

Intermodal Logistics Park North Ltd

INTERMODAL LOGISTICS PARK NORTH (ILPN)

Intermodal Logistics Park North (ILPN) Strategic Rail Freight Interchange (SRFI)

Project reference TR510001

DRAFT Development Consent Order for Statutory Consultation

Document 3.1

October 2025

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended)

Regulation 5(2)(b)

STATUTORY INSTRUMENTS

THIS DRAFT DCO HAS BEEN PRODUCED FOR THE STATUTORY CONSULTATION TAKING PLACE 28 OCTOBER – 23 DECEMBER 2025 FOR THE PROPOSED DEVELOPMENT.

IT IS A WORK IN PROGRESS AND WILL BE REGULARLY AMENDED AS THE PROPOSED DEVELOPMENT PROCEEDS THROUGH ITS CONSULTATION STAGES AND SUBSEQUENT EXAMINATION.

THE WORDS IN ITALICS IN THIS DRAFT DCO REFER TO DOCUMENTATION OR PROVISIONS WHICH IT IS ANTICIPATED WILL BE PREPARED IN DUE COURSE AND SUBMITTED WITH THE APPLICATION BUT HAS NOT YET BEEN PRODUCED AT THIS STAGE. THE DRAFT DCO INCLUDES VARIOUS GENERIC PROVISIONS DEALING WITH HIGHWAY POWERS BUT THESE WILL BE REVIEWED AND UPDATED AS THE FINAL HIGHWAY PROPOSALS ARE FINALISED – THE DCO DOES NOT INCLUDE DETAILED WORKS RELATING TO SPECIFIC HIGHWAY MITIGATION – PLEASE REFER TO THE HIGHWAY MITIGATION OPTIONS REPORT FOR FURTHER DETAIL.

202[X] No. 0000

INFRASTRUCTURE PLANNING

**THE INTERMODAL LOGISTICS PARK NORTH
STRATEGIC RAIL FREIGHT INTERCHANGE ORDER
202[X]**

Made - - - -

Laid before Parliament

Coming into force - -

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

The application was examined in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010^(c) by a [Panel of [X] members (the Panel) /single appointed person] appointed by the Secretary of State in accordance with Chapter [2/3] of Part 6 of the 2008 Act.

The [Panel/single appointed person], having considered the representations made and not withdrawn and the application with the accompanying documents, in accordance with section [74/83] of the 2008 Act has reported to the Secretary of State.

The Secretary of State having considered the representations made and not withdrawn and the report of the [Panel/single appointed person], has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017^(d) and has decided to make an Order granting development consent for the development described in the application [with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals comprised in the application].

The Secretary of State in exercise of the powers conferred by section 114, 115, 117, 120 and 122 of, and 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 Intermodal Logistics Park North Strategic Rail Freight Interchange Order 202[X] and comes into force on [X] 202[X].

Interpretation

2.—(1) In this Order—

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- (a) 2008 c. 29, Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20). Section 37 was amended by sections 128(2) and 137 of, and paragraphs 1 and 5 of Part 1 of Schedule 13 to, the Localism Act 2011 (c. 20).
 - (b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732 and S.I. 2013/522, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/572, S.I. 2020/1534 and S.I. 2021/978.. There are other amendments to the Regulations which are not relevant to this Order.
 - (c) S.I. 2010/103, amended by S.I. 2012/635.
 - (d) S.I. 2017/572 amended by S.I. 2017/1012, S.I. 2018/695, S.I. 2018/1232, S.I. 2020/1534 and S.I. 2025/82.

