisions

51. Schedule 12 (protective provisions) to this Order has effect.

Discharge of requirements and other approvals etc

52.—(1) Save as provided otherwise by this Order, Schedule 2 (requirements) shall have effect in relation to all consents, agreements, approvals or notices granted, refused or withheld in relation to—

- (a) the requirements set out in Part 1 of Schedule 2 (requirements);
- (b) any document referred to in any requirement set out in Schedule 2 (requirements); and
- (c) the functions of the local authority set out in Sections 60 and or 61 of the Control of Pollution Act 1974.

(2) Save as provided otherwise by this Order, paragraphs [] of Schedule 2 shall have effect in relation to applications made pursuant to the requirements set out in Schedule 2 (requirements).

(3) Save for applications made pursuant to paragraph 1 of Part 2 of Schedule 2, if, within 28 days (unless another period is provided for by this Order) after the application or request required or contemplated by any of the provisions of the Order has been submitted to it—

- (a) the relevant authority or owner, has not notified the undertaker of its disapproval (approval not to be unreasonably withheld) and the grounds of disapproval, the relevant authority or

owner (unless the parties have agreed otherwise) be deemed to have refused the application or request; and

- (b) the relevant authority or owner, has notified the undertaker of its disapproval and the grounds of disapproval or is deemed to have refused approval pursuant to paragraph (3)(a), the undertaker in each case may appeal further to paragraph [] of Part 2 of Schedule 2.

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

Application, disapplication and modification of legislative provisions

53. Part 1 of Schedule 14 (miscellaneous controls) to this Order, which makes provision applying, modifying and excluding statutory provisions which relate to matters for which provision may be made by this Order, has effect.

Amendment of local legislation

54.—(1) Subject to any other provisions of this Order, the local enactments specified in Part 2 of Schedule 14 (miscellaneous controls), and any byelaws or other provisions made under any of those enactments, are hereby excluded and do not apply insofar as inconsistent with a provision of, or the exercise of a power conferred by, this Order.

(2) The effect of paragraph (1) is to ensure, in particular, that a power conferred by this Order may be exercised despite, and without having regard to, a provision made by or by virtue of a specified enactment, that—

- (a) requires or permits a specified road, path, passage, bridge, parapet, fence or other place or structure to be kept open or maintained generally or in a specified manner;
- (b) requires or permits the provision and maintenance of lights or other apparatus or structures generally or in a specified manner;
- (c) prohibits or restricts (or imposes conditions or penalties on or in relation to) the obstruction or removal of, or the causing of damage to, a specified place or structure (or class of places or structures);
- (d) prohibits or restricts (or imposes conditions on or in relation to) the erection of structures, or the undertaking of other works, in a specified place or structure (or class of places or structures),
- (e) permits or requires a specified place or structure to be closed;
- (f) makes provision about the conduct of persons using a specified walkway or other place or structure (or class of places or structures) whether by prohibiting or restricting movement (of persons, vehicles or animals) or otherwise;
- (g) specifies a minimum or maximum depth for, or otherwise restricts or imposes conditions in relation to, the laying of pipes or the carrying out of any other works;
- (h) prohibits the laying of pipes or the carrying out of any other works generally or without the consent of a specified person;
- (i) makes provision about the construction or maintenance of, or any other matter relating to, pipes, drains or other means of connecting with sewers;
- (j) prohibits or restricts interference with the banks or bed of, or traffic on, the River Cam; or
- (k) in any other way would or might apply in relation to anything done, or omitted to be done, in the exercise of a power conferred by this Order.

(3) For the purposes 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; and
- (c) action taken in pursuance of a power or duty under the provision would or might interfere with the exercise of any work authorised by this Order.

Certification of plans etc

55.—(1) The undertaker will, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the plans and documents identified in Schedule 15 (certification of plans and documents) for certification that they are true copies of those plans and documents.

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

Arbitration

56. Any difference under any provision of this Order, unless otherwise provided for, shall be referred to and settled in arbitration in accordance with the rules at Schedule 16 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

Signature

[]

Secretary of State

Address

Department for Environment, Food and Rural Affairs

Date

SCHEDULES

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

PART 1

AUTHORISED DEVELOPMENT

Development which, in accordance with a direction made by the Secretary of State under section 35 of the 2008 Act on 18 January 2021, is development for which development consent is required in the County of Cambridgeshire, the District of South Cambridgeshire and the City of Cambridge, being a waste water treatment plant together with associated development within the meaning of section 115(1)(b) of the 2008 Act comprising—

Work No. 1

Gateway welcome building including office space and welfare facilities.

Work No. 2

Highway works including—

- (a) access works from B1047 Horningsea Road;
- (b) provision of a footway/cycleway link to Low Fen Drive Way;
- (c) central island in B1047 Horningsea Road
- (d) footway/cycleway improvements on B1047 Horningsea Road;
- (e) reconfiguration of the existing signalised junction of B1047 and the A14 Junction 34 southbound slip road to a four-arm junction;
- (f) new pedestrian and cycle crossing points at the A14 Junction 34 on and off slips;
- (g) reconfiguration of kerblines.

Work No. 3

Visitor and public parking including electric vehicle charging.

Work No. 4

Inlet works structure to receive flows from Work No. 16 and Work No. 8 and imported liquors including—

- (a) screening handling plants;
- (b) screen channel;
- (c) grit removal chambers;
- (d) flow measurement channel;
- (e) grit handling plant;
- (f) an odour control unit;
- (g) skip storage area;
- (h) connections to Work No. 16, Work No. 6, and Work No. 8.

Work No. 5

Electricity substation, stand-by generators and fuel storage.

Work No. 6

Primary treatment works including—

- (a) ferric dosing plant;
- (b) primary settlement tanks;
- (c) sludge return pumps;
- (d) sludge pumping stations;
- (e) interstage pumping station;
- (f) connections to Work No. 4, Work No. 8 Work No. 10 and Work No. 13.

Work No. 7

Site offices, LPG storage and filling point, car parking and HGV parking including electric vehicle charging.

Work No. 8

A sludge treatment centre comprising—

- (a) sludge reception facilities for imported primary settled sludge and surplus activated sludge;
- (b) holding tanks for storage;
- (c) screens;
- (d) odour control plant;
- (e) thickening building including sludge blending tanks;
- (f) two anaerobic sludge digesters;
- (g) post digestion storage tanks;
- (h) heating, pasteurisation and hydrolysis process tanks;
- (i) dewatering machines;
- (j) cake storage barn and silo area;
- (k) either—
 - (i) liquor treatment plant including a balance tank and a settlement tank; or
 - (ii) nutrient recovery plant including three stripping/scrubbing columns and a feed pumping station;
- (l) biogas handling equipment including gas holder and flare;
- (m) boiler building and boiler flue;
- (n) chemical dosing plant;
- (o) final effluent treatment plant;
- (p) connection to Work No. 4, Work No. 6, Work No. 9, Work No. 10, Work No. 11 and Work No. 13.

Work No. 9

A gas-to-grid injection unit or a combined heat and power engine and connections to Work No. 8 and connections to the gas and/or electricity networks.

Work No. 10

Secondary treatment works including—

- (a) activated sludge process tanks;
- (b) mechanical blower system and submerged air distribution pipework;
- (c) distribution chamber;
- (d) connections to Work No. 6 and Work No. 11.

Work No. 11

Final settlement including—

- (a) final settlement tanks;
- (b) return activated sludge pumps including chambers;
- (c) surplus activated sludge pumps including chambers;
- (d) pumping station;
- (e) ferric dosing plant;
- (f) connections to Work No. 6, Work No. 8, Work No. 10 and Work No. 13.

Work No. 12

Final effluent chamber, filtration plant, wash-water pump sets and connections to Work No. 13, Work No 14 and Work No. 26.

Work No. 13

Tertiary treatment works including—

- (a) solids removal plant;
- (b) airlift pumps;
- (c) backwash pumps;
- (d) ferric dosing plant;
- (e) connections to Work No. 4, Work No. 6, Work No. 11, Work No. 8 and Work No. 12.

Work No. 14

Storm management plant for stormwater storage and treatment including—

- (a) pumping station
- (b) storm tanks
- (c) discharge overflow pipework
- (d) screens
- (e) connections to Work No. 16 and Work No. 12

Work No. 15

Landscaping and earthworks to form the rotunda design including solar photovoltaic panels.

Work No. 16

A terminal pumping station including a shaft with an internal diameter of up to 34 metres extending up to 8 metres above the proposed ground level and with a depth of up to 40 metres including the following—

- (a) dry weather flow pumps;
- (b) storm pumps;
- (c) valve chamber and control building;
- (d) an odour control unit;
- (e) connections to Work No. 4, Work No. 14 and Work No. 21.

Work No. 17

Works to divert existing rising and gravity mains to Work No.18 comprising—

- (a) cuttings into existing mains in under or adjacent to Cowley Road;
- (b) connections from existing mains to new 750mm gravity main;
- (c) provision of manholes;
- (d) installation of new 750mm gravity main;
- (e) associated diversion works for existing utilities;
- (f) decommissioning works to redundant mains.

Work No. 18

Interception shaft to intercept incoming waste water flows from the existing Riverside tunnel and receive flows from a new 750mm gravity main within Work No. 17 with an internal diameter of up to 12 metres and with a depth of up to 20 metres including—

- (a) ventilation stack extending up to 8 metres above the proposed ground level;
- (b) vortex drop pipe;

- (c) connections to Work No. 17, Work No. 20 and Work No. 21.

Work No. 19

Temporary working area compound.

