

The Eggborough CCGT Project

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The Eggborough CCGT (Generating Station) Order

Land at and in the vicinity of the Eggborough Power Station site,
near Selby, North Yorkshire, DN14 0BS

Draft Development Consent Order (DCO) - Comparison to Model Provisions Version

The Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 - APFP Reg. 5(2)(q)



Applicant: Eggborough Power Limited

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Signed	Emma Cottam	Date	30.05.17
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SCHEDULE 1

GENERAL MODEL PROVISIONS

Article 2

STATUTORY INSTRUMENTS

201* No.

INFRASTRUCTURE PLANNING

The Eggborough CCGT (Generating Station) Order

Made - - - - - ***

Coming into force - - - - - ***

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An application has been made to the Secretary of State in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a) and Part 5 of the Planning Act 2008(b) for an Order granting development consent.

The application was examined by the Examining authority appointed by the Secretary of State pursuant to Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The Secretary of State, in accordance with section 104(2) of the 2008 Act, has had regard to the relevant national policy statements, the [joint] local impact report submitted by [North Yorkshire County Council and Selby District Council] and those matters which the Secretary of State thinks are both important and relevant to his decision.

(a) 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 and S.I. 2017/572.

(b) 2008 c.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c.20).

(c) S.I. 2010/103, amended by S.I. 2012/635.

The Secretary of State, having considered the representations made and not withdrawn and the application with the documents that accompanied the application, has determined to make an Order giving effect to the proposals comprised in the application.

The Secretary of State's determination was published on [X].

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 114, 115, 120, 122, 123 and 149A of the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Eggborough CCGT (Generating Station) Order 201[x] and comes in to force on [x] 201[x].

Interpretation

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2.~~(1)~~—(1) In this ~~Order—Order—~~

“the 1961 Act” means the Land Compensation Act 1961~~(a)~~;

“the 1965 Act” means the Compulsory Purchase Act 1965~~(b)~~;

(a) 1961 c.33. Section 1 and subsections (A1), (1) and (3)-(6) of section 4 were amended by articles 5(1), (2) (6) of, and paragraphs 31, 37(a), 37(b), 38, 39(a), 39(b), 39(c), of Schedule 1 and Schedule 5 of Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). There are other amendments to the 1961 Act which are not relevant to this Order.

(b) 1965 c.56. Subsections (1)-(3) of section 1 and section 30 were amended by subsections (1) and (3) of section 34 of, and paragraph 14 of Schedule 4 to, and Schedule 6 to, the Acquisition of Land Act 1981 (c.67). Subsection (4) of section 1 was amended by section 4 of and paragraph 13(1)(a) and (b) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11). Subsection (5) of section 1 was amended by section 109 of and paragraph 124 of Schedule 10 to, the Courts Act 2003 (c.39). 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 and subsection (2) of section 11 were 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 of the Planning and Compensation Act 1991 (c.34). Subsection (2A)(d) and 2(d) of section 5, section 6, subsections (1) and (3) of section 8 and subsection (1) of section 10, subsection (3) of section 11, subsection (1) of section 15, subsection (1) of section 16, subsection (2) of section 17, subsections (1) and (2)(b) of section 18, subsection (2) of section 19 and subsection (3) of section 20 were amended by articles 5(1), (2) and (6) of, and paragraphs 59, 61, 62, 63, 65, 66, 67, 68, 69 and 70 of Schedule 1 to, and Schedule 5 to the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). Subsection (3) of section 10 was amended by section 4 of, and paragraph 13(2)(a) and (b) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11). Subsection (1) of section 11 and sections 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by sections 14 and 70 of, and paragraphs 12(1) and 12(2) 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 sections 62 and 139 of, and paragraphs 27 and 28(1) and (2) to, the Tribunals, Courts and Enforcement Act 2007 (c.15). Subsection 2 of section 20 was amended by section 70 of, and paragraph 4 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Subsections 3 and 4 of section 23 and subsection (1) of section 25 were amended by section 59 of, and paragraph 4 of part 2 of Schedule 11 to, the Constitutional Reform Act 2005 (c.4). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). There are other amendments to the 1965 Act which are not relevant to this Order.

“the 1980 Act” means the Highways Act 1980;(a):

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act(b):

“the 1990 Act” means the Town and Country Planning Act 1990(c):

“the 1991 Act” means the New Roads and Street Works Act 1991(d):

“the 2008 Act” means the Planning Act 2008;(e):

“the 2009 Act” means the Marine and Coastal Access Act 2009(f):

“the 2009 Regulations” means the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(g):

“access and rights of way plans” means the plans submitted under regulation 5(2)(k) of the 2009 Regulations and certified as such by the Secretary of State for the purposes of this Order:

“address” includes any number or address used for the purposes of electronic transmission:

“AOD” means above ordnance datum:

“apparatus” has the same meaning as in Part 3 of the 1991 Act save that “apparatus” further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field

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- (a) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); sections 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(1), (2) and (3) of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section 22(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); 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); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). 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 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (b) 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 Schedule 8 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 amendments to the 1981 Act which are not relevant to this Order.
- (c) 1990 c.8. Subsection (4)(aa) of section 56 was added by Planning and Compensation Act 1991 (c.34). Subsection (5)(a) of section 56 was amended by subsection (2)(a) of section 40 of the Planning and Compulsory Purchase Act 2004 (c.5) and subsection (1) of section 30 of, and paragraphs 2 and 3 of part 2 of Schedule 4 to, the Infrastructure Act 2015 (c.7). Subsection (5)(b) of section 56 was amended by subsection (4) of section 31 of, and paragraphs 8 and 10 of Schedule 6 to, Planning and Compensation Act 1991 (c.34). Subsections (3), (4), (6) and (7) of section 198 were amended by subsection (1) of section 192 and subsection (2)(a) of section 238 of, and paragraphs 7 and 8 of Schedule 8 to, and Schedule 13 to, the 2008 Act. Subsection (4)(a) of section 198 was amended by sections 31, 32, 42 and 84 of, and paragraphs 8 and 20 of Schedule 6 and paragraphs 8 and 34 of Schedule 7 to and Parts 1 and 2 of Schedule 19 to, the Planning and Compensation Act 1991 (c.34). Subsections (8) and (9) of section 198 were amended by subsection (3) of section 42 to the Planning and Compulsory Purchase Act 2004 (c.5). There are other amendments to the 1990 Act which are not relevant to this Order.
- (d) 1991 c.22. Sections 48(3A) and 50(1A), were inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 49, subsection (3) of section 63, subsection 7A(a) of section 74, subsections (2) and (10)(a) and section 86 were amended by subsection (6) of section 1 of, and paragraphs 113, 117 - 121 of part 2 of Schedule 1 to, the Infrastructure Act 2015 (c.7). Sections 51, 53-60, 65-69, subsections (1A), (4), (4B) and (6) of section 70, 71-72, 73A-73F, subsections (3)(b) and (7B) of section 74, 75, 78A, 39-80, 83, 88, subsection (2) of section 89, 90, 92-93, 95A and 96-97 were amended by sections 40, 42-45, 47-56, 58 and 59 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18). Subsection (5) of section 63 was added by section 32 of, and paragraph 27 of schedule 3 to, the Flood and Water Management Act 2010 (c.29). Subsection (4) of section 64 was added by section 81 of, and paragraph 7 of Schedule 2 to, the Road Traffic Act 1991 (c.40). Subsections (3) and (4A) of section 70 were amended by regulation 17E of The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (S.I. 2007/1951). Subsections (2A), (3), (3)(b), (4), (5A)-(5C), (7), (7A) and (7B) were amended by sections 256 and 274 of, and part V(2) of Schedule 31 to, the Transport Act 2000 (c.38). Subsection (1)(a) of section 89 was amended by subsection (1) of section 2 of, and paragraph 57(1) of Schedule 1 to, the Water Consolidation (Consequential Provisions) Act 1991 (c.60). There are other amendments to the 1991 Act which are not relevant to this Order.
- (e) 2008 c.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c.20). Part 7 amended by S.I. 2017/16.
- (f) 2009 c.23.
- (g) 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 and S.I. 2017/572.

boundary markers, transformer rectifier kiosks; electricity cables; telecommunications equipment and electricity cabinets;

~~"ancillary works" means the ancillary works described in Part 2 of Schedule A (authorised project) [and any other works authorised by the Order] and which are not~~
"authorised development" means the development and associated development described in Schedule 1 (authorised development) which is development within the meaning of section 32 of the 2008 Act;

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

~~"the authorised project" means the authorised development and the ancillary works authorised by this Order;~~

~~"the book of reference" means the book of reference~~ certified by the decision-maker as the book of reference submitted under regulation 5(2)(d) of the 2009 Regulations and certified as such by the Secretary of State for the purposes of this Order;

~~"building" includes any structure or erection or any part of a building, structure or erection;~~

~~"carriageway" has the same meaning as in the 1980 Act;~~

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

"Canal and River Trust" means the body of that name which is a company limited by guarantee (Company No. 7807276) whose registered office is at First Floor, North Station House, 500 Elder Gate, Milton Keynes, MK9 1BB;

~~"the decision-maker" has the same meaning as in section 103 of the 2008 Act;~~

~~"highway" and "highway authority" have the same meaning as in the 1980 Act;~~

~~"the land plan" means the plan certified as the land plan by the decision-maker~~
"combined heat and power assessment" means the combined heat and power assessment submitted under regulation 5(2)(q) of the 2009 Regulations and certified as such by the Secretary of State for the purposes of this Order;

"commence" means the carrying out of a material operation, as defined in section 155 of the Planning Act 2008 (which explains where development begins), comprised in or carried out for the purposes of the authorised development and the words "commencement" and "commenced" and cognate expressions are to be construed accordingly;

"commercial use" means that the commissioning of the authorised development has been completed and it is generating electricity on a commercial basis;

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

"Eggborough Power Limited" means Eggborough Power Limited (Company No. 03782700) whose registered office is at Eggborough Power Station, Eggborough, Goole, East Yorkshire, DN14 0BS;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

"the environmental statement" means the environmental statement submitted under regulation 5(2)(a) of the 2009 Regulations and certified as such by the Secretary of State for the purposes of this Order;

“environmental statement commitments register” means the document of that name dated May 2017;

“the flood risk assessment” means the flood risk assessment submitted under regulation 5(2)(e) of the 2009 Regulations and certified as such by the Secretary of State for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act;

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

“the land plans” means the land plans submitted under regulation 5(2)(i) of the 2009 Regulations and certified as the land plans by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation shown for each work number on the works plans;

“maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve to the extent that the same are unlikely to give rise to any materially new or materially different environmental effects from those identified in the environmental statement and “maintenance” and “maintaining” are to be construed accordingly;

“NGET” means National Grid Electricity Transmission plc (Company Registration Number 02366977) whose registered office is at 1 to 3 Strand, London, WE2N 5EH;

“NGG” means National Grid Gas plc (Company Registration Number 02006000) whose registered office is at 1 to 3 Strand, London WC2N 5EH;

~~“Order land” means the land shown on the land plan which is within the limits of land to be acquired—~~“Order land” means the land required for, or affected by, the proposed development shown on the land plans and described in the book of reference;

~~“the Order limits” means the limits shown on the works plan—~~plans within which the authorised project 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);~~

~~“relevant planning authority” means—(i)—the district planning authority for the area in which the land to which the provisions of this Order apply is situated—unless the provisions relate to the construction or alteration of a hazardous waste facility, in which case it means the county planning authority;~~

“requirements” means those matters set out in Schedule 2 to this Order;

“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 any footpath and “street” includes any part of a street;

~~(ii)—a National Park Authority;~~

~~(iii)—the Broads Authority; and~~

~~(iv)—the Greater London Authority if the land to which the provisions of this Order or requirements apply is situated in Greater London;~~

~~“rights plan” means the plan certified as the rights plan by the decision-maker for the purposes of this Order;~~

~~“the sections” means the sections shown on the plan certified as the section drawings plan by the decision-maker for the purposes of this Order;~~

(a) 1981 c.67.

~~"statutory undertaker" means any person falling within section 127(8), 128(5) or 129(2) 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;~~

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act ~~;"tree preservation order for which purposes "highway authority" has the meaning given in section 198 of the 1990 Act~~this article;

"street works" means the works listed in article 8(1);

"the tribunal" means the Lands Chamber of the Upper Tribunal;

"undertaker" means Eggborough Power Limited or the person who has the benefit of this Order in accordance with ~~section 156 of the 2008 Act~~articles 6 and 7;

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

"the works ~~plan~~plans" means the ~~plan~~works plans submitted under regulation 5(2)(j) of the 2009 Regulations and certified as the works ~~plan~~plans by the ~~decision-maker~~Secretary of State for the purposes of this Order.

~~(2) (2)~~—References in this Order to rights over land include references to rights to do or to place and maintain ~~anything in, on or under land or in the air-space above its surface~~ and to any trusts or incidents (including restrictive covenants) to which the land is subject and references in this Order to the creation or acquisition of new rights include the imposition of restrictive covenants which interfere with interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order.

~~(3)~~ Save for the definition of the "undertaker", the definitions in paragraph (1) do not apply to Schedule 13 (deemed marine licence under Part 4 (marine licensing) of the 2009 Act).

~~(4) (3)~~—All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised ~~project shall~~development are to be taken to be measured along that work.

~~*[NOTE: In the case of off-shore development, which is outside the area of any planning authority, it will be necessary to identify another appropriate body as the relevant planning authority.]*~~

~~(5)~~ All areas described in square metres in the book of reference are approximate.

~~(6)~~ References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 and shown on the works plans.

~~(7)~~ The expression "includes" is to be construed without limitation.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

2

~~3.—(1)~~ Subject to the provisions of this Order and to the requirements ~~in the Schedule (requirements) attached to this Order,~~ the undertaker is granted ~~development consent for the authorised development to be carried out within the Order limits.~~

~~(2)~~ Each numbered work must be situated within the corresponding numbered area shown on the works plans and within the limits of deviation.

~~(a)~~ development consent for the authorised development; and

~~(b) consent for the ancillary works,~~

~~to be carried out within the Order limits.~~

Maintenance of authorised ~~project~~ development

3

~~4. The undertaker may at any time maintain the authorised project, except~~ —(1) Except to the extent that this Order or an agreement made under this Order, provides otherwise, and subject to the provisions of this Order and to the requirements, the undertaker is authorised to and, subject to the requirements, may at any time maintain the authorised development.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

Operation of authorised development

5.—(1) The undertaker is hereby authorised to use and operate the generating station comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence or any obligation under any legislation that may be required to authorise the operation of a generating station.

Benefit of the Order

Benefit of Order

4

~~6. Subject to article 5—(1) Subject to paragraph (2) and article 7 (consent to transfer benefit of Order), the provisions of articles [] and [] [specify relevant articles] shall this Order have effect solely for the benefit of [specify person, body or class of person] the undertaker.~~

(2) Paragraph (1) does not apply to—

(a) Work No. 3B in relation to which this Order has effect for the benefit of the undertaker and NGET; and

(b) Work No 7A in relation to which this Order has effect for the benefit of the undertaker and NGG.

[NOTE: This article is required where provisions of the Order are specific to a named undertaker or class of undertaker (see section 156(2) of the 2008 Act).]

Consent to transfer benefit of the Order

5

~~7.(1) —(1) The undertaker may, with the consent of the [specify person or body]—~~
may—

(a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (including any of the numbered works) and such related statutory rights as may be agreed in writing between the undertaker and the transferee; or

(b) ~~(b)~~ grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (including any of the numbered works) and such related statutory rights as may be so agreed.

(2) ~~(2)~~—Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), shall include references to the transferee or the lessee.

~~(3) (3)~~—The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) ~~shall be is~~ subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

Application and modification of legislative provisions

6

~~(1)~~—Subject to the modifications set out in paragraph (2) the following provisions of the ~~[insert short title of the relevant Act]~~ shall be incorporated in this Order—

~~(a)~~—section[s] X ~~[specify relevant section(s)]~~.

~~(2)~~—The modifications are: ~~[insert relevant modifications]~~.

~~(3)~~—In construing the ~~[insert short title of the relevant Act]~~ as incorporated the following expressions shall have the following meanings: ~~[insert relevant expressions and definitions]~~

Defence to proceedings in respect of statutory nuisance

7

~~(1)~~—Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 ~~(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—

~~(a)~~—the defendant shows that the nuisance—

~~(i)~~—relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974; or

~~(ii)~~—is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or

~~(b)~~—the defendant shows that the nuisance—

~~(i)~~—relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in accordance with a scheme of monitoring and attenuation of noise agreed with the Commission as described in requirement 25; or

~~(ii)~~—is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

~~(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.~~

(4) The consent of the Secretary of State is required for the exercise of the powers of paragraph (1) except where—

- (a) the transferee or lessee is—
 - (i) the holder of a licence under section 6 of the Electricity Act 1989(a);
 - (ii) in relation only to a transfer or lease of Work No. 6 or Work No. 7 the holder of a licence under section 7 of the Gas Act 1986(b); or
 - (iii) in relation to a transfer or lease of any works within a highway a highway authority responsible for the highways within the Order land; or
- (b) the time limits for all claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
 - (i) no such claims have been made;
 - (ii) any such claims that have been made have all been compromised or withdrawn;
 - (iii) compensation has been paid in final settlement of all such claims;
 - (iv) payment of compensation into court in lieu of settlement of all such claims has taken place; or
 - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of all claims that no compensation is payable.

PART 3

STREETS

Street works

8

~~8.(1) —(1) The undertaker may, for the purposes of the authorised projectdevelopment, enter on so much of any of the streets specified in Schedule B-3 (streets subject to street works) as is within the Order limits and may—~~

- ~~(a) (a) —break up or open the street, or any sewer, drain or tunnel under it;~~
- ~~(b) (b) —tunnel or bore under the street;~~

(a) 1989 c.29. Part 1 has been amended by S.I. 2017/493 and Section 6(1) has been amended by section 30 of the Utilities Act 2000 (c.27) and sections 136 and 197 of, and part 1 of Schedule 23 to, the Energy Act 2004 (c.20). Section 64 has been amended by article 24(c) of the Competition Act 1998 (Competition Commission) Transitional, Consequential and Supplemental Provisions Order 1999 (S.I. 1999/506), section 108 of, paragraphs 24 and 38 of part 2 of Schedule 6 to, and Schedule 8 to the Utilities Act 2000 (c.27), sections 44, 89, 102, 143, 147, 180 and 197 of, paragraphs 3 and 15 of Schedule 19 to, and Part 1 of Schedule 23 to, the Energy Act 2000 (c.20), section 79 of, and paragraph 5 of Schedule 8 to, the Climate Change Act 2008 (c.27), section 72 of, and paragraph 5 of Schedule 8 to, the Energy Act 2011 (c.16), regulation 48 of the Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), articles 2 and 13 of the Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), section 26 of, and paragraphs 30 and 43 of part 1 of Schedule 6 to, the Enterprise and Regulatory Reform Act 2013 (c.24), and regulation 5 of the Electricity and Gas (Internal Markets) Regulations (S.I. 2014/3332).