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

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

“the 1980 Act” means the Highways Act 1980(c);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(d);

“the 1984 Act” means the Road Traffic Regulation Act 1984(e);

“the 1990 Act” means the Town and Country Planning Act 1990(f);

“the 1991 Act” means the New Roads and Street Works Act 1991(g);

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

“the 2010 Regulations” means the Community Infrastructure Levy Regulations 2010(i);

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016(j) and unless otherwise specified, expressions used in this article have the same meaning as in those Regulations;

“the 2017 EIA Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(k);

“access and rights of way plans” means the plans of that description referred to in Schedule 16 (certification of plans and documents) and certified as the book of by the Secretary of State for the purposes of this Order;

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

“apparatus” for the purposes of article 9 (street works) and article 40 (apparatus and rights of statutory undertakers in stopped up streets) has the same meaning as in Part 3 of the 1991 Act;

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

“book of reference” means the document of that description referred to in Schedule 16 and certified as the book of reference by the Secretary of State for the purposes of this Order;

“bridges” means the bridges shown on the bridge plans;

“bridge plans” means the bridges plan referred to in Schedule 16 and certified as the bridge plans by the Secretary of State for the purposes of this Order;

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

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

“chief officer of police” means the chief constable of Merseyside Police Force or any successor in function;

“commence” means to carry out any material operation, as defined in section 155 of the 2008 Act (when development begins), forming part, or carried out for the purposes, of the authorised development other than operations consisting of—

- (a) site preparation, site security, ecological mitigation and clearance works;
- (b) pre-construction archaeological works;

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- (a) 1961 c.33.
 - (b) 1965 c.56.
 - (c) 1980 c.66.
 - (d) 1981 c.66.
 - (e) 1984 c.27.
 - (f) 1990 c.8.
 - (g) 1991 c.22.
 - (h) 2008 c. 29.
 - (i) S.I. 2010/948 as amended by S.I. 2011/987, S.I. 2012/635, S.I. 2012/2975, S.I. 2013/982, S.I. 2014/385, S.I. 2015/377, S.I. 2015/644, S.I. 2015/836 and S.I. 2018/172.
 - (j) S.I. 2015/1154.
 - (k) S.I. 2017/572, amended by S.I. 2017/1012.

- (c) environmental surveys and monitoring;
 - (d) removal of hedgerows, trees and shrubs;
 - (e) investigations for the purpose of assessing ground conditions;
 - (f) diversion or laying of services;
 - (g) remedial work in respect of any contamination or adverse ground conditions;
 - (h) erection of construction plant and equipment;
 - (i) the display of site notices and advertisements; and
 - (j) works for the protection and redevelopment of the threshing barn,
- and “commencement” and “commenced” are to be construed accordingly;

“common land” means those parts of land included within the Order limits forming part of the Highfield Moss and being land located near to Junction 23 of the M6 motorway *identified as [] on the [] plans*;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act^(a);

“electronic communications code” has the same meaning as in section 106 of the Communications Act 2003^(b);

“electronic communications code network” means—

- (k) 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 Communications Act 2003; and
- (l) an electronic communications network which the Secretary of State is providing or proposing to provide;

“environmental statement” means the document of that description referred to in Schedule 16 and certified as the environmental statement by the Secretary of State for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act^(c);

“HGV” means any vehicle with an operational weight capable of exceeding 7.5 tonnes;

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

“highway classification plans” means the plans of that description referred to in Schedule 16 and certified as the highway classification plans by the Secretary of State for the purposes of this Order;

“highway plans” means the plans of that description referred to in Schedule 16 and certified as the highway plans by the Secretary of State for the purposes of this Order;

“highway works” means the works comprised in Work Nos. [X – to be confirmed – see Highway Mitigation Options Report PEIR Appendix 7.2];

“land plans” means the plans of that description referred to in Schedule 16 and certified as the land plans by the Secretary of State for the purposes of this Order;

“lead local flood authority” means St Helens Borough Council and/or Warrington Borough Council and/or Wigan Metropolitan Borough Council or any successor in function as lead local flood authority or equivalent body;

“level crossings” means the level crossings shown on the access and rights of way plans;

(a) 1980 c. 66. The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).
 (b) 2003 c. 21. Section 106 was amended by section 4 of the Digital Economy Act 2017 (c. 30).
 (c) “Footpath” and “footway” are defined in section 329(1).