Work No. 20

Works to divert the existing Riverside sewer to connect to Work No. 18 comprising—

either—

- (a) a temporary overground pipe laid between existing manholes;

or

- (b) a temporary shaft and a temporary overground pipe laid between the temporary shaft and existing manholes,

and

- (c) underground pipeworks to connect the Riverside sewer to Work No. 18;
- (d) installation of temporary pumps and generators;
- (e) removal of temporary works;
- (f) temporary working area compound;
- (g) decommissioning works to the redundant sewer.

Work No. 21

An underground transfer tunnel between Work No. 18 and Work No. 4 installed using pipe jacking or other tunnel boring technique and including—

- (a) provision of up to four associated shafts; and
- (b) up to four temporary working area compounds.

Work No.22

Access works associated with Work No. 30.

Work No. 23

Temporary access works from Horningsea Road to Work No. 21 and Work No. 30.

Work No. 24

Access works through the existing Cambridge Waste Water Treatment Works.

Work No. 25

Temporary access works from Cowley Road to Work No. 20.

Work No. 26

Up to three outfall pipes to be laid below ground for final effluent and storm water connecting Work No. 12 to Work No. 27 together with associated manholes, temporary access track and access works from Horningsea Road.

Work No. 27

Outfall works in connection with the discharge of final effluent and storm water to the River Cam comprising—

- (a) up to three outfall pipes to be laid below ground for final effluent and storm water connecting to Work No. 26;
- (b) ditch crossing and associated protection works;
- (c) temporary access track;
- (d) temporary working area compound;
- (e) temporary cofferdam;
- (f) outfall structure;
- (g) river bed and embankment reinforcement works and scour protection measures;
- (h) temporary public right of way diversion works.

Work No. 28

Landscaping and ecological works.

Work No. 29

Temporary site establishment and construction works including—

- (a) site access works from Horningsea Road and to Low Fen Drove Way;
- (b) working area compound;
- (c) concrete batching plant;
- (d) [other equipment TBC],

and

Permanent landscaping and ecological works.

Work No. 30

Up to two waste water pipelines laid underground between a point of connection with waste water infrastructure to be provided as part of the Waterbeach New Town development and the inlet works at the existing Cambridge Waste Water Treatment Works and including—

- (a) crossings of the river Cam, the A14 and the railway line using either pipe-jacking or horizontal directional drilling technique but otherwise laid using either open cut trenching or horizontal directional drilling technique;
- (b) temporary shafts;
- (c) horizontal directional drilling launch and exit pits;
- (d) welfare and laydown areas;
- (e) temporary haul roads.

Work No. 31

Workshop, laboratory and maintenance area.

Work No. 32

Works to provide new bridleway.

Site Wide works

In connection with the construction of Work Nos 1 - 32 above and to the extent that they do not form any part of such work, further associated development comprising such other works as may be necessary or expedient for the purpose of or in connection with the relevant part of the authorised development and which fall within the scope of work assessed by the environmental statement within the Order limits including—

- (a) roads including white lining, laybys, traffic calming and turning areas;
- (b) road signage;
- (c) footpaths;
- (d) fencing - security and DSEAR;
- (e) access gates;
- (f) drainage including pumping stations and attenuation tanks, gullies and swales;
- (g) potable water distribution including pumping stations, hydrants and storage;
- (h) industrial (wash-water) water distribution including pumping stations, storage, hydrants and heat exchangers;
- (i) steam distribution infrastructure;
- (j) chemical dosing pipework;
- (k) street lighting;
- (l) task lighting;
- (m) aviation obstruction lighting;
- (n) electrical distribution infrastructure including distribution boards - low and high voltage (LV and HV);
- (o) communication and control infrastructure;
- (p) telemetry infrastructure including outstations;
- (q) telecoms infrastructure;
- (r) motor control centres (MCC);
- (s) local control panels (LCP);
- (t) programmable logic controllers (PLC);
- (u) HV Switchgears and transformers;
- (v) kiosks;
- (w) natural gas infrastructure;
- (x) closed-circuit television (CCTV) cameras and columns;
- (y) odour ducting;
- (z) lightning protection infrastructure including masts, finials, earth mats and bonding;
- (aa) hard and soft landscaping (not included within Work No. 28);
- (bb) vehicle restraint systems;
- (cc) weighbridges and log in systems;
- (dd) accesses and hop overs.

[PART 2

ANCILLARY WORKS

Generally—

- (a) works within the existing sewers, chambers and culverts and other structures that comprise the existing sewerage network for the purposes of enabling the authorised development,

including reconfiguring, modifying, altering, repairing, strengthening or reinstating the existing network;

- (b) works within existing pumping stations including structural alterations to the interior fabric of the pumping station(s), works to reconfigure existing pipework, provision of new pipework, new penstock valves and associated equipment, modification of existing electrical, mechanical and control equipment, and installation or provision of new electrical, mechanical and control equipment;
- (c) installation of electrical, mechanical and control equipment in other buildings and kiosks and modification to existing electrical, mechanical and control equipment in such buildings and kiosks;
- (d) installation of pumps in chambers and buildings;
- (e) works to trees and landscaping works not comprising development;
- (f) works associated with monitoring of buildings and structures;
- (g) provision of construction traffic signage; and
- (h) suspension of existing moorings and the relocation of boats/vessels including works to attach mooring structures and equipment to the boats/vessels.]

SCHEDULE 2 REQUIREMENTS

Article 3

PART 1

[TO BE INSERTED IN DUE COURSE]

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS ETC AND APPEALS

Applications made under requirements

1.—(1) Where the undertaker proposes to make an application to a discharging authority for any consent, agreement or approval required by a requirement, it shall no later than twenty eight days prior to submitting such application provide a draft of the proposed application to the discharging authority, unless otherwise agreed by the discharging authority. It shall on the same date provide a complete draft of the proposed application to any requirement consultee and shall affix a notice to a conspicuous object or objects on or near the site of the works which are the subject of such application which shall give details of the proposed application together with the address within the locality where application documents may be inspected and details of the manner in which representations on the application may be made.

(2) Where an application has been made to a discharging authority for any consent, agreement or approval required by a requirement included in this Order, the discharging authority shall give notice to the undertaker of their decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the authority;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 2; or
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing.

(3) In determining any application under this paragraph the discharging body may either grant or refuse consent, and where consent is refused the discharging authority must provide its reasons for the refusal with the notice of refusal.

Further information regarding requirements

2.—(1) In relation to any application further to a requirement, the discharging authority shall have the right to request such further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the discharging authority considers such further information to be necessary and the requirement does not specify that consultation with a statutory consultee is required, it shall, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) In the event that the requirement specifies that consultation with a requirement consultee is required, the discharging authority shall issue the consultation to the requirement consultee within 3 business days of receipt of the application, and shall notify the undertaker in writing specifying any further information requested by the requirement consultee within 1 business day of receipt of such a request and in any event within 15 business days of receipt of the application.

(4) In the event that the discharging authority does not give such notification within this 7 business day period as referred to in paragraph 2(2) it shall be deemed to have sufficient information to consider the application and shall not thereafter be entitled to request further information without the prior agreement of the undertaker.

Appeals

3.—(1) Save as otherwise provided in this Order, the undertaker may appeal in the event that—

- (a) the discharging authority refuses an application for any consent, agreement or approval required or permitted by—
 - (i) a requirement included in this Order;
 - (ii) a document referred to in any requirement included in this Order (unless such consent, agreement or approval has to be obtained by virtue of any other legal requirement);
 - (iii) any other provision of this Order;
 - (iv) does not determine such an application within the time period set out; or
 - (v) grants it subject to conditions;
- (b) the discharging authority issues a notice further to sections 60 and or 61 of the Control of Pollution Act 1974;
- (c) on receipt of a request for further information pursuant to paragraph 2 of this Schedule, the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the discharging 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 appeal process shall be as follows—

- (a) any appeal by the undertaker must be made within forty two days of the date of the notice of the decision or determination, or (where no determination has been made) expiry of the time period set out, giving rise to the appeal as referred to in paragraph (1);
- (b) the undertaker shall submit the appeal documentation to the Secretary of State and shall on the same day provide copies of the appeal documentation to the discharging authority and any requirement consultee and shall on the same date affix a notice to a conspicuous object or objects on or near the site of the works which are the subject of such appeal which shall give details of the decision of the discharging authority and of the application and notice that an appeal has been made together with the address within the locality where appeal

documents may be inspected and details of the manner in which representations on the appeal may be made;

- (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State shall appoint a person to consider the appeal (“the appointed person”) and shall notify the appeal parties of the identity of the appointed person and the address to which all correspondence for their attention should be sent;
- (d) the discharging authority and any requirement consultee (if applicable) shall submit their written representations together with any other representations received by them pursuant to the notice of application referred to in paragraph 1(1) or the notice of appeal referred to in paragraph 1 (2)(b) of this Schedule to the appointed person in respect of the appeal within 10 business days of the start date and shall ensure that copies of their written representations and any other representations as sent to the appointed person 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 shall make any counter-submissions to the appointed person within 10 business days of receipt of written representations pursuant to paragraph (d) above; and
- (f) the appointed person shall make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) The appointment of the person pursuant to sub-paragraph (2)(c) 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 enable the appointed person to consider the appeal they shall as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(5) Any further information required pursuant to sub-paragraph (4) shall be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. The appointed person shall notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal shall require submission of written representations to the appointed person within 10 business days of the agreed date but shall otherwise be in accordance with the process and time limits set out in sub-paragraph (2)(c)-(e).

