A160/A180 Port of Immingham Improvements Major Scheme

Evidence Pack for the Employment Allocations Examination
22 January 2015
The A160/A180 (Port of Immingham Improvement) Development Consent Order 20[ ]

Made - - - - 20[ ]
Coming into force - - 20[ ]

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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) for an Order under sections 22, 37, 115, 120 and 122 of the Planning Act 2008(b).

[The application was examined by a [single appointed person] [Panel] (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c).]

[The [single appointed person] [Panel], having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report to the Secretary of State.]

[The Secretary of State, having considered the representations made and not withdrawn, and the report of the [single appointed person] [Panel], has decided to make an Order granting development consent for the development described in the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

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120 and 122 of, and paragraphs 1 to 3, 10 to 15, 17, 19 to 22, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

**PART 1**

**PRELIMINARY**

**Citation and commencement**

1. This Order may be cited as the A160/A180 (Port of Immingham Improvement) Development Consent Order 201[ ] and comes into force on [     ] 201[ ].

**Interpretation**

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(d);

"the 1965 Act" means the Compulsory Purchase Act 1965(e);

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(a) S.I. 2009/2264.
(b) 2008 c.29.
(c) S.I. 2010/103.
(d) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c.65). There are other amendments to the 1980 Act which are not relevant to this Order.
(e) 1965 c.56. Sections 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39). Section 31 was also amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39). Section 31 was also amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39).
“the 1980 Act” means the Highways Act 1980(a);
“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(b);
“the 1984 Act” means the Road Traffic Regulation Act 1984(c);
“the 1990 Act” means the Town and Country Planning Act 1990(d);
“the 1991 Act” means the New Roads and Street Works Act 1991(e);
“the 2008 Act” means the Planning Act 2008(f);
“address” includes any number or address for the purposes of electronic transmission;
“apparatus” has the same meaning as in Part 3 of the 1991 Act;
“authorised development” means the development and associated development described in Schedule 1 (authorised development) or any part of them and any other development authorised by this Order or part thereof, which is development within the meaning of section 32 of the 2008 Act;
“the book of reference” means the book of reference certified by the Secretary of State as the book of reference 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 and includes part of a carriageway;
“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;
“cycle track” has the same meaning as in the 1980 Act as if the words “or without” were omitted and includes part of a cycle track;
“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 engineering drawings and sections” means the documents certified as the engineering drawings and sections by the Secretary of State for the purposes of this Order;

(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), (3) and (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 by, 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), by section 6(1) (2) and (3) of the Transport and Works Act 1992 (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.77); 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 6 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) 1984 c.27.
(d) 1990 c.8. Section 206(1) was amended by section 192(8) to, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c.29) (date in force to be appointed see section 241(3), (4)(a),(c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
(e) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
(f) 2008 c.29.
“environmental statement” means the document submitted alongside the application for this Order and certified as the environmental statement by the Secretary of State for the purposes of this Order;
“footway” and “footpath” have the same meaning as in the 1980 Act and includes part of a footway or footpath;
“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act and “highway” includes part of a highway;
“the land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;
“limits of deviation” means the limits of deviation referred to in article 5;
“maintain” and any of its derivatives include inspect, repair, adjust, alter, remove or reconstruct in relation to the authorised development and any derivative of “maintain” shall be construed accordingly;
“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;
“the Order limits” means the limits of deviation shown on the works plans within which the authorised development may be carried out;
“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(a);
“relevant planning authority” means in any given provision of this Order, the planning authority for the area to which the provision relates being either North Lincolnshire Council or North East Lincolnshire Council;
“rights of way and access plans” means the plans certified as the rights of way and access plans by the Secretary of State for the purposes of this Order;
“Secretary of State” means the Secretary of State for Transport;
“statutory undertaker” means any statutory undertaker for the purposes of 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;
“the tribunal” means the Lands Chamber of the Upper Tribunal;
“traffic regulation plans” means the plans certified as the traffic regulation plans by the Secretary of State for the purposes of this Order;
“trunk road” means a highway which is a trunk road by virtue of—
(c) section 10 or 19(1) of the 1980 Act;
(d) an order or direction under section 10 of that Act; or
(e) an order granting development consent; or
(f) any other enactment;
“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 plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land

(a) 1981 c. 67.
which interfere with the 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 land.

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

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

(5) References in this Order to points identified by letters or numbers shall be construed as references to points so lettered or numbered on the rights of way and access plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1.

PART 2
PRINCIPAL POWERS

Development consent etc. granted by the Order

3. Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the Secretary of State is granted development consent for the authorised development to be carried out within the Order limits.

Maintenance of authorised development

4. The Secretary of State may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order, provides otherwise.

Limits of deviation

5.—(1) Subject to article 5(2), in carrying out linear works the Secretary of State may—

(a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and

(b) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections, provided that deviation is within the scope of the environmental impact assessment, to a maximum of 0.5 metres upwards or downwards; and

(b)(c) in relation to Work 28, deviate vertically from the levels of the authorised development shown on the engineering drawings and sections to a maximum of 0.15 metres upwards or downwards.

(2) The authorised development must be carried out in accordance with the engineering drawings and sections subject to such non-material amendments as are approved in writing by the relevant planning authority, provided that such approval is not given except where it has been demonstrated to the satisfaction of the relevant planning authority that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Benefit of Order

6.—(1) Subject to article 7 (consent to transfer benefit of Order) and paragraph (2), the provisions of this Order conferring powers on the Secretary of State have effect solely for the benefit of the Secretary of State.
(2) Paragraph (1) does not apply to the specified works for which the consent is granted by this Order for the express benefit of the following owners and occupiers of land, statutory undertakers and other persons affected by the authorised development:

(a) Northern Powergrid in relation to work numbers 9 and 11;
(b) Anglian Water Services Limited in relation to work numbers 10 and 12;
(c) Vitol Power Immingham in relation to work number 14;
(d) National Grid Gas Limited in relation to work numbers 15 and 16;
(e) E.ON UK Gas Limited in relation to work number 17;
(f) Smart Wind Limited in relation to work number 18; and
(g) Air Products (BR) Limited in relation to work number 30.

Consent to transfer benefit of Order

7.—(1) Subject to section 144 of the 2008 Act, the Secretary of State may—

(a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the Secretary of State and the transferee; or

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

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the Secretary of State, except in paragraph (3), includes references to the transferee or the lessee.

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

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to—

(a) Northern Powergrid for the purposes of undertaking works numbered 9 and 11;
(b) Anglian Water Services Limited for the purposes of undertaking works numbered 10 and 12;
(c) Vitol Power Immingham for the purposes of undertaking work number 14;
(d) National Grid PLC for the purposes of undertaking works numbered 15 and 16;
(e) E.ON UK Gas Limited for the purposes of undertaking work number 1;
(f) Smart Wind Ltd for the purposes of undertaking work number 18;
(g) Air Products (BR) Limited for the purposes of undertaking work number 30.

Application and modification of legislative provisions

8. Nothing in the following legislative provisions including any requirements for consent shall apply to the authorised development:

(a) Humber Commercial Railway and Dock Act 1904(a); and
(b) Barton and Immingham Light Railway Order 1907(b).

(a) 1904 c. lxxxv.
(b) 1907 [         ].
PART 3
STREETS

Application of the 1991 Act

9.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major highway works if—

(a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or

(b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts) or section 184 of that Act (vehicle crossings over footways and verges).

(2) In Part 3 of the 1991 Act references, to the highway authority concerned shall, in relation to works which are major highway works by virtue of paragraph (1), be construed as references to the Secretary of State.

(3) The following provisions of the 1991 Act shall not apply in relation to any works executed under the powers of this Order—

section 56 (directions as to timing);
section 56A (power to give directions as to placing of apparatus);
section 58 (restrictions following substantial road works);
section 58A (restriction on works following substantial street works);
section 73A (power to require undertaker to re-surface street);
section 73B (power to specify timing etc. of re-surfacing);
section 73C (materials, workmanship and standard of re-surfacing);
section 78A (contributions to costs of re-surfacing by undertaker); and
Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the promoter under the powers conferred by article 13 (temporary stopping up and restriction of use of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act referred to in paragraph (4) are—

section 54 (advance notice of certain works), subject to paragraph (6);
section 55 (notice of starting date of works), subject to paragraph (6);
section 57 (notice of emergency works);
section 59 (general duty of street authority to co-ordinate works);
section 60 (general duty of undertakers to co-operate);
section 68 (facilities to be afforded to street authority);
section 69 (works likely to affect other apparatus in the street);
section 75 (inspection fees);
section 76 (liability for cost of temporary traffic regulation); and
section 77 (liability for cost of use of alternative route),
and all such other provisions as apply for the purposes of the provisions mentioned above.
(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) shall have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 10 (construction and maintenance of new, altered or diverted streets) shall—

(a) affect the operation of section 87 of the 1991 Act (prospectively maintainable highways), and the Secretary of State shall not by reason of any duty under that article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or

(b) have effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

Construction and maintenance of new, altered or diverted streets

10.—(1) Any street (other than a trunk road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the street lies and, unless otherwise agreed with the local highway authority, must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a street (other than a trunk road) is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed with the street authority, be maintained by and at the expense of the street authority from the date of its completion.

(3) Where a highway is de-trunked under this Order—

(a) section 265 of the 1980 Act applies in respect of that road; and

(b) any alterations to that highway undertaken under this Order prior to and in connection with that de-trunking must, unless otherwise agreed with the local highway authority, be maintained by and at the expense of the local highway authority from the date of de-trunking.

(4) In the case of a bridge constructed under this Order to carry a public right of way, the highway surface (being those elements over the waterproofing membrane) shall be maintained by and at the expense of the local highway authority and the remainder of the bridge, including the waterproofing membrane and structure below, shall be maintained by and at the expense of the Secretary of State.

(5) In the case of a bridge constructed under Work No. 29, the entire bridge, including the railway surface and structure shall be maintained by and at the expense of Network Rail.

(6) In any action against the Secretary of State 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 Secretary of State 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.

(7) For the purposes of a defence under paragraph (6), the court shall in particular have regard to the following matters—

(a) the character of the street and 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;

(c) the state of repair in which a reasonable person would have expected to find the street;

(d) whether the Secretary of State 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;

(e) where the Secretary of State 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 to prove that the Secretary of State had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the Secretary of State had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Classification of roads, etc.

11.—(1) On the date on which the authorised development is completed and open for traffic—

(a) the roads described in Part 1 of Schedule 3 (classification of roads, etc.) will become trunk roads as if they had become so by virtue of an order under section 10(2) of the 1980 Act specifying that date as the date on which they were to become trunk roads;

(b) the roads described in columns (1) and (2) of Part 2 of Schedule 3 (classification of roads, etc.) shall cease to have the classification specified in column (3) of that Part and will take the classification specified in column (4) of that Part; and

(c) the roads given a classification in column (4) of Part 2 of Schedule 3 (classification of roads, etc.) will be classified roads for the purpose of any enactment or instrument which refers to highways classified as classified roads, as if such classification had been made under section 12(3) of the 1980 Act.

(2) On such day as the Secretary of State may determine, the roads described in Part 3 of Schedule 3 (classification of roads, etc.) will—

(a) cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads; and

(b) be classified as specified in column (4) of that Part as if such classification had been made under section 12(3) of the Highways Act 1980.

(3) On the date they are open for traffic, no person is to drive any motor vehicle at a speed exceeding the speed limits specified in Parts 4, 5 and 6 of Schedule 3 (classification of roads, etc.) for the lengths of road identified in those Parts.

(4) On the date they are open for traffic, no person is to drive any motor vehicle at a weight exceeding the weight limits specified in Part 7 of Schedule 3 (classification of roads, etc.) for the lengths of road identified in that Part except where required for access to a property located along such lengths of road.

(5) On such a day as the Secretary of State may determine, the restrictions specified in Part 8 of Schedule 3 (classification of roads, etc.) shall apply for the length of road identified in that Part.

(6) On the date they are open for traffic, the restrictions specified in Parts 8, 9 and 10 of Schedule 3 (classification of roads, etc.) shall apply for the lengths of road identified in that Part.

(7) Unless otherwise agreed with the relevant planning authority the cycle tracks and footways set out in Part 11 of Schedule 3 (classification of roads, etc.) and identified on the rights of way and access plans shall be constructed by the Secretary of State in the specified locations and open for use on the date on which the authorised development is open for traffic.

(8) Unless otherwise agreed with the relevant land owner the private accesses set out in Part 12 of Schedule 3 (classification of roads, etc.) and identified on the rights of way and access plans shall be constructed by the Secretary of State in the specified locations and open for use on the date on which the authorised development is open for traffic.

(9) Unless otherwise agreed with the relevant landowner the public right of way set out in Part 13 of Schedule 3 (classification of roads, etc.) and identified on the rights of way and access plans shall be created by the Secretary of State.

(10) Unless otherwise agreed with the relevant landowner the permissive right of way set out in Part 14 of Schedule 3 (classification of roads, etc.) and identified on the rights of way and access plans shall be diverted by the Secretary of State as shown on those plans during the construction of the authorised development.

Comment [kzp10]: Response to written question 11.16

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The application of paragraphs (1) to (108) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

Permanent stopping up and restriction of use of streets

12.—(1) Subject to the provisions of this article, the Secretary of State may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 4 (permanent stopping up of streets) to the extent specified and described in column (3) of that Schedule.

(2) No street specified in columns (1) and (2) of Part 1 of Schedule 4 (being a street to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

(a) the new street to be substituted (constructed) for it, which is specified in column (4) of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or

(b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the Secretary of State, 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 4 (being a street to be stopped up for which no substitute is to be provided) is to 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 Secretary of State 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 are extinguished; and

(b) the Secretary of State may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the Secretary of State.

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

(7) This article is subject to article 31 (apparatus and rights of statutory undertakers in stopped up streets).

Temporary stopping up and restriction of use of streets

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

(a) divert the traffic from the street; and

(b) subject to paragraph (2), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the Secretary of State may use any street temporarily stopped up or restricted under the powers conferred by this article and within the Order limits as a temporary working site.
(3) The Secretary of State must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The Secretary of State must not temporarily stop up, alter or divert any street for which it is not street authority without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

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

(6) If a street authority which receives an application for consent under paragraph 13(4) fails to notify the Secretary of State of its decision before the end of the period of 28 days beginning with the date on which the application was made, it shall be deemed to have granted consent.

Access to works

14. The Secretary of State may, for the purposes of the authorised development form and lay out means of access, or improve existing means of access at such locations within the Order limits as the Secretary of State reasonably requires for the purposes of the authorised development.

Clearways

15.—(1) From the date on which the roads described in Part 1 of Schedule 3 are open for traffic, save as provided in paragraph (2) below, no person shall cause or permit any vehicle to wait on any part of those roads, other than a lay-by, except upon the direction of, or with the permission of, a constable or traffic officer in uniform.

(2) Nothing in paragraph (1) above shall apply—

(a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—

(i) the removal of any obstruction to traffic;

(ii) the maintenance, improvement, reconstruction or operation of the road;

(iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any telecommunications apparatus as defined in Schedule 2 to the Telecommunications Act 1984(a); or

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

(i) for police, ambulance, fire and rescue authority or traffic officer purposes;

(ii) in the service of a local authority, safety camera partnership or Vehicle and Operator Services Agency in pursuance of statutory powers or duties;

(iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(b); or

(iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Service Act 2000(c); or

(c) in relation to a vehicle waiting when the person in control of it is—

(i) required by law to stop;

(ii) obliged to stop in order to avoid an accident; or

(iii) prevented from proceeding by circumstances outside his or her control.