“local highway authority” means St Helens Borough Council and/or Warrington Borough Council and/or Wigan Metropolitan Borough Council or any successor in function as local highway authority or equivalent body;

“local planning authority” means St Helens Borough Council and/or Warrington Borough Council and/or Wigan Metropolitan Borough Council or any successor in function as local planning authority or equivalent body;

“maintain” includes inspect, repair, adjust, alter, clear, refurbish or improve, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement and any derivative of “maintain” is to be construed accordingly;

“main site” means that part of the land within the Order limits comprising the areas of land shown on the works plans as Work Nos. 1 - 7 (inclusive) and 19 and 20;

“National Highways” means National Highways Limited (company number 09346363), whose registered office is at Bridge House, Walnut Tree Close, Guildford, GU1 4LZ, appointed as highway authority for the highways specified in article 2 of the Appointment of a Strategic Highways Company Order 2015^(a) or any successor in function;

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

“Order limits” means the limits shown on the works plans represented by a red line within which the authorised development may be carried out;

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

“parameters plan” means the plan of that description referred to in Schedule 16 and certified as the parameters plan by the Secretary of State for the purposes of this Order;

“public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board or a lead local flood authority or a sewerage undertaker;

“railway” has the same meaning as in the 2008 Act;

“railway plans” means the plans of that description referred to in Schedule 16 and certified as railway plans by the Secretary of State for the purposes of this Order;

“relevant highway authority” means in any provision of this Order the highway authority for any area of land to which that provision relates;

“relevant lead local flood authority” means in any provision of this Order the lead local flood authority for any area of land to which that provision relates;

“relevant local planning authority” means in any provision of this Order the local planning authority for any area of land to which that provision relates;

“relevant street authority” means in any provision of this Order the street authority for any area of land to which that provision relates;

“relevant traffic authority” means in any provision of this Order the traffic authority for any area of land to which that provision relates;

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

“*speed limit plans*” means the plans of that description referred to in Schedule 16 and certified as the *speed limit plans* by the Secretary of State for the purposes of this Order;

“statutory undertaker” means a statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

“strategic road network” means that part of the highway network classified as trunk roads and motorways maintained by National Highways;

(a) S.I 2015/376

(b) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act(a), 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;

“traffic authority” has the meaning as in section 121A (traffic authorities) of the 1984 Act(b);

“traffic officer” means a person designated under section 2 (designation of Traffic Officers) of the Traffic Management Act 2004(c);

“traffic regulation plans” means the plans of that description referred to in Schedule 16 and certified as the traffic regulation plans by the Secretary of State for the purposes of this Order;

“tree and hedgerow removal plans” means the plans of that description referred to in Schedule 16 and certified as the tree and hedgerow removal plans by the Secretary of State for the purposes of this Order;

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

“tribunal” means the Lands Chamber Upper Tribunal;

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10 or 19(1) of the 1980 Act(e);
- (b) an order or direction under section 10 of that Act;
- (c) this Order; or
- (d) any other enactment;

“the undertaker” means—

- (a) Intermodal Logistics Park North Ltd (a company registered in Jersey with company number OE030805) whose registered office is at 26 New Street, St Helier, Jersey JE2 3RA; and
- (b) in respect of the main site only, any other person who has the benefit of this Order in accordance with section 156 (benefit of order granting development consent) of the 2008 Act for such time as that section applies to that person but does not include any such person until such time as the authorised development is commenced on land owned by that person;

“verge” means any part of the street which is not a carriageway;

“water authority” means United Utilities Water Limited (company number 02366678) whose registered office is at Haweswater House, Lingley Mere Business Park, Lingley Green Avenue Great, Sankey, Warrington WA5 3LP and any successor in function, as the context so admits;

“warehousing” means the warehousing the construction of which is authorised by this Order;