(b) 1986 c.44. Section 7 (1) was amended by section 76 of the Utilities Act 2000 (c.27) and section 197 of, and part 1 of Schedule 23 to, the Energy Act 2004 (c.20).

- ~~(c)~~ ~~(e)~~—place apparatus in the street;
- ~~(d)~~ ~~(d)~~—maintain apparatus in the street ~~or~~ change its position or remove it; and
- ~~(e)~~ ~~(e)~~—execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

~~(2)~~ ~~(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.

~~(3)~~ Where the person carrying out any works pursuant to paragraph (3) ~~The is not the street authority~~ the provisions of sections 54 to 106 of the 1991 Act apply to any ~~street works carried out under paragraph (1)~~ such works.

Power to alter layout, etc., of streets

~~(4)~~—In this article "apparatus" has the same meaning as in Part 3 of the 1991 Act.

~~[NOTE: This article should not be used for the purposes of authorising street works that affect a trunk road (as defined in the 1980 Act); no trunk roads should be specified in Schedule B (streets subject to street works). For any street works affecting a trunk road the undertaker should make an application for a licence under section 50 of the 1991 Act.]~~

Stopping up of streets

9

~~(1)~~—Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised project, stop up each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule C (streets to be stopped up) to the extent specified, by reference to the letters and numbers shown on the works plan, in column (3) of those Parts of that Schedule.

9.—(1) The undertaker may for the purposes of the authorised development alter the layout of or carry out any works in the street in the case of permanent works as specified in column (2) of Part 1 of Schedule 4 (streets subject to permanent alteration of layout) in the manner specified in relation to that street in column (3) and in the case of temporary works as specified in column (2) of Part 2 of Schedule 4 (streets subject to temporary alteration of layout) in the manner specified in relation to that street in column (3).

(2) Without prejudice to the specific powers conferred by paragraph (1) but subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

- (a) alter the level or increase the width of any kerb, footway, cycle track or verge; and
- (b) make and maintain passing place(s).

~~(2)~~—No street specified in columns (1) and (2) of Part 1 of Schedule C (being a street to be stopped up for which a substitute is to be provided) shall be wholly or partly stopped up under this article unless—

~~(3)~~ (a) the new street to be substituted for it, which is specified in column (4) of that Part of that Schedule, has been completed The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority ~~and is open for use; or~~

(4) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority.

(5) Paragraphs (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Construction and maintenance of new or altered means of access

10.—(1) Those parts of each means of access specified in Part 1 of Schedule 5 (those parts of the access to be maintained at the public expense) to be constructed under this Order must be completed to the reasonable satisfaction of the highway authority and, unless otherwise agreed by the highway authority, must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the highway authority.

(2) Those parts of each means of access specified in Part 2 of Schedule 5 (those parts of the access to be maintained by the street authority) to be constructed under this Order and which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the undertaker for a period of 12 months from completion and from the expiry of that period by and at the expense of the street authority.

(3) Those restoration works carried out pursuant to article 9(1) (power to alter layout, etc., of streets) identified in Part 3 of Schedule 5 (those works to restore the temporary accesses which will be maintained by the street authority) which are not intended to be a public highway must be completed to the reasonable satisfaction of the street authority and must be maintained by and at the expense of the street authority.

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

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

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

(b) the standard of maintenance appropriate for a street of that character and used by such traffic;

~~(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, to the reasonable satisfaction of the street authority, 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)—No street specified in columns (1) and (2) of Part 2 of Schedule C (being a street to be stopped up for which no substitute is to be provided) shall be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.~~

~~(4)—The condition referred to in paragraph (3) is that—~~

~~(a)—the undertaker is in possession of the land; or~~

~~(b)—there is no right of access to the land from the street concerned; or~~

~~(c) — there is reasonably convenient access to the land otherwise than from the street concerned; or~~

~~(d) — the owners and occupiers of the land have agreed to the stopping up.~~

~~(5) — Where a street has been stopped up under this article—~~

~~(a) — all rights of way over or along the street so stopped up shall be extinguished; and~~

~~(b) — the undertaker may appropriate and use for the purposes of the authorised project so much of the site of the street as is bounded on both sides by land owned by the undertaker.~~

~~(6) — Any person who suffers loss by the suspension or extinguishment of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.~~

~~(7) — This article is subject to article 32 (apparatus etc of statutory undertakers).~~

Public rights of way

10

~~(1) — With effect from the [date of publication of this Order] [the date of certification by the local highway authority that the agreed alternative right of way has been created to the standard defined in the implementation plan], [the section of] the public right of way (being a [insert one of: footpath/bridleway/byway open to all traffic/restricted byway]) shown marked in [red] between the points [A] and [B] on the rights plan is extinguished.~~

~~(2) — With effect from [that same date] [insert later date] an alternative section of [insert description of right of way of that same type] as marked in [green] between the points [C] and [D] on the rights plan is created.~~

~~(3) — In this article—~~

~~"implementation plan" means the written plan agreed between the undertaker and the local highway authority for creation of the agreed alternative right of way to the defined standard; and~~

~~"local highway authority" has the same meaning as in section 329(1) of the 1980 Act.~~

Temporary stopping up of streets

11

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

~~(c) (a) — divert the traffic from the state of repair in which a reasonable person would have expected to find the street; and~~

~~(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and~~

- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed.

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

(6) Nothing in this article—

- (a) prejudices the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the undertaker is not by reason of any duty under that section to maintain a street to be taken to be a street authority in relating to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to the street works with regard to which the provisions of Part 3 of the 1991 Act apply.

Temporary stopping up of streets, public rights of way and public rights of navigation

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

- (a) divert the traffic or a class of traffic from the street or public right of way; and
- (b) ~~(b)~~ —subject to paragraph (2), prevent all persons from passing along the street or public right of way.

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

(3) ~~(3)~~—Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, alter or divert the streets specified in ~~columns (1) and column (2)~~ of Schedule ~~D-6~~ (streets to be temporarily stopped up) to the extent specified, ~~by reference to the letters and numbers shown on the works plan, in column (3) of that Schedule and the public rights of way specified in column (2) of Part 1 of Schedule 7 (public rights of way to be temporarily stopped up) to the extent specified~~ in column (3) of that Schedule.

(4) ~~(4)~~—The undertaker shall may not temporarily stop up, alter or ~~divert—divert—~~

- (a) ~~(a)~~ —any street, public right of way specified as mentioned in paragraph (3) without first consulting the street-highway authority; and
- (b) ~~(b)~~ —any other street or public right of way without the consent of the street-highway authority which, and the highway authority may attach reasonable conditions to any such consent.

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

(6) Without prejudice to the scope of paragraph (1), the undertaker may use any street or public right of way which has been temporarily stopped up under the powers conferred by this article and within the Order limits as a temporary working site.

(7) The undertaker, during and for the purposes of carrying out and maintaining the authorised development, may temporarily suspend the public rights of navigation in relation to the areas specified in column (4) of Part 2 of Schedule 7 (public rights of navigation to be temporarily suspended) for the purposes of constructing or carrying out the work listed at column (3) of that Part 2 of Schedule 7.

(8) Prior to the proposed commencement date of any suspension of the public rights of navigation under paragraph (7), the undertaker shall give notice to the Canal and River Trust.

(9) Following a receipt of a notice relating to a suspension pursuant to paragraph (8) the Canal and River Trust shall issue a notice to mariners giving the commencement date and other particulars of the suspension to which the notice or consent relates, and that suspension shall take effect on the date specified and as otherwise described in the notice.

(10) During the period that public rights of navigation are temporarily suspended under this article, the undertaker shall upon application allow reasonable access to the area where such rights of navigation would otherwise apply subject to such conditions as the undertaker may reasonably impose.

(11) The undertaker may not exercise the powers of paragraph (7) of this article after the completion of construction of the authorised development.

Access to works

12

12.—(1) The undertaker may, for the purposes of the authorised ~~project—development—~~

- (a) ~~(a)~~—form and ~~lay-out~~ layout the permanent means of access, or improve existing means of access, in the ~~location—locations~~ specified in ~~columns (1) and (2) of Schedule E Part 1 of Schedule 4 (access to works); and~~ streets subject to permanent alteration of layout);
- (b) ~~form and layout the temporary means of access in the location specified in Part 2 of Schedule 4 (streets subject to temporary alteration of layout); and~~
- (c) ~~(b)~~—with the approval of the relevant planning 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 ~~project~~ development.

Agreements with street authorities

13

13.~~(1)~~—(1) A street authority and the undertaker may enter into agreements with respect ~~to—~~

- (a) ~~(a)~~—the construction of any new street including any structure carrying the street over or under ~~a [insert description of any part of the authorised development] authorised by this Order;~~
 - (b) ~~the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;~~
 - (c) ~~(b)~~—the maintenance of the structure of any bridge or tunnel carrying a street ~~over or under a [insert description of development];~~
 - (d) ~~(e)~~—any stopping up, alteration or diversion of a street authorised by this Order; ~~or~~
 - (e) ~~(d)~~—the ~~carrying-out~~ undertaking in the street of any of the works referred to in article ~~8(1) (street works);~~ 10(1) (construction and maintenance of new or altered means of access); and/or
 - (f) ~~the adoption by a street authority which is the highway authority of works—~~
 - (i) ~~undertaken on a street which is existing publicly maintainable highway; and/or~~
 - (ii) ~~which the undertaker and highway authority agree are to be adopted as publicly maintainable highway.~~
- (2) ~~(2)~~—~~Such an~~ If such an agreement provides that the street authority must undertake works on behalf of the undertaker the agreement may, without prejudice to the generality of paragraph ~~(4)–(1)~~—
- (a) ~~(a)~~—make provision for the street authority to carry out any function under this Order which relates to the street in question;

- ~~(b) (b) — include an agreement between the undertaker and street authority specifying specify~~ a reasonable time for the completion of the works; and
- ~~(c) (c) — contain such terms as to payment and otherwise as the parties consider appropriate.~~

PART 4

SUPPLEMENTAL POWERS

Discharge of water

14

~~14.(1) — (1)~~ The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised ~~project~~ development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

~~(2) (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 is to~~ be determined as if it were a dispute under section 106 of the Water Industry Act 1991-~~(a)~~ (right to communicate with public sewers).

~~(3) (3) —~~ The undertaker ~~shall 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 shall not be unreasonably withheld.~~

~~(4) (4) —~~ The undertaker ~~shall must~~ not make any opening into any public sewer or drain ~~except — except —~~

~~(a) (a) —~~ in accordance with plans approved by the person to whom the sewer or drain belongs, ~~but such~~ approval ~~shall must~~ not be unreasonably withheld; and

~~(b) (b) —~~ where that person has been given the opportunity to supervise the making of the opening.

~~(5) (5) —~~ ~~The Except as authorised under this Order, the~~ undertaker ~~shall must~~ not, in carrying out or maintaining works ~~pursuant to this article~~, damage or interfere with the bed or banks of any watercourse forming part of a main river.

~~(6) (6) —~~ The undertaker ~~shall 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) (7) —~~ This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters ~~is prohibited by section 85(1), (2) or (3) of the Water Resources Act 1991 (offences of polluting water)~~ requires a licence pursuant to the Environmental Permitting (England and Wales) Regulations 2016(b).

~~(8) In this article —~~

~~(8) — In this article —~~

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

~~(a)~~ 1991 c.56.

~~(b)~~ S.I. 2016/1154.

~~(c)~~ 1964 c.40. Paragraph 9B was inserted into Schedule 2 by the Transport and Works Act 1992 (c.42), section 63(1) and Schedule 3, paragraph 9(1) and (5). There are other amendments to the 1964 Act which are not relevant to this Order.

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

~~Protective work to buildings~~ ~~15~~

~~(1)~~—Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.

~~(2)~~—Protective works may be carried out—

~~(a)~~—at any time before or during the carrying out in the vicinity of the building of any part of the authorised project; or

~~(b)~~—after the completion of that part of the authorised project in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised project is first opened for use.

~~(3)~~—For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

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

~~(a)~~—enter the building and any land within its curtilage; and

~~(b)~~—where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

~~(5)~~—Before exercising—

~~(a)~~—a right under paragraph (1) to carry out protective works to a building;

~~(b)~~—a right under paragraph (3) to enter a building and land within its curtilage;

~~(c)~~—a right under paragraph (4)(a) to enter a building and land within its curtilage; or

~~(d)~~—a right under paragraph (4)(b) to enter land,

the undertaker shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than ~~14~~ days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

~~(6)~~—Where a notice is served under paragraph (5)(a), ~~(c)~~ or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of ~~10~~ days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article ~~42~~ (arbitration).

[\(a\) 1991 c.57.](#)

~~(7) The undertaker shall compensate the owners and occupiers of any building 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 rights.~~

~~(8) Where—~~

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

~~the undertaker shall 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 10(2) of the 1965 Act (compensation for injurious affection).~~

~~(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) In this article "protective works" in relation to a building means—~~

- ~~(a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised project; and~~
- ~~(b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised project.~~

Authority to survey and investigate the land

16

~~15(1)~~ (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 ~~project and development~~ and—

- (a) ~~(a)~~ survey or investigate the land;
- (b) ~~(b)~~ without prejudice to the generality 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 subsoil and remove soil samples;
- (c) ~~(c)~~ without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) ~~(d)~~ place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

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

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

- (a) ~~(a)~~ shall must, if so required entering the land, produce written evidence of their authority to do so; and

- (b) ~~(b)~~—may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.
- (4) ~~(4)~~—No trial holes ~~shall are to~~ be made under this ~~article—article—~~
 - (a) ~~(a)~~—in land located within the highway boundary without the consent of the highway authority; or
 - (b) ~~(b)~~—in a private street without the consent of the street authority;_;

~~but such consent shall not be unreasonably withheld.~~
- (5) ~~(5)~~—The undertaker ~~shall—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.

Removal of human remains

47

- ~~16.~~~~(1)~~—~~(1)~~ In this article “the specified land” means ~~[insert description of the~~ Order ~~land].~~
- (2) ~~(2)~~—Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it ~~shall—must~~ remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.
- (3) ~~(3)~~—Before any such remains are removed from the specified land the undertaker ~~shall~~ must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, ~~by—by—~~
 - (a) ~~(a)~~—publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised project; and
 - (b) ~~(b)~~—displaying a notice in a conspicuous place on or near to the specified land.
- (4) ~~(4)~~—As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker ~~shall—must~~ send a copy of the notice to ~~[insert the~~ relevant local planning ~~authority].~~
- (5) ~~(5)~~—At any time within ~~56—fifty-six~~ days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.
- (6) ~~(6)~~—Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to ~~be—be—~~
 - (a) ~~(a)~~—removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
 - (b) ~~(b)~~—removed to, and cremated in, any crematorium, ~~and that person shall~~ 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 (11).
- (7) ~~(7)~~—If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question ~~shall—~~ is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who ~~shall—~~ is to remove the remains and as to the payment of the costs of the application.
- (8) ~~(8)~~—The undertaker ~~shall—must~~ pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

~~(9) If—~~

~~(9) If—~~

- (a) ~~(a)~~—within the period of ~~56~~fifty-six days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) ~~(b)~~—such notice is given and no application is made under paragraph (7) within ~~56~~fifty-six 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~~fifty-six days; or
- (c) ~~(c)~~—within ~~56~~fifty-six days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) ~~(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 must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

~~subject to paragraph (10) the undertaker shall 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.~~

~~(10) (10)~~—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 ~~shall~~must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

~~(11) (11)~~—On the re-interment or cremation of any remains under this ~~article~~article—

- (a) ~~(a)~~—a certificate of re-interment or cremation ~~shall~~must be sent by the undertaker to the Registrar General by the undertaker 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) ~~(b)~~—a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) ~~shall~~must be sent by the undertaker to ~~the~~the ~~relevant local authority~~insert relevant local authority ~~at the~~address mentioned in paragraph (4).

~~(12) (12)~~—The removal of the remains of any deceased person under this article ~~shall~~must be carried out in accordance with any directions which may be given by the Secretary of State.

~~(13) (13)~~—Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

~~(14) (14)~~—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~~is not ~~to~~ apply to a removal carried out in accordance with this article.

[\(a\) 1857 c.81. Section 25 Substituted by Church of England \(Miscellaneous Provisions\) Measure 2014 No. 1 s.2. There are other amendments to this Act which are not relevant to this Order.](#)

PART 5
POWERS OF ACQUISITION

Compulsory acquisition of land

18

~~17.(1) —~~ (1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project [development or to facilitate it, or is incidental, to it] [or is required as replacement land] to it and may use any land so acquired for the purposes authorised by this Order or for any other purposes in connection with or ancillary to the authorised development.

~~(2) (2) —~~ As from the date on which a compulsory acquisition notice under section 134(3) of the 2008 Act is served or the date on which the Order land, or any part of it, is vested in the undertaker, whichever is the later, that land or that part of it which is vested (as the case may be) shall be is discharged from all rights, trusts and incidents to which it was previously subject.

~~(3) — Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.~~

~~(3) (4) —~~ This article is subject to article 25-20 (compulsory acquisition of land limited to subsoil lying more than 9 metres beneath surface) and rights, article 28-26 (temporary use of land for carrying out the authorised project) development) and article 42 (Crown rights).

Statutory authority to override easements and other rights

~~Compulsory acquisition of land—incorporation of the mineral code~~

19

~~[Part(s)] 2 [and 3] of Schedule 2 to the Acquisition of Land Act 1981 (minerals) [is/are] incorporated in this Order subject to the modifications that—~~

~~(a) — paragraph 8(3) is not incorporated;~~

~~(b) — for "the acquiring authority" substitute "the undertaker";~~

~~18.(c) — [insert additional modifications] —~~ (1) The carrying out or use of the authorised development and the doing of anything else authorised by this Order is authorised for the purpose specified in section 158(2) of the 2008 Act (nuisance: statutory authority), 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 use of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to use of land arising by virtue of contract,

authorised by virtue of this Order and the operation of section 158 of the 2008 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 include restrictions as to the use of land arising by virtue of a contract.