(a) 1984 c.12.
(b) 1991 c.56.
(c) 2000 c.26.
(3) No person shall cause or permit any vehicle to wait on any part of the roads described in Part 1 of Schedule 3 for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

(4) Paragraphs (1), (2) and (3) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

PART 4
SUPPLEMENTAL POWERS

Discharge of water

16.—(1) The Secretary of State 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 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) Any dispute arising from the making of connections to or the use of a public sewer or drain by the Secretary of State under paragraph (1) is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(right to communicate with public sewers).

(3) The Secretary of State 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) The Secretary of State must not make any opening into any public sewer or drain except—

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

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

(5) The Secretary of State must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The Secretary of State 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) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(a).

(8) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation; and

(b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2010(a), have the same meaning as in those regulations.

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

(a) S.I. 2010/675.
Protective work to buildings

17.—(1) Subject to the following provisions of this article, the Secretary of State may at the Secretary of State’s own expense carry out such protective works to any building which may be affected by the authorised development as the Secretary of State 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
(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 day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the Secretary of State 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 Secretary of State 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 Secretary of State must, 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 40 (arbitration).

(7) The Secretary of State must 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 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 development,
the Secretary of State must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article will relieve the Secretary of State from any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance).

(10) Any compensation payable under paragraph (7) or (8) will 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 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.

Authority to survey and investigate the land

18.—(1) The Secretary of State may for the purposes of this Order enter on any land shown
within the Order limits or which may be affected by the authorised development and—
   (a) survey or investigate the land;
   (b) without limitation, make trial holes in such positions on the land as the Secretary of State thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
   (c) without limitation, carry out ecological or archaeological investigations on such land; and
   (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) No land may be entered or equipment placed or left on or removed from the land under
paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the
land.

(3) Any person entering land under this article on behalf of the Secretary of State—
   (a) must, if so required, before or after entering the land, produce written evidence of their
authority to do so; and
   (b) may take onto the land such vehicles and equipment as are necessary to carry out the
survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—
   (a) in land located within the highway boundary without the consent of the highway
authority; or
   (b) in a private street without the consent of the street authority,
but such consent shall not be unreasonably withheld.

(5) The Secretary of State 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.

(6) If either a highway authority or street authority which receives an application for consent
fails to notify the Secretary of State of its decision within 28 days of receiving the application for
consent—
   (a) under paragraph (4) (a) in the case of a highway authority; or
   (b) under paragraph (4)(b) in the case of a street authority,
that authority shall be deemed to have granted consent.
PART 5
POWERS OF ACQUISITION

Compulsory acquisition of land

19.—(1) The Secretary of State may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental to, it.

(2) This article is subject to paragraph (2) of article 22 (compulsory acquisition of rights) and paragraph (8) of article 28 (temporary use of land for carrying out the authorised development).

Compulsory acquisition of land – incorporation of the mineral code

20. Part 2 of Schedule 2 to the Acquisition of Land Act 1981(minerals) is incorporated in this Order subject to the modification that for the acquiring authority substitute the Secretary of State.

Time limit for exercise of authority to acquire land compulsorily

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

(a) no notice to treat is to be served under Part 1 of the 1965 Act; and

(b) no declaration is to be executed under section 4 of the 1981 Act as applied by article 24 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 28 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the Secretary of State 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

22.—(1) Subject to paragraph (2), the Secretary of State may acquire such rights over the Order land or to impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 19 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the Secretary of State’s powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements or, new rights in the land or the imposition of restrictive covenants, as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8 of the 1965 Act, as substituted by paragraph 5 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights), where the Secretary of State acquires a right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the Secretary of State is not required to acquire a greater interest in that land.

(4) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(5) The power to impose restrictive covenants under paragraph (1) is exercisable only in respect of land numbered 3/5a in the book of reference and on the land plans.

Private rights over land

23.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—
(a) as from the date of acquisition of the land by the Secretary of State, whether compulsorily or by agreement; or
(b) on the date of entry on the land by the Secretary of State under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

(a) as from the date of the acquisition of the right or the benefit of the restrictive covenant by the Secretary of State, whether compulsorily or by agreement; or
(b) on the date of entry on the land by the Secretary of State under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the Secretary of State which, being within the limits of land which may be acquired or used shown on the land plans, are required for the purposes of this Order are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights over land of which the Secretary of State takes temporary possession under this Order are suspended and unenforceable for as long as the Secretary of State remains in lawful possession of the land.

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

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 30 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

(a) any notice given by the Secretary of State before—

(i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
(ii) the Secretary of State’s appropriation of it;
(iii) the Secretary of State’s entry onto it; or
(iv) the Secretary of State’s taking temporary possession of it,

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

(b) any agreement made at any time between the Secretary of State and the person in or to whom the right or restrictive covenant in question is vested or belongs.

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

(a) is made with a person in or to whom the right or the benefit of the restrictive covenant is vested or belongs; and

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

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

(9) References in this article to private rights over land include any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.
Application of the Compulsory Purchase (Vesting Declarations) Act 1981

24.—(1) The 1981 Act shall apply as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, shall have 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—

(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.”.

(6) In section 5 (earliest date for execution of 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.

(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 omitted.

(8) References to the 1965 Act in the 1981 Act shall be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

25.—(1) The Secretary of State may acquire compulsorily so much of, or such rights in, the subsoil of or of the airspace over the land referred to in paragraph (1) of article 19 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the Secretary of State acquires any part of, or rights in, the subsoil of or the airspace over land referred to in paragraph (1), the Secretary of State is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent article 26 (acquisition of part of certain properties) from applying where the Secretary of State acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

Acquisition of part of certain properties

26.—(1) This article applies instead of section 8(1) of the 1965 Act (other provisions as to divided land) (as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act) where—

(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 Secretary of State a counter-notice objecting to the sale of the
land subject to the notice to treat and stating 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 must 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 must
sell only the land subject to the notice to treat is, unless the Secretary of State agrees to take the
land subject to the counter-notice, to be referred to the tribunal.

(5) If on such a reference the tribunal determine 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) in the case of part of land consisting 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 must sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine 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) in the case of part of land consisting 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 is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine 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 is 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 Secretary of State is authorised to acquire compulsorily under this Order.

(8) If the Secretary of State agrees to take the land subject to the counter-notice, or if the tribunal
determine 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 is 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 Secretary of State 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
Secretary of State 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 must 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 Secretary of State must
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.—(1) The Secretary of State may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the Secretary of State may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—
(a) any subway or underground building; or
(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) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the Secretary of State acquiring any part of that person’s interest in the land, and who suffers loss as a result, shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not 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 development

28.—(1) The Secretary of State may, in connection with the carrying out of the authorised development—
(a) enter on and take temporary possession of—
(i) the land specified in columns (1) and (2) of Schedule 7 (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 development specified in column (4) of that Schedule; and
(ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
(b) remove any buildings and vegetation from that land;
(c) construct temporary works (including the provision of means of access) and buildings on that land; and
(d) construct any permanent works specified in relation to that land in column (3) of Schedule 7, or any other mitigation works.

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

(3) The Secretary of State may not, without the agreement of the owners of the land, remain in possession of any land under this article—
(a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7, or
(b) in the case of any 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 work for which temporary possession of the land was taken unless the Secretary of State has, by the end of that period, served a
notice of entry under section 11 of the 1965 Act or made a declaration under section (4) of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the Secretary of State must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the Secretary of State is not required to—
(a) replace a building removed under this article;
(b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
(c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development; or
(d) remove any measures installed over or around statutory undertakers apparatus to protect that apparatus from the authorised development.

(5) The Secretary of State 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.

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

(7) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The Secretary of State may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the Secretary of State is not to be precluded from—
(a) acquiring new rights over any part of that land under article 22 (compulsory acquisition of rights); or
(b) acquiring any part of the subsoil (or rights in the subsoil of or airspace over) that land under article 25 (acquisition of subsoil or airspace only).

(9) Where the Secretary of State takes possession of land under this article, the Secretary of State is not required to acquire the land or any interest in it.

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

(11) Paragraph (1)(a)(ii) does not authorise the Secretary of State to take temporary possession of any land which the Secretary of State is not authorised to acquire under articles 19 (compulsory acquisition of land) or 22 (compulsory acquisition of rights).

### Temporary use of land for maintaining the authorised development

#### 29.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the Secretary of State may—
(a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and
(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) Paragraph (1) shall not authorise the Secretary of State to take temporary possession of—
(a) any house or garden belonging to a house; or
(b) any building (other than a house) if it is for the time being occupied.
(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the Secretary of State shall serve notice of the intended entry on the owners and occupiers of the land.

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

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

(6) The Secretary of State shall pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

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

(8) Nothing in this article shall affect any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

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

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

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

Statutory undertakers

30.—(1) Subject to the provisions of Schedule 8 (protective provisions) and paragraph (2), the Secretary of State may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over the land belonging to statutory undertakers shown on the land plans within the limits of the land to be acquired or used permanently or temporarily and described in the book of reference;

(b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

(a) Part 3 of the 1991 Act; and

(b) article 31 (apparatus and rights of statutory undertakers in stopped up streets).

Apparatus and rights of statutory undertakers in stopped-up streets

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

(2) Where a street is stopped up under article 12 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 Secretary of State must—
(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 Secretary of State must 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 Secretary of State, 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) is to 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 is not to 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 is to 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)) must, 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) do not apply where the authorised development 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 are to 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 are to be borne by the Secretary of State 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.

**Recovery of costs of new connections**

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

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 30, any person who is—

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

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

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

(3) This article does not have effect in relation to apparatus to which article 31 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

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

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

**PART 6**

**OPERATIONS**

**Felling or lopping of trees**

33.—(1) The Secretary of State may fell or lop any tree or shrub within or overhanging land within the Order limits, 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 Secretary of State 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.

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(a) 2003 c.21. There are amendments to this Act which are not relevant to this Order.
PART 7
MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

34.—(1) This article applies to—
(a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to
(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

35. Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Defence to proceedings in respect of statutory nuisance

36.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order 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 Secretary of State 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 site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974(b); or

(a) 1990 c. 43. There are amendments to this Act 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.
(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 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), does not apply where the consent relates to the use of premises by the Secretary of State for the purposes of or in connection with the construction or maintenance of the authorised development.

Protection of interests

37. Schedule 8 (protective provisions) to the Order has effect.

Certification of plans, etc.

38. — [1] As soon as practicable after the making of this Order, copies of—

(a) the book of reference (Parts 1 to 5) (TR010007/APP/13c) [include final revision number];

(b) the land plans (TR010007/APP/11) [include final drawing and revision numbers];

(c) the rights of way and access plans (TR010007/APP/21.1) [include final drawing and revision numbers];

(d) the works plans (TR010007/APP/12) [include final drawing and revision numbers];

(e) the engineering drawings and sections (TR010007/APP/23.1), (TR010007/APP/23.2) (TR010007/APP/23.3), (TR010007/APP/23.4) and (TR010007/APP/23.5) [include final drawing and revision numbers];

(f) the traffic regulation plans (TR010007/APP/21.2) [include final drawing and revision numbers]; and

(g) any other plans or documents referred to in this Order, must be certified by the Secretary of State as true copies of the documents referred to in this Order.

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

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 (5) 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) 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

(a) 1978 c. 30.
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 a body corporate, the registered or principal office of that body; and
(b) in any other case, the last known address of that person at the 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 any 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 name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
(b) either leaving it in the hands of a 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 shall 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 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender will provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given 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 will be final and shall take effect on a date specified by the person in the notice but that date shall not be less than 7 days after the date on which the notice is given.

(9) This article will not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

40. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must 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 President of the Institution of Civil Engineers.

Traffic regulation

41.—(1) This article applies to roads in respect of which the Secretary of State is not the traffic authority.
(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent shall not be unreasonably withheld, the Secretary of State may, for the purposes of the authorised development—

(a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;

(b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;

(c) authorise the use as a parking place of any road;

(d) make provision as to the direction or priority of vehicular traffic on any road; and

(e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the Secretary of State.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The Secretary of State must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The Secretary of State must not exercise the powers conferred by paragraph (2) unless the Secretary of State has—

(a) given not less than—

(i) 12 weeks’ notice in writing of the Secretary of State’s intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or

(ii) 4 weeks’ notice in writing of the Secretary of State’s intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,

(b) advertised the Secretary of State’s intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the Secretary of State’s intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the Secretary of State’s intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the Secretary of State under paragraph (2) shall—

(a) have effect as if duly made by, as the case may be—

(i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or

(ii) the local authority in whose area the road is situated, as an order under section 32 of the 1984 Act,

and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and

(b) be deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004(a) (road traffic contraventions subject to civil enforcement).

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the Secretary of State from time to time by subsequent exercise of the powers of paragraph (2) within a period of 24 months from the opening of the authorised development.
(8) Before exercising the powers of paragraph (2) the Secretary of State must consult such persons as the Secretary of State considers necessary and appropriate and shall take into consideration any representations made to the Secretary of State by any such person.

(9) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

(10) The powers conferred on the Secretary of State by this article with respect to any road shall have effect subject to any agreement entered into by the Secretary of State with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker Secretary of State of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority shall be deemed to have granted consent.

Signed by authority of the Secretary of State for Transport

[Name]
[Designation]

[ ] 201[ ]

Department for Transport
SCHEDULES

SCHEDULE 1

AUTHORISED DEVELOPMENT

In the administration area of North East Lincolnshire and North Lincolnshire

A nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act, comprising:

Work No.1 — the construction of a new A160 dual carriageway, north east from Brocklesby Interchange to the new Habrough Roundabout.

Work No. 2 (Parts a, b, c, d, e, f) — the construction of up to 6 highway drainage attenuation pond and pollution control facilities.

Work No. 3 — the construction of a new westbound A180 on-slip to the west of the Brocklesby Interchange.

Work No. 4 — the construction of a new eastbound A180 off-slip to the west of the Brocklesby Interchange.

In the administration area of North East Lincolnshire

A nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act, comprising:

Work No. 5 — the construction of a new roundabout junction (referred to in this schedule as "the Brocklesby Interchange") to connect the A180 eastbound and westbound with the new A160 dual carriageway.

Work No. 6 — the construction of a new A180 bridge to form the east side of the Brocklesby Interchange.

Work No. 7 — the construction of a new westbound A180 off-slip to the east of the Brocklesby Interchange.

Work No. 8 — the construction of a new eastbound A180 on-slip to the east of the Brocklesby Interchange.

In the administration area of North Lincolnshire

A nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act, comprising:

Work No. 9 — the diversion of electric cables and associated apparatus at the existing access across the A160, approximately 340m North of the Brocklesby Interchange.

Work No. 10 — the diversion of water pipeline under the new A160 just to the west of Ulceby Road Truck Stop.

Work No. 11 — the diversion of electric cables and associated apparatus just to the west of Ulceby Road Truck Stop.
Work No. 12 — the diversion of up to 2 water pipelines just to the east of Ulceby Road Truck Stop under the new A160 and Ulceby Road Link.

Work No. 13 — the construction of a new single carriageway section of A1077 Ulceby Road which will connect the existing A1077 Ulceby Road with the new Habrough Road Roundabout.

Work No. 14 — the diversion of high pressure gas pipeline under the new A160 and Ulceby Road Link, 300m west of the new Habrough Road Roundabout.

Work No. 15 — the diversion of up to 2 high pressure gas pipelines 200m west of the new Habrough Road Roundabout under the new A160 and Ulceby Road Link.

Work No. 16 — the protection of intermediate gas pipeline 200m west of the new Habrough Road Roundabout under the new A160 and Ulceby Road Link.