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

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- (a) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26).
 - (b) 1984 c. 27. Section 121A was inserted by section 168(1) of, and paragraph 70 of Part II of Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22), and was amended by section 1(b) of, and paragraphs 70 and 95(1) and (3) of Part 2 of Schedule 1 to, the Infrastructure Act 2015 (c. 7). There are other amendments to schedule 121A of the Act which are not relevant to this Order.
 - (c) 2004 c. 18.
 - (d) 1990 c. 8. Section 198 was amended by sections 192(1), (2)(a), (b) and (c), and section 238 of, and paragraphs 7 and 8 of Schedule 8, and Schedule 13 to, the Planning Act 2008 (c. 29), and sections 31, 32, 84 of, and paragraph 20 of Schedule 6, paragraph 34 of Schedule 7 and Schedule 19, and Parts I and II of, the Planning and Compensation Act 1991 (c. 34) and section 42(3) of the Planning and Compulsory Purchase Act 2004 (c. 5).
 - (e) 1980 c. 66. Section 10 was amended by section 22(2)(a), (b) and (cc) of the New Roads and Street Works Act 1991 (c. 22), section 1(6) of, and paragraphs 1, 10(1)-(4) of Part 1 of Schedule 1 to, the Infrastructure Act 2015 (c. 7), section 36 of, and paragraphs 21 and 22 of Schedule 2 to, the Planning Act 2008 (c. 29). Section 19(1) was amended by section 1(6) of, and paragraphs 1 and 15 of Part 1 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

“works plans” means the plans of that description referred to in Schedule 16 and certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

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

(4) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development) and references to numbered requirements are to the requirements as numbered in Part 1 of Schedule 2 (requirements).

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

(6) In this Order, the expression “includes” or “include” must be construed without limitation.

(7) Where the term approximate precedes a figure of measurement or quantum then the flexibility accorded by that word is limited by the parameters and the limits of deviation as described in article 4 (parameters of authorised development) and does not authorise any works which would result in significant environmental effects which have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 EIA Regulations.

(8) Where in this Order a document or a plan is referred to by reference to a document number, the reference is to the document or plan of that number referred to in Schedule 16.

(9) References to any statutory body includes that body’s successor in respect of functions which are relevant to this Order.

(10) Unless otherwise stated references to St Helens Borough Council, Warrington Borough Council and Wigan Metropolitan Borough Council refer to that body in its capacity as local planning authority or as local highway authority or as a lead local flood authority as the context so admits.

(11) In this Order, references to materially new or materially different environmental effects in comparison with those reported in the environmental statement must not be construed so as to include the avoidance, removal or reduction of an adverse environmental effect or positive environmental effect, or the increase of an assessed positive environmental effect, that was reported in the environmental statement as a result of the authorised development.

PART 2

PRINCIPAL POWERS

Development consent granted by the Order

3.—(1) Subject to the provisions of this Order, the undertaker is granted development consent for the authorised development to be carried out, used and operated.

(2) Any enactment applying to land within, adjoining or sharing a common boundary with the Order limits has effect subject to the provisions of this Order.

Parameters of authorised development

4.—(1) The authorised development is to be carried out within the parameters shown and described on the parameters plan and in carrying out the authorised development the undertaker 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;

- (b) *in respect of the highway works deviate vertically from the levels shown on the highway plans to a maximum of [X] upwards or downwards;*
- (c) *in respect of the railway works comprised in Work Nos. 1 and 2 deviate vertically from the levels shown on the railway plans to a maximum of 1.5 metres upwards or downwards; and*
- (d) *in respect of the bridges, deviate vertically from the levels shown on the bridge plans to a maximum of [X] metres upwards or [X] metres downwards.*

(2) The maximum limits of deviation described in paragraph (1)(a) to (d) do not apply to constrain the authorised development when it is demonstrated by the undertaker, on application, to—

- (a) the relevant local planning authority's satisfaction on matters related to the relevant local planning authority's functions, and the relevant local planning authority certifies accordingly, that a deviation in excess of these limits would not be likely to give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 EIA Regulations; and
- (b) the relevant highway authority's satisfaction on matters related to the relevant highway authority's respective functions and the relevant highway authority certifies accordingly, that a deviation in excess of these limits would not be likely to give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 EIA Regulations.