(6) On an appeal under this paragraph, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging 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 him in the first instance.

(7) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in its sole discretion such written representations as have been sent out with 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 him that there is sufficient material to enable a decision to be made on the merits of the case.

(9) The decision of the appointed person on an appeal shall 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 Schedule, it shall be deemed to be an approval for the purpose of Schedule 2 (requirements) of this Order as if it had been given by the discharging authority. The discharging 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) shall not 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 discharging authority, the reasonable costs of the appointed person shall be met by the undertaker.

(12) On application by the discharging 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 shall be made, the appointed person shall have regard to Communities and Local Government Circular 03/2009 or any circular or guidance which may from time to time replace it.

SCHEDULE 3

Article [10]

STREETS SUBJECT TO STREET WORKS

<i>Area</i>	<i>Street within the Order limits subject to street works</i>
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SCHEDULE 4

Article [11]

STREETS SUBJECT TO ALTERATION OF LAYOUT

<i>Area</i>	<i>Street to be altered</i>	<i>Description of alteration</i>
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SCHEDULE 5

Article [13]

STREETS TO BE PERMANENTLY STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Street to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) New street to be substituted</i>
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SCHEDULE 6

Article [14]

PUBLIC RIGHTS OF WAY

PART 1

PUBLIC RIGHTS OF WAY TO BE PERMANENTLY STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Public right of way to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) Substitute to be provided</i>	<i>(5) Stage of the authorised development by which time the stopping up must be completed</i>

PART 2

PUBLIC RIGHTS OF WAY TO BE PERMANENTLY STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Public right of way to be stopped up</i>	<i>(3) Extent of stopping up</i>	<i>(4) Stage of the authorised development</i>

PART 3

NEW PUBLIC RIGHTS OF WAY TO BE CREATED

<i>(1) Area</i>	<i>(2) Public right of way to be created</i>	<i>(3) Extent of new public right of way to be created</i>	<i>(4) Stage of the authorised development</i>
Waterbeach Parish	Bridleway	Proposed bridleway [] on [] plans shown indicatively with [e.g dashed pink line] on detailed alignment to be agreed with the local highway authority and constructed pursuant to Work No. 32	[]

PART 4

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP

<i>(1) Area</i>	<i>(2) Public right of way to be temporarily stopped up</i>	<i>(3) Extent of temporarily stopping up</i>

SCHEDULE 7

Article [16]

ACCESS TO WORKS

<i>Area</i>	<i>Description of access</i>	<i>Construction or purpose</i>

SCHEDULE 8

Article [18]

TRAFFIC REGULATION

PART 1

TEMPORARY

<i>Relevant Road Site</i>	<i>Extent</i>	<i>Notes</i>

PART 2

PERMANENT

<i>Relevant Road Site</i>	<i>Extent</i>	<i>Notes</i>

SCHEDULE 9

Article 32

PART 1

LAND OF WHICH ONLY SUBSOIL MORE THAN [] METRES BENEATH THE SURFACE MAY BE ACQUIRED

<i>Borough</i>	<i>Land</i>
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PART 2

Article 30

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

<i>Borough</i>	<i>Land</i>
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SCHEDULE 10

Article 38

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>Borough</i>	<i>Number of land shown on land plan</i>	<i>Purpose of which temporary possession may be taken</i>	<i>Relevant site or part of the authorised development</i>
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SCHEDULE 11

Article 30

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

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 the imposition of a restrictive covenant 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(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 4—

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

3.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute- “(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 7 of Schedule [7] to the Cambridge Waste Water Treatment Plant Relocation Order 20[XX]);
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 10 of Schedule [9] to the Cambridge Waste Water Treatment Plant Relocation Order 20[XX]) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

Application of Part 1 of the 1965 Act

4.—(1) The 1965 Act is to have 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 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.

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

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall 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.”.

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)

- (a) section 9(4) (refusal to convey, failure to make title, etc);
- (b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests) conveyance of the land or interest);
- (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 so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 (powers of entry) of the 1965 Act is so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 18), 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 11A (powers of entry: further notices of entry), 11B (counter- notice requiring possession to be taken on specified date), 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

8. Section 20 (tenants at will, etc.) of the 1965 Act 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 (interests omitted from purchase) of the 1965 Act as modified by article 22(4) (application of the 1981 Act) is so 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 enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

10. For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1.—(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article [25] (application of the 1981 Act) of the Cambridge Waste Water Treatment Plant Relocation Order 20[XX] in respect of the land to which the notice to treat relates.

(2) But see article 27(3) (acquisition of subsoil [or airspace] only) of the Cambridge Waste Water Treatment Plant Relocation Order 20[XX] which excludes the acquisition of subsoil [and airspace] only from this Schedule.

2. In this Schedule, “house”, except in paragraph 10, includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat;
- (b) accept the counter-notice; or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant;
- (b) the use to be made of the right or covenant proposed to be acquired or imposed; and
- (c) if the right or 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 of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

15. If the acquiring authority withdraw the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

16. Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 12

Articles []

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY AND GAS UNDERTAKERS

PART 2

FOR THE PROTECTION OF [UK POWER NETWORKS] AS ELECTRICITY UNDERTAKER

PART 3

FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER

PART 4

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

PART 5

FOR THE PROTECTION OF NETWORK RAIL AS RAILWAY UNDERTAKER

PART 6

FOR THE PROTECTION OF NATIONAL HIGHWAYS AS HIGHWAYS AUTHORITY

Application

1. The provisions of this Part of this Schedule have effect, and apply to the strategic road network works, unless otherwise agreed in writing between the undertaker and National Highways.

Interpretation

2.—(1) The terms used in this Part of this Schedule are as defined in article 2 (interpretation) of this Order save where inconsistent with sub-paragraph (2) below which will prevail.

(2) In this Part of this Schedule—

“as built information” means one digital copy of the following information where applicable to the phase in question—

- (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;
- (c) product data sheets, technical specifications for all materials used;
- (d) as constructed information for any Utilities discovered or moved during the works;
- (e) method statements for works carried out;
- (f) in relation to road lighting, signs, and traffic signals any information required by Series [] of the Specification for Highways Works;
- (g) organisation and methods manuals for all products used in the construction of the strategic road network works;
- (h) as constructed programme;
- (i) test results and records as required by the detailed design information and during the construction phase of the project;
- (j) RSA 3 and exceptions agreed;
- (k) health and safety file; and
- (l) other such information as is necessary to enable National Highways to update all relevant databases and to ensure compliance with the National Highways Asset Data Management Manual as shall be in operation at the relevant time including CCTV surveys;

“the bond sum” means the sum equal to []% of the cost of the carrying out of the phase of the strategic road network works concerned (to include all costs [excluding/including] the commuted sum) or such other sum agreed between the undertaker and National Highways;

“the cash surety” means the sum of £[] or such other sum agreed between the undertaker and National Highways;

“commuted sum” means such sum as shall be calculated for each phase as provided for in paragraph [] of this Part of this Schedule and to be used to fund the future cost of maintaining the strategic road network works;

“contractor” means any contractor or sub-contractor appointed by the undertaker to carry out the strategic road network works or any phase of the strategic road network works and approved by National Highways pursuant to paragraph [3(3)] of this Part of this Schedule;

“detailed design information” means drawings, specifications and calculations as appropriate for the following which shall all be in accordance with the general arrangements of the strategic road network works shown on the highway plans unless otherwise agreed between National Highways and the undertaker—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) road restraints systems and supporting Road Restraint Risk Appraisal Process assessment (RRRAP);
- (d) drainage and ducting as required by Series 500 of the Specification for Highways Works, HD 43/04, IAN 147/12 and SD 15 Parts 1 - 6 inclusive;
- (e) earthworks including supporting geotechnical assessments required by HD22/08 and any required Strengthened Earthworks Appraisal Form certification (SEAF);
- (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) electrical work for road lighting, traffic signs and signals;
- (k) motorway communications as required by the Designs Manual for Roads and Bridges;
- (l) highway structures and any required structural approval in principle (AIP);
- (m) landscaping;
- (n) agreed departures from Designs Manual for Road Bridges standard;
- (o) a report of walking, cycling and horse riding carried out in accordance with the Design Manual for Roads and Bridges Standard HD42/17 or any successor document;
- (p) Stage 2 Road Safety Audit and exceptions agreed and in the event that any works are not commenced within five years of the date of the Stage 1 Road Safety Audit a further Stage 1 Road Safety Audit and exceptions agreed;
- (q) utilities diversions;
- (r) topographical survey;
- (s) maintenance and repair strategy in accordance with Designing for Maintenance Interim Advice Note 69/15 or any successor document; and
- (t) health and safety information including any asbestos survey required by GD05/16 or any successor document,

where relevant to the phase concerned;

“dilapidation survey” means a survey of the condition of the roads, bridges and retaining walls which will be the subject of the physical works comprised in the phase concerned;

“estimated costs” means the estimated costs in respect of each phase agreed pursuant to paragraphs [5(1)(b) to (d) and (5)] of this Part of this Schedule;

“the excess” means the amount by which National Highways estimates that the costs referred to in paragraph [5(1)(b) to (d)] of this Part of this Schedule will exceed the Estimated Costs pursuant to paragraph [5(5)(b)];

“nominated persons” means the undertakers representatives or the contractors representatives on site during the carrying out of the strategic road network works as notified to National Highways from time to time;

“phase” means that part of the strategic road network works which is to be carried out in separate phases in the areas identified as Works No. 8 on the works plans or such other phasing arrangements as shall be agreed with National Highways;

“programme of works” means a document setting out the sequence and timetabling of the phase of the strategic road network works in question;

“Road Safety Audit” means an audit carried out in accordance with the Road Safety Audit Standard and the approved audit team will include a member of National Highways East Midlands Asset Delivery Road Safety Team;

“Road Safety Audit Standard” means the Design Manual for Roads and Bridges Standard HD 19/15 or any successor document;

“strategic road network works” means those parts of the authorised development to be carried out in the areas identified as Works No. 8 on the works plan, the general arrangement of which is shown on the highways plans and any ancillary works thereto; and

“utilities” means any pipes, wires, cables or equipment belonging to any person or body having power or consent to undertake street works under the 1991 Act.