Work No. 17 — the diversion of high pressure gas pipeline 160m from the new Habrough Road Roundabout under new A160 and Ulceby Road Link.

Work No. 18 — the installation of ducts in the proximity of the proposed Habrough Road Roundabout to house cables for the project named “Hornsea Offshore Wind Farm Project One”.

Work No. 19 — the construction of a new roundabout to connect the A160 with A1077 Ulceby Road, Habrough Road and East Halton Road.

Work No. 20 — the construction of a new single carriageway road between the new Habrough Road Roundabout and East Halton Road, northwards for a distance of 635m.

Work No. 21 — the construction of a new single carriageway section of Greengate Lane to link Top Road and the existing Greengate Lane to the new East Halton Road link.

Work No. 22 — the construction of a new southerly direction single carriageway link road from the new Habrough Road Roundabout to link to the existing Habrough Road and a new link to connect this to the stopped up section of the existing Habrough Road.

Work No. 23 — the construction of a new aligned dual carriageway section of the A160 to link the new Habrough Road Roundabout to the existing alignment of the A160.

Work No. 24 — the construction of a new eastbound deceleration area, the closure of existing central reserve and construction of physical islands on the A160 at the Town Street junction.

Work No. 25 — the construction of a new link road between Town Street North and South, including a new bridge across the A160.

Work No. 26 — the realignment of Town Street (South) between the junction with the A160 and the new Town Street link road.

Work No. 27 — the alteration of existing central reserve on the A160 at the entrance to the Humber Oil Refinery to allow right turns in a westbound direction on the A160 only and restrict all other movements that would cross the A160 central reserve.

Work No. 28 — the construction of a new dual lane northbound link road between Manby Roundabout and Rosper Road.

Work No. 29 — the construction of a new bridge under the existing railway on the new Rosper Road link.

Work No. 30 — the diversion of oxygen pipeline under the new Rosper Road Link just north of the existing railway.

Work No. 31 — construction of a new northbound single lane road between Humber Road and the new Rosper Road link to allow access for abnormal loads.

In connection with the construction of any of those works, further associated development within the Order limits consisting of—

Comment [kzp25]: Response to written questions 9.9 and 10.7
(a) alteration of the layout of any street permanently or temporarily, including but not limited
to increasing the width of the carriageway of the street by reducing the width of any kerb,
footpath, footway, cycle track or verge within the street; altering the level or increasing
the width of any such kerb, footpath, footway, cycle track or verge; and reducing the
width of the carriageway of the street;
(b) works required for the strengthening, improvement, maintenance, or reconstruction of any
street;
(c) refurbishment works to any existing bridge,
(d) ramps, means of access, non-motorised links, footpaths, footways, cycle tracks and
crossing facilities,
(e) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage,
outfalls, ditched, wing walls, highway lighting, fencing and culverts;
(f) street works, including breaking up or opening a street, or any sewer, drain or tunnel
under it; tunnelling or boring under a street; works to place or maintain apparatus in a
street; works to alter the position of apparatus, including mains, sewers, drains and
cables;
(g) works to alter the course of, or otherwise interfere with a watercourse;
(h) landscaping and other works to mitigate any adverse effects of the construction,
maintenance or operation of the authorised development;
(i) works for the benefit or protection of land affected by the authorised development;
(j) works required for the strengthening, improvement, maintenance, or reconstruction of any
streets;
(k) works to alter or remove road furniture;
(l) site preparation works, site clearance (including fencing, vegetation removal, demolition
of existing structures and the creation of alternative footpaths); earthworks (including soil
stripping and storage, site levelling);
(m) establishment of site construction compounds, temporary vehicle parking, construction
fencing, perimeter enclosure, security fencing, construction related buildings, welfare
facilities, construction lighting and haulage roads;
(n) pumping stations to manage surface water run off;
(o) borrow pits to provide a source of construction material; and
(p) such other works, working sites, storage areas and works of demolition, as may
be necessary or expedient for the purposes of or in connection with the construction of the
authorised development.
SCHEDULE 2
Article 3
REQUIREMENTS

Interpretation

1. In this Schedule—
   “CEMP” means construction environmental management plan;
   “commence” means the carrying out of a material operation, as defined in section 155 of the 2008 Act (when development begins), comprised in or carried out for the purposes of the authorised development, or any part of the authorised development, and does not include any demolition, site clearance, devegetation, remediation, environmental (including archaeological) investigation, site or soil survey, erection of contractors’ work compound, erection of site office, erection of fencing to site boundaries or marking out of site boundaries;
   “environmental statement” means the document submitted alongside the application for this Order and certified as the environmental statement by the Secretary of State for the purposes of this Order;
   “European protected species” has the same meaning as in Regulations 40 and 44 of the Conservation of Habitats and Species Regulations 2010;
   “the undertaker” means the person who has the benefit of the Order in accordance with article 6 (benefit of Order).

Time limits

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

Construction Environmental Management Plan

3.—(1) No part of the authorised development is to commence until a CEMP has been prepared in consultation with the relevant planning authority, and submitted to and approved in writing by the Secretary of State.
   (2) The CEMP must—
      (a) reflect the mitigation measures included in chapters 6 to 15 of the environmental statement; and
      (b) include measures to address—
         (i) measures to address control of noise, vibration, light pollution and dust during construction including but not limited to working methods and plant, the implementation of a noise monitoring plan, the implementation of an environmental control plan (to manage site run off from any dust suppression measures) and the specification of core working hours and requirement to consult affected parties where extensions to those core working hours are sought;
         (ii) measures to address site waste management;
         (iii) measures to address soil management;
         (iv) action plans, working methods and mitigation measures for each of the topics covered in the environmental statement; and

Comment [kzp27]: Response to written question 11.39
Comment [kzp28]: Response to written question 11.41
Comment [kzp29]: Response to written question 4.3
Comment [kzp30]: Response to written questions 5.11, 5.16 and 5.19

(a) S.I. 2010/490.
(v) working methods and mitigation measures agreed through any protected species licence and.

(c) include measures to address the matters set out in paragraph 3(2)(b)(i) in the event that the authorised development coincides with any other major construction projects in the area which may impact those matters, following consultation with the relevant planning authority.

(3) The construction of the authorised development must be carried out in accordance with the CEMP unless otherwise agreed in writing by the Secretary of State in consultation with the relevant planning authority.

**Landscaping**

4.—(1) No part of the authorised development must commence until a written landscaping scheme for that part has been prepared in consultation with the relevant planning authority, and submitted to and approved in writing by the Secretary of State.

(2) The landscaping scheme prepared under requirement 4(1) shall reflect the measures shown in Appendix 2.1 of the environmental statement.

(3) The landscaping scheme prepared under requirement 4(1) shall include details of hard and soft landscaping works, including—

(a) location, number, species, size and planting density of any proposed planting;
(b) cultivation, importing of materials and other operations to ensure plant establishment;
(c) proposed finished ground levels;
(d) hard surfacing materials;
(e) details of existing trees to be retained, with measures for their protection during the construction period; and
(f) implementation timetables for all landscaping works.

**Implementation and maintenance of Landscaping**

5.—(1) If the authorised development is brought into use landscaping works shall be carried out and all landscaping works must be carried out in general accordance with the landscaping scheme prepared under Requirement 4.

(2) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(3) Any tree or shrub planted as part of the landscaping scheme 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 in writing by the Secretary of State in consultation with the relevant planning authority.

**Fencing**

6. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the Highways Agency’s Manual of Contract Documents for Highway Works unless otherwise agreed in writing by the Secretary of State.

**Contaminated land and groundwater**

7.—(1) In the event that contaminated land, including groundwater, are found at any time when carrying out the authorised development, which were not previously identified in the environmental statement, the undertaker must cease construction of the authorised development in
the vicinity of that contaminated land and must report it immediately in writing to the Secretary of State, Environment Agency and relevant planning authority, and in agreement with the Environment Agency and the relevant planning authority, undertake a risk assessment of the contamination.

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

(3) No remedial work constituting a material operation (as defined in section 155 of the 2008 Act) in respect of contamination of any land, including groundwater, within the Order limits is to be carried out until the scheme for remediation has been approved under paragraph 7(2).

(4) Remediation must be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Secretary of State in consultation with the relevant planning authority and construction of the authorised development in the vicinity of the contaminated land may not recommence until the remediation has been carried out.

Archaeology

8.—(1) No part of the authorised development must commence until for that part a written scheme for the investigation of areas of archaeological interest, reflecting the mitigation measures included in chapter 7 of the environmental statement, has been prepared in consultation with the relevant planning authority, and submitted to and approved in writing by the Secretary of State.

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

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

(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development will be retained in situ and reported to the relevant planning authority and Secretary of State within 10 working days.

(5) No construction operations will take place within 10 metres of such remains for a period of 14 days from the date of such notification unless otherwise agreed in writing by the Secretary of State.

(6) If the Secretary of State is of the view that the archaeological remains require further investigation, no construction operations will take place within 10 metres of the remains until provision has been made, in consultation with the relevant planning authority, for the further investigation and recording of the remains in accordance with details to be submitted in writing to, and approved in writing by, the Secretary of State.

Ecological management plan

9.—(1) No part of the authorised development must commence until a written ecological management plan applicable to that part, reflecting the survey results and ecological mitigation measures included in chapter 9 of the environmental statement, has been prepared, submitted to and approved in writing by the Secretary of State in consultation with the relevant planning authority and with Natural England in so far as relevant to protected species or protected sites.

(2) The ecological management plan prepared under requirement 9(1) shall reflect:

(a) The survey results and ecological mitigation measures included in chapter 9 of the environmental statement; and

(b) The measures shown in Appendix 2.1 of the environmental statement.
9. and shall include a timetable for its implementation.

(2) The construction of the authorised development must be carried out in accordance with the ecological management plan, unless otherwise agreed with the Secretary of State.

(3) In the event that any protected European species are found at any time when carrying out the authorised development, which were not previously identified in the environmental statement the undertaker must cease construction works within 10 metres of the location of any new protected European Species found and report it immediately to Natural England and the relevant planning authority.

(4) The undertaking will prepare a written scheme for the protection and mitigation measures for any new European protected species found when carrying out the authorised development, which were not previously identified in the environmental statement.

(5) The undertaking will implement the written scheme prepared under 9(4) immediately and construction within 10 metres of the protected European Species shall not recommence until any necessary licences are obtained.

Water vole, badgers and bat roosts

10. (1) No part of the authorised development must commence until additional surveys have been undertaken to establish the position of water vole, badgers and bat roosts.

(2) Where the presence of water vole, badgers or bat roosts are found to post a constraint to development, the undertaker must prepare a scheme of mitigation measures to be submitted to and approved in writing by the Secretary of State in consultation with the relevant planning authority and with Natural England.

(3) The mitigation measures must be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Secretary of State in consultation with the relevant planning authority and with Natural England.

Traffic management

11. No part of the authorised development may be brought into operation until a method statement detailing the sensitive management of highway ditches for water voles reflecting paragraph 9.7.21 of the environmental statement has been prepared, submitted to and approved in writing by the Secretary of State in consultation with the relevant planning authority.

Detailed design

12. New or altered sections of carriageway shall be constructed using low noise surfacing as defined in Annex 4 of HD213/11.

13. The authorised development must be carried out in general accordance with the scheme design shown on the engineering drawings and sections unless otherwise agreed in writing by the Secretary of State and provided the development so altered falls within the limits of deviation.

Surface and foul water drainage

14. No authorised development must commence until written details of the surface and foul water drainage system, reflecting the mitigation measures in chapters 2, 9 and 15 of the environmental statement and including means of pollution control, have been prepared, submitted to and approved by the Secretary of State, following consultation with the relevant local-planning authority and the Environment Agency.
(2) The drainage system must be constructed in accordance with the approved details referred to in paragraph (1), unless otherwise agreed in writing with the Secretary of State.

Approvals and Amendments to approved details

13.16. (1) Where the words “unless otherwise agreed in writing with the Secretary of State” are used in these requirements such agreement may only be given in relation to minor or immaterial changes where it has been demonstrated to the satisfaction of the Secretary of State that the subject matter of the agreement sought is unlikely to give rise to any materially different adverse environmental effect from those assessed in the environmental statement.

(2) With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved in writing by the Secretary of State.
SCHEDULE 3

CLASSIFICATION OF ROADS, ETC.

PART 1
TRUNK ROADS

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of road to become a Trunk Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>North East Lincolnshire and North Lincolnshire</td>
<td>A160 between point 1/9 and 2/33 on the Streets, Rights of Way and Access Plans Sheets 1 and 2</td>
</tr>
<tr>
<td>North East Lincolnshire and North Lincolnshire</td>
<td>A180 – A160 Eastbound off-slip between point 1/1 and 1/2 on the Streets, Rights of Way and Access Plans Sheet 1</td>
</tr>
<tr>
<td>North East Lincolnshire and North Lincolnshire</td>
<td>A160 – A180 Westbound on-slip between point 1/4 and 1/3 on the Streets, Rights of Way and Access Plans Sheet 1</td>
</tr>
<tr>
<td>North East Lincolnshire</td>
<td>A160 – A180 Eastbound on-slip between point 1/5 and 1/6 on the Streets, Rights of Way and Access Plans Sheet 1</td>
</tr>
<tr>
<td>North East Lincolnshire</td>
<td>A180 – A160 Westbound off-slip between point 1/8 and 1/7 on the Streets, Rights of Way and Access Plans Sheet 1</td>
</tr>
<tr>
<td>North East Lincolnshire</td>
<td>A160 circulatory carriageway at Brocklesby Interchange indicated by point 1/10 on the Streets, Rights of Way and Access Plans Sheet 1</td>
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</table>

PART 2
OTHER ROAD CLASSIFICATIONS

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of road</th>
<th>(3) Old Classification</th>
<th>(4) New Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>From point 2/21 to point 2/22 on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>N/A</td>
<td>A1077</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>From point 2/23 to point 2/24 on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>N/A</td>
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</tr>
<tr>
<td>North Lincolnshire</td>
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<tr>
<td>North Lincolnshire</td>
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<td>Unclassified</td>
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<td>N/A</td>
<td>C131</td>
</tr>
<tr>
<td>North Lincolnshire</td>
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<td>N/A</td>
<td>Unclassified</td>
</tr>
<tr>
<td>(1) Area</td>
<td>(2) Length of road</td>
<td>(3) Old Classification</td>
<td>(4) New Classification</td>
</tr>
<tr>
<td>------------------------------</td>
<td>----------------------------------------</td>
<td>------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>North Lincolnshire From point 3/3 to point 3/4 on the Streets, Rights of Way and Access Plans Sheet 3</td>
<td>N/A</td>
<td>Unclassified</td>
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</tr>
<tr>
<td>North Lincolnshire From point 4/2 to point 4/3 on the Streets, Rights of Way and Access Plans Sheet 4</td>
<td>N/A</td>
<td>A160</td>
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</tr>
<tr>
<td>North Lincolnshire From point 4/4 to point 4/5 on the Streets, Rights of Way and Access Plans Sheet 4</td>
<td>C133</td>
<td>A160</td>
<td></td>
</tr>
<tr>
<td>North Lincolnshire From point 4/9 to point 4/10 on the Streets, Rights of Way and Access Plans Sheet 4</td>
<td>N/A</td>
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**PART 3**

**ROADS TO BE DE-TRUNKED**

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of road to be de-trunked</th>
<th>(3) Old classification</th>
<th>(4) New classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire From point 2/C to point 2/D on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>A160</td>
<td>A1077</td>
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**PART 4**