Authorisation of use

5. Subject to the provisions of this Order, the undertaker and any persons authorised by the undertaker may operate and use that part of the authorised development comprised in Work Nos. [1 – 9] inclusive for the purposes of a rail freight terminal and warehousing, any purposes for which such parts of the authorised development is designed and for any purposes ancillary to those purposes.

Maintenance of authorised development

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

(2) Paragraph (1) does not apply to the highway works the maintenance of which is governed by article 15 (maintenance of highway works) and Parts 2 and 3 of Schedule 14 (protective provisions).

(3) Paragraph (1) does not extend to any maintenance works which would be likely to give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 EIA Regulations.

Benefit of Order

7.—(1) Subject to paragraphs (2), (3) and (4) of this article and to article 8 (transfer of the benefit of certain provisions of the Order) the undertaker has the benefit of the Order.

(2) Intermodal Logistics Park North Ltd has the sole benefit of the provisions of Part 5 (powers of acquisition) unless the Secretary of State consents to the transfer of the benefit of those provisions.

(3) *Intermodal Logistics Park North Ltd has the sole benefit of the powers conferred by this Order to carry out the highway works in accordance with the provisions of Parts 2 and 3 of Schedule 14 (protective provisions) unless—*

- (a) *on application by Intermodal Logistics Park North Ltd the Secretary of State consents to the transfer of the benefit of those provisions; or*
- (b) *the provisions of paragraph [X] of Part 2 or paragraph [X] of Part 3 of Schedule 14 [paragraphs dealing with highway authority step in] apply in which case the relevant highway authority shall have the benefit of the powers to carry out the relevant highway works.*

(4) Paragraph (1) does not apply to the works for which consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers, operators of the electronic communications code network and other persons affected by the authorised development.

Transfer of the benefit of certain provisions of the Order

8.—(1) The undertaker may with the consent of the Secretary of State transfer to another person (“the transferee”)—

- (a) the benefit of the provisions of Part 5 (powers of acquisition); and
- (b) *the benefit of the provisions of Parts 2 and 3 of Schedule 14 (protective provisions).*

(2) Where a transfer has been made in accordance with paragraph (1) references in this Order to the undertaker except in paragraph (3), include references to the transferee.

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

(4) The undertaker must—

- (a) consult the Secretary of State before making an application for consent under paragraph (1) of this article by giving notice in writing of the proposed application; and
- (b) prior to any transfer under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer relates to the exercise of powers in their area, the relevant local planning authority and in respect of paragraph (1)(b), the relevant highway authority.

(5) A notice under paragraph (4)(b) must—

- (a) state—
 - (i) the name and contact details of the transferee;
 - (ii) subject to paragraph (6), the date on which the transfer will take effect;
 - (iii) the provisions to be transferred;
 - (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (3), will apply to the person exercising the powers transferred; and
 - (v) where the provisions to be transferred include all or any of the benefit of powers in Part 5 of this Order, confirmation of the availability and adequacy of funds for compensation, and
- (b) be accompanied by—
 - (i) where relevant, a plan showing the works or areas to which the transfer relates; and
 - (ii) a copy of the document effecting the transfer signed by the undertaker and the transferee.

(6) The date specified under paragraph (5)(a)(ii) must not be earlier than the expiry of 14 days from the date of receipt of the notice given under paragraph (4)(b).

(7) The notice given under paragraph (4)(b) must be signed by the undertaker and the transferee as specified in that notice.

PART 3

STREETS

Street Works

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

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position;
- (e) construct bridges and tunnels;
- (f) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (g) alter the level or increase the width of such kerb, footway, cycle track or verge;
- (h) reduce the width of the carriageway of the street;
- (i) make and maintain crossovers and passing places; and
- (j) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (i).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act *and is subject to the provisions of Parts 2 and 3 of Schedule 14 (protective provisions)*.