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

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

Time limit for exercise of authority to acquire land compulsorily

20

~~19.~~(1)—~~(1)~~ After the end of the period of [~~5 years~~]— beginning on the day on which this Order is ~~made~~—made—

~~(a)~~ (a)—no notice to treat ~~shall~~may be served under Part 1 of the 1965 Act; and

~~(b)~~ (b)—no declaration ~~shall~~may be executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 (execution of declaration) as applied by article ~~23-19~~ (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

~~(2)~~ (2)—The authority conferred by article ~~28-26~~ (temporary use of land for carrying out the authorised projectdevelopment) ~~shall cease~~—ceases at the end of the period referred to in paragraph (1), save that nothing in this paragraph ~~shall is to~~ 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

21

~~20.~~(1) Subject to paragraph ~~(4)~~—The 2), the undertaker may acquire compulsorily ~~the existing rights and create and acquire compulsorily the new rights described in the book of reference and shown on the ~~insert name/~~ plan~~ such rights over the Order land as may be required for any purpose for which that land may be acquired under article 17 (compulsory acquisition of land) by creating them as well as by acquiring rights already in existence.

~~(2)~~ (2) In the case of the Order land specified in column 1 of Schedule 8 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements or new rights in the land as are specified in column 2 of that Schedule.

~~(2)~~—~~As from the date on which a compulsory acquisition notice is served or the date on which any new right is vested in the undertaker, whichever is the later, the land over which any new rights is acquired shall be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of that new right.~~

~~(3)~~ (3)—Subject to section 8 of the 1965 Act, ~~as substituted by article 26—~~ (acquisition of part of certain properties other provision as to divided land), where the undertaker acquires ~~an existing a~~ right over land under paragraph (1), the undertaker ~~shall is~~ not ~~be~~ required to acquire a greater interest in that land.

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

~~(4)~~ Schedule 9 (modification of compensation and compulsory purchase for creation of new rights) 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.

~~(5)~~ In any case where the acquisition of new rights under paragraph (1) is required for the purposes of diverting, replacing or protecting the 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.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (4) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) This article is subject to article 42 (Crown rights).

Private rights of way

22

~~21.~~(1) Subject to the provisions of this article, all private rights of way over land subject to compulsory acquisition under this Order shall be extinguished—

(a) ~~(a)~~—as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or

(b) ~~(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~~earliest.

~~(2) Subject to the provisions of this article, all private rights of way over land owned by the undertaker which, being within the limits of land which may be acquired shown on the land plan, is required for the purposes of this Order shall be extinguished on the appropriation of the land by the undertaker for any of those purposes over land subject to the compulsory acquisition of rights under this Order are suspended and unenforceable or, where so notified by the undertaker, extinguished in so far as in either case their continuance would be inconsistent with the exercise of the right—~~

(a) as from the date of acquisition of the right 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) in pursuance of the right,

whichever is the earliest.

~~(3) Subject to the provisions of this article, all private rights of way over land of which the undertaker takes temporary possession under this Order shall be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land over land owned by the undertaker are extinguished on commencement of any activity authorised by this Order which interferes with or breaches such rights.~~

(4) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land and so far as their continuance would be inconsistent with the exercise of the temporary possession of that land.

~~(5) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article shall be Order is~~ entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

~~(6) This article does not apply in relation to any right of way to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 34-28 (statutory undertakers) applies.~~

~~(7) Paragraphs (1) to (3) shall have effect subject to—~~

(a) ~~(a)~~—any notice given by the undertaker before—

(i) ~~(i)~~—the completion of the acquisition of the land, or the acquisition of rights over land;

(ii) ~~(ii)~~—the undertaker's appropriation of it;

(iii) ~~(iii)~~—the undertaker's entry onto it, or;

(iv) ~~(iv)~~—the undertaker's taking temporary possession of it;

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

~~(b) (b)~~—any agreement made at any time between the undertaker and the person in or to whom the right ~~of way~~ in question is vested or belongs.

~~(8) (7)~~—If any such agreement as is referred to in paragraph ~~(6)(b)–7)(b)~~—

~~(a) (a)~~—is made with a person in or to whom the right ~~of way~~ is vested or belongs; and

~~(b) (b)~~—is expressed to have effect also for the benefit of those deriving title from or under that person,

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

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

23

~~22.(1) The Compulsory Purchase (Vesting Declarations) Act 1981 shall apply~~ (1) The 1981 Act applies as if this Order were a compulsory purchase order.

~~(2) (2) The Compulsory Purchase (Vesting Declarations) Act The 1981 Act, as so~~ applied, ~~shall have has~~ effect with the following modifications.

~~(3) In section 3 (preliminary notices), for subsection (1) there shall be substituted—~~

~~"(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—~~

~~(3) In section 1 (application of act) for subsection (2) there is substituted—~~

~~"(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."~~

~~(a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and~~

~~(b) published in a local newspaper circulating in the area in which the land is situated."~~

~~(4) In that section, in subsection (2), for "(1)(b)" there shall be substituted "(1)" and after "given" there shall be inserted "and published".~~

~~(5) In that section, for subsections (5) and (6) there shall be substituted—~~

~~"(5) For the purposes of this section, a person has a relevant interest in land if—~~

~~(a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or~~

~~(b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month."~~

~~(4) (6) In Omit section 5 (earliest date for execution of declaration)—~~

~~(5) Omit section 5A (time limit for general vesting declaration).~~

- ~~(a) — in subsection (1), after "publication" there shall be inserted "in a local newspaper circulating in the area in which the land is situated"; and~~
- ~~(b) — subsection (2) shall be omitted.~~

~~(6) In section 5B (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 19 of the Eggborough CCGT (Generating Station) Order [x]".~~

~~(7) In section 6 (notices after execution of declaration) for subsection (1)(b) there is substituted —~~

~~"(1b) on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 of the Planning Act 2008."~~

~~(8) (7) — In section 7 (constructive notice to treat), in subsection (1)(a), the words "(as modified by section 4 of the Acquisition of Land Act 1981)" shall be is omitted.~~

~~(9) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), omit paragraph 1(2).~~

~~(10) (8) — References to the 1965 Act in the Compulsory Purchase (Vesting Declarations) Act 1981 shall 1981 Act are to be construed as references to that the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (as modified by article 24 (application of Part 1 of the Compulsory Purchase Act 1965)) to the compulsory acquisition of land under this Order.~~

Acquisition of subsoil only

24

~~23.(1) — (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 18-17 (compulsory acquisition of land) and paragraph 1 of article 20 (compulsory acquisition of rights) 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) (2) — Where the undertaker acquires any part of, or rights in, the subsoil of land under paragraph (1), the undertaker shall is not to be required to acquire an interest in any other part of the land.~~

~~(3) (3) — Paragraph (2) shall not prevent article 26 (acquisition of part of certain properties) must not prevent Schedule 2A to the 1965 Act (as modified by article 24 (application of part 1 of the Compulsory Purchase Act 1965)) from applying 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 9 metres beneath surface

25

~~(1) — This article applies to the land specified in Schedule F (land of which only subsoil more than 9 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 18 (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 project.~~

~~(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 9 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.~~

Acquisition of part of certain properties

26

~~(1) — This article shall apply instead of section 8(1) of the 1965 Act (other provisions as divided land) (as applied by section 125 of the 2008 Act) where—~~

Application of Part 1 of the Compulsory Purchase Act 1965

24.—(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) (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 19 of the Eggborough CCGT (Generating Station) Order [x]”.

(3) 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 19 of the Eggborough CCGT (Generating Station) Order [x]”.

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

(a) omit paragraph 1(2) and 14(2); 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 32 (protective works to buildings), 26 (temporary use of land for carrying out the authorised development) or 27 (temporary use of land for maintaining the authorised development) of the Eggborough CCGT (Generating Station) Order [x].”

~~(a) — a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house;~~

~~building or manufactory or of land consisting of a house with a park or garden ("the land subject to the notice to treat"); and~~

~~(b) — a copy of this article is served on the owner with the notice to treat.~~

~~(2) — In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat which states that the owner is willing and able to sell the whole ("the land subject to the counter-notice").~~

~~(3) — If no such counter-notice is served within that period, the owner shall be required to sell the land subject to the notice to treat.~~

~~(4) — If such a counter-notice is served within that period, the question whether the owner shall be required to sell only the land subject to the notice to treat shall, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.~~

~~(5) — If on such a reference the tribunal determines that the land subject to the notice to treat can be taken—~~

~~(a) — without material detriment to the remainder of the land subject to the counter-notice; or~~

~~(b) — where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,~~

~~the owner shall be required to sell the land subject to the notice to treat.~~

~~(6) — If on such a reference the tribunal determines that only part of the land subject to the notice to treat can be taken—~~

~~(a) — without material detriment to the remainder of the land subject to the counter-notice; or~~

~~(b) — where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,~~

~~the notice to treat shall be deemed to be a notice to treat for that part.~~

~~(7) — If on such a reference the tribunal determines that—~~

~~(a) — the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but~~

~~(b) — the material detriment is confined to a part of the land subject to the counter-notice,~~

~~the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.~~

~~(8) — If the undertaker agrees to take the land subject to the counter notice, or if the tribunal determines that—~~

~~(a) — none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter notice or, as the case may be, without material detriment to the remainder of the land subject to the counter notice and without seriously affecting the amenity and convenience of the house; and~~

~~(b) — the material detriment is not confined to a part of the land subject to the counter notice,~~

~~the notice to treat shall be deemed to be a notice to treat for the land subject to the counter notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.~~

~~(9) — Where, by reason of a determination by the tribunal under this article, a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, shall pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.~~

~~(10) — Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker shall pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.~~

Rights under or over streets

27

~~25.(1) — (1) The undertaker may enter on-upon and appropriate 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 project development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised project development.~~

~~(2) (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) (3) — Paragraph (2) shall-is not to apply in relation to-to~~

~~(a) (a) — any subway or underground building; or~~

~~(b) (b) — any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.~~

~~(4) (4) — Subject to paragraph (5), any person who is an owner or occupier of land appropriated under in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who~~

suffers loss ~~as a result~~ by the exercise of that power, ~~shall is to~~ be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

~~(5) (5)~~—Compensation ~~shall is 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.

Temporary use of land for carrying out the authorised ~~project~~ development

28

~~26. (1)~~—~~(1)~~ The undertaker may, in connection with the carrying out of the authorised ~~project~~ development—

~~(a) (a)~~—enter on and take temporary possession ~~of the land specified in columns (1) and (2) of Schedule G (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised project specified in column (4) of that Schedule; of—~~

~~(i)~~ the land specified in column (1) of Schedule 10 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule;

~~(ii)~~ any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (powers of entry) (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 (execution of declaration);

~~(b) (b)~~—remove any buildings and vegetation from that land; ~~and~~

~~(c) (c)~~—construct temporary works (including the provision of means of access) and buildings on that land; ~~and~~

~~(d)~~ construct any works specified in relation to that land in column (2) of Schedule 10, or any mitigation works.

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

~~(3) (3)~~—The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this ~~article after the end of the period of one year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (4) of Schedule G.~~ 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 completion of the works for which temporary possession of the land was 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 completion of the works for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 or has otherwise acquired the land subject to temporary possession.

~~(4) (4)~~—~~Before~~ Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 or has otherwise acquired the land subject to temporary possession, the undertaker must, before giving up possession of land of which temporary possession has been taken under this article, ~~the undertaker shall~~ remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker ~~shall is not to~~ be required to replace a building removed under this article.

~~(5) (5)~~—The undertaker ~~shall~~ must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

~~(6) (6)~~—Any dispute as to a person’s entitlement to compensation under paragraph (5), or as to the amount of the compensation, ~~shall is to~~ be determined under Part 1 of the 1961 Act.

~~(7) (7)~~—Nothing in this article ~~shall affect~~ 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 carrying out of the authorised project development, other than loss or damage for which compensation is payable under paragraph (5).

~~(8) (8)~~—The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1) ~~except that the undertaker shall not be precluded from~~ (a)(i).

~~(a) —acquiring new rights over any part of that land under article 24 (compulsory acquisition of rights); or~~

~~(b) —acquiring any part of the subsoil (or rights in the subsoil) of that land under article 24 (acquisition of subsoil only) or in accordance with article 25 (acquisition of land limited to subsoil lying more than 9 metres beneath surface).~~

~~(9) (9)~~—Where the undertaker takes possession of land under this article, the undertaker ~~shall is not to~~ be required to acquire the land or any interest in it.

~~(10) (10)~~—Section 13 of the 1965 Act (refusal to give possession to acquiring authority) ~~shall apply~~ applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in Schedule 10.

Temporary use of land for maintaining the authorised project development

~~29~~

~~27.(1)~~—~~(1)~~ Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised project development, ~~the undertaker may may~~

~~(a) (a)~~—enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised project development; and

~~(b) (b)~~—construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

~~(2) (2)~~—Paragraph (1) ~~shall does~~ not authorise the undertaker to take temporary possession ~~of of~~

~~(a) (a)~~—any house or garden belonging to a house; or

~~(b) (b)~~—any building (other than a house) if it is for the time being occupied.

~~(3) (3)~~—Not less than ~~28~~ twenty-eight days before entering on and taking temporary possession of land under this article the undertaker ~~shall must~~ serve notice of the intended entry on the owners and occupiers of the land.

~~(4) (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 project development for which possession of the land was taken.

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

~~(6) (6)~~—The undertaker ~~shall must~~ pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

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

~~(8)~~ (8) — Nothing in this article ~~shall affect~~ 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 project development, other than loss or damage for which compensation is payable under paragraph (6).

~~(9)~~ (9) — Where the undertaker takes possession of land under this article, the undertaker ~~shall is not to~~ be required to acquire the land or any interest in it.

~~(10)~~ (10) — Section 13 of the 1965 Act (refusal to give possession to acquiring authority) ~~shall apply~~ applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

~~(11)~~ (11) — In this article "the maintenance period", ~~in relation to any part of the authorised project,~~ means the period of 5 years beginning with the date on which that part of the authorised project development is first ~~opened for use~~ operational.

Special category land

30

~~(1) — The special category land shall not vest in the undertaker until the undertaker has acquired the replacement land and [insert name of relevant body] has certified that a scheme for the provision of the replacement land as [common/open space/fuel or field garden allotment] has been implemented to its satisfaction.~~

~~(2) — On the requirements of paragraph (1) being satisfied, the replacement land shall vest in [insert name of relevant body] subject to the same rights, trusts and incidents as attached to the special category land; and the special category land shall be discharged from all rights, trusts and incidents to which it was previously subject.~~

~~(3) — In this article —~~

~~"the special category land" means the land identified as forming part of a common, open space, or fuel or field garden allotment in the book of reference and on the plan entitled "Special Category Land Plan" attached to the land plan, which may be acquired compulsorily under this Order and for which replacement land is to be provided; and~~

~~"the replacement land" means the land identified in the book of reference and on the plan entitled "Replacement Land Plan" attached to the land plan.~~

Statutory undertakers

31

~~28.The~~ (1) Subject to the provisions of Schedule 12 (protective provisions), the undertaker ~~may~~ may

~~(a)~~ (a) — acquire compulsorily the land belonging to statutory undertakers shown on the land ~~plan~~ plans within the limits of the land to be acquired and described in the book of reference;

- (b) ~~(b)~~—extinguish or suspend the rights of, remove or reposition the apparatus belonging to statutory undertakers shown on the ~~[insert name] plan~~ land plans and described in the book of reference; and
- (c) ~~(c)~~—acquire compulsorily the new rights over land belonging to statutory undertakers shown on the ~~[insert name] plan~~ land plans and described in the book of reference.

Apparatus and rights of statutory undertakers in stopped-up streets

32

~~29.(1)~~—Where a street is temporarily altered or diverted or its use is temporarily stopped up under article ~~9-10~~ (construction and maintenance of new or altered means of access) or article 11 ~~(temporary stopping up of streets)~~, public rights of way and public rights of navigation any statutory utility whose apparatus is under, in, on, along or across the street ~~shall~~ is to have the same powers and rights in respect of that apparatus, subject to ~~the provisions of this article~~ Schedule 12 (protective provisions), as if this Order had not been made.

~~(2)~~—~~Where a street is stopped up under article 9, 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 shall 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) — Paragraphs (3) to (6) shall not apply where the authorised project constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—~~

~~(a) — the allowable costs of the relocation works shall be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and~~

~~(b) — the allowable costs shall be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.~~

~~(8) — 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.~~

~~33~~

~~30(1) — (1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article ~~34~~29 (apparatus and rights of statutory undertakers in stopped up streets) any person who is the owner or occupier of premises to which a supply was given from that apparatus ~~shall be~~is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.~~

~~(2) (2) — Paragraph (1) ~~shall~~does not apply in the case of the removal of a public sewer but where such a sewer is removed under article ~~34~~29 (apparatus and rights of statutory undertakers in stopped up streets), any person who ~~is~~is~~

~~(a) (a) — the owner or occupier of premises the drains of which communicated with that sewer; or~~

~~(b) (b) — the owner of a private sewer which communicated with that sewer,~~

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

~~(3) (3)~~—This article ~~shall~~ does not have effect in relation to apparatus to which article ~~32-29~~ (apparatus and rights of statutory undertakers in stopped-up streets) or Part 3 of the 1991 Act applies.

~~(4) (4)~~—In this ~~paragraph~~ article—

- (a) “public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003~~(a)~~; and
- (b) “public utility undertaker” has the same meaning as in the 1980 Act.

Railway and navigation undertakings

34

PART 6 OPERATIONS

Felling or lopping of trees

~~31.—(1) 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—~~

- ~~(a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or~~
- ~~(b) from constituting a danger to persons using 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 must pay compensation to any person for any loss or damage arising from such activity.~~

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

~~(4) The undertaker may not pursuant to paragraph (1) fell or lop a tree within the extent of the publicly maintainable highway without the consent of the highway authority.~~

~~(5) Save in the case of emergency, the undertaker must not less than fourteen days before entering any land pursuant to paragraph (1) serve notice of the intended entry on the owners and occupiers and, where the land is highway maintainable at the public expense, on the highway authority.~~

Protective works to buildings

~~32.(1) —(1) Subject to the following provisions of this article, the undertaker may not under article 8 (street works) break up or open a street where the street, not being a highway maintainable at public expense (within the meaning of the 1980 Act) at its own expense carry out such protective works to any building lying within the Order limits as the undertaker considers necessary or expedient.~~

~~(2) Protective works may be carried out—~~

- ~~(a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or~~

~~(a) 2003 c.21.~~

(b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the start of commercial use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

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

(a) enter the building and any land within its curtilage; and

(b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

(a) a right under paragraph (1) to carry out protective works to a building;

(b) a right under paragraph (3) to enter a building and land within its curtilage;

(c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or

(d) a right under paragraph (4)(b) to enter land.

the undertaker shall, except in the case of emergency, serve on the owners and occupiers of the building or land not less than fourteen days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of ten days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 41 (arbitration).