Prior approvals and security

3.—(1) No work must commence on any phase of the strategic road network works until the detailed design information and a programme of works in respect of that phase has been submitted to and approved by National Highways.

(2) National Highways must nominate a person who will be a single point of contact on behalf of National Highways for consideration of the detailed design information and who shall co-ordinate the National Highways response to the details submitted.

(3) No works must commence on any phase of the strategic road network works other than by a contractor employed by the undertaker for that phase but first approved by National Highways.

(4) No work must commence on any phase of the strategic road network works until National Highways has agreed the bond sum for that phase and the undertaker has provided security for the carrying out of those works as provided for in paragraph [9] of this Part of this Schedule or some other form of security acceptable to National Highways.

(5) No work must commence on any phase of the strategic road network works until Stage 1 and Stage 2 Road Safety Audits have been carried out in respect of that phase and all recommendations raised incorporated into an amended design approved by National Highways or any relevant exceptions approved by National Highways.

(6) No work must commence on any phase of the strategic road network works until the undertaker demonstrates to the satisfaction of National Highways that the Walking, Cycling and Horse Riding Assessment and Review process for that phase has been adhered to in accordance with the Design Manual for Roads and Bridges Standard HD 42/17 or any successor document.

(7) No work must commence on any phase of the strategic road network works until a scheme of traffic management has been submitted by the undertaker and approved by National Highways for that phase such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time.

(8) No work must commence on any phase of the strategic road network works until stakeholder liaison has taken place for that phase in accordance with a scheme for such liaison agreed between the undertaker and National Highways.

(9) No work must commence on any phase of the strategic road network works until National Highways has approved the audit brief and CVs for all Road Safety Audits and exceptions to items raised if appropriate for that phase in accordance with the Road Safety Audit Standard.

(10) No work must commence on any phase of the strategic road network works until the undertaker has agreed the commuted sum for that phase with National Highways to be calculated in accordance with paragraph [9] of this Part of this Schedule.

(11) No work must commence on any phase of the strategic road network works until a dilapidation survey for that phase has been carried out by the undertaker and has been submitted to and approved in writing by National Highways.

(12) No work must commence on any phase of the strategic road network works until the scope of all routine maintenance to be carried out by the undertaker during the construction of the phase concerned has been agreed in writing by National Highways.

Carrying out of works

4.—(1) The undertaker must prior to commencement of each phase of the strategic road network works give National Highways 28 days' notice in writing of the date on which that phase will start unless otherwise agreed by National Highways.

(2) The undertaker must comply with National Highways' usual road space booking procedures prior to and during the carrying out of each phase of the strategic road network works and no strategic road network works for which a road space booking is required shall commence without a road space booking having first been secured such road space booking not to be unreasonably withheld or delayed.

(3) Each phase of the strategic road network works must be carried out to the satisfaction of National Highways in accordance with—

- (a) the relevant detailed design information and a programme of works approved pursuant to paragraph [3(1)] of this Part of this Schedule or as subsequently varied by agreement between the undertaker and National Highways;

- (b) the Design Manual for Roads and Bridges, the Specification for Highway Works (contained within the Manual of Contract Documents for Highways Works) all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016^(a) and any amendment to or replacement thereof for the time being in force save to the extent that they are inconsistent with the general arrangement of strategic road network works as shown on the highway plans or a departure from such standards has been approved by National Highways;
- (c) such approvals or requirements of National Highways that are required by the provisions of paragraph [3] to be in place prior to the relevant phase of the strategic road network works being undertaken; and
- (d) all aspects of the Construction (Design and Management) Regulations 2015^(b) 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.

(4) The undertaker must permit and require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity shall have been previously notified to the undertaker by National Highways) to gain access to the strategic road network works for the purposes of inspection and supervision and the undertaker must provide to National Highways contact details of the nominated persons with whom National Highways should liaise during the carrying out of the strategic road network works.

(5) At any time during the carrying out of the strategic road network works the nominated persons must act upon any reasonable request made by National Highways in relation to the carrying out of the strategic road network works as soon as practicable following such request being made to the nominated persons save to the extent that the contents of such request are inconsistent with or fall outside the contractors obligations under its contract with the undertaker or the undertakers obligations in this Order.

(6) If at any time the undertaker does not comply with any of the terms of this Part of this Schedule in respect of any phase of the strategic road network works having been given notice of an alleged breach and an adequate opportunity to remedy it by National Highways then National Highways shall on giving to the undertaker 14 days' notice in writing to that effect be entitled to either—

- (a) carry out and complete that phase of the strategic road network works and any maintenance works which the undertaker would have been responsible for on the undertaker's behalf; or
- (b) carry out such necessary works of reinstatement of the highway and other land and premises of National Highways,

and in either case the undertaker must within 28 days of receipt of the itemised costs pay to National Highways the costs so incurred by National Highways.

(7) If at any time the undertaker in carrying out the authorised development causes any damage or disruption to the strategic road network not hereby authorised then National Highways is to give notice of such damage or disruption and allow the undertaker 14 days to remedy the problem. Should the undertaker fail to adequately remedy the problem to the satisfaction of National Highways, National Highways, on giving to the undertaker 7 days' notice in writing to that effect, is be entitled to carry out such necessary works as National Highways acting reasonably deem appropriate to remedy the damage or disruption and the undertaker must within 28 days of receipt of the itemised costs pay to National Highways the costs so incurred by National Highways.

(8) Nothing in this Part of this Schedule shall prevent National Highways from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public the cost to National Highways of such work or action being chargeable to and recoverable from the undertaker if the need for such action arises from the carrying out of the authorised development. This provision applies to all areas of the authorised development including any area of traffic management deployed under the traffic

(a) S.I. 2016/362.
(b) S.I. 2015/51.

management plan approved pursuant to paragraph [3(7)] of this Part of this Schedule to facilitate delivery of the authorised development.

(9) The undertaker, in carrying out each phase of the strategic road network works, must at its own expense divert or protect all utilities as may be necessary to enable the strategic road network works to be properly carried out and all agreed alterations to existing services must be carried out to the reasonable satisfaction of National Highways.

(10) During the construction of each phase of the strategic road network works the undertaker is responsible for all routine maintenance at its cost within that phase. All routine maintenance must be carried out in accordance with the scope of routine maintenance operations agreed by National Highways pursuant to paragraph 3(12).

Payments

5.—(1) The undertaker must fund the whole of the cost of the strategic road network works and all costs incidental to the strategic road network works and must also pay to National Highways in respect of each phase of the strategic road network works a sum equal to the whole of any costs and expenses which National Highways incur including costs and expenses for using external staff and resources as well as costs and expenses of using in-house staff and resources in relation to the strategic road network works and arising out of them and their implementation including—

- (a) the checking and approval of all design work carried out by or on behalf of the undertaker for that phase;
- (b) costs in relation to agreeing the programme of works for that phase;
- (c) the carrying out of supervision of that phase; and
- (d) all administrative costs in relation to (a) and (b) above,

together comprising “the estimated costs”.

(2) The sums referred to in sub-paragraph (1) do not include any sums payable from the undertaker to the contractor but do include 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.

(3) 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 strategic road network works provided that this paragraph shall not apply to the making of any orders which duplicate orders contained in this Order.

(4) The undertaker must make the payments of the estimated costs as follows—

- (a) the undertaker must pay a sum equal to the anticipated cost of the tasks referred to in sub-paragraphs (1)(a), (b) and (d) to National Highways prior to National Highways undertaking those tasks;
- (b) the undertaker must pay a sum equal to the anticipated cost of the tasks referred to in sub-paragraph (1)(c) prior to commencing that phase; and
- (c) if at any time or times after the payment in respect of a phase referred to in sub-paragraphs (4)(a) and (b) has become payable and National Highways reasonably estimates that the costs in respect of that phase referred to in sub-paragraph (1) will exceed the estimated costs for that phase it may give notice to the undertaker of the amount by which it then reasonably estimates those costs will exceed the estimated costs (“the excess”) and the undertaker must pay to National Highways within 28 days of the date of that notice a sum equal to the excess.

(5) Within 91 days of the issue of the handover certificate for each phase of the strategic road network works pursuant to paragraph [7] of this Part of this Schedule National Highways must give the undertaker a final account of the costs referred to in sub-paragraph (1) above and within 28 days from the expiry of the 91 day period—

- (a) if the account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it in that final account; and
- (b) if the account shows that the payment or payments previously made have exceeded those costs National Highways must refund the difference to the undertaker.

(6) 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 1% above the rate payable in respect of compensation under section 32 (rate of interest after entry on land) of the 1961 Act 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

6. As soon as—

- (a) each phase of the strategic road network works has been completed; and
- (b) a Stage 3 Road Safety Audit for that phase has been carried out and any resulting recommendations complied with and any exceptions agreed,

National Highways must forthwith issue a provisional certificate of completion in respect of that phase such certificate not to be unreasonably withheld or delayed.