**ROADS SUBJECT TO 30 MILES PER HOUR LIMIT**

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of road</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire Greengate Lane from point 2/4 to point 2/5 on the Traffic Regulation Plans Sheet 2</td>
<td></td>
</tr>
<tr>
<td>North Lincolnshire Town Street Link from point 3/2 to point 3/3 on the Traffic Regulation Plans Sheet 3</td>
<td></td>
</tr>
</tbody>
</table>
**PART 5**
ROADS SUBJECT TO 40 MILES PER HOUR LIMIT

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of road</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>C131 from point 2/1 to point 2/2 on the Traffic Regulation Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Greengate Lane from point 2/3 to point 2/4 on the Traffic Regulation Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Habrough Link Road from point 2/9 to point 2/10 on the Traffic Regulation Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>C131 from point 2/11 to point 2/12 on the Traffic Regulation Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>A160 from point 4/2 to points 4/9 and 4/10 on the Traffic Regulation Plans Sheet 4</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>A160 from point 4/6 to point 4/8 on the Traffic Regulation Plans Sheet 4</td>
</tr>
</tbody>
</table>

**PART 6**
ROADS SUBJECT TO 50 MILES PER HOUR LIMIT

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of road</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>A160 from point 2/6 to point 2/7 on the Traffic Regulation Plans Sheet 2</td>
</tr>
</tbody>
</table>

**PART 7**
ROADS SUBJECT TO WEIGHT RESTRICTIONS

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of road subject to weight restriction</th>
<th>(3) Weight restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>C131 from point 2/1 to point 2/2 on the Traffic Regulation Plans Sheet 2</td>
<td>7.5 Tonne limit</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Greengate Lane from point 2/3 to point 2/5 on the Traffic Regulation Plans Sheet 2</td>
<td>7.5 Tonne limit</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Town Street Link from point 3/2 to point 3/3 on the Traffic Regulation Plans Sheet 3</td>
<td>7.5 Tonne limit</td>
</tr>
</tbody>
</table>
PART 8
ROADS SUBJECT TO CENTRAL RESERVE ALTERATIONS

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of road subject to central reserve alterations</th>
<th>(3) Traffic movement restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>A160 from point 3/1 to point 3/4 on the Traffic Regulation Plans Sheet 3</td>
<td>No right turn</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>A160 from point 3/5 on the Traffic Regulation Plans Sheet 3 to point 4/1 on the Traffic Regulation Plans Sheet 4</td>
<td>No right turn from the Humber Oil Refinery (north of the A160) to the A160 westbound direction No right turn from the Humber Oil Refinery (south of the A160) to the A160 eastbound direction No right turn from A160 eastbound direction to the Humber Oil Refinery (south of the A160) No movement between the Humber Oil Refinery (north of the A160) and the Humber Oil Refinery (south of the A160) across the central reservation of the A160 in either direction No U turn from the A160 eastbound direction No U turn from the A160 westbound direction</td>
</tr>
</tbody>
</table>

PART 9
ROADS SUBJECT TO ONE WAY RESTRICTIONS

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of road subject to one way restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>A160 from point 4/2 to point 4/4 on the Traffic Regulation Plans Sheet 4</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>A160 from point 4/5 to point 4/8 on the Traffic Regulation Plans Sheet 4</td>
</tr>
</tbody>
</table>
# PART 10
## ROADS SUBJECT TO ESCORTED VEHICLES

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of road subject to escorted vehicles</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>From point 4/7 to point 4/3 on the Traffic Regulation Plans Sheet 4</td>
</tr>
</tbody>
</table>

# PART 11
## CYCLE TRACKS AND FOOTWAYS

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of Cycle track/Footway</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>From point 2/34 to point 2/35 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>From point 2/36 to point 2/37 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>From point 2/38 to point 2/39 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>From point 2/40 to point 2/41 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>From point 2/42 to point 2/43 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>From point 2/44 to point 2/45 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>From point 2/46 to point 2/47 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>From point 3/12 on the Streets, Rights of Way and Access Plans Sheet 3 to point 4/12 on the Streets, Rights of Way and Access Plans Sheet 4</td>
</tr>
</tbody>
</table>

**Comment [RS(50)]:** Upgrade of a section of proposed footway to footway/cyclway so now included in this part of the schedule and on the Street Rights of Way and Access Plan.

**Comment [RS(51)]:** Added the new Footway Cycleway from Eastfield to Manby.

**Comment [RS(52)]:** This is the new access to Mr Dinsdales field – please see the comment at Part 1 of schedule 4.
<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Extent of Access</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/7 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/8 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/9 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/12 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/13 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/14 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/15 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/16 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/18 on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 3/1 on the Streets, Rights of Way and Access Plans Sheet 3</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 3/10 on the Streets, Rights of Way and Access Plans Sheet 3</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 4/8 to point 4/9 on the Streets, Rights of Way and Access Plans Sheet 4</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 4/10 on the Streets, Rights of Way and Access Plans Sheet 4</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 4/11 on the Streets, Rights of Way and Access Plans Sheet 4</td>
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</table>

**PART 13**

PUBLIC RIGHTS OF WAY

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of public right of way</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>Footpath from point 3/7 to point 3/8 on the Streets, Rights of Way and Access Plans Sheet 3</td>
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</tbody>
</table>
### PART 14
PERMISSIVE RIGHT OF WAY

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Length of permissive right of way</th>
</tr>
</thead>
<tbody>
<tr>
<td>North East Lincolnshire</td>
<td>Permissive right of way from point 1/13 to point 1/14 on the Streets, Rights of Way and Access Plans Sheet 1</td>
</tr>
</tbody>
</table>
## SCHEDULE 4
### Article 12

#### PERMANENT STOPPING UP OF STREETS

#### PART 1

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<table>
<thead>
<tr>
<th>(1) Area</th>
<th>(2) Street to be stopped up</th>
<th>(3) Extent of stopping up</th>
<th>(4) New street to be substituted</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 1/A, on the Streets, Rights of Way and Access Plans Sheet 1</td>
<td>The whole access</td>
<td>Private Means of Access point 1/12, on the Streets, Rights of Way and Access Plans Sheet 1</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 1/B, on the Streets, Rights of Way and Access Plans Sheet 1</td>
<td>The whole access</td>
<td>Private Means of Access point 2/2 to point 2/1, on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North East Lincolnshire</td>
<td>A180 westbound on-slip</td>
<td>From point 1/D to point 1/C, on the Streets, Rights of Way and Access Plans Sheet 1</td>
<td>From point 1/4 to point 1/3, on the Streets, Rights of Way and Access Plans Sheet 1</td>
</tr>
<tr>
<td>North East Lincolnshire</td>
<td>A180 westbound off-slip</td>
<td>From point 1/F to point 1/E, on the Streets, Rights of Way and Access Plans Sheet 1</td>
<td>From point 1/8 to point 1/7, on the Streets, Rights of Way and Access Plans Sheet 1</td>
</tr>
<tr>
<td>North East Lincolnshire</td>
<td>A180 eastbound on-slip</td>
<td>From point 1/G to point 1/H, on the Streets, Rights of Way and Access Plans Sheet 1</td>
<td>From point 1/5 to point 1/6, on the Streets, Rights of Way and Access Plans Sheet 1</td>
</tr>
<tr>
<td>North East Lincolnshire</td>
<td>Permissive right of way, North of A180</td>
<td>From point 1/I to point 1/J, on the Streets, Rights of Way and Access Plans Sheet 1</td>
<td>From point 1/13 to point 1/14, on the Streets, Rights of Way and Access Plans Sheet 1</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>A160</td>
<td>From point 2/E to point 2/F, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>From point 2/21 to point 2/22, on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
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<td>C131</td>
<td>From point 2/I to point 2/H, on the Streets, Rights of Way</td>
<td>From point 2/32 to point 2/29, on the Streets, Rights of Way</td>
</tr>
<tr>
<td>(1) Area</td>
<td>(2) Street to be stopped up</td>
<td>(3) Extent of stopping up</td>
<td>(4) New street to be substituted</td>
</tr>
<tr>
<td>----------</td>
<td>-----------------------------</td>
<td>---------------------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/L, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>The whole access</td>
<td>Private Means of Access from point 2/2 to point 2/3, on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/M, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>The whole access</td>
<td>Private Means of Access from point 2/2 to point 2/4, on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/N, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>The whole access</td>
<td>Private Means of Access from point 2/10 to point 2/11, on the Streets, Rights of Way and Access Plans Sheet 2</td>
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<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/O, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>The whole access</td>
<td>Private Means of Access from point 2/10 to point 2/11, on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/P, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>The whole access</td>
<td>Private Means of Access from point 2/2 to point 2/4, on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/Q, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>The whole access</td>
<td>Private Means of Access from point 2/2 to point 2/5, on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 2/R on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>The whole access</td>
<td>Private Means of Access from point 2/17, on the Streets, Rights of Way and Access Plans Sheet 2</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Public Right of Way FP91</td>
<td>From point 3/C to point 3/D, on the Streets, Rights of Way and Access Plans Sheet 3</td>
<td>Private Right of Way from point 3/7 to point 3/8, on the Streets, Rights of Way and Access Plans Sheet 3</td>
</tr>
</tbody>
</table>

Comment [kzp53]: Added an extra access that Mr Dinsdale has requested to replace one he has.
### PART 2
STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<table>
<thead>
<tr>
<th>Area</th>
<th>Street to be stopped up</th>
<th>Extent of stopping up</th>
<th>New street to be substituted</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Lincolnshire</td>
<td>Private Means of Access point 4/A, on the Streets, Rights of Way and Access Plans Sheet 4</td>
<td>The whole access</td>
<td>Private Means of Access point 4/1, on the Streets, Rights of Way and Access Plans Sheet 4</td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>A1077, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>From point 2/A to point 2/B, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td></td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>A160, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>From point 2/F to point 2/G, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td></td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>C131, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td>From point 2/J to point 2/K, on the Streets, Rights of Way and Access Plans Sheet 2</td>
<td></td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Public Right of Way FP85, on the Streets, Rights of Way and Access Plans Sheet 3</td>
<td>From point 3/B to point 3/G, on the Streets, Rights of Way and Access Plans Sheet 3</td>
<td></td>
</tr>
<tr>
<td>North Lincolnshire</td>
<td>Public Right of Way FP87, on the Streets, Rights of Way and Access Plans Sheet 3</td>
<td>From point 3/A to point 3/G, on the Streets, Rights of Way and Access Plans Sheet 3</td>
<td></td>
</tr>
</tbody>
</table>
## SCHEDULE 5

### Article 22

**LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED**

<table>
<thead>
<tr>
<th>Plot Reference Number shown on Land Plans</th>
<th>Purpose for which rights over land may be acquired</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1a, 1/1u, 1/1x</td>
<td>To construct, operate, access and maintain existing telecommunications mast.</td>
</tr>
<tr>
<td>1/1t, 1/1y, 1/1ah, 1/1ak</td>
<td>To construct, operate, access and maintain the diverted electric cables.</td>
</tr>
<tr>
<td>1/1w</td>
<td>To construct, operate, access and maintain the diverted electric cables. To construct, operate, access and maintain existing telecommunications mast. To construct, access and maintain boundary fencing.</td>
</tr>
<tr>
<td>1/1ag</td>
<td>To construct, operate, access and maintain the diverted electric cables. To construct, access and maintain boundary fencing.</td>
</tr>
<tr>
<td>1/1d, 1/3c, 1/1f, 1/3f, 1/1k, 1/1p, 1/4b, 1/1am</td>
<td>To construct, access and maintain boundary fencing.</td>
</tr>
<tr>
<td>1/1af</td>
<td>To access and maintain the field ditch south and east of the A160. To construct, access and maintain boundary fencing.</td>
</tr>
<tr>
<td>2/2b, 2/2f</td>
<td>To construct, operate, access and maintain the diverted water pipeline. To construct, operate, access and maintain the diverted electric cable.</td>
</tr>
<tr>
<td>2/2c</td>
<td>To construct, operate, access and maintain the diverted water pipeline. To construct, operate, access and maintain the diverted electric cable. To construct, access and maintain boundary fencing.</td>
</tr>
<tr>
<td>2/2e</td>
<td>To construct, operate, access and maintain the diverted water pipeline. To construct, operate, access and maintain the diverted electric cable. To access and maintain the field ditch east of the A160. To construct, access and maintain boundary fencing.</td>
</tr>
<tr>
<td>2/7d</td>
<td>To construct, operate, access and maintain the diverted electric cable.</td>
</tr>
<tr>
<td>2/7b, 2/5i, 2/5m</td>
<td>To access and maintain the field ditch south of the A160.</td>
</tr>
<tr>
<td>2/7f</td>
<td>To access and maintain the field ditch south of the A160. To construct, access and maintain boundary fencing.</td>
</tr>
<tr>
<td>2/7h</td>
<td>To construct, access and maintain boundary fencing.</td>
</tr>
<tr>
<td>2/5a, 2/6a</td>
<td>To construct, operate, access and maintain the two diverted water pipelines.</td>
</tr>
<tr>
<td>2/6c</td>
<td>To construct, operate, access and maintain the diverted high pressure gas pipeline. To construct, operate, access and maintain the two diverted high and...</td>
</tr>
<tr>
<td>Plot Reference Number shown on Land Plans</td>
<td>Purpose for which rights over land may be acquired</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>2/7g</td>
<td>To construct, operate, access and maintain the diverted high pressure gas pipeline.</td>
</tr>
<tr>
<td>2/5d</td>
<td>To construct, operate, access and maintain the two diverted high and one intermediate pressure gas pipelines. To construct, operate, access and maintain the diverted high pressure gas pipeline.</td>
</tr>
<tr>
<td>2/5c</td>
<td>To construct, operate, access and maintain the two diverted high and one intermediate pressure gas pipelines. To construct, operate, access and maintain the diverted high pressure gas pipeline. To access and maintain the field ditch south of the A160. To construct, access and maintain boundary fencing.</td>
</tr>
<tr>
<td>2/8a</td>
<td>To construct, operate, access and maintain the diverted high pressure gas pipeline.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Land Plans – Sheet 3</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3/5a</td>
<td>To construct, access and maintain the adjacent highway and drainage culvert. To lay out new Public Right of Way diversion of the existing Footpath 91.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Land Plans – Sheet 4</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4/1d</td>
<td>To construct, operate, access and maintain the diverted oxygen pipeline. To access existing telecommunications mast.</td>
</tr>
<tr>
<td>4/1g, 4/1j</td>
<td>To construct, operate, access and maintain the diverted oxygen pipeline.</td>
</tr>
<tr>
<td>4/5b</td>
<td>To construct, operate, access and maintain the new section of road under the new rail bridge.</td>
</tr>
</tbody>
</table>

Comment [kzp54]: Plot 3/5a deleted because the Promoter is going to acquire this plot. N.B. the response to written question 11.26 was incorrect. As such, the corrections pointed out by the examining authority regarding the inclusion of the words ‘and restrictive covenants’ where relevant (e.g: in schedule 6) have not been incorporated as there are no plots where restrictive covenants will be imposed.
SCHEDULE 6

Article 22

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS AND IMPOSITION OF RESTRICTIVE COVENANTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall 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 prejudice to the generality of paragraph 1, the Land Compensation Act 1973 has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(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 4—

(a) for the words “land is acquired or taken from” there shall be substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and

(b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable or the restrictive covenant enforceable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

(a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over or restrictive covenant affecting land consisting”;

(b) for the word “severance” there shall be substituted the words “right or restrictive covenant over or affecting the whole of the house, building or manufactory or of the house and the park or garden”;

(c) for the words “part proposed” there shall be substituted the words “right or restrictive covenant proposed”; and

(d) for the words “part is” there shall be substituted the words “right or restrictive covenant is”.