(7) The undertaker shall compensate the owners and occupiers of any building 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 rights.

(8) Where—

(a) protective works are carried out under this article to a building; and

(b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first in commercial use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development.

the undertaker shall 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 10(2) of the 1965 Act (compensation for injurious affection).

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

(11) In this article “protective works” in relation to a building means—

(a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and

(b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

PART 7
MISCELLANEOUS AND GENERAL

Protective provisions

33. Schedule 12 (protective provisions) has effect.

Deemed marine licence

34. The marine licence set out in Schedule 13 is deemed to have been issued under Part 4 of the 2009 Act (marine licensing) for the licensable marine activities (as defined in section 66 of the 2009 Act) set out in Part 2, and subject to the conditions set out in Part 3, of the licence.

~~(a) — is under the control or management of, or is maintainable by, railway or tramway undertakers or a navigation authority; or~~

~~(b) — forms part of a level crossing belonging to any such undertakers or to such an authority or to any other person,~~

~~except with the consent of the undertakers or authority or, as the case may be, of the person to whom the level crossing belongs.~~

~~(2) — Paragraph (1) shall not apply to the carrying out under this Order of emergency works, within the meaning of Part 3 of the 1991 Act.~~

~~(3) — A consent given for the purpose of paragraph (1) may be made subject to such reasonable conditions as may be specified by the person giving it but shall not be unreasonably withheld.~~

~~(4) — In this paragraph "navigation authority" means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary or harbour.~~

Application of landlord and tenant law

35

35.(1) — (1) This article applies ~~to~~ to

(a) ~~(a)~~ — any agreement for leasing to any person the whole or any part of the authorised ~~project~~ development or the right to operate the same; and

(b) ~~(b)~~ — any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised ~~project~~ 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) ~~(2)~~ — No enactment or rule of law regulating the rights and obligations of landlords and tenants ~~shall prejudice~~ prejudices the operation of any agreement to which this article applies.

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

(a) ~~(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) ~~(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) (e)~~—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 purposes of the 1990 Act

36

~~36.~~ Development consent granted by this Order ~~shall~~ is to 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 operational land ~~for the purposes of that Act~~).

~~**Deemed consent under section 34 of the Coast Protection Act 1949**~~

~~**37**~~

~~The undertaker is granted deemed consent under section 34 of the Coast Protection Act 1949 to carry out the works described in Schedule H, subject to the requirements set out in that Schedule.~~

~~**Deemed licence under Part 2 of the Food and Environment Protection Act 1985**~~

~~**38**~~

~~The undertaker is granted a deemed licence under Part 2 of the Food and Environment Protection Act 1985 to carry out the works described in Schedule I, subject to the requirements set out in that Schedule.~~

~~**Felling or lopping of trees**~~

~~**39**~~

~~(1) The undertaker may fell or lop any tree or shrub near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—~~

~~(a) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or~~

~~(b) from constituting a danger to passengers or other persons using the authorised project.~~

~~(2) In carrying out any activity authorised by paragraph (1), 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.~~

~~(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 of the 1961 Act.~~

~~**Trees subject to tree preservation orders**~~

~~**40**~~

~~(1) The undertaker may fell or lop any tree described in Schedule J [and identified on the [insert name] plan, or cut back its roots if it reasonably believes it to be necessary in order to do so to prevent the tree or shrub—~~

~~(a) — from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or~~

~~(b) — from constituting a danger to passengers or other persons using the authorised project.~~

~~(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.~~

Defence to proceedings in respect of statutory nuisance

37.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (a)(summary proceedings by persons aggrieved by statutory nuisances) 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 is to be made, and no fine may be imposed, under section 82(2) of that Act if—

(a) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974(b); or

(ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974, does not to apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Certification of plans etc

44

(a) 1990 c.43; there are amendments which are not relevant to this Order.

(b) 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to this Order.

~~38.(1)~~—(1) The undertaker ~~shall~~must, as soon as practicable after the making of this Order, submit to the ~~decision-maker~~Secretary of State copies ~~of—of—~~

~~(a) the access and rights of way plans~~

~~(b) (a)—the book of reference;~~

~~(b)—the land plan;~~

~~(c)—the rights plan;~~

~~(d)—the works plan;~~

~~(e)—the sections; and~~

~~(f)—any other plans or documents referred to in this Order;~~

(c) the combined heat and power assessment;

(d) the environmental statement;

(e) the flood risk assessment;

(f) the land plans;

(g) the works plans; and

(h) the indicative landscaping and biodiversity strategy

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

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

Service of notices

~~39.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—~~

~~(a) by post;~~

~~(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or~~

~~(c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.~~

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

~~(3) For the purposes of section 7 of the Interpretation Act 1978(a) (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—~~

~~(a) in the case of the secretary or clerk of that body corporate, the registered or principal office of that body, and,~~

~~(b) in any other case, the last known address of that person at that time of service.~~

~~(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—~~

~~(a) addressing it to that person by the description of “owner”, or as the case may be “occupier” of the land (describing it); and~~

(a) 1978 c. 30.

(b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) in a form sufficiently permanent to be used for subsequent reference.

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

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

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

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

Procedure in relation to certain approvals etc

40.—(1) 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 or approval required or contemplated by any of the provisions of the Order (not including the requirements), such consent, agreement or approval to be validly given, must be given in writing and must not be unreasonably withheld or delayed.

(2) Save for applications made pursuant to Schedule 11 (Procedure for discharge of requirements), if, within eight weeks after the application or request has been submitted to an authority or an owner as referred to in paragraph (1) of this article (or such longer period as may be agreed in writing with the undertaker) it has not notified the undertaker of its decision (and if it is a disapproval the grounds of disapproval), it is deemed to have approved the application or request.

(3) Schedule 11 (Procedure for discharge of requirements) is to have effect in relation to all consents, agreements or approvals required from the relevant planning authority pursuant to the requirements.

Arbitration

42

41. Any difference under any provision of this Order, unless otherwise provided for, ~~shall~~ is to be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the ~~insert appropriate body~~ Secretary of State.

SCHEDULES

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

In the County of North Yorkshire and the District of Selby a nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the 2008 Act and associated development, comprising—

Work No. 1 – an electricity generating station located on land at the Eggborough Power Station site, near Selby, North Yorkshire, fuelled by natural gas and with a gross output capacity of up to 2,500 megawatts at ISO conditions comprising—

- (a) **Work No. 1A** – a combined cycle gas turbine plant, comprising—
 - (i) up to three combined cycle gas turbine units;
 - (ii) turbine hall buildings for gas turbines and steam turbines;
 - (iii) heat recovery steam generators;
 - (iv) gas turbine air intake filters;
 - (v) emissions stacks;
 - (vi) transformers;
 - (vii) deaerator and feed water pump buildings;
 - (viii) nitrogen oxide emissions control equipment and chemical storage;
 - (ix) chemical sampling / dosing plant;
 - (x) demineralised water treatment plant, including storage tanks;
 - (xi) gas reception facility, including gas supply pipeline connection works, gas receiving area, gas compression equipment and building, pipeline internal gauge launcher for pipe inspection, emergency shutdown valves, gas vents and gas metering, dehydration and pressure reduction equipment;
 - (xii) auxiliary boilers and stacks;
 - (xiii) standby diesel generators; and
 - (xiv) continuous emissions monitoring system.
- (b) **Work No. 1B** – a peaking plant and black start plant, fuelled by natural gas and with a combined gross output capacity of up to 299 megawatts at ISO conditions, comprising—
 - (i) a peaking plant comprising up to two open cycle gas turbine units or up to ten reciprocating gas engines;
 - (ii) a black start plant comprising one open cycle gas turbine unit or up to three reciprocating gas engines;
 - (iii) diesel generators for black start plant start-up prior to gas-firing;
 - (iv) buildings for peaking plant and black start plant;
 - (v) gas turbine air intake filters;
 - (vi) continuous emissions monitoring system;
 - (vii) transformers; and
 - (viii) emissions stacks.
- (c) **Work No. 1C** – combined cycle gas turbine plant cooling infrastructure, comprising—
 - (i) up to three banks of cooling towers;

- (ii) cooling water pumps, plant and buildings; and
- (iii) cooling water dosing and sampling plant and buildings.
- (d) in connection with and in addition to Work Nos. 1A, 1B and 1C—
 - (i) administration and control buildings;
 - (ii) diesel fuel storage tanks and unloading area;
 - (iii) pipework, pipe runs and pipe racks;
 - (iv) an electrical substation, electrical equipment, buildings and enclosures;
 - (v) auxiliary plant, buildings, enclosures and structures;
 - (vi) workshop and stores buildings;
 - (vii) fire fighting equipment, buildings and distribution pipework;
 - (viii) fire and raw water storage tanks;
 - (ix) fire water retention basin;
 - (x) chemical storage facilities;
 - (xi) lubrication oils and grease storage facilities;
 - (xii) permanent plant laydown area for operation and maintenance activities;
 - (xiii) closed circuit cooling water plant and buildings;
 - (xiv) waste water treatment plant and building; and
 - (xv) mechanical, electrical, gas, telecommunications and water networks, pipework, cables, racks, infrastructure, instrumentation and utilities, including connections between Work Nos. 3, 4, 5, and 6, and parts of Work Nos. 1A, 1B and 1C.

~~[NOTE: This Part should describe as fully as possible the ancillary works for which consent is sought and which are not and associated development within the meaning of section 32 of the 2008 Act and which would not be the subject of a separate provision [article] in this Order.]~~115(2) of the 2008 Act in connection with the nationally significant infrastructure project referred to in Work No. 1, comprising—

Work No. 2 comprising—

- (a) **Work No. 2A – temporary construction and laydown area comprising hard standing, laydown and open storage areas, backfilling of the lagoon, contractor compounds and construction staff welfare facilities, gatehouse and weighbridge, vehicle parking and cycle storage facilities, internal roads and pedestrian and cycle routes, security fencing and gates, external lighting including lighting columns, and, closed circuit television cameras and columns; and**
- (b) **Work No. 2B – carbon capture readiness reserve space.**

Work No. 3 – electrical connection works comprising—

- (a) **Work No. 3A – up to 400 kilovolt underground electrical cables and control systems cables to and from the existing National Grid substation; and**
- (b) **Work No. 3B – works within the existing National Grid substation, including underground and over ground cables, connections to busbars and new, upgraded or replacement equipment.**

Work No. 4 – cooling water connection works, comprising works to the existing cooling water supply and discharge pipelines and intake and outfall structures, including, as necessary, new, upgraded or replacement pipelines, plant, buildings, enclosures and structures, and underground electrical supply cables, transformers and control systems cables.

Work No. 5 – groundwater and towns water supply connection works, including works to the existing towns water pipelines and groundwater boreholes and pipelines, replacement and new pipelines, plant, buildings, enclosures and structures and underground electrical supply cables, transformers and control systems cables.

Work No. 6 – gas supply pipeline connection works for the transport of natural gas to Work No. 1, comprising an underground high pressure steel pipeline of up to 1,000 millimetres (nominal bore) in diameter and approximately 4.6 kilometres in length, including cathodic protection posts, marker posts and underground electrical supply cables, transformers and control systems cables running from within the Eggborough Power Station site, north under the River Aire to a connection point with the National Transmission System for gas No. 29 Feeder pipeline west of Burn Village.

Work No. 7 – an above ground installation west of Burn Village, connecting the gas supply pipeline (Work No. 6) to the National Transmission System No. 29 Feeder pipeline, comprising—

- (a) **Work No. 7A** – a compound for National Grid’s apparatus, comprising—
 - (i) an offtake connection from the National Transmission System;
 - (ii) above and below ground valves, flanges and pipework;
 - (iii) an above or below ground remotely operated valve;
 - (iv) an above or below ground remotely operated valve bypass;
 - (v) an above or below ground pressurisation bridle;
 - (vi) instrumentation and electrical kiosks; and
 - (vii) telemetry equipment kiosks and communications equipment.
- (b) **Work No. 7B** – a compound for the undertaker’s apparatus, comprising—
 - (i) above and below ground valves, flanges and pipework;
 - (ii) an above or below ground isolation valve;
 - (iii) an above or below ground pipeline inline gauge launching facility;
 - (iv) instrumentation and electrical kiosks; and
 - (v) telemetry equipment kiosks and communications equipment.
- (c) in connection with Work Nos. 7A and 7B, access works, vehicle parking, electrical and telecommunications connections, surface water drainage, security fencing and gates, closed circuit television cameras and columns and perimeter landscaping.

Work No. 8 – retained landscaping comprising—

- (a) soft landscaping including planting;
- (b) biodiversity enhancement measures; and
- (c) security fencing, gates, boundary treatment and other means of enclosure.

Work No. 9 – surface water drainage connection to Hensall Dyke, comprising works to install, repair or replace drainage pipes and works to Hensall Dyke.

Work No. 10 – vehicular, pedestrian and cycle access works and rail infrastructure including alterations to or replacement of the existing private rail line, installation of new rail lines and crossover points and ancillary equipment.

In connection with and in addition to Works Nos. 1 to 7 and Work Nos. 9 and 10, further associated development including—

- (a) surface water drainage systems, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage systems;
- (b) electrical, gas, potable water supply, foul water drainage and telecommunications infrastructure connections and works, and works to alter the position of such services and utilities connections;
- (c) hard standing and hard landscaping;
- (d) soft landscaping, including embankments and planting;
- (e) biodiversity enhancement measures;

- (f) security fencing, gates, boundary treatment and other means of enclosure;
- (g) external lighting, including lighting columns;
- (h) gatehouses and weighbridges;
- (i) closed circuit television cameras and columns and other security measures;
- (j) site establishment and preparation works, including site clearance (including vegetation removal, demolition of existing buildings and structures); earthworks (including soil stripping and storage and site levelling) and excavations; the creation of temporary construction access points; the alteration of the position of services and utilities; and works for the protection of buildings and land;
- (k) temporary construction laydown areas and contractor facilities, including materials and plant storage and laydown areas; generators; concrete batching facilities; vehicle and cycle parking facilities; pedestrian and cycle routes and facilities; offices and staff welfare facilities; security fencing and gates; external lighting; roadways and haul routes; wheel wash facilities; and signage;
- (l) vehicle parking and cycle storage facilities;
- (m) accesses, roads and pedestrian and cycle routes;
- (n) and, to the extent that it does not form part of such works, further associated development comprising such other works (i) as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised development and (ii) which fall within the scope of the works assessed in the environmental statement.

REQUIREMENTS**Model Provisions in respect of requirements****Interpretation****4**

In this Schedule—

~~"the 1990 Act" means the Town and Country Planning Act 1990;~~

~~"the 2008 Act" means the Planning Act 2008;~~

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

~~"the authorised project" means the authorised development and the ancillary works authorised by this Order;~~

~~"the code of construction practice" means the code of construction practice agreed by [insert relevant body] on [insert date];~~

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

~~"highway" and "highway authority" have the same meaning as in the Highways Act 1980;~~

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

~~"relevant planning authority" means—~~

~~(i) the district planning authority for the area in which the land to which the provisions of this Order apply is situated unless the provisions relate to the construction or alteration of a hazardous waste facility, in which case it means the county planning authority;~~

~~(ii) a National Park Authority;~~

~~(iii) the Broads Authority; and~~

~~(iv) the Greater London Authority if the land to which the provisions of this Order or requirements apply is situated in Greater London;~~

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

Time limits

2

1. In this schedule—

“carbon capture readiness site” means the area comprised in Work No. 2B shown on the works plans;

“commence” means beginning to carry out any material operation (as defined in section 155 of the 2008 Act) other than permitted preliminary works, and “commencement” and other cognate expressions are to be construed accordingly;

“commissioning” means the process of assuring that all systems and components of the authorised development (which are installed or installation is near to completion) are tested to verify that they function and are operable in accordance with the design objectives, specifications and operational requirements of the undertaker, and “commission” and other cognate expressions, in relation to the authorised development, are to be construed accordingly;

“Environment Agency” means the non-departmental public body of that name created by section 1 of the Environment Act 1995(a);

“existing coal-fired power station” means the Eggborough coal-fired power station which, at the date of this Order, is located both within the Order limits and within the immediate vicinity of the Order limits;

“Highways England” means Highways England Company Limited or such other person who is appointed as the strategic highways company in respect of the M62 motorway pursuant to section 1 of the Infrastructure Act 2015(b);

“lead local flood authority” means the body designated as such, for the area in which the authorised development is located, pursuant to sub-section 6(7) of the Flood and Water Management Act 2010(c);

“Marine Management Organisation” means the body of that name created by section 1 of the 2009 Act;

“North Yorkshire Police” means the police force for the area in which the authorised development is located pursuant to section 1 of the Police Act 1996(d);

“North Yorkshire County Council” means the county council for the area in which the authorised development is located pursuant to section 1 of the Local Government Act 1972(e);

“permitted preliminary works” means environmental surveys, geotechnical surveys and other investigations for the purpose of assessing ground conditions, demolition of buildings, removal of plant and machinery the preparation of facilities for the use of contractors, the provision of temporary means of enclosure and site security for construction, the temporary display of site notices or advertisements and any other works agreed by the relevant planning authority;

“a part” of the authorised development means any part of Works Nos. 1-10;

“shut-down period” means a period after construction works have finished during which activities including changing out of work wear, the departure of workers, post-works briefings and closing and securing the site take place;

“Sport England” means the non-departmental public body of that name of 21 Bloomsbury Street, London, WC1B 3HE;

(a) 1995 c.25

(b) 2015 c.7

(c) 2010 c.29

(d) 1996 c.16

(e) 1972 c.70

“start-up period” means a period prior to construction works commencing during which activities including the opening up of the site, the arrival of workers, changing in to work wear and pre-works briefings take place; and

“Yorkshire Wildlife Trust” means Yorkshire Wildlife Trust (company registration number 409650 and registered charity number 210807) of 1 St. George’s Place, York, YO24 1GN.

Commencement of the authorised development

~~2.—(1) The authorised development must be begun within [insert number] years of the date of this Order~~ not be commenced after the expiration of 5 (five) years from the date this Order comes into force.

~~(2) Stages of~~ The authorised development must not commence unless the undertaker has given the relevant planning authority fourteen days’ notice of its intention to commence the authorised development.