Handover certificate and defects period

7.—(1) As soon as, in respect of a phase—

- (a) the undertaker has carried out a dilapidation survey of the area previously surveyed pursuant to paragraph [3(11)] of this Part of this Schedule and completed any remedial works necessary to bring that area into as good a condition as when it was originally surveyed, such works to be first agreed with National Highways;
- (b) the undertaker has provided a plan clearly identifying the extent of any land which is to become highway maintainable at public expense together with any ancillary equipment that will become the responsibility of the highway authority; and
- (c) the as built information has been provided to National Highways,

National Highways must forthwith issue a handover certificate in respect of that phase such certificate not to be unreasonably withheld or delayed.

(2) The undertaker must at its own expense remedy any defects in any phase of the strategic road network works as are reasonably required to be remedied by National Highways during a period of 12 months from the date of the handover certificate in respect of that phase. All identified defects are to 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 consider to be serious defects or faults, within 14 days of receiving notification of the same or if a road space booking is required at the time when the road space is available whichever is the later; and
- (c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same or if a road space booking is required at the time when the road space is available whichever is the later.

(3) Following the issue of the handover certificate in respect of a phase National Highways shall be responsible for the strategic road network works within that phase which shall thereafter be maintained by and at the expense of National Highways.

(4) The undertaker must submit Stage 4 Road Safety Audits for each phase 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 Audits and be responsible for all costs of and incidental to such.

Final certificate

8. National Highways must issue the final certificate in respect of each phase at the expiration of the 12 month period in respect of that phase referred to in paragraph [7(2)] of this Part of this Schedule or if later on the date on which any defects or damage arising from defects during that period have been made good to the reasonable satisfaction of National Highways such certificate not to be unreasonably withheld or delayed.

Security

9.—(1) Subject to paragraph 3(4) of this Part of this Schedule the undertaker must provide security for the carrying out of the strategic road network works as follows—

- (a) prior to the commencement of each phase the [strategic road network works within that phase must be secured by a bond from a bondsman first approved by National Highways drafted substantially as detailed in Form 1 contained in paragraph [17] of this Part of this Schedule or such other form that may be agreed 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 that phase under the provisions of this Part of this Schedule provided that the maximum liability of the bond shall not exceed the bond sum relating to that phase; and
- (b) prior to the commencement of the strategic road network works the undertaker must provide 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 [5] of this Part of this Schedule or to carry out works the need for which arises from a breach of one or more of the obligations of the undertaker (which shall for the avoidance of doubt be a single cash surety for the entirety of the strategic road network works).

(2) Each bond sum and the cash surety (the latter in respect of the final phase only) shall be progressively reduced as follows—

- (a) on receipt of written confirmation (including receipt of receipted invoices evidencing payments made by the undertaker to the contractors) from the undertaker of the payments made from time to time to the contractor, National Highways must, in writing, authorise the reduction of the bond sum by such proportion of the bond sum as amounts to 80% of those payments provided that an evaluation of the strategic road network works completed and remaining has been carried out by the undertaker and audited and agreed by National Highways to ensure that the stage of completion of the works is relative to the payments made by the undertaker to the Contractors. National Highways shall only be required to provide the said authorisation should it be satisfied that the monies remaining secured by the bond sum shall be sufficient to cover all remaining costs and liabilities anticipated to be incurred in completing the strategic road network works plus an additional 20%;
- (b) within 20 working days of completion of each phase of the strategic road network works (as evidenced by the issuing of the provisional certificate in respect of that phase pursuant to paragraph [6(1)] of this Part of this Schedule) National Highways must in writing release the bond provider from its obligations in respect of 80% of the bond sum relating to that phase (“the revised bond sum”) save insofar as any claim or claims have been made against the bond and/or liability on its part has arisen prior to that date in which case National Highways will retain a sufficient sum to meet all necessary costs; and
- (c) within 20 working days of the issue of the final certificate for each phase of the strategic road network works referred to in paragraph [8] of this Part of this Schedule, National Highways must, in writing, release the bond provider from its obligations in respect of the revised bond sum relating to that phase and (in respect of the final phase) release the remainder of the cash surety to the undertaker save insofar as any claim or claims have been made against the bond or liability on its part has arisen prior to that date in which case National Highways will retain a sufficient sum to meet all necessary costs.

Commuted sums

10. The undertaker must pay to National Highways the commuted sum calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 within 28 days of the date that each phase of the strategic road network works becomes maintainable by National Highways pursuant to paragraph [7(3)] of this Part of this Schedule.

Insurance

11. The undertaker must prior to commencement of the strategic road network works effect public liability insurance with an insurer in the minimum sum of £10,000,000.00 (Ten million pounds) against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of the strategic road network works or any part thereof by the undertaker.

Indemnification

12.—(1) The undertaker must in relation to the carrying out of the strategic road network works take such precautions for the protection of the public and private interest as would be incumbent upon it if it were the highway authority and must indemnify National Highways from and against all costs expenses damages losses and liabilities arising from or in connection with or ancillary to any claim demand action or proceedings resulting from the design and carrying out of the strategic road network works provided that—

- (a) the foregoing indemnity shall not extend to any costs expenses liabilities and damages caused by or arising out of the neglect or default of National Highways or its officers servants agents or contractors or any person or body for whom it is responsible;
- (b) National Highways must notify the undertaker immediately upon receipt of any claim; and
- (c) National Highways must following the acceptance of any claim notify the quantum thereof to the undertaker in writing and the undertaker must within 14 days of the receipt of such notification pay to National Highways the amount specified as the quantum of such claim.

(2) The undertaker must notify National Highways of the intended date of opening of each phase to public traffic not less than 14 days in advance of the intended date and the undertaker must notify National Highways of the actual date that each phase is open to public traffic on each occasion within 14 days of that occurrence.

Warranties

13. The undertaker must procure warranties from the contractor and designer of each phase to the effect that all reasonable skill care and due diligence will be exercised in designing and constructing that phase including the selection of materials, goods, equipment and plant such warranties to be provided to National Highways before that phase commences.

Land transfer

14.—(1) Following the issuing of the final certificates for all the strategic road network works, National Highways may serve notice on the undertaker that it wishes to take a freehold transfer of land within the then extent of highway land which is not in the ownership of National Highways but has been acquired by the undertaker for the purposes of carrying out the strategic road network works.

(2) If the undertaker receives a notice under sub-paragraph (1), the undertaker must co-operate in 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 which includes the undertaker being responsible for the reasonable legal costs incurred by National Highways in connection with such transfer.

Approvals

15.—(1) Any approvals, certificates, consents or agreements required or sought from or with National Highways pursuant to the provisions of this Part of this Schedule must not be unreasonably withheld or delayed and must be given in writing.

(2) If National Highways fail to notify the undertaker of its decision in respect of any approval, consent or agreement pursuant to the provisions of this Part of this Schedule within 28 days of the specified day, the undertaker may serve upon National Highways written notice requiring National Highways to give its decision within a further 28 days beginning on the date upon which National Highways received written notice from the undertaker. Subject to sub-paragraph (3), if by the expiry of the further 28 days National Highways has failed to notify the undertaker of its decision, then National Highways is deemed to have given the relevant approval certificate, consent or agreement.

(3) Any further notice given by the undertaker to National Highways under sub-paragraph (2) must include a written statement that the provisions of sub-paragraph (2) apply to the relevant approval, certificate, consent or agreement.

(4) In this paragraph “specified day” means—

- (a) the day on which particulars of the matter are received by National Highways under the provisions of this Part of this Schedule; or
- (b) the day on which the undertaker provides National Highways with any further particulars of the matter that have been reasonably requested by National Highways within 28 days of the date in sub-paragraph (2)(a),

whichever is the later.

Expert determination

16.—(1) Article 58 (arbitration) does not apply to this Part of this Schedule except in respect of sub-paragraph (5).

(2) Any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert’s appointment;
- (b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;
- (c) issue a decision within 42 days of receipt of the submissions under paragraph (b); and
- (d) give reasons for the decision.

(5) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 58.

(6) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

17. Form 1, as referred to in paragraph [9]—

Form 1

Bond – National Highways

BY THIS BOND [] [(Company Regn No)] whose registered office is situate at [] (“**the undertaker**”) and [] [(Company Regn No)] whose registered office is situate at [] (“**the Surety**”) are jointly and severally bound to [] of [] (“**the []**”) this [] day of [] 202[] in the sum of [] pounds (£[Surety Sum]) to the payment of which sum the undertaker and the Surety hereby jointly and severally bind themselves their successors and assigns

WHEREAS under a Development Consent Order known as the Cambridge Waste Water Treatment Plant Relocation Order 202[X] (“**the DCO**”) the undertaker is empowered to commence execute perform and complete the highway works mentioned therein in such manner and within such time and subject to such conditions and stipulations as are particularly specified and set forth in the DCO and also to pay to National Highways such sums as are therein provided **NOW THE CONDITIONS** of this Bond are such that if the undertaker shall duly observe and perform all the terms provisions covenants conditions and stipulations of Part 6 of Schedule 12 to the DCO on the undertaker’s part to be observed and performed according to the true purport intent and meaning thereof or if on default by the undertaker the Surety shall satisfy and discharge the damages sustained by National Highways thereby up to the amount of this Bond then this obligation shall be null and void but otherwise shall be and remain in full force and effect in accordance with the provisions of the DCO (and including any reductions as provided for in the DCO) but no allowance of time by National Highways under the DCO nor any forbearance or forgiveness in or in respect of any matter or thing concerning the DCO on the part of National Highways shall in any way release the Surety from any liability under this Bond

It is hereby agreed that this Bond will be reduced and released in accordance with paragraph [9] of Part 6 of Schedule [12] of the DCO.