(3) The provisions of sections 54 (advance notice of certain works) to 106 (index of defined expressions) of the 1991 Act **(a)** apply to any street works carried out under paragraph (1).

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

Power to alter layout, etc., of streets

10.—(1) Subject to paragraph (2), the undertaker may, for the purposes of constructing, operating, using and maintaining the authorised development, alter the layout of any street within the main site and the layout of any street at its junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain crossovers, and passing places.

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

(3) An application made under paragraph (1) must include a statement that the provisions of paragraph (2) apply to that application.

Permanent stopping up of streets

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

- (a) stop up permanently each of the streets specified in Part 1 of columns (1) and (2) of Schedule 4 (streets to be permanently stopped up for which a substitute is to be provided) to the extent specified, by reference to the letters shown on the access and rights of way plans, in column (3) of that Part of that Schedule; and
- (b) stop up permanently the street specified in Part 2 of columns (1) and (2) of Schedule 4 (streets to be permanently stopped up for which no substitute is to be provided) to the extent specified, by reference to the letters shown on the access and rights of way plans, in column (3) of that Part of that Schedule.

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

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

(3) No street specified in columns (1) and (2) of Part 1 of Schedule 4 is to be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted for it, which is specified in column (4) of Part 1 of that Schedule, has been completed to the reasonable satisfaction of the relevant street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

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

(5) This article is subject to article 40 (apparatus and rights of statutory undertakers in stopped up streets).

(6) Any stopping up carried out under this article must be carried out in accordance with any relevant provisions of Part 2 and Part 3 of Schedule 14 (protective provisions).

Temporary closure, alteration, prohibition, diversion or restriction of use of streets

12.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily close, prohibit the use of, alter, divert or restrict the use of any street and may for any reasonable time—

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

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

(3) Without limitation on the scope of paragraph (1), the undertaker may use as a temporary working site any street or public right of way which has been temporarily closed, altered or diverted or the use of which has been restricted under the powers conferred by this article.

(4) Save as to streets in respect of which the undertaker is the street authority, the undertaker must not temporarily close, prohibit the use of, alter or divert any street without the consent of the

relevant street authority which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

(5) Where the undertaker provides a temporary diversion under paragraph (2), the new or temporary alternative route is not required to be of higher standard than the temporarily closed street.

(6) 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.

(7) If a street authority which receives an application for consent under paragraph (4) accompanied with all relevant information fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was submitted with all relevant information, it is deemed to have granted consent.

(8) An application made under paragraph (4) must include a statement that the provisions of paragraph (7) apply to that application.

Public rights of way - creation, substitution, stopping up and closure of level crossings

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

- (a) stop up each of the public rights of way specified in columns (1) and (2) of Part 1 of Schedule 5 (public rights of way to be permanently stopped up for which a substitute is to be provided) to the extent specified in column (3) of that Part of that Schedule;
- (b) provide the substitute public rights of way described in column (4) of Part 1 of Schedule 5 between the specified terminus points and where specified, on a detailed alignment to be agreed with the local highway authority at the stage of the authorised development identified in column (5) of that Part of that Schedule; and
- (c) stop up each of the public rights of way specified in columns (1) and (2) of Part 2 of Schedule 5 (public rights of way to be permanently stopped up for which no substitute is to be provided) to the extent specified in column (3) of that Part of that Schedule at the stage of the authorised development identified in column (4) of that Part of that Schedule.

(2) No public right of way specified in columns (1) and (2) of Part 1 of Schedule 5 may be wholly or partly stopped up under this article unless—

- (i) the permanent substitute public right of way referred to in column (4) of Part 1 of Schedule 5 has been provided by the undertaker to the reasonable satisfaction of the local highway authority and is open for use;
- (ii) an alternative temporary substitute public right of way agreed by the local highway authority has first been provided by the undertaker, to the reasonable satisfaction of the local highway authority; or
- (iii) the local highway authority agrees that an alternative temporary substitute public right of way is not required.