Notice of commencement and completion of commissioning

~~3.—(1) Notice of the intended start of commissioning of the authorised development must be given to the relevant planning authority prior to such start and in any event within seven days from the date that commissioning is started.~~

~~(2) Notice of the intended completion of commissioning of the authorised development must be given to the relevant planning authority where practicable prior to such completion and in any event within seven days from the date that commissioning is completed.~~

Notice of commencement of commercial use and requirement for cessation of existing coal-fired power station electricity generation

~~4.—(1) Notice of the intended start of commercial use of the authorised development must be given to the relevant planning authority prior to such start and in any event within seven days from the date that commercial use is started.~~

~~(2) The authorised development must not enter commercial use if the existing coal-fired power station has not ceased to generate electricity.~~

3

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

Detailed design approval

4

~~5. No [stage—(1) In relation to any part of the] authorised development shall be comprised in Work No. 1 no development of that part must commence until [for that stage] written details of the following for that part have been submitted to and, in respect of sub-paragraph (d) after consultation with the highway authority, approved by the relevant planning authority, been submitted to and approved by the Commission—authority—~~

~~{or~~

5

~~(a) No [stage of the] authorised development shall commence until details of the the siting, layout, scale and external appearance of the following elements of the authorised development [within that stage] have, after consultation with the relevant planning authority, been submitted to and approved by the Commission], including the colour, materials and surface finishes of all new permanent buildings and structures;~~

6

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

Provision of landscaping

7

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

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

Implementation and maintenance of landscaping

8

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

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

~~(3)—Any tree or shrub planted as part of an approved landscaping scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the Commission, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the Commission.~~

Trees

9

- (c) hard standings;
- (d) the internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities, cycle parking and routes, and pedestrian facilities and routes; and
- (e) surface water management.

(2) Prior to commencing any part of Work No. 1 the undertaker must notify the relevant planning authority as to whether it is to construct that part in accordance with the design parameters in Part 1 of Schedule 14 (single-shaft parameters) or Part 2 of Schedule 14 (multi-shaft parameters), and the design parameters notified pursuant to this paragraph are the “relevant parameters” for the purposes of this requirement.

~~(3) (1) — No [stage of the] authorised development shall commence until written details of any proposed tree planting and the proposed times of planting have, after consultation with the relevant planning authority, been approved in writing by the Commission; and all tree planting shall —~~ Work No. 1 must be carried out in accordance with ~~must be carried out in accordance with implementation timetables approved under requirement 6.~~ the relevant parameters.

(4) No part of the authorised development comprised in Work No. 2 must commence until details of the following for that part have been submitted to and, in respect of sub-paragraphs (a), (d) and (e) after consultation with the highway authority, approved by the relevant planning authority—

- (a) hard standings, laydown and open storage areas;
- (b) contractor compounds and construction staff welfare facilities;
- (c) gatehouse;
- (d) vehicle parking and cycle storage facilities;
- (e) the internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities, cycle parking and routes, and pedestrian facilities and routes;
- (f) surface water drainage; and
- (g) the area to be reserved as the carbon capture readiness site.

(5) No part of the authorised development comprised in Work No. 3 must commence until details of the following for that part have been submitted to and approved by the relevant planning authority—

- (a) the route and method of installation of the 400 kilovolt underground electrical cables to the existing National Grid substation; and
- (b) the connections within the existing National Grid substation, including the underground and overground electrical cables, connections to the existing busbars and new, upgraded or replacement equipment.

(6) No part of the authorised development comprised in Work No. 4 must commence until details of the following for that part have been submitted to and, after consultation with the Environment Agency and the Marine Management Organisation, approved by the relevant planning authority—

- (a) the route and method of construction of any upgraded or replacement cooling water supply and discharge pipelines;
- (b) the method of construction, siting, layout, scale and external appearance of any upgraded or replacement intake and outfall structures within the River Aire, including the screens to be installed to those structures in accordance with the Eel (England and Wales) Regulations 2009(a) and any ancillary plant, buildings, enclosures or structures; and
- (c) the timing of installation and removal of the cofferdams at the intake and outfall points, their phasing, and the extent to which each extends into the River Aire.

(a) S.I.2009/3344.

(7) No part of the authorised development comprised in Work No. 5 must commence until details of the following for that part have been submitted to and, after consultation with the highway authority and Sport England, approved by the relevant planning authority—

- (a) the route and method of construction of any upgraded or replacement ground and towns water supply pipelines;
- (b) the method of construction, siting, layout, scale and external appearance of any upgraded or replacement ancillary plant, buildings, enclosures or structures;
- (c) measures to minimise disruption to users of the Eggborough Sports and Social Club recreational and sports facilities; and
- (d) the reinstatement of the land to allow for continued recreational and sports use.

(8) No part of the authorised development comprised in Work No. 6 must commence until details of the following for that part have been submitted to and, after consultation with the highway authority, approved by the relevant planning authority—

- (a) temporary construction laydown and open storage areas, including contractor compounds;
- (b) temporary construction accesses;
- (c) vehicle parking facilities;
- (d) the route and method of installation of the high pressure steel pipeline and any electrical supply, telemetry and other apparatus;
- (e) the approximate number and location of cathodic protection posts and marker posts; and
- (f) surface water drainage.

(9) No part of the authorised development comprised in Work No. 7 must commence until details of the following for that part have been submitted to and, in respect of sub-paragraph (d) after consultation with the highway authority, approved by the relevant planning authority—

- (a) the method of connecting the gas supply pipeline to the National Transmission System No. 29 Feeder pipeline;
- (b) the siting, layout, scale and external appearance, including the colour, materials and surface finishes of all new permanent buildings, structures and above ground apparatus;
- (c) hard standings;
- (d) the internal vehicular access and circulation roads, loading and unloading, vehicle parking and turning facilities; and
- (e) surface water drainage.

(10) No part of the authorised development comprised in Work No. 9 must commence until details of the following for that part have been submitted to and, after consultation with the relevant internal drainage board, been approved by the relevant planning authority—

- (a) the alterations, repairs to or replacement of surface water drainage pipes to Hensall Dyke; and
- (b) any works to Hensall Dyke.

(11) No part of the authorised development comprised in Work No. 10 must commence until details of the following for that part have been submitted to and after consultation with the highway authority approved by the relevant planning authority—

- (a) works to vehicular, cycle and pedestrian access; and
- (b) the alterations to or replacement of the existing private rail lines, new rail lines, crossover points and ancillary equipment.

(12) Work Nos. 1, 2, 3, 4, 5, 6, 7, 9 and 10 must be carried out in accordance with the approved details unless otherwise agreed with the relevant planning authority.

Landscaping and biodiversity protection management and enhancement

6.—(1) No part of the authorised development must be commenced until a landscaping and biodiversity protection plan for that part has been submitted to and, after consultation with North Yorkshire County Council and the Yorkshire Wildlife Trust, approved by the relevant planning authority.

(2) The plan submitted and approved pursuant to sub-paragraph (1) must include details of—

- (a) measures to protect existing shrub and tree planting that is to be retained; and
- (b) biodiversity and habitat mitigation and impact avoidance.

(3) The plan submitted and approved pursuant to sub-paragraph (1) must be implemented as approved throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

(4) No part of the authorised development must be commissioned until a landscaping and biodiversity management and enhancement plan for that part has been submitted to and, after consultation with North Yorkshire County Council and the Yorkshire Wildlife Trust, approved by the relevant planning authority.

(5) The plan submitted and approved pursuant to sub-paragraph (4) must include details of—

- (a) all new shrub and tree planting;
- (b) measures to enhance existing shrub and tree planting that is to be retained;
- (c) measures to enhance biodiversity and habitats;
- (d) an implementation timetable; and
- (e) annual landscaping and biodiversity management and maintenance.

(6) Any shrub or tree planted as part of the approved plan that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless otherwise agreed with the relevant planning authority.

(7) The plan submitted and approved pursuant to sub-paragraph (4) must be in accordance with the principles of the indicative landscaping and biodiversity strategy.

(8) The plan must be implemented and maintained as approved during the operation of the authorised development unless otherwise agreed with the relevant planning authority.

Public rights of way diversions

7.—(1) No part of the authorised development must commence until a public rights of way management plan for any sections of public rights of way shown to be temporarily closed on the access and rights of way plans for that part has been submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(2) The plan must include details of—

- (a) measures to minimise the length of any sections of public rights of way to be temporarily closed; and
- (b) advance publicity and signage in respect of any sections of public rights of way to be temporarily closed.

(3) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority in consultation with the highway authority.

External lighting

8.—(1) No part of the authorised development must commence until a scheme for all external lighting to be installed during construction for that part (with the exception of the aviation warning lighting required by virtue of requirement 29) has been submitted to and approved by the relevant planning authority.

(2) No part of the authorised development must be commissioned until a scheme for all permanent external lighting to be installed (with the exception of the aviation warning lighting required by virtue of requirement 29) has been submitted to and approved by the relevant planning authority.

(3) The schemes submitted and approved pursuant to sub-paragraphs (1) and (2) of this requirement must include measures to minimise and otherwise mitigate any artificial light emissions during the construction and operation of the authorised development.

(4) The schemes must be implemented as approved unless otherwise agreed with the relevant planning authority.

~~(3) — Any tree or shrub planted as part of an approved landscaping scheme that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the Commission, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the Commission.~~

Trees

9

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

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

Highway accesses

10

~~9.(1) — No [stage — (1) No part of the] authorised development shall ~~must~~ commence until [for that stage,] written details of the siting, design and layout (including visibility splays and construction specification) of any new or modified permanent or temporary means of access to a between any part of the Order limits and the public highway to be used by vehicular traffic during construction, or any alteration to an existing and the means of reinstating any such means of access to a highway used by vehicular traffic after construction has, has for that part, been submitted to and, after consultation with the highway authority, approved by the relevant planning authority and highway authority, been submitted to and approved by the Commission.~~

~~(2) (2) — The highway accesses approved pursuant to sub-paragraph (1) must be constructed in accordance with the approved details prior to the start of construction of the relevant part of the authorised development (other than the accesses), and where temporary, reinstated prior to the authorised development being brought into commercial use, unless otherwise agreed with the relevant planning authority.~~

~~(3) No part of the authorised development may be brought into commercial use until details of the siting, design and layout (including visibility splays and construction specification) of any new or modified permanent means of access to a highway to be used by vehicular traffic, has, for that part, been submitted to and, after consultation with the highway authority, approved by the relevant planning authority.~~

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

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

Public rights of way

11

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

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

Fencing special roads

12

~~(1) No [stage of the] authorised development shall commence until written details of the design and construction of any boundary fencing for special roads have, after consultation, been submitted to and approved by the Commission.~~
The highway accesses approved pursuant to sub-paragraph (3) must be constructed in accordance with the details approved unless otherwise agreed with the relevant planning authority and highway authority, been submitted to and approved by the Commission.

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

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

Fencing and other means Means of enclosure

13

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

10.—(1) No part of the authorised development must commence until details of any proposed temporary means of enclosure (including a programme for the removal of all temporary means of enclosure) have, for that part, been submitted to and approved by the relevant planning authority.

~~(2) The [insert description], and any construction sites, Any construction areas or sites associated with the authorised development must remain securely fenced at all times during construction of and commissioning of the authorised development in accordance with the details approved pursuant to sub-paragraph (1).~~

(3) No part of the authorised development must be brought into commercial use until details of any proposed permanent means of enclosure, have, for that part, been submitted to and approved by the relevant planning authority.

(4) No part of the authorised development may be brought into commercial use until any approved permanent means of enclosure has been completed.

(5) The authorised development must be carried out in accordance with the approved details unless otherwise agreed with the relevant planning authority.

(6) In this requirement, “means of enclosure” means fencing

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

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

Surface water drainage

14

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

~~(7) (2) — The surface and foul water drainage system must be constructed in accordance with the approved details, walls or other means of boundary treatment and enclosure.~~

Site security - above ground installation (Work No. 7)

11.—(1) No part of the authorised development comprised in Work No. 7 must be brought into use until a written scheme detailing security measures to minimise the risk of crime has, for that part, been submitted to and, after consultation with North Yorkshire Police, approved by the relevant planning authority.

(2) The approved scheme must be maintained and operated throughout the operation of Work No. 7.

Fire prevention

12.—(1) No part of the authorised development must commence until a fire prevention method statement providing details of fire detection measures, fire suppression measures and the location of accesses to all fire appliances in all of the major building structures and storage areas within the authorised development, including measures to contain and treat water used to suppress any fire has, for that part, been submitted to and approved by the relevant planning authority.

(2) The authorised development must be implemented in accordance with the approved details and all relevant fire suppression measures and fire appliances must be maintained to the reasonable satisfaction of the relevant planning authority at all times throughout the operation of the authorised development.

Surface and foul water drainage

13.—(1) No part of the authorised development must commence until details of the temporary surface and foul water drainage systems, including means of pollution control in accordance with the construction environmental management plan and a management and maintenance plan to ensure that the systems remain fully operational throughout the construction of the relevant part of the authorised development have, for that part, been submitted to, and after consultation with the Environment Agency, lead local flood authority and relevant internal drainage board, approved by the relevant planning authority.

(2) The scheme approved pursuant to sub-paragraph (1) must be implemented as approved and maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

(3) Details of the permanent surface and foul water drainage systems, including a programme for their implementation, must be submitted to, and after consultation with the Environment Agency and relevant internal drainage board, approved by the relevant planning authority prior to the start of construction of any part of those systems.

(4) The details submitted and approved pursuant to paragraphs (1) and (3) of this requirement must be in accordance with the principles set out in chapter 11 and appendix 11A of the environmental statement.

(5) The scheme approved pursuant to sub-paragraph (3) must be implemented as approved and maintained throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.

Flood risk mitigation

14.—(1) No part of the authorised development must commence until a scheme for the mitigation of flood risk during construction, has, for that part, been submitted to, and after consultation with the Environment Agency, approved by the relevant planning authority.

(2) The scheme approved pursuant to sub-paragraph (1) must be implemented as approved and maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

(3) No part of the authorised development must be commissioned until a scheme for the mitigation of flood risk during operation has, for that part, been submitted to and, after consultation with the Environment Agency, approved by the relevant planning authority.

(4) The schemes submitted and approved pursuant to paragraphs (1) and (3) of this requirement must be in accordance with the principles set out in chapter 11 and appendix 11A of the environmental statement.

(5) The scheme approved pursuant to sub-paragraph (3) must be implemented as approved and maintained throughout the operation of the authorised development unless otherwise agreed with the relevant planning authority.

(6) The authorised development must not be commissioned until the flood risk mitigation has been implemented and a flood emergency response and contingency plan has been submitted to, and after consultation with the Environment Agency, approved by the relevant planning authority.

(7) The plan approved pursuant to sub-paragraph (6) must be implemented throughout the commissioning and operation of the authorised development unless otherwise agreed with the relevant planning authority.

Contaminated land and groundwater

15

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

(2) The scheme submitted and approved must be in accordance with the principles set out in chapter 12 of the environmental statement and the environmental statement commitments register and must be included in the construction environmental management plan submitted pursuant to requirement 18.

~~(3) (2) —The scheme shall include an investigation and assessment report, prepared by a specialist consultant approved by the relevant planning authority. The scheme must include a risk assessment and, if necessary, a site investigation to identify the extent of any~~

contamination and the remedial measures to be taken to render the land fit for its intended purpose, together with a materials management plan—, which sets out long-term measures with respect to any contaminants remaining on the site.

~~(4) (3) — Remediation~~ The authorised development, including any remediation, must be carried out in accordance with the approved scheme, unless otherwise agreed with the relevant planning authority.

Archaeology

16

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

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

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

16.—(1) No part of the authorised development must commence until a scheme of archaeological investigation for that part has been submitted to and, after consultation with North Yorkshire County Council in its capacity as the relevant archaeological body, approved by the relevant planning authority.

(2) The scheme submitted and approved must be in accordance with the principles set out in chapter 13 of the environmental statement.

(3) The scheme must identify any areas where further archaeological investigations are required and the nature and extent of the investigation required in order to preserve by knowledge or in-situ any archaeological features that are identified.

(4) Any archaeological investigations implemented must be carried out—

(a) ~~(4) — Any archaeological works or watching brief must be carried out in accordance with the approved scheme; and~~

Ecological management plan

17

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

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

Code of construction practice

18

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

~~for~~
19

~~(b) (1) — No [stage of the] authorised development shall commence until a code of construction practice shall, after consultation by a suitably qualified person or organisation approved by the relevant planning authority unless otherwise agreed with the relevant planning authority, be submitted to and approved by the Commission.~~

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

~~[Note: The code should specify measures designed to minimise the impacts of construction works, such as means of minimising pollution from dust, noise, vibration and lighting, wheel cleansing facilities, routes for construction traffic, working hours etc To the extent that it does not, or does not do so adequately, separate conditions are likely to be required, some of which are indicated below].~~

Design of roads
20

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

Protected species

17.—(1) No part of the authorised development must commence until further survey work for that part has been carried out to establish whether any protected species are present on any of the land affected, or likely to be affected, by that part of the authorised development.

(2) Where a protected species is shown to be present, no authorised development of that part must commence until, after consultation with Natural England, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority.

~~(3) (2) — The [authorised development] construction or alteration of the street or the taking of traffic management and control measures shall~~The authorised development must be carried out in accordance with the approved design scheme unless otherwise agreed with the relevant planning authority.

Construction environmental management plan

18.—(1) No part of the authorised development must commence until a construction environmental management plan has been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the principles set out in appendix 5A of the environmental statement and the indicative landscaping and biodiversity strategy and incorporate—

- (a) a code of construction practice, specifying measures designed to minimise the impacts of construction works;
- (b) a scheme for the control of any emissions to air;
- (c) a soil management plan;
- (d) a sediment control plan;
- (e) a scheme for environmental monitoring and reporting during the construction of the authorised development, including measures for undertaking any corrective actions; and

- (f) a scheme for the notification of any significant construction impacts on local residents and for handling any complaints received from local residents relating to such impacts during the construction of the authorised development.
- (3) All construction works associated with the authorised development must be carried out in accordance with the approved construction environmental management plan unless otherwise agreed with the relevant planning authority.

Protection of highway surfaces

19.—(1) No part of the authorised development must commence until details for undertaking condition surveys of the relevant highways which are maintainable at the public expense and which are to be used during construction have been submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(2) The condition surveys must be undertaken in accordance with the approved details and a schedule of repairs, including a programme for undertaking any such repairs and their inspection, must, following the completion of the post-construction condition surveys, be submitted to, and after consultation with the highway authority, approved by the relevant planning authority.

(3) The schedule of repairs must be carried out as approved unless otherwise agreed with the relevant planning authority.

Construction traffic and routing management plan

20.—(1) No part of the authorised development must commence until a construction traffic and routing management plan has been submitted to and, after consultation with Highways England and the highway authority, approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the principles set out in chapter 14 of the environmental statement and the construction travel plan framework contained in appendix 14A to the environmental statement.