[Attestation]

PART 7

FOR THE PROTECTION OF LOCAL HIGHWAY AUTHORITIES

Application

1. The provisions of this Part of this Schedule have effect, and apply as follows unless otherwise agreed in writing between the undertaker and the local highway authority.

Interpretation

2.—(1) The terms used in this Part of this Schedule are as defined in article 2 (interpretation) of this Order save where inconsistent with sub-paragraph (2) which shall prevail.

(2) In this Part of this Schedule—

“as built information” means one digital copy of the following information where applicable to the phase in question—

- (a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker;
- (b) list of suppliers and materials used, test results and CCTV surveys;
- (c) product data sheets, technical specifications for all materials used;
- (d) as constructed information for any utilities discovered or moved during the works;
- (e) method statements for works carried out;
- (f) in relation to road lighting, signs and traffic signals any information required by Series 1400 of the Specification for Highway Works;

- (g) [plan of temporary signage indicating new road layouts;]
- (h) organisation and methods manuals for all products used in the construction of the county highway works;
- (i) as constructed programme;
- (j) test results and records required by the Detailed Design Information and during the construction phase of the project;
- (k) RSA3 and exceptions agreed; and
- (l) health and safety file;

“the bond sum” means the sum equal to []% of all the costs of the carrying out of the phase of the county highway works concerned and []% of the commuted sum relating to that phase or such other sum agreed between the undertaker and the local highway authority;

“commuted sum” means such sum as shall be calculated for each phase as provided for in paragraph [9(2)] of this Part of this Schedule and to be used to fund the future cost of maintenance of the county highway works;

“contractor” means any contractor or sub-contractor appointed by the undertaker to carry out the county highway works or any phase of the county highway works and approved by the local highway authority pursuant to paragraph 3(2) below;

“county highway works” means those parts of the authorised development to be carried out in the areas identified as Work Nos. [] on the works plans the general arrangement of which is shown on the highway plans and any ancillary works thereto;

“detailed design information” means drawings, specifications and other information which must be in accordance with the general arrangements of the county highway works shown on the highway plans unless otherwise agreed between the local highway authority and the undertaker—

- (a) site clearance details;
 - (b) boundary environmental and mitigation fencing;
 - (c) road restraints systems (vehicle and pedestrian) and supporting Road Restraint Risk Appraisal Process assessment (RRRAP);
 - (d) drainage and ducting;
 - (e) earthworks including supporting geotechnical assessments required by HD22/08 and any required Strengthened Earthworks Appraisal Form certification (SEAF);
 - (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) electrical work for road lighting, traffic signs and signals;
 - (k) highway structures;
 - (l) [Stage 2 Road Safety Audit and exceptions;]
 - (m) landscaping;
 - (n) utilities diversions;
 - (o) [topographical survey;
 - (p) identification of any land to be dedicated as highway; and
 - (q) pre- construction health and safety information,
- where relevant to the phase concerned;

“estimated costs” means the estimated costs in respect of each phase agreed pursuant to paragraphs [5(1) and (5)] of this Part of this Schedule;

“the excess” means the amount by which the local highway authority estimates that the costs referred to in paragraph [5(1)] will exceed the estimated costs pursuant to paragraph [5(5)(b)];

“local highway authority” means—

- (a) in respect of [Works Nos []], Cambridgeshire City Council; and
- (b) in respect of [Works No. []], Cambridge City Council or such of them who assumes responsibility for that work as highway authority pursuant to section 8 of the 1980 Act or by agreement;

“nominated persons” means the undertakers representatives or the contractors representatives on site during the carrying out of the county highway works as notified to the local highway authority from time to time;

“phase” means that part of the county highway works which is to be carried out in separate phases in the areas identified as separate works numbers on the works plans or such other phasing arrangements as shall be agreed with the local highway authority;

“programme of works” means a document setting out the sequence and timetabling of the phase in question;

“Road Safety Audit” means an audit carried out in accordance with the Road Safety Audit Standard;

“Road Safety Audit Standard” means the Design Manual for Roads and Bridges Standard GG 119 or any successor document; and

“utilities” means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the 1991 Act.

Prior approvals and security

3.—(1) No work must commence on any phase of the county highway works until the detailed design information and a programme of works in respect of that phase has been submitted to and approved by the local highway authority.

(2) No works must commence on any phase of the county highway works other than by a contractor employed by the undertaker for that phase but first approved by the local highway authority.

(3) No work must commence on any phase of the county highway works until the local highway authority has agreed the bond sum for that phase and the undertaker has provided security for the carrying out of those works as provided for in paragraph [8] of this Part of this Schedule or some other form of security acceptable to the local highway authority.

(4) No work must commence on any phase of the county highway works until a Stage 2 Road Safety Audit has been carried out in respect of that phase and all issues raised incorporated into an amended design approved by the local highway authority or any relevant exceptions approved by the local highway authority.

(5) No work must commence on any phase of the county highway works until a scheme of traffic management provisions have been agreed with the local highway authority.

(6) No work must commence on any phase of the county highway works until the local highway authority has approved the audit brief and CVs for all Road Safety Audits and exceptions to items raised if appropriate for that phase in accordance with the Road Safety Audit Standard.

(7) No works must commence on any phase of the county highway works until the undertaker has agreed the commuted sum for that phase with the local highway authority to be calculated in accordance with paragraph [9(2)] of this Part of this Schedule.

(8) No works must commence on any phase of the county highway works until the undertaker has provided confirmation of ownership to the local highway authority for any land which is to be dedicated as highway following completion of the county highway works.

Carrying out of works

4.—(1) The undertaker must prior to commencement of each phase of the county highway works give the local highway authority 14 days' notice in writing of the date on which that phase will start unless otherwise agreed with the local highway authority.

(2) The undertaker must give the local highway authority 14 days' notice of the road space booking required for the carrying out of each phase of the county highway works.

(3) Each phase of the county highway works must be carried out to the satisfaction of the local highway authority in accordance with—

- (a) the relevant detailed design information and a programme of works approved pursuant to paragraph [3(1)] of this Part of this Schedule or as subsequently varied by agreement between the undertaker and the local highway authority;
- (b) the Design Manual for Roads and Bridges, the Specification for Highway Works (contained within the Manual of Contract Documents for Highways Works), the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016 and any amendment to or replacement thereof for the time being in force save to the extent that they are inconsistent with the highway plans or a departure from such standards has been approved by the local highway authority;
- (c) such approvals or requirements of the local authority that are required by the provisions of paragraph [3] of this Part of this Schedule to be in place prior to the relevant phase of the county highway works being undertaken; and
- (d) 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 shall ensure that all client duties (as defined in those regulations) are undertaken to the satisfaction of the local highway authority.

(4) The undertaker must permit and require the contractor to permit at all reasonable times persons authorised by the local highway authority (whose identity must have been previously notified to the undertaker by the local highway authority) to gain access to the land upon which the county highway works are being carried out for the purposes of inspection and supervision and the undertaker must provide to the local highway authority contact details of the nominated persons with whom the local highway authority should liaise during the carrying out of the county highway works.

(5) At any time during the carrying out of the county highway works the nominated persons must act upon any reasonable request made by the local highway authority in relation to the carrying out of the county highway works as soon as practicable following such request being made to the nominated persons or the undertakers obligations in this Order.

(6) If at any time the undertaker does not comply with any of the terms of this Part of this Schedule in respect of any phase of the county highway works having been given notice of an alleged breach and an adequate opportunity to remedy it by the local highway authority then the local highway authority shall on giving to the undertaker 14 days' notice in writing to that effect be entitled to either—

- (a) carry out and complete that phase of the county highway works and any maintenance works which the undertaker would have been responsible for on the undertaker's behalf; or
- (b) carry out such necessary works of reinstatement of the highways and other land and premises of the local highway authority,

and in either case the undertaker must within 28 days of receipt of the itemised costs pay to the local highway authority the costs so incurred by the local highway authority in undertaking this work.

(7) If at any time the undertaker in carrying out any phase of the county highway works causes any damage or disruption to the local road network not hereby authorised then the local highway authority is to give notice of such damage or disruption and allow the undertaker 14 days to remedy the problem. Should the undertaker fail to adequately remedy the problem to the satisfaction of the local highways authority then the local highway authority, on giving the undertaker 7 days' notice in writing to that effect, is entitled to carry out such necessary works deemed appropriate to remedy the damage or disruption, and the undertaker shall within 28 days of receipt of the itemised costs

pay to the local highway authority the costs so incurred by the local highway authority in undertaking this work.

(8) Nothing in this Part of this Schedule shall prevent the local highway authority from carrying out any work or taking such action as deemed appropriate, without prior notice to the undertaker, in the event of an emergency or danger to the public the cost to the local highway authority of such work or action being chargeable to and recoverable from the undertaker if the need for such action arises from the carrying out of the county highway works.

(9) The undertaker in carrying out each phase of the county highway works must at its own expense divert or protect all utilities as may be necessary to enable the county highway works to be properly carried out and all agreed alterations to existing services must be carried out to the reasonable satisfaction of the local highway authority.

(10) The undertaker must notify the local highway authority of the intended date of opening of each phase to public traffic not less than 14 days in advance of the intended date and the undertaker must notify the local highway authority of the actual date that each phase is open to public traffic on each occasion within 14 days of that occurrence.