Application of the 1965 Act

3.—(1) The 1965 Act shall 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

(b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right

(a) 1973 c.26.
or the imposition under this Order of a restrictive covenant, with the modifications specified in the following provisions of this Schedule.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

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

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following section—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

(a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and

(b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—

(i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or

(ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the A160/A180 (Port of Immingham Improvement) Development Consent Order 201[ ](a) (“the Order”), in relation to that person, ceases to authorise the purchase of the right and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section is to be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

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);

(a) S.I. 201[ ]( ]
(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 so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right 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 of the 1965 Act (interests omitted from purchase) is modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.
### SCHEDULE 7

#### Article 28

**LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN**

<table>
<thead>
<tr>
<th>(1) Location</th>
<th>(2) Plan Reference Number(s) shown on Land Plans</th>
<th>(3) Purpose for which temporary possession may be taken</th>
<th>(4) Relevant part of the authorised development</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land Plans – Sheet 1</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In the administrative area of North East Lincolnshire Council</td>
<td>1/1s, 1/4b, 1/4c</td>
<td>Required for borrow pits to source material to construct raised sections of the new road construction.</td>
<td>All works</td>
</tr>
<tr>
<td></td>
<td>1/1ae, 1/1al, 1/1am</td>
<td>Required to provide an area for topsoil and other construction material storage.</td>
<td>All works</td>
</tr>
<tr>
<td></td>
<td>1/1n, 1/1p, 1/1q, 1/5b</td>
<td>Required to provide construction working area and access for site traffic.</td>
<td>All works</td>
</tr>
<tr>
<td>In the administrative area of North East Lincolnshire Council</td>
<td>1/1b, 1/1c, 1/1d, 1/1e, 1/1f, 1/1h, 1/1i, 1/1j, 1/1k, 1/1m, 1/1u, 1/1v, 1/1w, 1/1x, 1/1z, 1/1af, 1/1ag, 1/1ai, 1/1aj, 1/2a, 1/3a, 1/3c, 1/3d, 1/3e, 1/3f</td>
<td>Required to provide construction working area and access for site traffic.</td>
<td>All works</td>
</tr>
<tr>
<td></td>
<td>1/1y, 1/1ah</td>
<td>Required for the diversion of electric cables and associated apparatus and to provide construction working area and access for site traffic.</td>
<td>All works</td>
</tr>
<tr>
<td></td>
<td>1/1a</td>
<td>Required to enable the use of the existing access track between the A160, Ryehill Farm and A1077 Ulceby Road.</td>
<td>Work No. 1</td>
</tr>
<tr>
<td></td>
<td>1/1ak, 1/1t</td>
<td>Required for the diversion of an electric cable and associated apparatus.</td>
<td>Work No. 9</td>
</tr>
<tr>
<td><strong>Land Plans – Sheet 2</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In the administrative area of North Lincolnshire Council</td>
<td>2/1a, 2/2a, 2/5f, 2/5h, 2/5k, 2/8b, 2/10b</td>
<td>Required for the construction of accesses.</td>
<td>All works</td>
</tr>
<tr>
<td></td>
<td>2/2b, 2/2c, 2/2f</td>
<td>Required for the diversion of a water pipeline and electric cable and associated apparatus.</td>
<td>Work No. 10 &amp; 11</td>
</tr>
</tbody>
</table>

Comment [kzp57]: Amendments to Schedule 7 in response to written question 3.14
<table>
<thead>
<tr>
<th>Location</th>
<th>Plan Reference Number(s) shown on Land Plans</th>
<th>Purpose for which temporary possession may be taken</th>
<th>Relevant part of the authorised development</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/2e</td>
<td>Required to provide construction working area and access for site traffic and also the diversion of water pipeline and overhead electric cable.</td>
<td>All works</td>
<td></td>
</tr>
<tr>
<td>2/2b, 2/2c</td>
<td>Required for the diversion of a water pipeline and electric cable and associated apparatus, and required to provide construction working area and access for site traffic.</td>
<td>All works</td>
<td></td>
</tr>
<tr>
<td>2/5a &amp; 2/6a</td>
<td>Required for the diversion of up to 2 water pipelines.</td>
<td>Work No. 12</td>
<td></td>
</tr>
<tr>
<td>2/6c, 2/7f &amp; 2/7g</td>
<td>Required for the diversion of a high pressure gas pipeline.</td>
<td>Work No. 14</td>
<td></td>
</tr>
<tr>
<td>2/5c</td>
<td>Required to provide construction working area and access for site traffic and also the diversion of up to 3 high pressure gas pipelines and the protection of an intermediate pressure gas pipeline.</td>
<td>All works</td>
<td></td>
</tr>
<tr>
<td>2/5d</td>
<td>Required for the diversion of up to 3 high pressure gas pipelines and the protection of an intermediate pressure gas pipeline.</td>
<td>Work No. 15, 16 &amp; 17</td>
<td></td>
</tr>
<tr>
<td>2/5e, 2/5i, 2/5l, 2/5m, 2/7b, 2/7h, 2/7j, 2/9a</td>
<td>Required to provide construction working area and access for site traffic.</td>
<td>All works</td>
<td></td>
</tr>
<tr>
<td>2/5j, 2/7c, 2/10c</td>
<td>Required to provide topsoil and other construction material storage areas.</td>
<td>All works</td>
<td></td>
</tr>
<tr>
<td>2/6c</td>
<td>Required for the diversion of up to 3 high pressure gas pipelines and the protection of an intermediate pressure gas pipeline.</td>
<td>Work No. 14, 15 &amp; 16</td>
<td></td>
</tr>
<tr>
<td>2/7c</td>
<td>Required to provide topsoil and other construction material storage areas, and required to provide construction working area and access for site traffic.</td>
<td>All works</td>
<td></td>
</tr>
<tr>
<td>2/7d</td>
<td>Required for the diversion of an electric cable and associated apparatus.</td>
<td>Work No. 11</td>
<td></td>
</tr>
<tr>
<td>2/7e</td>
<td>Required for the provision of the main site compound to include, but not limited to, site offices, welfare facilities, parking provisions, storage of plant and materials and</td>
<td>All works</td>
<td></td>
</tr>
<tr>
<td>Location</td>
<td>Plan Reference Number(s) shown on Land Plans</td>
<td>Purpose for which temporary possession may be taken</td>
<td>Relevant part of the authorised development</td>
</tr>
<tr>
<td>----------</td>
<td>---------------------------------------------</td>
<td>--------------------------------------------------</td>
<td>---------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>the treatment of site generated waste and also to provide construction working area and access for site traffic.</td>
<td>2/7f Required to provide construction working area and access for site traffic and also the diversion of a high pressure gas pipeline.</td>
<td>Work No. 14</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2/7g Required for the diversion of a high pressure gas pipeline.</td>
<td>Work No. 14</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2/8a Required for the diversion of a high pressure gas pipeline.</td>
<td>Work No. 17</td>
</tr>
<tr>
<td>Land Plans – Sheet 3</td>
<td>In the administrative area of North Lincolnshire Council</td>
<td>3/1, 3/2a Required for the construction of a new access and the stopping up of an existing access.</td>
<td>All works</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3/9c Required for the construction of a new access.</td>
<td>All works</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3/9d Required to provide an area for topsoil and other construction material storage.</td>
<td>All works</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3/5b, 3/5d Required for the construction of the diversion to the existing Public Right of Way and the construction of up to 3 new drainage culverts and head walls.</td>
<td>All works</td>
</tr>
<tr>
<td>Land Plans – Sheet 4</td>
<td>In the administrative area of North Lincolnshire Council</td>
<td>4/1d, 4/1g, 4/1j Required for the diversion of an oxygen pipeline.</td>
<td>Work No.30</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4/5a, 4/5b, 4/5c Required for the construction of a new bridge under the existing railway and for construction working area.</td>
<td>All works Work No. 29</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4/1h, 4/3d, 4/6d Required for the construction of accesses.</td>
<td>All works</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4/4a, 4/8 Required to provide construction working area and access for site traffic.</td>
<td>All works</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4/1i, 4/1k Required to provide an area for topsoil and other construction</td>
<td>All works</td>
</tr>
<tr>
<td>(1) Location</td>
<td>(2) Plan Reference Number(s) shown on Land Plans</td>
<td>(3) Purpose for which temporary possession may be taken</td>
<td>(4) Relevant part of the authorised development</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------------------------------------------</td>
<td>--------------------------------------------------------</td>
<td>------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>material storage.</td>
<td>4/7 Required for the provision of a secondary site compound to include, but not limited to, site offices, welfare facilities, parking provisions, storage of plant and materials and the treatment of site generated waste.</td>
<td>All works</td>
</tr>
</tbody>
</table>

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SCHEDULE 8
PROTECTIVE PROVISIONS

PART 1
FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE
UNDERTAKERS

1. For the protection of the undertakers referred to in this part of this Schedule the following
provisions shall, unless otherwise agreed in writing between the Secretary of State and the
undertaker concerned, have effect.

2. In this Part of this Schedule—
   “alternative apparatus” means alternative apparatus adequate to enable the undertaker in
   question to fulfil its statutory functions in a manner no 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 undertaker;
   (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or
   maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986 for the
   purposes of gas supply;
   (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or
   maintained by that undertaker for the purposes of water supply; and
   (d) in the case of a sewerage undertaking—
      (i) any drain or works vested in the 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
   “plan” or “plans” include all designs, drawings, specifications, method statements, soil
   reports, programmes, calculations, risk assessments and other documents that are reasonably
   necessary properly and sufficiently to describe the works to be executed;
   “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(a);

(a) 1989 c. 29
(b) 1991 c. 56
(c) a water undertaker within the meaning of the Water Industry Act 1991; and
(d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991; and
(e) Air Products Plc and its successor in title and function; and
(f) Phillips 66 Limited and its successor in title and function,
for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This part of this Schedule does not apply to apparatus in respect of which the relations between the Secretary of State and the undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

4.—(1) Where any street is stopped up under article 12 (permanent stopping up of streets), any undertaker whose apparatus is in the street shall have the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the Secretary of State will grant to the undertaker legal easements reasonably satisfactory to the undertaker in respect of such apparatus and access to it, but nothing in this paragraph shall affect any right of the Secretary of State or of the specified undertaker to require the removal of that apparatus under paragraph 7 or the power of the Secretary of State to carry out works under paragraph 9.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 13 (temporary stopping up of streets), an undertaker shall be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5. The Secretary of State, in the case of the powers conferred by article 17 (protective work to buildings), shall so exercise those powers as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans, the Secretary of State shall not acquire any apparatus otherwise than by agreement.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the Secretary of State acquires any interest in any land in which any apparatus is placed or requires that the undertaker’s apparatus is relocated or diverted, that apparatus shall not be removed under this part of this Schedule and any right of an undertaker to maintain that apparatus in that land shall not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the 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 Secretary of State requires the removal of any apparatus placed in that land, he shall give to the undertaker in question 28 days’ written notice of that requirement, together with a plan 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

(a) 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)
exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the Secretary of State shall, subject to sub-paragraph (3), afford to the undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the Secretary of State 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 Secretary of State, or the Secretary of State 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 undertaker in question shall, on receipt of a written notice to that effect from the Secretary of State, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the Secretary of State, or the Secretary of State 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 undertaker in question shall, on receipt of a written notice to that effect from the Secretary of State, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(5) Any alternative apparatus to be constructed in land of the Secretary of State under this part of this Schedule shall be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and the Secretary of State or in default of agreement settled by arbitration in accordance with article 40 (arbitration).

(6) The undertaker in question shall, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 40, and after the grant to the 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 Secretary of State to be removed under the provisions of this part of this Schedule.

(7) Regardless of anything in sub-paragraph (6), if the Secretary of State gives notice in writing to the undertaker in question that he desires himself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the Secretary of State, that work, instead of being executed by the undertaker, shall be executed by the Secretary of State without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the undertaker.

(8) Nothing in sub-paragraph (6) shall authorise the Secretary of State 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.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this part of this Schedule, the Secretary of State affords to an undertaker facilities and rights for the construction and maintenance in land of the Secretary of State of alternative apparatus in substitution for apparatus to be removed, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the Secretary of State and the undertaker in question or in default of agreement settled by arbitration in accordance with article 40 (arbitration).

(2) If the facilities and rights to be afforded by the Secretary of State 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 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 shall make such provision for the payment of compensation by the Secretary of State to that undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

9.—(1) Not less than 28 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 Secretary of State under paragraph
7(2), the Secretary of State shall submit to the undertaker in question a plan of the works to be executed.

(2) Those works shall be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the undertaker shall be entitled to watch and inspect the execution of those works.

(3) Any requirements made by an undertaker under sub-paragraph (2) shall be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) are submitted to it.

(4) If an undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the Secretary of State, reasonably requires the removal of any apparatus and gives written notice to the Secretary of State of that requirement, paragraphs 1 to 3 and 6 to 8 shall apply as if the removal of the apparatus had been required by the Secretary of State under paragraph 7(2).

(5) Nothing in this paragraph shall preclude the Secretary of State from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(6) The Secretary of State shall not be required to comply with sub-paragraph (1) in a case of emergency but in that case it shall give to the undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and shall comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

(7) In relation to works which will or may be situated on, over, under or within 15 metres measured in any direction of any gas apparatus, or (wherever situated) impose any load directly upon any gas apparatus or involve embankment works within 15 metres of any gas apparatus, the plan to be submitted to the undertaker under sub-paragraph (1) shall be detailed including a method statement and describing—

(a) the exact position of the works;
(b) the level at which these are proposed to be constructed or renewed;
(c) the manner of their construction or renewal;
(d) the position of all gas apparatus; and
(e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

(8) In relation to works which will or may be situated on, over, under or within 10 metres measured in any direction of any electricity apparatus, or involve embankment works within 10 metres of any electricity apparatus, the plan to be submitted to the undertaker under sub-paragraph (1) shall be detailed including a method statement and describing—

(a) the exact position of the works;
(b) the level at which these are proposed to be constructed or renewed;
(c) the manner of their construction or renewal;
(d) the position of all electricity apparatus; and
(e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the Secretary of State shall repay to an undertaker all expenses reasonably incurred by that 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 7(2).
(2) There shall be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions 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 situated,

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 Secretary of State or, in default of agreement, is not determined by arbitration in accordance with article 36 (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 undertaker in question by virtue of sub-paragraph (1) shall 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 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 pipe or 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.

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) 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 undertaker 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.

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 5 or 7(2), any damage is caused to any apparatus or alternative 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 an undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any undertaker, the Secretary of State shall—

(a) bear and pay the cost reasonably incurred by that undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by an undertaker on behalf of the Secretary of State or in accordance with a plan approved by an undertaker or in accordance with any requirement of an undertaker or under its supervision shall not, subject to sub-paragraph (3), excuse the Secretary of State from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) shall impose any liability on the Secretary of State with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an undertaker, its officers, servants, contractors or agents.

(4) An undertaker shall give the Secretary of State reasonable notice of any such claim or demand and no settlement or compromise shall be made without the consent of the Secretary of State and, if he withholds such consent, he shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.
Cooperation

12. Where in consequence of the proposed construction of any of the authorised development, the Secretary of State or an undertaker requires the removal of apparatus under paragraph 7(2) or an undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the Secretary of State shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the undertaker’s undertaking and each undertaker shall use its best endeavours to co-operate with the Secretary of State for that purpose.

13. Nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the Secretary of State and an undertaker in respect of any apparatus laid or erected in land belonging to the Secretary of State on the date on which this Order is made.

PART 2
FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

14. For the protection of any operator, the following provisions shall, unless otherwise agreed in writing between the Secretary of State and the operator, have effect.