(3) The plan submitted and approved must include—

- (a) details of the routes to be used for the delivery of construction materials and any temporary signage to identify routes and promote their safe use, including details of the access points to the construction site to be used by light goods vehicles and heavy goods vehicles;
- (b) details of the routing strategy and procedures for the notification and conveyance of abnormal indivisible loads, including agreed routes, the numbers of abnormal loads to be delivered by road and measures to mitigate traffic impact;
- (c) the construction programme; and
- (d) any necessary measures for the temporary protection of carriageway surfaces, the protection of statutory undertakers' plant and equipment, and any temporary removal of street furniture.

External lighting

21

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

Construction traffic

22

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

~~(4) (2) Notices shall~~ Notices must be erected and maintained throughout the period of construction at every entrance to and exit from the construction site ~~exit~~, indicating to drivers the ~~route agreed by the Commission~~ approved routes for traffic entering and leaving the ~~site~~ construction site.

(5) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

Travel plan - construction staff

21.—(1) No part of the authorised development must commence until a travel plan for construction staff has been submitted to and, after consultation with the highway authority, approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the principles set out in chapter 14 of the environmental statement and the construction travel plan framework contained in appendix 14A of the environmental statement.

(3) The plan submitted and approved must include—

- (a) measures to promote the use of sustainable transport modes to and from the authorised development by construction staff;
- (b) provision as to the responsibility for, and timescales of, the implementation of those measures;
- (c) details of parking for construction personnel within the construction sites; and
- (d) a monitoring and review regime.

(4) The approved plan must be implemented within three months of commencement of the authorised development and must be maintained throughout the construction of the authorised development unless otherwise agreed with the relevant planning authority.

Control of noise during construction and maintenance

23

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

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

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

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

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

Construction hours

24

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

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

Control of noise during operational phase

25

22.—(1) Construction work relating to the authorised development must not take place on bank holidays nor otherwise outside the hours of—

(a) 0700 to 1900 hours on Monday to Friday; and

(b) 0700 to 1300 hours on a Saturday.

(2) Delivery or removal of materials, plant and machinery must not take place on bank holidays nor otherwise outside the hours of—

(a) 0800 to 1800 hours on Monday to Friday; and

(b) 0800 to 1300 hours on a Saturday.

(3) The restrictions in sub-paragraphs (1) and (2) do not apply to construction work or the delivery or removal of materials, plant and machinery, where these—

(a) ~~(1) —No authorised development shall commence operation until, after consultation, do not exceed a noise limit measured at the Order limits and which must be first agreed with the relevant planning authority, a written scheme for noise management including monitoring and attenuation for the use of the authorised project has been submitted to and approved by the Commission in accordance with requirement 23;~~

(b) are carried out with the prior approval of the relevant planning authority; or

(c) are associated with an emergency.

(4) The restrictions in sub-paragraph (2) do not apply to the delivery of abnormal indivisible loads, where this is—

(a) associated with an emergency; or

(b) carried out with the prior approval of the relevant planning authority.

(5) Sub-paragraph (1) does not preclude—

(a) a start-up period from 0630 to 0700 and a shut-down period from 1900 to 1930 Monday to Friday and a start-up period from 0630 to 0700 and a shut-down period from 1300 to 1330 on a Saturday; or

(b) maintenance at any time of plant and machinery engaged in the construction of the authorised development.

(6) In this requirement “emergency” means a situation where, if the relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable

opinion of the undertaker would outweigh the adverse effects to the public (whether individuals, classes or generally as the case may be) of taking that action.

Control of noise and vibration - construction

23.—(1) No part of the authorised development must commence until a scheme for the monitoring and control of noise and vibration during the construction of that part of the authorised development has been submitted to and approved by the relevant planning authority.

(2) The scheme submitted and approved must specify—

- (a) each location from which noise is to be monitored;
- (b) the method of noise measurement;
- (c) the maximum permitted levels of noise at each monitoring location to be determined with reference to the ABC Assessment Method for the different working time periods, as set out in BS 5228-1:2009+A1:2014, unless otherwise agreed in writing with the relevant planning authority for specific construction activities;
- (d) provision as to the circumstances in which construction activities must cease as a result of a failure to comply with a maximum permitted level of noise; and
- (e) the noise control measures to be employed.

(3) ~~(2) — The noise management—~~The scheme must be implemented as approved **and maintained for the duration of use of the authorised project.** unless otherwise agreed with the relevant planning authority.

Control of noise - operation

Control of odour emissions

26

~~24.(1) — No [stage of the] authorised development shall commence until, after consultation with the relevant planning authority, a written —~~(1) No part of the authorised development must be brought into commercial use until a scheme for ~~the~~ management and mitigation of odour emissions monitoring of noise during operation of the authorised development has been submitted to and approved by the ~~Commission~~ relevant planning authority.

(2) Noise (in terms of the BS4142:2014 rating level) from the operation of the authorised development must be no greater than around +5 dB different to the defined representative background sound level adjacent to the nearest residential properties at such location as agreed with the relevant planning authority.

(3) The scheme must be implemented as approved unless otherwise agreed with the relevant planning authority.

Piling and penetrative foundation design

25.—(1) No part of the authorised development comprised within Work No. 1 must commence until a written piling and penetrative foundation design method statement, informed by a risk assessment, for that part, has been submitted to and, after consultation with the Environment Agency, approved by the relevant planning authority.

(2) All piling and penetrative foundation works must be carried out in accordance with the approved method statement unless otherwise agreed with the relevant planning authority.

Waste management on site - construction wastes

26.—(1) No part of the authorised development must commence until a construction site waste management plan for that part has been submitted to and approved by the relevant planning authority.

(2) The plan submitted and approved must be in accordance with the principles set out in chapter 17 and appendix 5A of the environmental statement.

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

Control of artificial light emissions

27

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

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

Control of dust emissions

28

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

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

Control of smoke emissions

29

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

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

Control of steam emissions

30

~~(3) (1) —No [stage of the] authorised development shall commence until, after consultation The plan must be implemented as approved unless otherwise agreed with the~~

relevant planning authority, a written scheme for the management and mitigation of steam emissions has been submitted to and approved by the Commission.

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

Control of insects

31

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

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

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

Accumulations and deposits

32

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

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

Travel plan

33

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

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

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

European protected species

34

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

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

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

Restoration of land used temporarily for construction

35

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

27.—(1) The authorised development must not be brought into commercial use until a scheme for the restoration of any land within the Order limits which has been used temporarily for construction has been submitted to and approved by the relevant planning authority.

(2) The land must be restored within three years of the authorised development being brought into commercial use (or such other period as the relevant planning authority may approve), in accordance with—

- (a) the restoration scheme approved in accordance with sub-paragraph (1); and
- (b) the landscaping and biodiversity management and enhancement plan approved in accordance with requirement 6(4).

Combined heat and power

28.—(1) The authorised development must not be brought into commercial use until the relevant planning authority has given notice that it is satisfied that the undertaker has allowed for space and routes within the design of the authorised development for the later provision of heat pass-outs for off-site users of process or space heating and its later connection to such systems, should they be identified and commercially viable.

(2) The undertaker must maintain such space and routes during the operation of the authorised development unless otherwise agreed with the relevant planning authority.

(3) On the date that is 12 months after the authorised development is first brought into commercial use, the undertaker must submit to the planning authority for its approval a report ('the CHP review') updating the CHP assessment.

(4) The CHP review submitted and approved must—

(a) consider the opportunities that reasonably exist for the export of heat from the authorised development at the time of submission; and

(b) include a list of actions (if any) that the undertaker is reasonably to take (without material additional cost to the undertaker) to increase the potential for the export of heat from the authorised development.

(5) The undertaker must take such actions as are included, within the timescales specified, in the approved CHP review unless otherwise agreed with the relevant planning authority.

(6) On each date during the operation of the authorised development that is five years after the date on which it last submitted the CHP review or a revised CHP review to the relevant planning authority, the undertaker must submit to the relevant planning authority for its approval a revised CHP review.

(7) Sub-paragraphs (4) and (5) apply in relation to a revised CHP review submitted under sub-paragraph (6) in the same way as they apply in relation to the CHP review submitted under sub-paragraph (3).

Aviation warning lighting

29.—(1) No part of the authorised development comprised within Work No. 1 must commence until details of the aviation warning lighting to be installed for that part during construction and operation have been submitted to, and after consultation with the Civil Aviation Authority, approved by the relevant planning authority.

(2) The aviation warning lighting approved pursuant to paragraph (1) must be installed and operated in accordance with the approved details.

Air safety

30. No part of the authorised development must commence until details of the information that is required by the Defence Geographic Centre of the Ministry of Defence to chart the site for aviation purposes for that part have been submitted to and approved by the relevant planning authority.

Carbon capture readiness site

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

(a) dispose of any interest in the carbon capture readiness site; or

(b) do anything, or allow anything to be done or to occur,

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

Carbon capture readiness monitoring report

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

(a) on or before the date on which three months have passed from first commercial use; and

(b) within one month of the second anniversary, and each subsequent even-numbered anniversary, of that date.

(2) Each carbon capture readiness monitoring report must provide evidence that the undertaker has complied with requirement 31—

- (a) in the case of the first carbon capture readiness monitoring report, since this Order was made; and
- (b) in the case of any subsequent report, since the making of the previous carbon capture readiness monitoring report, and explain how the undertaker expects to continue to comply with requirement 31 over the next two years.

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

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

Local liaison committee

33.—(1) The authorised development must not commence until the undertaker has established a committee to liaise with local residents and organisations about matters relating to the authorised development (a ‘local liaison committee’).

(2) The undertaker must invite the relevant planning authority and other relevant interest groups, as may be agreed with the relevant planning authority, to nominate representatives to join the local liaison committee.

(3) The undertaker must provide a full secretariat service and supply an appropriate venue for the local liaison committee meetings to take place.

(4) The local liaison committee must—

- (a) include representatives of the undertaker;
- (b) meet every other month, starting in the month prior to commencement of the authorised development, until the completion of construction, testing and commissioning works unless otherwise agreed by the majority of the members of the local liaison committee; and
- (c) during the operation of the authorised development meet once a year unless otherwise agreed by the majority of the members of the local liaison committee.

Employment, skills and training plan

34.—(1) No part of the authorised development must commence until a plan detailing arrangements to promote employment, skills and training development opportunities for local residents during construction and employment opportunities during operation of the authorised development has been submitted to, and after consultation with North Yorkshire County Council, approved by the relevant planning authority.

(2) The approved plan must be implemented and maintained during the construction and operation of the authorised development unless otherwise agreed by the relevant planning authority.

Decommissioning

35.—(1) Within 12 months of the date that the undertaker decides to decommission the authorised development, the undertaker must submit to the relevant planning authority for its approval a decommissioning environmental management plan.

(2) No decommissioning works must be carried out until the relevant planning authority has approved the plan.

(3) The plan submitted and approved must be in accordance with the principles set out in the environmental statement.

- (4) The plan submitted and approved must include details of—
- (a) the buildings to be demolished;
 - (b) the means of removal of the materials resulting from the decommissioning works;
 - (c) the phasing of the demolition and removal works;
 - (d) any restoration works to restore the land to a condition agreed with the relevant planning authority;
 - (e) the phasing of any restoration works; and
 - (f) a timetable for the implementation of the scheme.
- (5) The plan must be implemented as approved unless otherwise agreed with the relevant planning authority.

Requirement for written approval

36

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

~~Amendments to approved~~ Approved details and amendments to them

37.—(1) All details submitted for the approval of the relevant planning authority under these requirements must be in accordance with the parameters of the environmental statement and reflect the principles set out in the documents certified under article 38.

37

(2) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved by the ~~Commission~~ relevant planning authority, the approved details ~~shall~~ are to be taken to include any amendments that may subsequently be approved ~~in writing by the Commission~~ by the relevant planning authority.

Amendments agreed by the relevant planning authority

38. Where the words ‘unless otherwise agreed by the relevant planning authority’ appear in the above requirements, any such approval or agreement—

- (a) may only be given in relation to non-material amendments where it has been demonstrated to the satisfaction of that authority that the subject matter of the approval or agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement; and
- (b) in cases where the requirement or the relevant sub-paragraph requires consultation with specified persons, must not be given without the relevant planning authority having first consulted with those persons.

STREETS SUBJECT TO STREET WORKS

Table 1

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped-up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>
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<u>(1)</u> <u>Area</u>	<u>(2)</u> <u>Streets subject to street works</u>	<u>(3)</u> <u>Description of the street works</u>
<u>In the District of Selby</u>	<u>A19 / Fox Lane</u>	<u>Widening and improvement works to the junction at A19 / Fox Lane between the points marked W and X on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>A19 / North of Burn Lodge Farm</u>	<u>Works for the installation and maintenance of Work No. 6 between the points marked AL and AM on sheet 4 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>A19 / South of Burn Lodge Farm</u>	<u>Works for the provision of a new temporary construction access between the points marked AD and AE on sheet 4 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>A19 / Tranmore Lane</u>	<u>Works for the installation and maintenance of Work No. 5 between the points marked A and B on sheet 1 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>A19 / unnamed private road</u>	<u>Works to resurface the access in the area cross hatched in blue at the point marked C on sheet 1 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Hazel Old Lane</u>	<u>Works to repair, replace or maintain the existing culvert as part of Work No. 9 between the points marked F and G on sheet 1 of the access and rights of way plans</u>

<u>In the District of Selby</u>	<u>Millfield Road</u>	<u>Works for the installation and maintenance of Work No. 6 between the points marked U and V on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Millfield Road</u>	<u>Works for the provision of a new permanent access on the south side of Millfield Road between the points marked U and V on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Millfield Road</u>	<u>Works for the provision of a new permanent access on the north side of Millfield Road between the points marked U and V on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Fox Lane</u>	<u>Works to temporarily widen and improve the existing street between the points marked W and Z and create a new temporary access at the point marked Y on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>Works for the installation and maintenance of Work No. 4 between the points marked I and J on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>Works for the installation and maintenance of Work No. 5 between the points marked I and J on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>Works for the installation and maintenance of Work No. 6 between the points marked I and J on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>Works for the provision of a new temporary construction access between the points marked I and J on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>Works for the improvement of the access at the point marked</u>

		<u>AJ on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>Works for the provision of a new permanent access between the points marked AI and AH on sheet 4 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>Works for the provision of a new temporary construction access between the points marked AI and AG on sheet 4 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>Works for the installation and maintenance of Work No. 6 between the points marked AH and AG on sheet 4 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>Works for the provision of a new permanent access on the east side of West Lane between the points marked AG and AH on sheet 4 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Whitings Lane</u>	<u>Works to resurface the access in the area cross hatched in red at the point marked AC on sheet 4 of the access and rights of way plans</u>

SCHEDULE 4

Articles 9 and 12

STREETS SUBJECT TO PERMANENT AND TEMPORARY
ALTERATION OF LAYOUT

PART 1

PERMANENT ALTERATION OF LAYOUT

Table 2

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Streets subject to alteration of layout</i>	<i>(3)</i> <i>Description of alteration</i>
In the District of Selby	Millfield Road	Works for the provision of a new permanent access on the south side of Millfield Road between the points marked U and V on sheet 3 of the access and rights of way plans
In the District of Selby	Millfield Road	Works for the provision of a new permanent access on the north side of Millfield Road between the points marked U and V on sheet 3 of the access and rights of way plans
In the District of Selby	Wand Lane	Works for the improvement of the access at the point marked AJ on sheet 2 of the access and rights of way plans
In the District of Selby	West Lane	Works for the provision of a new permanent access between the points marked AI and AH on sheet 4 of the access and rights of way plans
In the District of Selby	West Lane	Works for the provision of a new permanent access on the east side of West Lane between the points marked AG and AH on sheet 4 of the access and rights of way plans

PART 2

TEMPORARY ALTERATION OF LAYOUT

Table 3

Part 2
Streets for which No Substitute is to be Provided

Schedule C
Streets to be Stopped Up

Part 1
Streets for which a Substitute is to be Provided

(1) Area	(2) Street to be temporarily stopped up	(3) Extent of temporary stopping up
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<u>(1)</u> <u>Area</u>	<u>(2)</u> <u>Streets subject to alteration of layout</u>	<u>(3)</u> <u>Description of alteration</u>
<u>In the District of Selby</u>	<u>A19 / South of Burn Lodge Farm</u>	<u>Works for the provision of a new construction access between the points marked AD and AE on sheet 4 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>A19 / Fox Lane</u>	<u>Widening and improvement works to the junction at A19 / Fox Lane between the points marked W and X on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Fox Lane</u>	<u>Works to temporarily widen and improve the existing street between the points marked W and Z and to create a new temporary access at the point marked Y on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>Works for the provision of a new construction access between the points marked I and J on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>Works for the provision of a new temporary construction access between the points marked AI and AG on sheet 4 of the access and rights of way plans</u>

ACCESS

PART 1

THOSE PARTS OF THE ACCESS TO BE MAINTAINED AT THE PUBLIC EXPENSE

Table 4

<u>(1)</u> <u>Area</u>	<u>(2)</u> <u>Street</u>	<u>(3)</u> <u>Description of relevant part of access</u>
<u>In the District of Selby</u>	<u>A19 / unnamed private road</u>	<u>That part of the access in the area cross hatched in blue at the point marked C on sheet 1 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>Works for the improvement of the access in the area cross hatched in blue at the point marked AJ on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Millfield Road</u>	<u>That part of the access cross hatched in blue in-between the points marked U and V on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>That part of the access shown cross hatched in blue marked between points AI and AH on sheet 4 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>That part of the access cross hatched in blue on the east side of West Lane between the points marked AG and AH on sheet 4 of the access and rights of way plans</u>

Schedule E
Access to Works

PART 2
THOSE PARTS OF THE ACCESS TO BE MAINTAINED BY THE STREET
AUTHORITY

Table 5

<u>(1)</u> <u>Area</u>	<u>(2)</u> <u>Description of access</u>
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<u>(1)</u> <u>Area</u>	<u>(2)</u> <u>Street</u>	<u>(3)</u> <u>Description of relevant part of access</u>
<u>In the District of Selby</u>	<u>Hazel Old Lane / unnamed private road</u>	<u>That part of the access in-between the points marked D and E on sheet 1 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Millfield Road</u>	<u>That part of the access cross hatched in red on the south side of Millfield Road in-between the points marked U and V on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Millfield Road</u>	<u>That part of the access cross hatched in red on the north side of Millfield Road in-between the points marked U and V on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>That part of the access shown cross hatched in red at the point marked H on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Land</u>	<u>That part of the access shown cross hatched in red at the point marked AJ on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Unnamed private road (off A19)</u>	<u>That part of the access shown cross hatched in red between the points marked T and S on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>That part of the access shown</u>