Payments

5.—(1) The undertaker must fund the whole of the cost of the county highway works and all costs incidental to the county highway works and must also pay to the local highway authority in respect of each phase of the county highway works a sum equal to the whole of any costs and expenses which the local highway authority incur including costs and expenses for using external staff and resources as well as costs and expenses of using in house staff and resources in relation to the county highway works and arising out of them and their implementation including—

- (a) the checking and approval of all design work carried out by or on behalf of the undertaker for that phase;
- (b) costs in relation to agreeing the programme of works for that phase;
- (c) the carrying out of the inspection of that phase; and
- (d) all administrative costs in relation to (a) and (b) and (c) above, together comprising (“the estimated costs”).

(2) The undertaker must pay to the local highway authority upon demand and prior to such costs being incurred the total costs that the local highway authority believe will be properly and necessarily incurred by the local highway authority 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 county highway works provided that this paragraph shall not apply to the making of any orders which duplicate orders contained in this Order.

(3) The undertaker and the local highway authority must agree a schedule of the estimated costs to be incurred pursuant to sub-paragraph (1) above in respect of each phase prior to the commencement of that phase.

(4) The undertaker must make the payments referred to in sub-paragraph (1) as follows—

- (a) the undertaker must pay a sum equal to the agreed estimated costs to the local highway authority prior to the local highway authority undertaking those tasks in respect of any phase of the county highway works; and
- (b) if at any time or times after the payment in respect of a phase referred to in paragraph [(5)(4)(a)] of this Part of this Schedule has become payable the local highway authority reasonably estimates that the costs in respect of that phase referred to in paragraph (1) above will exceed the estimated costs for that phase it may give notice to the undertaker of the amount by which it then reasonably estimates those costs will exceed the estimated costs (“the excess”) and the undertaker must pay to the county highway Authority within 28 days of the date of that notice a sum equal to the excess.

(5) Within 91 days of the issue of the final certificate for each phase of the county highway works pursuant to paragraph [7] of this Part of this Schedule the local highway authority must give the

undertaker a final account of the costs referred to in sub-paragraph (1) and within 28 days from the expiry of the 91 day period—

- (a) if the account shows a further sum as due to the local highway authority the undertaker must pay to the local highway authority the sum shown due to it in that final account; and
- (b) if the account shows that the payment or payments previously made have exceeded those costs the local highway authority must refund the difference to the undertaker.

(6) 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 party to whom it was due interest at 1% above the rate payable in respect of compensation under Section 32 (rate of interest after entry on land) of the 1961 Act 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 and defects and maintenance period

6.—(1) As soon as each phase of the county highway works has been completed and—

- (a) a Stage 3 Road Safety Audit for that phase has been carried out;
- (b) any resulting recommendations have been complied with and any exceptions agreed;
- (c) the undertaker has provided a plan clearly identifying the extent of any land which is to become highway maintainable at public expense by the local highway authority upon the issue of the final certificate referred to in paragraph [7] of this Part of this Schedule;
- (d) the undertaker providing confirmation that any additional land which is to be dedicated as highway maintainable at public expense is so dedicated; and
- (e) the as built information has been provided to the local highway authority,

the local highway authority must immediately issue a provisional certificate of completion in respect of that phase of the county highway works.

(2) The undertaker must at its own expense remedy any and all defects arising out of defective design materials or workmanship or of any other nature whatsoever in that phase of the county highway works as reasonably required to be remedied by the local highway authority and identified by the local highway authority during a period of 12 months from the date of the provisional certificate in respect of that phase.

(3) The undertaker must submit Stage 4 Road Safety Audits for each phase of the county highway works 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 Audits and be responsible for all costs of and incidental to such audits.

Final certificate

7.—(1) The undertaker must apply to the local highway authority for the issue of the final certificate in respect of each phase at the expiration of the 12 month period in respect of that phase referred to in paragraph [6(2)] of this Part of this Schedule or if later on the date on which any defects or damage arising during that period which are the responsibility of the undertaker under the provisions of paragraph [6] of this Part of this Schedule have been made good to the reasonable satisfaction of the local highway authority.

(2) If the provisions of sub-paragraph (1) are satisfied the local highway authority must issue a final certificate for the phase of the county highway works concerned, such certificate not to be unreasonably withheld or delayed.

Security

8.—(1) Subject to paragraph [3(3)] of this Part of this Schedule the undertaker must provide security for the carrying out of the county highway works as follows—

prior to the commencement of each phase the county highway works within that phase will be secured by a bond from a bondsman first approved by the local highway authority drafted substantially as detailed in Form 2 contained at paragraph [15] of this Part of this Schedule, or such other form that may be agreed between the undertaker and the local highway authority to indemnify the local highway authority 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 that phase of the county highway works under the provisions of this Part of this Schedule provided that the maximum liability of the bond shall not exceed the bond sum relating to that phase.

(2) Each bond sum shall be progressively reduced as follows—

- (a) on receipt of written confirmation (including receipt of receipted invoices evidencing payments made by the undertaker to the contractors) from the undertaker of the payments made from time to time to the contractor the local highway authority must in writing authorise the reduction of the bond sum by such proportion of the bond sum as amounts to 80% of those payments provided that an evaluation of the county highway works completed and remaining has been carried out by the undertaker and audited and agreed by the local highway authority to ensure that the stage of completion of the works is relative to the payments made by the undertaker to the contractors. The local highway authority will only be required to provide the said authorisation should it be satisfied that the monies remaining secured by the bond sum will be sufficient to cover all remaining costs and liabilities anticipated to be incurred in completing the county highway works plus an additional 10%;
- (b) within 20 working days of completion of each phase of the county highway works (as evidenced by the issuing of the provisional certificate in respect of that phase pursuant to paragraph [6(1)] of this Part of this Schedule) the local highway authority must in writing release the bond provider from its obligations in respect of 80% of the bond sum relating to that phase save insofar as any claim or claims have been made against the bond and/or liability on its part has arisen prior to that date; and
- (c) within 20 working days of the issue of the final certificate for each phase of the county highway works referred to in paragraph [7] of this Part of this Schedule the local highway authority must in writing release the bond provider from all its obligations in respect of the bond relating to that phase save insofar as any claim or claims have been made against the bond or liability on its part has arisen prior to that date.

Commuted sums

9.—(1) Within 28 days following the issue of the final certificate in respect of any phase the undertaker must pay to the local highway authority any commuted sums payable in respect of that phase calculated as provided for in sub-paragraph (2).

(2) The rates to be applied in calculating the commuted sums payable must be calculated in accordance with the local highway authority's commuted sum calculator or as otherwise agreed between the undertaker and the local highway authority prior to commencement of work on any phase.

Insurance

10. The undertaker must prior to commencement of the county highway works effect public liability insurance with an insurer in the minimum sum of £10,000,000.00 (Ten million pounds) for any one claim against any legal liability for damage loss or injury to any property or any person arising out of or in connection with the execution of the county highway works or any part thereof by the undertaker.

Indemnification

11. The undertaker must in relation to the carrying out of the county highway works take such precautions for the protection of the public and private interest as would be incumbent upon it if it were the highway authority and must indemnify the local highway authority from and against all

costs expenses damages losses and liabilities arising from or in connection with or ancillary to any claim demand action or proceedings resulting from the design and carrying out of the county highway works; provided that—

- (a) the foregoing indemnity shall not extend to any costs expenses liabilities and damages caused by or arising out of the neglect or default of the local highway authority or its officers servants agents or contractors or any person or body for whom it is responsible;
- (b) the local highway authority must notify the undertaker upon receipt of any claim; and
- (c) the local highway authority must following the acceptance of any claim notify the quantum thereof to the undertaker in writing and the undertaker must within 14 days of the receipt of such notification pay to the local highway authority the amount specified as the quantum of such claim.

Warranties

12. The undertaker must procure warranties from the contractor and designer of each phase to the effect that all reasonable skill care and due diligence will be exercised in designing and constructing that phase including the selection of materials, goods, equipment and plant such warranties to be provided to the local highway authority before that phase commences.

Approvals

13.—(1) Any approvals, certificates, consents or agreements required or sought from or with the local highway authority pursuant to the provisions of this Part of this Schedule must not be unreasonably withheld or delayed and must be given in writing save that any such approvals, certificates, consents or agreements shall be deemed to have been given if it is neither given nor refused within 42 days of the specified day.

(2) In this paragraph “specified day” means—

- (a) the day on which particulars of the matter are submitted to the local highway authority under the provisions of this Schedule; or
- (b) the day on which the undertaker provides the local highway authority with any further particulars of the matter that have been reasonably requested by the local highway authority or within 28 days of the date in sub-paragraph (a),

whichever is the later.

Expert Determination

14.—(1) Article 58 (arbitration) does not apply to this Part 3 of Schedule [14] except in respect of sub-paragraph (5).

(2) Any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 28 days of the notification of the dispute.

(4) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert’s appointment;
- (b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission; and

(c) issue a decision within 42 days of receipt of the submissions under paragraph (b); and (d) give reasons for the decision.

(5) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 58.