15. 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 shall be construed in accordance with paragraph 1(3A) 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(b);

“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.

16. The exercise of the powers of article 37 (statutory undertakers) are subject to paragraph 23 of Schedule 2 to the Telecommunication Act 1984(c) (undertaker’s works).

17.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works—

---

(a) 2003 c. 21
(b) See section 106
(c) 1984 c. 12
(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 Secretary of State shall 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) shall impose any liability on the Secretary of State 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.

(3) The operator must give the Secretary of State reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand shall be made without the consent of the Secretary of State which, if it withholds such consent, shall have 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 Secretary of State and the operator under this Part of this Schedule shall be referred to and settled by arbitration under article 36 (arbitration).

(5) This Part of this Schedule shall not apply to—

(a) any apparatus in respect of which the relations between the Secretary of State and an operator are regulated by the provisions of Part 3 of the 1991 Act; or

(b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the Secretary of State and an operator in respect of any apparatus laid or erected in land belonging to the Secretary of State on the date on which this Order is made.
EXPLANATORY NOTE
(This note is not part of the Order)

This Order authorises the Secretary of State to provide better access to the Port of Immingham and the surrounding area by improving the A160 between the junction with the A180 at Brocklesby interchange and carry out all associated works.

The Order would permit the Secretary of State to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also makes provision in connection with the maintenance of the authorised development.

A copy of the plans, engineering drawings and sections 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 A160/A180 (Port of Immingham Improvement) Development Consent Order 201[ ]
Dear Sir/Madam

Planning Act 2008 (as amended) and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 13 & Rule 16

Application by Highways Agency for an Order Granting Development Consent for the A160 - A180 Port of Immingham Improvement

Notification of site inspection in the company of interested parties and of hearings

The purpose of this letter is to notify interested parties of the Examining Authority’s (ExA’s) plans with respect to the site inspection in the company of interested parties and hearings as indicated in its letter of 1 May 2014 (the “Rule 8 Letter”).

Site inspection in the company of interested parties

The ExA intends to take a site inspection in the company of interested parties on Tuesday 15 July 2014. The site inspection will commence from the Ashbourne Hotel, Vicarage Lane, North Killingholme, DN30 3JL. Participants are asked to assemble from 9.30am ready for a 9.45am departure and commencement of the site inspection.

Please note that the site inspection is not an opportunity to provide any oral representation on the scheme. Participants may be invited by the ExA to indicate specific features or sites of interest.

To ensure the smooth running of the site inspection, we ask that you inform the Case Manager, Sarah Gudgin, by Tuesday 24 June 2014 if you wish to attend. It would also assist us if you could notify us of any special needs you may have (e.g. disabled access). Please ensure that you include your interested party reference number in your correspondence. Transport will be provided, however please note that if you do not let us know you wish to attend we may not be able to accommodate you in the transport provided.

As soon as practicably possible prior to the site inspection an itinerary and route plan
will be published on the National Infrastructure pages of the Planning Portal website.

**Open floor hearing**

An open floor hearing will be held on Tuesday 15 July 2014 at the Ashbourne Hotel, Vicarage Lane, North Killingholme, DN30 3JL. Registration will open at 2.00pm and the hearing will commence at 2.30pm.

The purpose of an open floor hearing is to allow interested parties to address the ExA on relevant matters of their choosing. Speaking time will be shared between interested parties who register in advance. Parties who do not register in advance may be heard at the end of the hearing if there is time available at the discretion of the ExA.

**Issue specific hearing on the draft Development Consent Order (DCO)**

An issue specific hearing on the draft DCO will be held on Wednesday 16 July 2014 at Ashbourne Hotel, Vicarage Lane, North Killingholme, DN30 3JL. Registration will open at 9.30am and the hearing will commence at 10.00am.

The purpose of an issue specific hearing is for discussion on the relevant issues led by the ExA. Parties should expect to be questioned by the ExA and justify their statements. Cross examination between parties may exceptionally be allowed by the ExA if it is fair and adds to the examination. Parties should register in advance with a short summary of matters they wish to discuss. Parties who do not register in advance may be heard at the discretion of the ExA.

**Compulsory acquisition hearing**

A compulsory acquisition hearing will be held on Thursday 17 July 2014 at Ashbourne Hotel, Vicarage Lane, North Killingholme, DN30 3JL. Registration will open at 9.30am and the hearing will commence at 10.00am.

The purpose of a compulsory acquisition hearing is to allow affected persons to address the ExA about the effect of the proposed development on their land interest. The ExA may question the speaker and the developer on these representations. Parties should register in advance with details of their representation. Parties who do not register in advance may be heard at the end of the hearing if there is time available at the discretion of the ExA.

Those interested parties who wish to speak at any hearing should notify the Case Manager, Sarah Gudgin, at the postal or email address above by **Tuesday 24 June 2014**. Please notify us if you plan to attend any hearing even if you do not wish to speak. It would also assist us if you could notify us of any special needs you may have (e.g. disabled access, hearing loop etc). Please ensure that you include your interested party reference number in your correspondence.

As Tuesday 24 June 2014 is also identified within the examination timetable as the deadline for various submissions it would greatly assist the organisation of the site inspection and hearings if you could provide the above details separately to any other submission you might make.

www.planningportal.gov.uk/infrastructure
In accordance with the examination timetable, agendas for the DCO and compulsory acquisition hearings, to include confirmed attendees, will be published five calendar days before the hearings on the National Infrastructure pages of the Planning Portal website.

You can access the A160 – A180 Port of Immingham Improvement pages of the National Infrastructure Planning Portal website using the following link:

http://infrastructure.planningportal.gov.uk/a160-a180-port-of-immingham-improvement

If you have any further queries, please do not hesitate to contact us.

Yours faithfully

Mary O’Rourke

Mary O’Rourke
Examining Authority

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.
Statement of Common Ground
between the Highways Agency and
North Lincolnshire Council
A160/A180 Port of Immingham Improvement

Planning Act 2008
Infrastructure Planning
(Applications: Prescribed Forms and Procedure)
Regulations 2009

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## Appendices

**Appendix A** – NLC comments regarding Waste
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1 **Introduction**

1.1 **Purpose of this Statement of Common Ground**

1.1.1 This Statement of Common Ground (“SoCG”) relates to an application made by the Highways Agency (“the HA”) to the Planning Inspectorate under Section 37 of the Planning Act 2008 (“the Application”).

1.1.2 The Application is for an order granting development consent (the “DCO”). The draft DCO is referred to as The A160/A180 (Port of Immingham Improvement) Development Consent Order 201[ ] . The DCO would grant powers to upgrade the existing single carriageway section of the A160 to dual carriageway, with associated junction improvements along the length of the route. The proposed development is referred to in this SoCG as “the Project”.

1.1.3 The Application was submitted to the Planning Inspectorate on 8 January 2014, and the Planning Inspectorate accepted the progression of the Application to examination on 27 January 2014.

1.1.4 Guidance about the purpose and possible content of SoCGs is given in paragraphs 57-62 of the Department for Communities and Local Government’s “Planning Act 2008: examination of applications for development consent” (April 2013).

1.1.5 Paragraph 57 confirms the basic function of SoCGs:

“A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it may also be useful for a statement to identify areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence.”

1.1.6 SoCGs are a useful and established means of ensuring that the evidence provided at examination focuses on the material differences between the parties, and aim to facilitate a more efficient examination process.

1.2 **Parties to this Statement of Common Ground**

1.2.1 This SoCG has been prepared by the HA as the Applicant, and North Lincolnshire Council (NLC).

1.2.2 The HA is an Executive Agency of the Department for Transport, and is responsible for operating, maintaining and improving the strategic road network in England on behalf of the Secretary of State for Transport. The A160 and A180 in North Lincolnshire and North East Lincolnshire are part of the trunk road network for which the HA is responsible.

1.2.3 NLC are one of two host local authorities for the Project alongside North East Lincolnshire Council (NELC). Both host local authorities are unitary authorities. The majority of the land included within the DCO application is situated within NLC’s administrative area, with the exception of Brocklesby Interchange and land in this vicinity. Figure 1 overleaf details the boundary of NLC and NELC’s administrative areas in the vicinity of the Project.
1.3 Summary of the Project

1.3.1 The Project proposes to provide better access to the Port of Immingham (“the Port”) and the surrounding area by improving the A160 between the junction with the A180 at Brocklesby interchange and the Port. Improvements to this 5km strategic link road will help to stimulate growth and unlock economic benefits in the area.

1.3.2 The main aspects of the Project include:

- upgrade of the Brocklesby Interchange to an oval two bridge roundabout layout, including a dedicated left turn lane for vehicles travelling from the eastbound A180 to the A160;
- upgrade the existing single carriageway section of the A160 between Brocklesby Interchange and Habrough Road Roundabout to dual carriageway standard;
- relocate the Habrough Road Roundabout with new link roads provided from the A160 to Ulceby Road, Top Road and Habrough Road;
- provision of a new road bridge over the A160 at Town Street to provide vehicular and pedestrian access between the two sides of South Killingholme following the central reserve closure;
- closure of the central reserve gap of the A160 at the junction with Town Street and partial closure of the central reserve gap of the A160 at the entrance to the Humber oil refinery, to only allow vehicles travelling westbound to right turn across the central reserve;
- the provision of a new gyratory carriageway system between Manby Road Roundabout, Rosper Road Junction and the Port of Immingham, requiring the
construction of a new link road and bridge beneath the railway (known as Immingham New Rail Bridge); and

- localised diversion of third-party gas pipelines that cross beneath the existing A160.

1.3.3 Further details of the Project can be found within the DCO application documents.

1.4 Structure of this Statement of Common Ground

1.4.1 This SoCG has been structured to reflect matters of interest to NLC in relation to the Project.

1.4.2 Section 2 of this SoCG provides an overview of consultation with NLC and Section 3 provides details of the main areas covered by this SoCG.

1.4.3 Throughout this SoCG:

- where a sentence begins “It is agreed” this signifies a matter that has been specifically stated as agreed by the HA and NLC.

- where a sentence begins “It is not agreed”, this signifies a matter that has been specifically stated as not agreed by the HA and NLC.

- where a sentence begins “It is under discussion” this signifies a matter that is still under discussion by the HA and NLC.
2 Overview of previous engagement

2.1.1 The HA and NLC have been in regular liaison over the course of the development of the Project. This has included:

- regular liaison during the options identification and selection stages;
- liaison meetings (approximately bi-monthly throughout 2013 and ongoing) during the development of the preliminary design. These meetings included contacts from relevant departments within NLC such as highways, planning and environment;
- more detailed meetings focusing on specific issues (such as those relating to highways design) as required;
- consultation (via the Planning Inspectorate) on the Environmental Impact Assessment (EIA) Scoping Report;
- consultation on the approach to pre-application consultation under the Planning Act 2008; and the issue of consultation responses to the HA by NLC in May 2013 and November 2013 (for further information please refer to the Consultation Report included within the Application, document reference TR01007/APP/8a);
- establishment of a single point of contact within both the HA and NLC to progress issues, actions and requests for information from either party.

2.1.2 **It is agreed** that this is an accurate record of engagement between the HA and NLC.
Matters agreed, matters not agreed and matters under discussion

3.1 General matters

3.1.1 **It is agreed** that this is an approved SoCG. Signatures on behalf of the HA and NLC can be found at Section 5.

3.1.2 A Local Impact Report (LIR) has been submitted by NLC. This SoCG does not intend to duplicate the LIR, but will refer to it and make comment on matters where appropriate.

3.2 Policy matters

3.2.1 **It is agreed** that the principle of the Project is strongly supported by NLC and that the Project aligns with NLC planning policy as set out in the consultation response provided in May 2013:

> “From a planning policy point of view, the whole scheme is strongly supported in that the South Humber Gateway area is a central part of the Core Strategy for North Lincolnshire and the improvements to the A160 is vital in making sure this happens. This is clear in the spatial vision and objectives, and policies of the adopted Core Strategy Development Plan Document. Policies CS1 [Spatial Strategy for North Lincolnshire], CS12 [South Humber Bank Strategic Employment Site] and CS26 [Strategic Transport Infrastructure Proposal] are particularly relevant in this regard.”

3.2.2 Further information on local policies can be found within the Application in the Planning Statement (document reference TR010007/APP/23.8) and Chapter 4 of the Local Impact Report as submitted by NLC.

3.2.3 **It is agreed** that the Planning Statement and LIR provide an accurate summary of the policies pertinent to the Application. The Supporting Information on Planning Policy Background (document reference TR010007/EX/R6/001) provides the full text of the relevant sections of the policies referred to within the Planning Statement with supporting text and the front cover of the documents, as requested by the Examining Authority in their Rule 6 letter of 21 March 2014.

3.3 Matters relating to design

**Gyratory system**

3.3.1 The proposed gyratory system between Manby Road roundabout, Rosper Road and the Port of Immingham entrance would increase capacity east of the end of the A160 trunk road to improve traffic flow to the Port entrance. The gyratory arrangement therefore necessitates changes to the routing of traffic in the vicinity of the Port entrance.

3.3.2 NLC refer to their long term aspiration to upgrade Rosper Road to dual carriageway within paragraph 6.5 of the LIR. **It is agreed** that the gyratory system would not impede NLC’s ability to undertake these works at a later date.

**Abnormal load vehicle route**

3.3.3 Abnormal load vehicles exiting the Port of Immingham’s western gate and looking to head northwards along Rosper Road can currently turn right from Humber Road onto Rosper Road. As this movement will no longer be possible, it is proposed to include a link within the gyratory for the use of abnormal load vehicles under escort. This would avoid use of the underbridges beneath the railway line and also the Manby Roundabout, which could otherwise impede this movement due to geometric constraints.
3.3.4 It is agreed that the proposed abnormal load route will be designed to accommodate abnormal vehicles appropriately in terms of layout and pavement construction and that NLC will own and maintain this facility. It would be gated and locked at either side to prevent misuse and illegal parking, with NLC being the key holder. This facility would also be used as a means for NLC maintenance operatives to access the drainage pond and pumping station.

3.3.5 It is under discussion as to how the facility would be operated to ensure both security and appropriate accessibility to abnormal vehicles. This matter will be progressed through ongoing liaison between the HA and NLC and an operating regime will be agreed prior to handover of the facility to NLC.

Immingham New Rail Bridge

3.3.6 Implementation of the proposed gyratory system would necessitate the construction of a new underbridge through an existing railway embankment. The HA are in ongoing discussion with Network Rail, the owners of the railway infrastructure, to secure the necessary agreements and approvals to construct this underbridge. As per Network Rail’s consultation response in November 2013, it is proposed that the land required to construct the bridge would be occupied temporarily, and permanent rights would be sought to operate and maintain the local road link underneath the railway line.

3.3.7 It is agreed that Network Rail would own and maintain the bridge structure and NLC would operate and maintain the carriageway. Any commuted sum for ongoing maintenance and repair of the structure would be agreed between the HA and Network Rail.

3.3.8 It is agreed that the HA, NLC and Network Rail will be subject to a tri-party bridge agreement to formalise these responsibilities.

Fire Station access

3.3.9 With reference to paragraph 6.6 of the LIR, Immingham West Fire Station is located within the proposed gyratory. In the current situation, emergency vehicles responding to incidents in a northbound direction along Rosper Road are able to turn left directly onto Rosper Road. Using the gyratory system would increase the distance travelled to reach this point therefore impacting upon response times in this direction. The option to use the abnormal load route raises issues of availability for immediate access and complications related to shared usage. It has therefore been discounted.