<u>In the District of Selby</u>	<u>West Lane</u>	<u>cross hatched in red marked between points AI and AH on sheet 4 of the access and rights of way plans</u>
		<u>That part of the access cross hatched in red on the east side of West Lane between the points marked AG and AH on sheet 4 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Whitings Lane</u>	<u>That part of the access in the area cross hatched in red at the point marked AC on sheet 4 of the access and rights of way plans</u>

PART 3

THOSE WORKS TO RESTORE THE TEMPORARY ACCESSES WHICH WILL BE MAINTAINED BY THE STREET AUTHORITY

Table 6

**Schedule G
Land of which Temporary Possession may be Taken**

<i>(1)</i>	<i>(2)</i>
<i>Area</i>	<i>Number of land shown on land plan</i>

<i>(1)</i> <u>Area</u>	<i>(2)</i> <u>Street</u>	<i>(3)</i> <u>Description of relevant part of access</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>That part of the access in-between the points marked I and J on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>A19 / South of Burn Lodge Farm</u>	<u>That part of the access cross hatched in blue between points AD and AE on sheet 4 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Fox Lane</u>	<u>That part of the access cross hatched in red between the points marked Y and AA on sheet 3 of the access and rights of way plans</u>

<u>In the District of Selby</u>	<u>Unnamed private road (off A19)</u>	<u>That part cross hatched red in-between point AF and the start of the blue cross hatching at the points marked AD and AE</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>That part of the access cross hatched in red between the points marked AI and AG on sheet 4 of the access and rights of way plans</u>

STREETS TO BE TEMPORARILY STOPPED UP

Table 7

~~**Schedule F**~~
~~**Land of which Only Subsoil More than 9 Metres Beneath Surface may be Acquired**~~

	(1)	(1) <i>Area</i>	(2) <i>Street</i>	(3) <i>Description of extent of temporary stopping up</i>
<u>In the District of Selby</u>	<u>A19 / Fox Lane</u>			<u>Temporary closure of the part of the streets shown points W and X, and W and Z on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>A19 / South of Burn Lodge Farm</u>			<u>Temporary closure of the part of the street between the points AD and AE on sheet 4 of the access and right of way plans</u>
<u>In the District of Selby</u>	<u>A19 / Tranmore Lane</u>			<u>Temporary closure of the part of the street shown between points marked A and B on sheet 1 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>A19 / unnamed private road</u>			<u>Temporary closure of the part of the street in the area cross hatched in blue on sheet 1 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Hazel Old Lane</u>			<u>Temporary closure of the part of the street shown between point F and G on sheet 1 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Millfield Road</u>			<u>Temporary closure of the part of the street for the installation and maintenance of Work No. 6 between the points marked U and V on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Millfield Road</u>			<u>Temporary closure of the part of the street for the provision of a permanent access on the south side of Millfield Road between points U and V on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Millfield Road</u>			<u>Temporary closure of the part of the street for the provision of a permanent access on the north side of Millfield Road between points U and V on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>			<u>Temporary closure of the part of the street for the installation and maintenance of Work No. 4 between the points marked I and J on sheet 2 of the access and rights of way plans</u>

<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>Temporary closure of the part of the street for the installation and maintenance of Work No. 5 between the points marked I and J on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Wand Lane</u>	<u>Temporary closure of the part of the street for the installation and maintenance of Work No. 6 between the points marked I and J on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>Temporary closure of part of the street between points AI and AG on sheet 4 of the access and right of way plans for the provision of a temporary construction access</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>Temporary closure of part of the street between points AI and AG on sheet 4 of the access and right of way plans to facilitate the provision of new permanent accesses</u>
<u>In the District of Selby</u>	<u>West Lane</u>	<u>Temporary closure of the part of the street between points AH and AG on sheet 4 of the access and right of way plans for the installation and maintenance of Work No. 6</u>
<u>In the District of Selby</u>	<u>Whitings Lane</u>	<u>Temporary closure of the part of the street cross hatched in red at the point marked AC on sheet 4 of the access and rights of way plans</u>

PUBLIC RIGHTS OF WAY AND PUBLIC RIGHTS OF NAVIGATION TO BE STOPPED UP OR SUSPENDED

PART 1

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP

Table 8

<u>(1)</u> <u>Area</u>	<u>(2)</u> <u>Public right of way to be temporarily stopped up</u>	<u>(3)</u> <u>Extent of stopping up</u>
<u>In the District of Selby</u>	<u>Public footpath 35.27/1/1</u>	<u>Between the points marked K and L on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Public footpath 35.21/5/1</u>	<u>Between the points marked Q and R on sheet 3 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>Public bridleway 35.14/4/1</u>	<u>Between the points marked AB and AC on sheet 4 of the access and rights of way plans</u>

PART 2

PUBLIC RIGHTS OF NAVIGATION TO BE TEMPORARILY SUSPENDED

Table 9

<u>(1)</u> <u>Area</u>	<u>(2)</u> <u>Location of public right of navigation to be temporarily suspended</u>	<u>(3)</u> <u>Work No.</u>	<u>(4)</u> <u>Extent of suspension</u>
<u>In the District of Selby</u>	<u>River Aire</u>	<u>Work No. 4</u>	<u>Between the points marked M and N and in the area shaded blue on sheet 2 of the access and rights of way plans</u>
<u>In the District of Selby</u>	<u>River Aire</u>	<u>Work No. 4</u>	<u>Between the points marked O and P and in the area shaded blue on sheet 3 of the access and rights of way plans</u>

SCHEDULE 8

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

Interpretation

1. In this schedule—

“Work No. 4 infrastructure” means any works or development comprised within Work No. 4 in schedule 1, ancillary apparatus and including any other necessary works or development permitted within the area delineated as Work No. 4 on the works plans;

“Work No. 5 infrastructure” means any works or development comprised within Work No. 5 in schedule 1, ancillary apparatus and including any other necessary works or development permitted within the area delineated as Work No. 5 on the works plans;

“Work No. 6 infrastructure” means any works or development comprised within Work No. 6 in schedule 1, ancillary apparatus and including any other necessary works or development permitted within the area delineated as Work No. 6 on the works plans;

“Work No. 9 infrastructure” means any works or development comprised within Work No. 9 in schedule 1, ancillary apparatus and including any other necessary works or development permitted within the area delineated as Work No. 9 on the works plans;

Table 10

<u>(1)</u> <u>Number of plot shown on the land plans</u>	<u>(2)</u> <u>Rights etc. which may be acquired</u>
<u>10</u>	<u>For and in connection with the Work No. 5 infrastructure the right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant and machinery, for all purposes in connection with the laying, installation, use and maintenance of the Work No. 5 infrastructure, together with the right to install, retain, use and maintain the Work No. 5 infrastructure, and a right of support for it, and the right to the free flow of water, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 5 infrastructure, or interfere with or obstruct access from and to the Work No. 5 infrastructure, including the right to prevent or remove the whole of any fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</u>
<u>30</u>	<u>For and in connection with the Work No. 9 infrastructure the right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant and machinery, for all purposes in connection with the laying, installation, use and maintenance of the Work No. 9 infrastructure, together with the right to install,</u>

retain, use and maintain the Work No. 9 infrastructure, a right of support for it, and the right to the free flow of water, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 9 infrastructure, or interfere with or obstruct access from and to the Work No. 9 infrastructure, including the right to prevent or remove the whole of any fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.

90, 165, 170, 175, 190

Work No. 6

For and in connection with the Work No. 6 infrastructure within a corridor of up to 14m in width, the right to create or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant and machinery, for all purposes in connection with the laying, installation, use and maintenance of the Work No. 6 infrastructure, together with the right to install, retain, use and maintain the Work No. 6 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 6 infrastructure, or interfere with or obstruct access from and to the Work No. 6 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.

Work No. 4

For and in connection with the Work No. 4 infrastructure within a corridor of up to 14m in width, the right to create or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant and machinery, for all purposes in connection with the laying, installation, use and maintenance of the Work No 4 infrastructure, together with the right to install, retain, use and maintain the Work No. 4 infrastructure, a right of support for it, and the right to the free flow of water, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 4 infrastructure, or interfere with or obstruct

	<p><u>access from and to the Work No. 4 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</u></p>
<p><u>245</u></p>	<p><u>For and in connection with the Work No. 4 infrastructure the right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, boats, plant and machinery, for all purposes in connection with the laying, installation, use and maintenance of the Work No 4 infrastructure, together with the right to install, retain, use and maintain the Work No. 4 infrastructure, a right of support for it, and the right to the free flow of water and a right to discharge water, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 4 infrastructure, or interfere with or obstruct access from and to the Work No. 4 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing.</u></p>
<p><u>255, 355, 360, 365, 380, 400, 420, 445, 490, 530, 540, 545, 555, 575, 595, 600</u></p>	<p><u>For and in connection with the Work No. 6 infrastructure within a corridor of up to 14m in width the right to create or improve accesses and a right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant and machinery, for all purposes in connection with the laying, installation, use and maintenance of the Work No. 6 infrastructure, together with the right to install, retain, use and maintain the Work No. 6 infrastructure, and a right of support for it, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 6 infrastructure, or interfere with or obstruct access from and to the Work No. 6 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</u></p>
<p><u>265, 270, 275, 285, 295, 300, 310, 315, 320</u></p>	<p><u>For and in connection with the Work No. 4 infrastructure within a corridor of up to 14m in width the right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles,</u></p>

<p><u>500, 510</u></p>	<p><u>plant and machinery for all purposes in connection with the laying, installation, use and maintenance of the Work No 4 infrastructure, together with the right to install, retain, use and maintain the Work No. 4 infrastructure, a right of support for it, and the right to the free flow of water, along with the right to prevent any works on or uses of the land which may interfere with or damage the Work No. 4 infrastructure, or interfere with or obstruct access from and to the Work No. 4 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</u></p> <p><u>Right of access for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without vehicles, plant and machinery for all purposes in connection with the laying, installation, use and maintenance of the Work No. 6 infrastructure, along with the right to prevent any works on or uses of the land which may interfere with or obstruct access from and to the Work No. 6 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</u></p>
<p><u>515, 525</u></p>	<p><u>Right for the undertaker and all persons authorised on its behalf to improve the access and a right to enter, pass and re-pass, on foot, with or without vehicles, plant and machinery, and a right to park vehicles, for all purposes in connection with the laying, installation, use and maintenance of the Work No. 6 infrastructure along with the right to prevent any works on or uses of the land which may interfere with or obstruct the right to park or access from and to the Work No. 6 infrastructure, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.</u></p>
<p><u>695</u></p>	<p><u>Right for the undertaker and all persons authorised on its behalf to create a new access or improve an access, to enter, pass and re-pass, on foot, with or without vehicles, plant and machinery, for all purposes in connection with</u></p>

the laying, installation, use and maintenance of Work No. 7 along with the right to prevent any works on or uses of the land which may interfere with or obstruct access from and to Work No. 7, including the right to prevent or remove the whole of any building, or fixed or moveable structure, tree, shrub, plant or other thing, and the right to prevent or remove any works or uses which alter the surface level, ground cover or composition of the land.

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

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land are to 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 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 of the 1965 Act as substituted by paragraph 5—

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

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

(2) For section 5A (relevant valuation date) of the 1961 Act, after “if” substitute—

- “(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) of the 1965 Act;
- (b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 10 of Schedule 9 to the Eggborough CCGT (Generating Station) Order [x]) 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 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,

(a) 1973 c.26

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

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

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land).

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

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

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 (interests omitted from purchase) of the 1965 Act is modified so 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, 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. 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 of the 1981 Act as applied by article 25 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) in respect of the land to which the notice to treat relates.

2. In this Schedule, “house” 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 twenty-eight 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 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.

(2) If the acquiring authority withdraws 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.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 10

Article 26

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

Table 11

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the Authorised project</i>
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<i>(1)</i> <i>Number of plot shown on the land plans</i>	<i>(2)</i> <i>Purpose for which temporary possession may be taken</i>
<u>235, 330, 340, 345</u>	<u>Temporary use required to facilitate construction of Work No. 4</u>
<u>370, 375, 425, 430, 495, 505, 535, 550, 580, 585, 590, 620, 625, 630, 635, 655, 660, 685, 690</u>	<u>Temporary use as laydown, construction compound and construction use required to facilitate construction of Work No. 6</u>
<u>385, 390, 410, 415, 435, 440, 640, 645, 650</u>	<u>Temporary use as laydown, construction compound, construction use and accesses required to facilitate construction of Work No.6</u>
<u>665, 670, 675, 680</u>	<u>Temporary use as laydown, construction compound and construction use required to facilitate construction of Work Nos. 4 and 6</u>
<u>450, 455, 460, 465, 470, 480, 560, 565</u>	<u>Temporary use to facilitate construction access to Work No. 6</u>
<u>615</u>	<u>Temporary use as laydown, construction compound and construction use required to facilitate construction of Work No. 7</u>

PROCEDURE FOR DISCHARGE OF REQUIREMENTSApplications made under requirements

1.—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement the relevant planning authority must give notice to the undertaker of their decision on the application within a period of nine 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 in writing by the undertaker and the relevant planning authority.

(2) Subject to sub-paragraph (3), in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

- (a) an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement included in this Order;
- (b) the relevant planning authority does not determine such application within the period set out in sub-paragraph (1); and
- (c) such application is accompanied by a report that considers it likely that the subject matter of such application will give rise to any materially new or materially different environmental effects in comparison to the authorised development as approved,

then the application is to be taken to have been refused by the relevant planning authority at the end of that period.

Further information and consultation

2.—(1) In relation to any application to which this Schedule applies, the relevant planning authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the relevant planning authority considers such further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required the relevant planning authority must, within fourteen business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant planning authority must issue the consultation to the requirement consultee within five business days of receipt of the application, and must notify the undertaker in writing specifying any further information requested by the requirement consultee within five business days of receipt of such a request and in any event within twenty-one days of receipt of the application.

(4) In the event that the relevant planning authority does not give notification as specified in sub-paragraph (2) or (3) it is to be deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

Fees

3.—(1) Where an application is made to the relevant planning authority for written consent, agreement or approval in respect of a requirement, the fee contained in regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012(a) (as may be amended or replaced from time to time) is to apply and must be paid to that authority for each application.

(2) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of—

- (a) the application being rejected as invalidly made; or
- (b) the relevant planning authority failing to determine the application within eight weeks from the date on which it is received unless—
 - (i) within that period the undertaker agrees, in writing, that the fee is to be retained by the relevant planning authority and credited in respect of a future application; or
 - (ii) a longer period of time for determining the application has been agreed pursuant to sub-paragraph 1(1)(c) of this Schedule.

Appeals

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

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions;
- (b) the relevant planning authority is deemed to have refused an application pursuant to paragraph 1(3);
- (c) on receipt of a request for further information pursuant to paragraph 2 the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the relevant planning 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 is to be as follows—

- (a) The undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and the requirement consultee;
- (b) The Secretary of State is to appoint a person within twenty business days of receiving the appeal documentation and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for his attention should be sent, the date of such notification being the “start date” for the purposes of this sub-paragraph (2);
- (c) The relevant planning authority and the requirement consultee must submit written representations to the appointed person in respect of the appeal within ten business days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) The appeal parties must make any counter-submissions to the appointed person within ten business days of receipt of written representations pursuant to sub-paragraph (c) above; and

(a) S.I.2012/2920 as amended by S.I.2013/2153 and S.I.2014/357 and S/I.2014/2026.

- (e) The appointed person must make his decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within thirty business days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (d).

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

(3) In the event that the appointed person considers that further information is necessary to enable him to consider the appeal he must, within five business days of his appointment, notify the appeal parties in writing specifying the further information required.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the undertaker to the appointed person, the relevant planning authority and the requirement consultee on the date specified by the appointed person (the “specified date”), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within ten business days of the specified date but otherwise is to be in accordance with the process and time limits set out in sub-paragraph (2)(c)-(2)(e).

(5) 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 relevant planning 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.

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

(7) 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.

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

(9) If an approval is given by the appointed person pursuant to this Schedule, it is to be deemed to be an approval for the purpose of Schedule 2 (Requirements) as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person’s determination.

(10) The appointed person may or may not be a member of the Planning Inspectorate but must be a qualified town planner of at least ten years experience.

(11) Save where a direction is given pursuant to sub-paragraph (12) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(12) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to Communities and Local Government Circular 03/2009 or any circular or guidance which may from time to time replace it.

Interpretation of Schedule 11

5. In this Schedule 11—

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

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

[\(a\) 1971 c.80](#)

PROTECTIVE PROVISIONSPART 1FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

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

2. In this part of this Schedule—

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

“apparatus” means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that utility undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;

(c) in the case of a water undertaker—

(i) mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and

(ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991;

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(b); and

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act.

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

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

“utility undertaker” means—

(a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(c);

(c) water undertaker within the meaning of the Water Industry Act 1991; and

(a) 1989 c.29.

(b) 1991 c.56.

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

(d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991, for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

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

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 11 (temporary stopping up of streets and public rights of way), a utility undertaker is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

5. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 41 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker

without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

7.—(1) Where, in accordance with the provisions of this part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

8.—(1) Not less than twenty-eight days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

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

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

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

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

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

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

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

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

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 41 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

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

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 6(2); and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), 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 undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 6(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker.

by reason or in consequence of any such damage or interruption.

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

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

11. Nothing in this part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaking in respect of any

apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

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

(2) In this part of this Schedule—

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

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

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

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

“electronic communications code network” means—

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

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

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

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

13. The exercise of the powers of article 28 (statutory undertakers) is subject to paragraph 23 of Schedule 2 to the Telecommunications Act 1984(d)(undertaker’s works).

14.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

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

(a) 2003 c.21.

(b) Paragraph 1(3A) was inserted by section 106(2) of, and paragraphs 1 and 4 of Schedule 3 to, the Communications Act 2003.

(c) See section 106.

(d) 1984 c.12. Paragraph 23 was amended by section 190 of, and paragraph 68 of Schedule 25 and part 1 of Schedule 27 to, the Water Act 1989 (c.15), section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and section 106(2) of, and paragraphs 1, 5(d) and 8 of Schedule 3 to, the Communications Act 2003.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this part of this Schedule must be referred to and settled by arbitration under article 41 (arbitration).