(6) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

15. Form 2 as referred to in paragraph [8] of this Part of this Schedule—

Form 2

Bond – Local Highway Authority

BY THIS BOND [] [(Company Regn No)] whose registered office is situate at [] (“**the undertaker**”) and [] [(Company Regn No)] whose registered office is situate at [] (“**the Surety**”) are jointly and severally bound to [] of [] (“**the []**”) this [] day of [] 202[] in the sum of [] pounds (£[Surety Sum to the payment of which sum the undertaker and the Surety hereby jointly and severally bind themselves their successors and assigns

WHEREAS under a Development Consent Order known as the Cambridge Waste Water Treatment Plant Relocation Order 202[X] (“**the DCO**”) the undertaker is empowered to commence execute perform and complete the highway works mentioned therein in such manner and within such time and subject to such conditions and stipulations as are particularly specified and set forth in the DCO and also to pay to the local highway authority such sums as are therein provided **NOW THE CONDITIONS** of this Bond are such that if the undertaker shall duly observe and perform all the terms provisions covenants conditions and stipulations of Part 7 of Schedule 12 of the DCO on the undertaker’s part to be observed and performed according to the true purport intent and meaning thereof or if on default by the undertaker the Surety shall satisfy and discharge the damages sustained by the local highway authority thereby up to the amount of this Bond then this obligation shall be null and void but otherwise shall be and remain in full force and effect in accordance with the provisions of the DCO (and including any reductions as provided for in the DCO) but no allowance of time by the local highway authority under the DCO nor any forbearance or forgiveness in or in respect of any matter or thing concerning the DCO on the part of the local highway authority shall in any way release the Surety from any liability under this Bond

It is hereby agreed that this Bond will be reduced and released in accordance with paragraph 8 of Part 7 of Schedule [12] of the DCO.

[**Attestation**]

PART 8

FOR THE PROTECTION OF THE CONSERVANCY

PART 9

**FOR THE PROTECTION FOR OPERATORS OF ELECTRONIC
COMMUNICATIONS CODE NETWORKS**

PART 10
FOR THE PROTECTION OF CAMBRIDGE WATER

SCHEDULE 13
REMOVAL OF HEDGEROWS

Article 25

<i>Area</i>	<i>Location of Hedgerow</i>

SCHEDULE 14
MISCELLANEOUS CONTROLS

Articles 56 and 57

PART 1
PUBLIC GENERAL LEGISLATION

Introduction

1. This Part 1 of this Schedule applies, modifies and excludes statutory provisions which relate to matters for which provision may be made in this Order.

Highways Act 1980

2.—(1) Section 141 of the Highways Act 1980 (restriction on planting trees etc in or near carriageway) shall not apply to any tree or shrub planted in the course of the authorised development before completion of construction.

(2) Section 167 of that Act (powers relating to retaining walls near streets) shall not apply in relation to—

- (a) the erection of a wall in the course of the authorised development before completion of construction; or
- (b) a wall on land on which works are being carried out, or are to be carried out, in pursuance of the authorised development before completion of construction.

(3) Sections 169(1), 172 and 173 of that Act (control of scaffolding on highways, hoardings to be set up during building etc, and hoardings to be securely erected) shall not apply to anything done in the course of the authorised development before completion of construction.

Building Act 1984

3. Nothing in Part 1 of the Building Act 1984 with respect to building regulations, and nothing in any building regulations, shall apply in relation to a building used, or intended for use, by the undertaker for the purposes of the authorised development before completion of construction.

New Roads and Street Works Act 1991

4.—(1) The powers conferred by section 56(1) and (1A) of the New Roads and Street Works Act 1991 (powers to give directions as to the timing of proposed and subsisting street works) shall not apply in relation to the authorised development.

(2) Section 56A of that Act (power to give directions as to placing of apparatus) shall not apply in relation to the placing of apparatus in the course of the authorised development.

(3) No restriction under section 58(1) of that Act (power to impose restriction on execution of street works in the twelve months following completion of substantial road works) shall have effect in relation to the authorised development.

(4) Section 61(1) of that Act (under which the consent of the street authority is required for the placing of apparatus in a protected street) shall not apply to the placing of apparatus in the course of the authorised development.

(5) Section 62(2) of that Act (power following designation of protected street to require removal or repositioning of apparatus already placed in the street) shall not apply in relation to apparatus placed in the course of the authorised development.

(6) Section 62(4) of that Act (power when designation as protected street commences or ceases to give directions with respect to works in progress) shall not apply in relation to the authorised development.

(7) Section 63(1) of that Act (under which Schedule 4 to that Act has effect for requiring the settlement of a plan and section of street works to be executed in a street designated by the street authority as having special engineering difficulties) shall not apply in relation to the authorised development.

(8) The powers conferred by section 73A(1) and 78A(1) of that Act (requirements for undertaker to re-surface street) may not be exercised in relation to the authorised development.

(9) Sections 74 and 74A of that Act (charge for occupation of the highway and charge determined by reference to duration of works) shall not apply in relation to the authorised development.

(10) Schedule 3A to that Act (restriction on works following substantial street works) shall not apply where a notice under section 54 (advance notice of certain works) or 55 (notice of starting date of works) of that Act is in respect of the authorised development.

(11) No notice under paragraph 2(1)(d) of that Schedule (power by notice to require notification of works which an undertaker proposes to carry out in a part of a highway to which a proposed restriction applies) shall have effect to require the notification of works proposed to be carried out in the course of the authorised development.

(12) No directions under paragraph 3 of that Schedule (directions as to the date on which undertakers may begin to execute proposed works) may be issued to the undertaker.

(13) Paragraph 3(4) of that Schedule (under which it is an offence for an undertaker to execute street works before the completion of certain other street works) shall not apply in relation to the execution of works in the course of the authorised development.

(14) Paragraph 5(1) of that Schedule (effect of direction under paragraph 4 restricting further works) shall not apply in relation to the execution of works in the course of the authorised development.

Water Industry Act 1991

5. Section 106(8) of the Water Industry Act 1991 (which qualifies the general right to communicate with the public sewers of a sewerage undertaker) shall not apply in relation to the authorised development.

Party Wall etc Act 1996

6.—(1) No notice under section 1(2) or (5) of the Party Wall etc Act 1996 (notice before building on line of junction with adjoining land) shall be required before the building of any wall in the course of the authorised development before completion of construction.

(2) Sections 1(6) and 2 of the Party Wall etc Act 1996 (rights of adjoining owners) shall not have effect to confer rights in relation to—

- (a) anything used, or intended to be used, by the undertaker for the purposes of the authorised development before completion of construction, or
- (b) land on which there is any such thing.

(3) Section 6 of the Party Wall etc Act 1996 (underpinning of adjoining buildings) shall not apply in relation to a proposal to excavate, or excavate for and erect anything, in the course of the authorised development before completion of construction.

Planning Act 2008 - Application of the 2010 Regulations (Community Infrastructure Levy)

7. Notwithstanding the provisions of section 208 of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010 any building comprised in the authorised development shall be 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.

Local Government (Miscellaneous Provisions) Act 1976

8. Section 42 of The Local Government (Miscellaneous Provisions) Act 1976 (certain future local Acts, etc, to be subject to the planning enactments, etc, except as otherwise provided) shall not apply to the extent that it would make provisions of this Order authorising the authorised development subject to other provisions.

Town and Country Planning Act 1990

9.—(1) No order, notice or regulation under the Town and Country Planning Act 1990 in relation to the preservation of trees, shall have effect in relation to the authorised development.

(2) Sections 238 and 239 of that Act (consecrated land and burial grounds) shall apply—

- (a) in relation to land, other than a right over land, acquired for the purposes of the authorised development (whether or not by agreement), so as to permit use by the undertaker in accordance with the provisions of this Order; and
- (b) in relation to a right over land so acquired (whether or not by agreement), or the temporary use of land pursuant to articles 39 (temporary use of land for carrying out the authorised development) and 40 (temporary use of land for maintaining authorised development), so as to permit the exercise of that right or the temporary use by the undertaker in accordance with the provisions of this Order, without prejudice to the status of the land over which the right is exercised as consecrated land.

(3) For the purposes only of Section 106 (1) of that Act the undertaker shall be deemed to be a person interested in the Order Land or any part of it and for the avoidance of doubt Section 106(3) (a) shall include any transferee under article 9 of this Order.

Flood and Water Management Act 2010

10. Section 30 and Schedule 1 of the Flood and Water Management Act 2010 shall not apply in relation to the authorised development.

National Parks and Access to Countryside Act 1949

11. Sections 51, 52 and 55 (general provisions as to long-distance routes, approval of proposals relating to long-distance routes, variation of approved proposals) of the National Parks and Access to Countryside Act 1949 shall not apply in relation to the authorised development.

Control of Pollution Act 1974

12.—(1) Where a local authority is acting further to Section 60(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development and works before completion of construction then that local authority must also have regard to the noise levels referred to in the Environmental Statement for each construction site and the principles of the Code of Construction Practice.

(2) Sections 60(7) and 61(7) of the Control of Pollution Act 1974 shall not apply in relation to the authorised development.

(3) Underground tunnelling works shall be regulated by Sections 60 and 61 of the Control of Pollution Act 1974.

PART 2 LOCAL LEGISLATION

<i>Year</i>	<i>Chapter</i>	<i>Short Title</i>
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SCHEDULE 15 CERTIFICATION OF PLANS AND DOCUMENTS

Article 55

<i>Document/Plan</i>	<i>Document Number</i>	<i>Document date/Plan revision number</i>	<i>number</i>	<i>with</i>
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SCHEDULE 16 ARBITRATION RULES

Article 58

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Anglian Water Services Limited (referred to in this Order as the undertaker) to construct and operate the [] and associated infrastructure.

The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose. The Order also makes provision in connection with the maintenance of the development.

A copy of the Order plans and the book of reference mentioned in this Order and certified in accordance with article 57 of this Order (certification of plans, etc) may be inspected free of charge during working hours at the offices of each relevant planning authority.

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