3.3.10 The HA have held discussions with the fire service to understand the impacts associated with implementing the proposed gyratory system. Consequently, it is proposed to introduce ‘wig-wag’ type signals which, when activated, would stop traffic on the gyratory system and allow fire and rescue vehicles to turn left onto Rosper Road in an emergency as currently. This proposal has been reviewed by Humberside Fire and Rescue, who have accepted the principle. Provision of this facility will be subject to a Stage 2 Road Safety Audit (RSA) of the detailed design, which will take place later in 2014.

3.3.11 It is agreed that NLC support the inclusion of these wig-wag signals on the local road network for the reasons set out above (subject to the findings of the Stage 2 RSA) and would own and maintain these assets once installed. A maintenance regime will be agreed with NLC which will ensure that safe access to these assets is provided.
Non-motorised user provision

3.3.12 The HA has sought to improve non-motorised user connectivity in the vicinity of the A160 in line with the aims defined in the Department for Transport’s “Briefing on the government's ambition for cycling” paper published in August 2013 which sets out the aim of “cycle-proofing” roads. For the strategic road network cycle-proofing means making greater provision for cycling by correcting historic problems, retrofitting the latest solutions and ensuring it is easy and safe for cyclists to use junctions. The HA is proposing to include several additional facilities for non-motorised users as a result of pre-application consultation feedback:

- Improved facilities for pedestrians and cyclists between the Ulceby Truck Stop and South Killingholme.
- Provision of a signalised toucan crossing of the A160 dual carriageway with connecting links to Top Road and Habrough Road for cyclists and pedestrians.
- Provision of access steps to allow more direct use of Town Street road bridge by able bodied pedestrians to link into a continuous 2m footway to be provided on the western side of the new Town Street overpass.
- Higher parapets to be introduced for horse-riders to improve safety and avoid the need to dismount on the Town Street road bridge.
- Provision of a 3m surfaced footway alongside the new link road between Manby Road roundabout and Rosper Road. This would allow potential conversion to a cycleway by NLC in future.

3.3.13 It is agreed that these improvements link in to NLC’s wider aspirations to improve non-motorised user provision in the South Humber Gateway area and are supported by NLC.

3.3.14 It is agreed that NLC strongly support the inclusion of a footway/cycleway within the application as requested by the HA on 22 April 2014 and accepted as a change to the application by the Examining Authority in their Rule 8 letter of 1 May 2014.

3.3.15 Paragraph 6.15 of the LIR notes that NLC feel that the provision of a shared/footway cycleway rather than a footway would be preferable west along Ulceby Road from Poplar Farm and from the A160 on to Rosper Road. It is agreed that:

- At Ulceby Road; the HA will request to make the relevant amendments to the application document “Engineering Drawings – Non Motorised User Provisions” (document reference TR010007/APP/23.5) and any other associated changes to the Application to include the provision of a shared 2m surfaced footway/cycleway in the location west of Poplar Farm where currently only a footway is proposed.
- From the A160 to Rosper Road; the HA is proposing to provide a 3m surfaced footway alongside the new link road which would allow potential conversion to a shared footway/cycleway by NLC in future. This proposal will not be amended, as NLC do not yet know if funding has been secured for improving cycling provision in the South Humber Gateway area. Pending this decision and further design work, information is not available as to how a cycleway in this location would tie in with potential provision on local roads.

3.3.16 At paragraph 6.16 of the LIR, NLC request to see detailed designs of the proposed non-motorised user facilities. It is agreed that further information will be shared with NLC for their comment and input as the detailed design is produced. This will be
undertaken via the ongoing series of highway design meetings between the HA and NLC.

3.3.17 Paragraph 8.3 of the LIR states that the Project does not provide any specific provision for equestrians. It has been noted by NLC that the new bridge at Town Street does include equestrian parapets within the DCO application design therefore this statement in the LIR should be considered amended in this regard.

**Eastfield Road junction**

3.3.18 Improvements to the capacity of the junction between Eastfield Road and the A160 are not included in the Project. It is acknowledged that Eastfield Road junction has not been operating to capacity, which is a cause of congestion. NLC have replaced faulty MOVA detector loops to improve the junction capacity. Therefore, these works are not part of the Project.

3.3.19 **It is agreed** that improvements to the capacity of Eastfield Road junction do not form part of the Project. Improvements to Eastfield Road junction are conditioned under the planning consent for Able UK’s Able Marine Energy Park development. Consideration will be given to the timing of these improvements and works carried out in this area on the Project. Further discussions will be required between NLC, the HA and Able UK to agree the optimum time for these works to be undertaken.

**Lay-by provision**

3.3.20 It is proposed to close two lay-bys for safety reasons as a result of the Project; located on the A160 southbound and A180 westbound. This is due to changes in highway layout; and the need to close these facilities is acknowledged by the HA and NLC. NLC recognise the existing issues of a lack of HGV parking facilities in North Lincolnshire and work to address them where possible.

3.3.21 The HA are proposing to retain the existing lay-by on the A160 eastbound. It is acknowledged by NLC (see paragraph 6.9 of the LIR) and the HA that there are existing issues with littering and anti-social behaviour associated with this lay-by. NLC and Humberside Police have confirmed to the HA that they would support a 2hr parking restriction in this lay-by to prevent its use as overnight parking (see paragraph 6.10 of the LIR).

3.3.22 **It is agreed** that the HA will consult on a potential traffic regulation order separately to the Project, to restrict parking in this lay-by.

**Traffic regulation**

3.3.23 The Application, within the Traffic Regulation Plans (document reference TR010007/APP/21.2) details proposed speed and weight restrictions and restrictions on traffic movements.

3.3.24 **It is agreed** that NLC are content with these restrictions, which have been developed in liaison with NLC. Paragraph 6.12 of the LIR has been further discussed with NLC since the submission of this report, and NLC have confirmed that they are content with the weight restriction proposed along the new section of Top Road. This replicates the existing situation and provides clarity for vehicles travelling on the A160 that Top Road/East Halton Road allows HGV access to the Lancaster Approach industrial estate only.
3.3.25 Paragraph 6.7 of the LIR states that concerns have been raised regarding the details of the existing village green layout at Town Street (north of the A160), in particular speeds that may arise where the new Town Street bridge would form a junction directly opposite School Road; and also relating to the location of the bus stop; and access to local facilities such as the local shop, surgery and school.

3.3.26 Discussions are ongoing between the HA and NLC to consider these issues and the detail of signing and lining works in the area, including potential bus stop relocation. It is agreed that detailed proposals will continue to be developed and will be subject to the Stage 2 RSA scheduled for later in 2014.

3.3.27 Paragraph 6.13 of the LIR states that the council have raised concerns regarding the proposed junction between the new Greengate Lane link and the existing Top Road. This junction, as proposed in the DCO application, would form a crossroads with no stagger. NLC are concerned that vehicle speeds will increase on the extension of Greengate Lane and its relatively straight alignment leading into South Killingholme. NLC have suggested a mini-roundabout be implemented at this junction. The HA have issued plans showing the mini-roundabout design to NLC for discussion. This would fall within land already identified within the DCO application for permanent acquisition.

3.3.28 It is agreed that NLC will review these plans and the HA and NLC will agree a suitable solution as part of the detailed design, which will be informed by the findings of the Stage 2 RSA scheduled for later in 2014.

3.3.29 It was noted in the relevant representation received from Mr A R Dale on behalf of Mr A R Dinsdale and discussed at the Open Floor Hearing on 15 July 2014 that Mr Dinsdale (Elm Tree Farm) has expressed concern that he will have difficulty accessing his land south of the A160 from his land north of the A160 if the project proposals are implemented. The landowner’s vehicles would be unable to carry out a U-turn manoeuvre at Town Street junction on the A160 as the central reservation gap would be closed. There are three options for accessing this land:

a) Travelling along School Road and using the new Town Street overbridge and Town Street (south) to access the A160 westbound

b) Using the existing direct access onto the A160 eastbound, then travelling along Town Street (north) to the new Town Street overbridge and Town Street (south) to access the A160 westbound

c) Using the existing direct access to travel to Manby Road Roundabout and back (approximately 1.5 miles in each direction)

3.3.30 The landowner is concerned that double parking on School Road and Town Street (north) would mean larger agricultural vehicles are not able to pass if using options a) or b). Analysis of data obtained as part of a parking survey by the HA has found that, on School Road, large farm vehicles may not be able to pass when vehicles are parked on both sides of the road. This is also true to a lesser extent on Town Street (north), however this is a bus route. The HA are content with the published DCO proposals, however are in discussion with NLC (who are the local authority responsible for School Road and Town Street) about the layout in this area (see paragraphs 3.3.25 - 3.3.26). It is agreed that NLC are reviewing the situation in this area and identifying proposals for traffic management measures (outside of the DCO process). NLC will consult with the relevant parties about these proposed measures and balance the needs of all road users and frontagers when arriving at a decision. The HA will cover the cost of any potential Traffic Regulation Order promoted by NLC.
regarding this matter. The Traffic Regulation Order process could not be completed before the end of the DCO examination but the HA may be able to inform the Secretary of State of the results prior to the decision.

3.4 Matters relating to the environment

3.4.1 The LIR submitted by NLC provides full details of NLC’s views on the impact of the proposals on the local environment and should be read in conjunction with this document. Reference should also be made to the Environmental Statement (document reference: TR010007/APP/14a). This document comments on the LIR where appropriate.

3.4.2 It is agreed that NLC are content with the requirements included within the draft DCO apart from where specifically mentioned in the LIR. These matters are commented upon below.

3.4.3 It is agreed that the proposals set out in the Environmental Masterplan (Appendix 2.1 of the Environmental Statement, document reference TR010007/APP/14a) are acceptable to NLC apart from where specifically mentioned in the LIR. These matters are commented upon below.

3.4.4 Areas of comment on the LIR are set out below.

Archaeological Investigation

3.4.5 It is acknowledged that further archaeological investigation of proposed temporary land areas is to be undertaken alongside the investigations set out in Chapter 7 of the Environmental Statement (Cultural Heritage) and that the mitigation strategy within the Written Scheme of Investigation (WSI) will incorporate the results of these investigations.

3.4.6 Paragraph 7.26 of the LIR states that NLC’s opinion is that the WSI should be agreed prior to any consent being granted and that DCO Requirement 8.1 should refer specifically to the agreed WSI documentation. The HA does not agree that this requirement requires amendment. This is because, whilst NLC will be actively consulted, the formal approver of the WSI would be the Secretary of State. It is agreed that no further action will be taken with regard to amending requirement 8.1.

3.4.7 It is agreed that the HA has discussed with NLC a phased approach to consultation on the WSI and the HA’s intention is that the final WSI will be consulted on and NLC’s agreement sought, prior to the determination of the DCO.

3.4.8 Paragraph 7.11 of the LIR refers to several mitigation measures:

- **Topsoil stripping methodology to be included in the Construction Environmental Management Plan (CEMP); to prohibit soil ripping during reinstatement.** It is agreed that the HA will include its proposed methodology in the next iteration of the CEMP (after the version submitted at Deadline 3). This will be in line with the mitigation proposed in the Environmental Statement, which proposes that surface ripping and, if necessary, under-drainage of restored sites will only be used where appropriate and will be subject to environmental constraints, such as buried archaeological remains.

- **Archaeological monitoring along the entire road corridor.** The Environmental Statement states at paragraph 7.6.6 that a watching brief would be "undertaken on areas where crop marks or geophysical anomalies have been identified". It is agreed that the archaeological watching brief is to be extended so it would cover the entire road corridor, and that the watching brief is reviewed on an ongoing basis based on the results of any trial.
trenching, the open area excavations and the results of the watching brief itself.

- **Additional earthwork survey to assess and record areas of surviving ridge and furrow ahead of construction. It is agreed** that the extant ridge and furrow on the north side of the A160 adjacent to the proposed Town Street overbridge will be surveyed and that this will form part of the WSI.

- **Restoration of ridge and furrow.** The HA does not agree that ridge and furrow should be restored in the locations where it is removed by the project. This is because, as stated in paragraph 7.4.13 of the Environmental Statement "Much of the ridge and furrow in the study area has been destroyed through modern development or through ploughing. Due to the poor preservation of the ridge and furrow it has been assessed of Negligible value as it does not enhance the archaeological understanding of the area." It is therefore not believed there is a case to restore this ridge and furrow from either a heritage or landscape point of view. This matter is **under discussion** until such time as a further assessment can be made of the preservation condition of the ridge and furrow strips.

3.4.9 Paragraph 7.20 of the LIR refers to publicity, site visits and school open days. **It is agreed** that these opportunities will be considered as part of the communications strategy for the project and will be undertaken where feasible and appropriate.

**Ecology and Biodiversity**

3.4.10 NLC recommend in the LIR (paragraph 13.2) that works in the area of Rosper Road Pools (road works and mitigation works such as creation of water vole habitat) need to be carried out so as to minimise disturbance to water voles, breeding birds and wintering and passage waterbirds forming part of the Humber Estuary SPA/Ramsar assemblage.

3.4.11 The HA proposes to create the water vole habitat outside of the wintering bird season. Works on the existing Rosper Road and to the east of Rosper Road will avoid the wintering bird season. **It is agreed** that these proposals are acceptable to address NLC’s recommendations and that the HA will take appropriate care to in relation to nesting birds.

3.4.12 NLC recommend in the LIR (paragraph 13.2) that works in the Rosper Road Pools area will need to be considered cumulatively and in combination with Able UK’s Able Marine Energy Park development, Associated British Ports’ Immingham Deep Water Jetty Works and other relevant development proposals identified in the North and North East Lincolnshire Core Strategies.

3.4.13 The Assessment of Implications on European Sites (AIES) screening assessment has now been updated and made available. This has further considered cumulative effects and Natural England have confirmed they agree with the HA’s conclusion of no likely significant effects on European designated sites. **It is agreed** that NLC are content with the conclusions of the updated AIES screening assessment.

3.4.14 NLC note in the LIR (paragraph 13.6) that detailed matters, for example regarding grass and wildflower mixes, sowing rates, soil substrates, species composition, origin of seed and proposals for ongoing maintenance of wildflowers have not yet been agreed. These matters are being considered during the detailed design of the Project therefore this matter is **under discussion**. This matter will be further considered as the detailed design is progressed and finalised therefore the HA and NLC are content that this matter will remain under discussion throughout the DCO examination period.
3.4.15 NLC note within the LIR (paragraph 13.7) that hedgerow translocation is not promoted by the council unless the hedge has particularly unusual features that merit translocation. The HA proposes to translocate an Important Hedgerow as detailed in the Environmental Masterplan (referenced from paragraph 9.7.6 of the Environmental Statement). The HA’s assessments have concluded that the features of this hedgerow do merit translocation. Whilst NLC do not fully agree that this conclusion aligns with their policy, they do not object to the HA undertaking this translocation. Therefore, it is agreed that the Important Hedgerow referenced above would be translocated.

3.4.16 Within the LIR (paragraph 13.3), NLC advise extreme caution with regards to further shrub and tree planting around Rosper Road Pools as this may make the site less suitable for breeding and wintering waterbirds. NLC also do not agree that such planting will provide screening for construction works as works will take place prior to the planted shrubs maturing. This proposed planting is shown on Sheet 10 of the Environmental Masterplan (Appendix 2.1 to the Environmental Statement). The planting referred to is offsite planting for the purposes of enhancement and is subject to landowner agreement. The HA has discussed this matter with NLC and will keep planting to a minimum. This matter is under discussion. This matter will be further considered as the detailed design is progressed and finalised therefore the HA and NLC are content that this matter will remain under discussion throughout the DCO examination period.