15. This part of this Schedule does not apply to—

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

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

DEEMED MARINE LICENCE UNDER PART 4 (MARINE LICENSING) OF THE MARINE AND COASTAL ACCESS ACT 2009

PART 1

INTRODUCTION

1.—(1) In this licence—

“the 2008 Act” means the Planning Act 2008;

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“authorised development” means the development described in Part 1 of Schedule 1 and any other development authorised by the Order that is development within the meaning of section 32 of the 2008 Act;

“authorised project” means the authorised development;

“the English inshore region” has the same meaning as that given in section 322 (interpretation) of the 2009 Act;

“licence holder” means the undertaker and any agent, contractor or sub-contractor acting on its behalf;

“licensable marine activities” means any activity licensable under section 66 of the 2009 Act;

“licensed activity” means any activity described in Part 2 of this licence;

“mean high water spring tide” means the highest level which spring tides reach on average over a period of time;

“MMO” means the Marine Management Organisation;

“Order” means The Eggborough CCGT (Generating Station) Order [x];

“undertaker” means Eggborough Power Limited (registered company number 03782700);

“Work No 4” means cooling water connection works, comprising works to the existing cooling water supply and discharge pipelines and intake and outfall structures, including, as necessary, new, upgraded or replacement pipelines, plant, buildings, enclosures and structures, and underground electrical supply cables, transformers and control systems cables; and

“Work No 6” means gas supply pipeline connection works for the transport of natural gas to Work No. 1, comprising an underground high pressure steel pipeline of up to 1,000 millimetres (nominal bore) in diameter and approximately 4.6 kilometres in length, including cathodic protection posts, marker posts and underground electrical supply cables, transformers and control systems cables running from within the Eggborough Power Station site, north under the River Aire to a connection point with the National Transmission System for gas No. 29 Feeder pipeline west of Burn Village.

Addresses

2.—(1) Unless otherwise advised in writing by the MMO, the address for postal correspondence with the MMO for the purposes of this Schedule is the Marine Management Organisation, [xxx], telephone [xxx], and where contact to the local MMO office is required, the following contact details should be used: [xxx], email [xxx]@marinemangement.org.uk.

(2) Unless otherwise advised in writing by the MMO, the address for electronic communication with the MMO for the purposes of this licence is marine.consent@marinemangement.org.uk.

PART 2

LICENSED ACTIVITIES

3.—(1) Subject to the licence conditions in Part 3 of this licence, this licence authorises the licence holder to carry out any licensable marine activities under section 66(1) of the 2009 Act which—

- (a) form part of, or are related to, the authorised project; and
- (b) are not exempt from requiring a marine licence by virtue of any provision made under section 74 of the 2009 Act.

(2) Such activities are authorised in relation to the construction maintenance and operation of—

- (a) **Work No. 4** — works including the installation and removal of a cofferdam and works to the existing cooling water discharge structure, including, as necessary, upgraded or replacement pipelines and structures; and
- (b) **Work No. 6** — an underground high pressure steel pipeline of up to 1,000 millimetres (nominal bore) in diameter beneath the River Aire to be constructed using tunnelling and/or boring techniques.

(3) The activities set out in sub-paragraph (2) are authorised in relation to the construction and operation of those elements of Work No. 4 and Work No.6 of Schedule 1 (authorised development) of this Order, and any further associated development listed in items (a) to (m) in Schedule 1 in connection with those Work Nos., which fall within the English inshore region.

(4) The undertaker (and any agent, contractor or subcontractor acting on its behalf) may engage in the licensed activities in—

- (a) the area bounded by the coordinates set out in this sub-paragraph; and
- (b) any area within the Order limits (as defined in article 2 (interpretation) of this Order) which falls outwith the area bounded by the coordinates set out in this sub-paragraph but which falls below mean high water spring tide when the licensed activities are carried out.

Table 12

<i>Work No.</i>	<i>Easting</i>	<i>Northing</i>	<i>Latitude</i>	<i>Longitude</i>
<u>4</u>	<u>458513.38</u>	<u>425136.17</u>	<u>-1.113203</u>	<u>53.719127</u>
	<u>458509.03</u>	<u>425127.77</u>	<u>-1.113271</u>	<u>53.719052</u>
	<u>458443.74</u>	<u>425169.39</u>	<u>-1.114252</u>	<u>53.719433</u>
	<u>458434.48</u>	<u>425152.58</u>	<u>-1.114396</u>	<u>53.719283</u>
<u>6</u>	<u>458439.06</u>	<u>425192.00</u>	<u>-1.114319</u>	<u>53.719637</u>
	<u>458421.27</u>	<u>425161.90</u>	<u>-1.114594</u>	<u>53.719369</u>
	<u>458362.35</u>	<u>425257.96</u>	<u>-1.115469</u>	<u>53.720239</u>
	<u>458335.67</u>	<u>425213.12</u>	<u>-1.115882</u>	<u>53.719839</u>

PART 3

CONDITIONS

4. The licence holder must inform the MMO in writing of the intended start date and the likely duration of licensed activities on a site at least ten working days prior to the commencement of the first licensed activity on that site.

5. Should the licence holder become aware that any of the information on which the granting of this deemed marine licence was based has changed or is likely to change, the licence holder must notify the MMO at the earliest opportunity.

6. The licence holder must ensure that any coatings and treatments used are approved by the Health and Safety Executive as suitable for use in the marine environment and are used in accordance with Environment Agency Pollution Prevention Control Guidelines.

7. The licence holder must ensure that any equipment, temporary structures, waste and debris associated with the works are removed within 6 weeks of completion of the licensed activity.

8. The licence holder must ensure that the MMO local Marine Office is notified of the completion of works and operations within ten days following the completion of the works.

9. The licence holder must notify the MMO in writing of any agents, contractors or subcontractors that will carry on any licensed activity listed in this licence on behalf of the licence holder. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity. The licence holder must ensure that a copy of this licence and any subsequent revisions or amendments has been provided to, read and understood by any agents, contractors or sub-contractors that will carry on the licensed activity on behalf of the licence holder.

DESIGN PARAMETERSPART 1SINGLE SHAFT PARAMETERS

1. The maximum parameters for the buildings and structures for the single shaft layout are set out at table 13.

2. The maximum parameters and grid reference location of the combined cycle gas turbine stacks are set out in table 14.

3. The finished ground level in respect of Work No. 1 is between 7.9 metres AOD and 9.9 metres AOD.

Table 13

<u>(1)</u> <u>Component</u>	<u>(2)</u> <u>Maximum</u> <u>length (m)</u>	<u>(3)</u> <u>Maximum</u> <u>width (m)</u>	<u>(4)</u> <u>Maximum</u> <u>height (m)</u>	<u>(5)</u> <u>Maximum</u> <u>diameter (m)</u>
<u>Gas turbine</u> <u>hall building</u>	<u>76</u>	<u>76</u>	<u>30</u>	<u>=</u>
<u>Heat recovery</u> <u>steam</u> <u>generator</u>	<u>63</u>	<u>28</u>	<u>50</u>	<u>=</u>
<u>Electrical</u> <u>building near</u> <u>heat recovery</u> <u>steam</u> <u>generator</u>	<u>30</u>	<u>27</u>	<u>10</u>	<u>=</u>
<u>Combine</u> <u>cycle gas</u> <u>turbine air</u> <u>intake filters</u> <u>(each)</u>	<u>24</u>	<u>16</u>	<u>30</u>	<u>=</u>
<u>Electrical</u> <u>building near</u> <u>air intake</u> <u>filter</u>	<u>39</u>	<u>16</u>	<u>10</u>	<u>=</u>
<u>Generator</u> <u>transformer</u>	<u>30</u>	<u>24</u>	<u>15</u>	<u>=</u>
<u>Feed water</u> <u>pump</u> <u>building</u>	<u>64</u>	<u>23</u>	<u>20</u>	<u>=</u>
<u>Demineralise</u> <u>d water</u> <u>treatment</u> <u>plant, fire</u> <u>pumps and</u> <u>laboratory</u>	<u>57</u>	<u>33</u>	<u>20</u>	<u>=</u>
<u>Demineralise</u> <u>d water</u>	<u>=</u>	<u>=</u>	<u>20</u>	<u>25</u>

<u>storage tank</u>				
<u>Gas reception facility</u>	<u>65</u>	<u>52</u>	<u>5</u>	<u>=</u>
<u>Gas compressors</u>	<u>50</u>	<u>20</u>	<u>10</u>	<u>=</u>
<u>Auxiliary boiler</u>	<u>30</u>	<u>15</u>	<u>20</u>	<u>=</u>
<u>Auxiliary boiler stacks (each)</u>	<u>=</u>	<u>=</u>	<u>25</u>	<u>1.5</u>
<u>Combined cycle gas turbine standby diesel generators</u>	<u>19</u>	<u>9</u>	<u>8</u>	<u>=</u>
<u>Continuous emissions monitoring system</u>	<u>10</u>	<u>3</u>	<u>3</u>	<u>=</u>
<u>container</u>				
<u>Cooling towers (each)</u>	<u>240</u>	<u>27</u>	<u>25</u>	<u>=</u>
<u>Cooling water electrical module</u>	<u>15</u>	<u>6</u>	<u>10</u>	<u>=</u>
<u>Cooling water pumps</u>	<u>30</u>	<u>15</u>	<u>8</u>	<u>=</u>
<u>Cooling water sampling and dosing plant</u>	<u>19</u>	<u>11</u>	<u>8</u>	<u>=</u>
<u>Peaking plant building</u>	<u>103</u>	<u>65</u>	<u>30</u>	<u>=</u>
<u>Peaking plant stack(s) (each) (open cycle gas turbine)</u>	<u>=</u>	<u>=</u>	<u>45</u>	<u>8</u>
<u>Peaking plant stack(s) (each) (gas engine)</u>	<u>=</u>	<u>=</u>	<u>28</u>	<u>1.3</u>
<u>Black start facility</u>	<u>55</u>	<u>43</u>	<u>30</u>	<u>=</u>
<u>Black start facility stack(s) (each) (open cycle gas turbine)</u>	<u>=</u>	<u>=</u>	<u>45</u>	<u>2.5</u>
<u>Black start facility stack(s) (each) (gas engine)</u>	<u>=</u>	<u>=</u>	<u>25</u>	<u>1.3</u>
<u>Diesel tank for black start</u>	<u>=</u>	<u>=</u>	<u>12</u>	<u>4</u>

<u>diesel generator</u>				
<u>Electrical control room and administration building</u>	<u>85</u>	<u>24</u>	<u>20</u>	<u>=</u>
<u>Electrical sub-station</u>	<u>40</u>	<u>17</u>	<u>15</u>	<u>=</u>
<u>Workshop and stores</u>	<u>51</u>	<u>20</u>	<u>12</u>	<u>=</u>
<u>Raw and fire water tank</u>	<u>=</u>	<u>=</u>	<u>20</u>	<u>25</u>
<u>Gas bottle stores (each)</u>	<u>17</u>	<u>5</u>	<u>3</u>	<u>=</u>
<u>Closed-circuit cooling water coolers</u>	<u>15</u>	<u>10</u>	<u>10</u>	<u>=</u>
<u>Waste water treatment plant</u>	<u>55</u>	<u>28</u>	<u>20</u>	<u>=</u>
<u>Firewater and stormwater retention basins</u>	<u>110</u>	<u>50</u>	<u>0</u>	<u>=</u>
<u>Gatehouse</u>	<u>12</u>	<u>12</u>	<u>5</u>	<u>=</u>

Table 14

<u>(1)</u> <u>Component</u>	<u>(2)</u> <u>Grid reference of centre point of each stack</u>	<u>(3)</u> <u>Maximum diameter of each stack (m)</u>	<u>(4)</u> <u>Top of each stack in mAOD</u>
<u>Combined cycle gas turbine stack</u>	<u>First stack— 457600 423933</u>	<u>9.6</u>	<u>99.9</u>
	<u>Second Stack— 457593 423944</u>		
	<u>Third Stack— 457587 423933</u>		

PART 2

MULTI-SHAFT PARAMETERS

1. The maximum parameters for the buildings and structures for the multi shaft layout are set out at table 15.

2. The maximum parameters and grid reference location of the combined cycle gas turbine stacks are set out in table 16.

3. The finished ground level in respect of Work No. 1 is between 7.9 metres AOD and 9.9 metres AOD.

Table 15

<u>(1)</u> <u>Component</u>	<u>(2)</u> <u>Maximum</u> <u>length (m)</u>	<u>(3)</u> <u>Maximum</u> <u>width (m)</u>	<u>(4)</u> <u>Maximum</u> <u>height (m)</u>	<u>(5)</u> <u>Maximum</u> <u>diameter (m)</u>
<u>Gas turbine</u> <u>hall building</u>	<u>76</u>	<u>76</u>	<u>30</u>	<u>=</u>
<u>Steam turbine</u> <u>hall building</u>	<u>64</u>	<u>54</u>	<u>30</u>	<u>=</u>
<u>Heat recovery</u> <u>steam</u> <u>generator</u>	<u>133</u>	<u>48</u>	<u>30</u>	<u>=</u>
<u>Electrical</u> <u>building near</u> <u>heat recovery</u> <u>steam</u> <u>generator</u>	<u>30</u>	<u>27</u>	<u>10</u>	<u>=</u>
<u>Combine</u> <u>cycle gas</u> <u>turbine air</u> <u>intake filters</u> <u>(each)</u>	<u>24</u>	<u>16</u>	<u>30</u>	<u>=</u>
<u>Electrical</u> <u>building near</u> <u>air intake</u> <u>filter</u>	<u>24</u>	<u>16</u>	<u>10</u>	<u>=</u>
<u>Generator</u> <u>transformer</u>	<u>21</u>	<u>20</u>	<u>15</u>	<u>=</u>
<u>Feed water</u> <u>pump</u> <u>building</u>	<u>54</u>	<u>26</u>	<u>20</u>	<u>=</u>
<u>Demineralise</u> <u>d water</u> <u>treatment</u> <u>plant, fire</u> <u>pumps and</u> <u>laboratory</u>	<u>57</u>	<u>33</u>	<u>20</u>	<u>=</u>
<u>Demineralise</u> <u>d water</u> <u>storage tank</u>	<u>=</u>	<u>=</u>	<u>20</u>	<u>25</u>
<u>Gas reception</u> <u>facility</u>	<u>65</u>	<u>52</u>	<u>5</u>	<u>=</u>
<u>Gas</u> <u>compressors</u>	<u>50</u>	<u>20</u>	<u>10</u>	<u>=</u>
<u>Auxiliary</u> <u>boiler</u>	<u>30</u>	<u>15</u>	<u>20</u>	<u>=</u>
<u>Auxiliary</u> <u>boiler stacks</u> <u>(each)</u>	<u>=</u>	<u>=</u>	<u>25</u>	<u>1.5</u>
<u>Combined</u> <u>cycle gas</u> <u>turbine</u> <u>standby diesel</u>	<u>19</u>	<u>9</u>	<u>8</u>	<u>=</u>

<u>generators</u>				
<u>Continuous emissions monitoring system container</u>	<u>10</u>	<u>3</u>	<u>3</u>	<u>=</u>
<u>Cooling towers (each)</u>	<u>240</u>	<u>27</u>	<u>30</u>	<u>=</u>
<u>Cooling water electrical module</u>	<u>15</u>	<u>6</u>	<u>10</u>	<u>=</u>
<u>Cooling water pumps</u>	<u>30</u>	<u>15</u>	<u>8</u>	<u>=</u>
<u>Cooling water sampling and dosing plant</u>	<u>19</u>	<u>11</u>	<u>8</u>	<u>=</u>
<u>Peaking plant building</u>	<u>103</u>	<u>65</u>	<u>30</u>	<u>=</u>
<u>Peaking plant stack(s) (each) (open cycle gas turbine)</u>	<u>=</u>	<u>=</u>	<u>45</u>	<u>8</u>
<u>Peaking plant stack(s) (each) (gas engine)</u>	<u>=</u>	<u>=</u>	<u>28</u>	<u>1.3</u>
<u>Black start facility</u>	<u>55</u>	<u>43</u>	<u>30</u>	<u>=</u>
<u>Black start facility stack(s) (each) (open cycle gas turbine)</u>	<u>=</u>	<u>=</u>	<u>45</u>	<u>2.5</u>
<u>Black start facility stack(s) (each) (gas engine)</u>	<u>=</u>	<u>=</u>	<u>25</u>	<u>1.3</u>
<u>Diesel tank for black start diesel generator</u>	<u>=</u>	<u>=</u>	<u>12</u>	<u>4</u>
<u>Electrical control room and administration building</u>	<u>85</u>	<u>24</u>	<u>20</u>	<u>=</u>
<u>Electrical sub-station</u>	<u>35</u>	<u>15</u>	<u>15</u>	<u>=</u>
<u>Workshop and stores</u>	<u>51</u>	<u>20</u>	<u>12</u>	<u>=</u>
<u>Raw and fire water tank</u>	<u>=</u>	<u>=</u>	<u>20</u>	<u>25</u>
<u>Gas bottle</u>	<u>17</u>	<u>5</u>	<u>3</u>	<u>=</u>

stores (each)				
<u>Closed-circuit cooling water coolers</u>	<u>15</u>	<u>10</u>	<u>10</u>	=
<u>Waste water treatment plant</u>	<u>55</u>	<u>28</u>	<u>20</u>	=
<u>Firewater and stormwater retention basins</u>	<u>110</u>	<u>50</u>	<u>0</u>	=
<u>Gatehouse</u>	<u>12</u>	<u>12</u>	<u>5</u>	=

Table 16

<u>(1)</u> <u>Component</u>	<u>(2)</u> <u>Grid reference of centre point of each stack</u>	<u>(3)</u> <u>Maximum diameter of each stack (m)</u>	<u>(4)</u> <u>Top of each stack in mAOD</u>
<u>Combined cycle gas turbine stack</u>	<u>First stack—</u> <u>457600 423933</u>	<u>9.6</u>	<u>99.9</u>
	<u>Second Stack—</u> <u>457593</u> <u>423944</u>		
	<u>Third Stack—</u> <u>457587</u> <u>423933</u>		

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Eggborough Power Limited (referred to in this Order as the undertaker) to construct, operate and maintain a gas fired electricity generating station. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

This Order also grants a deemed marine licence under Part 4 of the Marine and Coastal Access Act 2009.

A copy of the Order plans and the book of reference mentioned in this Order and certified in accordance with article 38 of this Order (certification of plans, etc.) may be inspected free of charge during working hours at [●].

201* No.

INFRASTRUCTURE PLANNING

The Eggborough CCGT (Generating Station) Order

Pinsent Masons LLP

1 Park Row

Leeds

LS1 5AB

[1201[x]

Schedule H

Deemed Consent Under Coast Protection Act 1949

[Insert details of deemed consent]

Schedule I
Deemed Licence Under the Food and Environment Protection Act 1985

[Insert details of deemed licence]

Schedule J
Trees Subject to Tree Preservation Orders

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Type of tree</i>	<i>Number[reference] of tree shown on land plan</i>	<i>Work to be carried out</i>

NOTES

Initial Commencement

Specified date

Specified date: 1 October 2009: see art 1.