Environmental Impacts for Local Residents

Contaminated land

3.4.17 The LIR proposes an amendment to Requirement 7(1) of the draft DCO as underlined within the text below:

3.4.18 7(1) In the event that contaminated land, including groundwater, are found at any time when carrying out the authorised development, which were not previously identified in the environmental statement, the undertaker must report it immediately in writing to the Secretary of State, Environment Agency and relevant planning authority, and in agreement with the Environment Agency and the relevant planning authority, undertake a risk assessment of the contamination.

3.4.19 It is agreed that this change will be submitted as an amendment to the draft DCO at Examination Deadline 3.

Lighting

3.4.20 The LIR proposes an amendment to Requirement 3(2) of the draft DCO as underlined within the text below:

3 (2) The CEMP must—

(a) reflect the mitigation measures included in chapters 6 to 15 of the environmental statement; and

(b) include measures to address—

(i) measures to address control of noise, vibration, light pollution and dust during construction;

(ii) measures to address site waste management;

(iii) measures to address soil management;

(iv) action plans, working methods and mitigation measures for each of the topics covered in the environmental statement; and
3.4.21 **It is agreed** that this change will be submitted as an amendment to the draft DCO at Examination Deadline 3.

**Noise and Vibration**

3.4.22 The LIR proposes a new requirement within the draft DCO:

“New or altered sections of carriageway shall be constructed using low noise surfacing as defined in Annex 4 of HD213/11.”

3.4.23 **It is agreed** that this change will be submitted as an amendment to the draft DCO at Examination Deadline 3.

3.4.24 Paragraph 11.5 of the LIR refers to the potential for significant adverse noise impacts for some local residents in the worst case scenario. This scenario is without mitigation and it is noted within the Environmental Statement that this situation is unlikely to occur. **It is agreed** that the CEMP for the Project will include a range of mitigation measures (see CEMP section 4.1), and that prior to construction commencing liaison with NLC’s Environmental Health Officers (EHOs) will be carried out. Future revisions of the CEMP will incorporate agreements with NLC’s EHOs.

3.4.25 The HA has consulted NLC on the provision of noise barriers within the northern and southern verges of the A160. A summary of the proposals can be found within the document “Proposed Noise Barriers” (document reference TR010007/EX/R17/004) published on 7 July 2014. **It is agreed** that NLC are supportive of the principle of noise barriers providing appropriate noise levels can be achieved, and this matter will be expanded on in the consultation summary report to be issued for Deadline 5.

**Flood Risk**

3.4.26 Section 12 of the LIR states that it is NLC’s opinion that the Flood Risk Assessment (FRA) undertaken for the project, although detailed, does not use the North Lincolnshire and North East Lincolnshire Strategic Flood Risk Assessment (SFRA) 2011 as comprehensively as it should (paragraph 12.1) and that the FRA should be amended to include a greater assessment of the SFRA 2011 (paragraph 12.4). **It is agreed**, as set out in the letter issued by NLC on 9 July (published on 11 July 2014), that NLC now:

“welcomes the Flood Risk Assessment together with the modelling carried out as requested by the Environment Agency, and are content that the assessment is agreeable to us and that there is no longer the need to consider the North Lincolnshire and North East Lincolnshire Strategic Flood Risk Assessment 2011. The Flood Risk Assessment carried out to date is sufficient and accepted by the council.”

**Waste**

3.4.27 Paragraph 14.5 of the LIR states that NLC can make no further comment on Waste until the CEMP, SWMP and HEMP are available. The CEMP (including a SWMP) is now available and the second iteration was published on 25 June 2014. This version has been reviewed by NLC with regard to Waste. The full comments of NLC can be found at Appendix A. **It is agreed** that the approach to Waste detailed in the CEMP is acceptable to NLC.
### Summary

4.1.1 To provide an overview of the matters discussed in this SoCG, the tables below provide a list of each point that is agreed and not agreed.

**Table 4.1: Matters agreed**

<table>
<thead>
<tr>
<th>Matter</th>
<th>Paragraph reference</th>
<th>Statement</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>2.1.2</td>
<td>It is agreed that the overview of previous engagement between the HA and NLC is accurate.</td>
</tr>
<tr>
<td>2</td>
<td>3.1.1</td>
<td>It is agreed that this is an approved SoCG and signatures for the HA and NLC can be found at Section 5.</td>
</tr>
<tr>
<td>3</td>
<td>3.2.1</td>
<td>It is agreed that the principle of the Project is strongly supported by NLC and that the Project aligns with NLC planning policy.</td>
</tr>
<tr>
<td>4</td>
<td>3.2.3</td>
<td>It is agreed that the Planning Statement and LIR provide an accurate summary of policies pertinent to the Project DCO application.</td>
</tr>
<tr>
<td>5</td>
<td>3.3.2</td>
<td>It is agreed that the gyratory system will not impede NLC’s ability to upgrade Rosper Road to dual carriageway at a future point, in line with NLC’s long term aspirations.</td>
</tr>
<tr>
<td>6</td>
<td>3.3.4</td>
<td>It is agreed that the proposed abnormal load route will be designed to accommodate abnormal vehicles appropriately in terms of layout and pavement construction and that NLC will own and maintain this facility.</td>
</tr>
<tr>
<td>7</td>
<td>3.3.7</td>
<td>It is agreed that Network Rail will own and maintain the Immingham New Rail Bridge structure, and NLC will operate and maintain the carriageway. Any commuted sum for ongoing maintenance and repair of the structure would be agreed between the HA and Network Rail.</td>
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<tr>
<td>8</td>
<td>3.3.8</td>
<td>It is agreed that the HA, NLC and Network Rail will be subject to a tri-party bridge agreement.</td>
</tr>
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<td>9</td>
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</tr>
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<td>3.3.13</td>
<td>It is agreed that the non-motorised user provision proposed as part of the Project links into NLC’s wider aspirations to improve non-motorised user provision in the South Humber Gateway area.</td>
</tr>
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<td>3.3.14</td>
<td>It is agreed that NLC strongly support the inclusion of a footway/cycleway within the application as requested by the HA on 22 April 2014 and accepted as a change to the application by the Examining Authority in their Rule 8 letter of 1 May 2014.</td>
</tr>
<tr>
<td>12</td>
<td>3.3.15</td>
<td>It is agreed that the HA will request to make the relevant changes to the Works Plans to incorporate a cycleway as part of the footway proposed at Ulceby Road west of Poplar Farm, but will not amend the proposals from the A160 to Rosper Road as further information about how this facility would tie in is not available.</td>
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<tr>
<td>13</td>
<td>3.3.16</td>
<td>It is agreed that the detailed design of proposed non-motorised user facilities will be shared with NLC for comment as the design is produced.</td>
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<td><strong>16</strong></td>
<td><strong>3.3.24</strong></td>
<td>It is agreed that NLC are content with the restrictions proposed within the Traffic Regulation Plans (document reference TR010007/APP/21.2), including with reference to the new Top Road link (paragraph 6.12 of the LIR).</td>
</tr>
<tr>
<td><strong>17</strong></td>
<td><strong>3.3.26</strong></td>
<td>It is agreed that detailed proposals for signing and lining and potential bus stop relocation in the vicinity of Town Street (north of the A160) will continue to be developed and will be subject to the Stage 2 RSA.</td>
</tr>
<tr>
<td><strong>18</strong></td>
<td><strong>3.3.28</strong></td>
<td>It is agreed that NLC will review the plans the HA have produced for a potential mini-roundabout at the junction of the proposed new Greengate Lane link and the existing Top Road, and the HA and NLC will agree a suitable solution to allay NLC’s concerns about potential vehicle speeds.</td>
</tr>
<tr>
<td><strong>19</strong></td>
<td><strong>3.4.2</strong></td>
<td>It is agreed that NLC are content with the requirements included within the draft DCO, apart from where specifically mentioned in the LIR.</td>
</tr>
<tr>
<td><strong>20</strong></td>
<td><strong>3.4.3</strong></td>
<td>It is agreed that the proposals set out in the Environmental Masterplan (Appendix 2.1 to the Environmental Statement, document reference TR010007/APP/14a) are acceptable to NLC apart from where specifically mentioned in the LIR.</td>
</tr>
<tr>
<td><strong>21</strong></td>
<td><strong>3.4.6</strong></td>
<td>It is agreed that no further action will be taken regarding amending requirement 8(1) of the DCO.</td>
</tr>
<tr>
<td><strong>22</strong></td>
<td><strong>3.4.7</strong></td>
<td>It is agreed that a phased approach to consultation on the WSI has been discussed and the HA’s intention is to consult on and seek NLC’s agreement prior to determination of the DCO.</td>
</tr>
<tr>
<td><strong>23</strong></td>
<td><strong>3.4.8</strong></td>
<td>It is agreed that the HA will include its proposed methodology for topsoil stripping in the next iteration of the CEMP, which will be in line with the mitigation set out in the Environmental Statement.</td>
</tr>
<tr>
<td><strong>24</strong></td>
<td><strong>3.4.8</strong></td>
<td>It is agreed that the HA will extend the archaeological watching brief to cover the whole road corridor, to be reviewed on an ongoing basis.</td>
</tr>
<tr>
<td><strong>25</strong></td>
<td><strong>3.4.8</strong></td>
<td>It is agreed that the extant ridge and furrow on the north side of the A160 adjacent to the proposed Town Street over bridge will be surveyed and form part of the WSI.</td>
</tr>
<tr>
<td><strong>26</strong></td>
<td><strong>3.4.9</strong></td>
<td>It is agreed that opportunities for archaeological publicity, site visits, and school open days will form part of the communications strategy and will be undertaken where feasible and appropriate.</td>
</tr>
<tr>
<td><strong>27</strong></td>
<td><strong>3.4.11</strong></td>
<td>It is agreed that the proposals for creation of water vole habitat and works on and to the east of Rosper Road are acceptable to NLC.</td>
</tr>
<tr>
<td><strong>28</strong></td>
<td><strong>3.4.13</strong></td>
<td>It is agreed that NLC are content with the conclusions of the updated AIES screening assessment.</td>
</tr>
</tbody>
</table>
29 3.4.15 The HA proposes to translocate an Important Hedgerow. NLC do not promote hedgerow translocation unless the hedge has particularly unusual features that merit translocation. It is agreed that NLC do not object to this translocation.

30 3.4.19 It is agreed that the HA will submit an amendment to the draft DCO at Examination Deadline 3 to seek to include NLC’s requested amendment to Requirement 7(1).

31 3.4.21 It is agreed that the HA will submit an amendment to the draft DCO at Examination Deadline 3 to seek to include NLC’s requested amendment to Requirement 3(2).

32 3.4.23 It is agreed that the HA will submit an amendment to the draft DCO at Examination Deadline 3 to seek to include NLC’s requested new requirement in relation to use of low noise surfacing.

33 3.4.24 It is agreed that the CEMP will include a range of noise mitigation measures and that future iterations of the CEMP will include agreements with NLC EHOs regarding noise.

34 3.4.25 It is agreed that NLC are supportive of the principle of noise barriers, and this matter will be expanded on in the consultation summary report to be issued for Deadline 5.

35 3.4.26 It is agreed that the Flood Risk Assessment carried out is sufficient and accepted by NLC.

36 3.4.27 It is agreed the approach to Waste set out in the CEMP (Issue 2, 25 June 2014) is acceptable to NLC.

<table>
<thead>
<tr>
<th>Matter</th>
<th>Paragraph reference</th>
<th>Statement</th>
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<tbody>
<tr>
<td>Table 4.2: Matters not agreed</td>
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<td>Matter</td>
<td>Paragraph reference</td>
<td>Statement</td>
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<tr>
<th>Matter</th>
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<tr>
<td>Table 4.3: Matters under discussion</td>
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<tr>
<td>Matter</td>
<td>Paragraph reference</td>
<td>Statement</td>
</tr>
<tr>
<td>1</td>
<td>3.3.5</td>
<td>It is under discussion as to how the abnormal load route will be operated to ensure both security and appropriate accessibility. This matter will be progressed through ongoing liaison with NLC and an operating regime will be agreed prior to handover to NLC.</td>
</tr>
<tr>
<td>2</td>
<td>3.4.8</td>
<td>It is under discussion as to whether ridge and furrow can be restored in areas where it is removed by the project.</td>
</tr>
<tr>
<td>3</td>
<td>3.4.14</td>
<td>Detailed matters regarding grass and wildflower mixes, sowing rates, soil substrates, species composition, origin of seed and proposals for ongoing maintenance of wildflowers are under discussion and will be further considered as the detailed design is progressed.</td>
</tr>
<tr>
<td>4</td>
<td>3.4.16</td>
<td>NLC advises extreme caution with regards to further shrub and tree planting around Rosper Road Pools. The HA will keep planting to a minimum. This matter is under discussion and will be further considered as the detailed design is progressed.</td>
</tr>
</tbody>
</table>
5 Agreement of Statement of Common Ground

5.1.1 This is an approved SoCG, however an updated version may be provided on or prior to Deadline 4 (31 July 2014) as set out in the Project examination timetable.

Signed on behalf of North Lincolnshire Council

<table>
<thead>
<tr>
<th>Name</th>
<th>PHILIP A.D. WALLIS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Role</td>
<td>HEAD OF DEVELOPMENT MANAGEMENT</td>
</tr>
<tr>
<td>Date</td>
<td>31 July 2014</td>
</tr>
<tr>
<td>Signature</td>
<td>[Redacted]</td>
</tr>
</tbody>
</table>

Signed on behalf of the Highways Agency

<table>
<thead>
<tr>
<th>Name</th>
<th>Graham Dekin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Role</td>
<td>Senior Project Manager</td>
</tr>
<tr>
<td>Date</td>
<td>31 July 2014</td>
</tr>
<tr>
<td>Signature</td>
<td>[Redacted]</td>
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</table>
Appendix A: NLC comments regarding Waste
14. **WASTE**

14.1. This section of the report considers the information contained within the Environmental Statement Volume 1 Application Issue dated 8 January 2014 and concerns the expected impacts of the A160 improvement proposal in relation to waste produced during both the construction and operational phases of the project and how these will be mitigated.

14.2. The Environmental Statement acknowledges the requirements to have in place a Construction Environmental Management Plan (CEMP) during the construction phase. A Materials Management Plan (MMP) will form part of the wider Site Waste Management Plan (SWMP). A Handover Environmental Management Plan (HEMP) will be produced for ongoing operational works after the construction.

14.3. The Environmental Statement highlights the intention to manage the construction wastes in accordance with the CEMP and SWMP. Ongoing operational wastes will be managed in accordance with the HEMP.

14.4. The Environmental Statement identifies the volumes of materials required for the construction phase and where fill can be provided by recycling earth produced during excavations on site. The use of “borrow pits” is proposed whereby earth dug up for early stages of the project will be replaced by surplus left at the end. The proximity of producers for primary and secondary raw materials has been identified as have facilities for the recycling and disposal of wastes arising from the construction phase. These outline proposals accord with the waste hierarchy and principles of minimising the distance that wastes should be transported.

14.5. The second version of the draft CEMP was made available for review on 23 July 2014. This sets out in more detail how the wastes will be identified and the environmental impact of waste creation and disposal will be minimised, complying with the principles of the waste hierarchy.

14.6. The overview of the SWMP at D 5.1 meets the legal requirements for the correct registration and recording of waste carriers and vehicle loads. It is presumed that the audit of this information will completed under the requirements of the ISO14001 environmental management system.

14.7. Although the HEMP will not be available until later in the project it is presumed that the contractor will follow the same robust principles evidenced in the draft CEMP.

14.8. The documents reviewed evidence the contractor’s commitment to the principles of the waste hierarchy and sound proposals for an effective operational management plan to implement them.