(3) Any temporary substitute right of way must be maintained by the undertaker with appropriate signage until the completion and opening of the permanent substitute public right of way specified in column (4) of Part 1 of Schedule 5.

(4) The undertaker must in connection with carrying out of the authorised development provide the new public rights of way specified in columns (1) and (2) of Part 3 of Schedule 5 (new public rights of way to be created) to the extent specified in column (3) of that Part of that Schedule at the stage of the authorised development in column (4) of that Part of that Schedule.

(5) The public right of way specified in columns (1) and (2) of Part 4 of Schedule 5 (status of public rights of way to be modified) is modified to the public right of way specified in column (4) of that Part of that Schedule at the stage of the authorised development specified in column (5) of that Part of that Schedule.

(6) Subject to the provisions of this article, where a relevant level crossing is crossed by a public right of way which is stopped up under paragraph (1), the relevant level crossing is stopped up and discontinued at the same time.

(7) In paragraph (6), “relevant level crossing” means Lowton level crossing or Parkside level crossing.

Accesses

14.—(1) The undertaker may, for the purposes of the authorised development and subject to paragraph (2)—

- (a) form and lay out means of access, or improve or maintain an existing means of access, in the locations specified in column (2) of Part 3 of Schedule 6 (new private means of access created) at the stage of the authorised development identified in column (3) of that Part of that Schedule; and
- (b) with the approval of the relevant highway authority or relevant street authority, form and lay out such other means of access (permanent or temporary) or improve or maintain any existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development and the undertaker must with the request for approval from the relevant highway authority notify the relevant highway authority of the provisions of paragraph (3).

(2) The consent of the relevant highway authority or the relevant street authority as appropriate is not required for the formulation, layout, alteration or improvement of a new or existing means of access described in Schedule 1 (authorised development) and carried out in accordance with the relevant provisions of Parts 2 and 3 of Schedule 14 (protective provisions).

(3) If a highway authority or street authority which has received an application for consent under paragraph (1)(b) fails to notify the undertaker of its decision before the end of the period of 42 days beginning with the date on which the application was made, it is deemed to have granted consent.

(4) The private means of access as set out in column (2) of Part 1 of Schedule 6 (private means of access to be replaced) may be removed by the undertaker and if removed must be replaced by the means of access as set out in column (3) of Part 1 of Schedule 6 at the stage of the authorised development identified in column (4) of that Part of that Schedule.

(5) The private means of access as set out in column (2) of Part 2 of Schedule 6 (private means of access to be closed for which no substitute is to be provided) may be closed by the undertaker at the stage of the authorised development identified in column (3) of that Part of that Schedule without a substitute being provided.

Maintenance of highway works

15.—(1) *The highway works must be completed in accordance with the relevant provisions of Parts 2 and 3 of Schedule 14 (protective provisions).*

(2) *With effect from the date of the final certificate referred to in paragraph [X] of Part 2 of Schedule 14 the highway works to which that certificate relates will be maintained by and at the expense of National Highways.*

(3) *With effect from the date of the final certificate referred to in paragraph [X] of Part 3 of Schedule 14] the highway works to which that certificate relates will be maintained by and at the expense of the relevant local highway authority.*

(4) *Where new land not previously part of the public highway is the subject of a provisional certificate under paragraph [X] of Part 2 of Schedule 14 then it is deemed to be dedicated as part of the public highway on the issue of that certificate.*

(5) *Where new land not previously part of the public highway is the subject of a provisional certificate under paragraph [X] of Part 3 of Schedule 14 then it is deemed to be dedicated as part of the public highway on the issue of that certificate.*

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

Classification of highways

16.—*(1) The new and diverted highways described in Part 1 (new and diverted highways) Schedule 7 (classification of new highways) are to be—*

- (a) classified as set out in column (3) of Part 1 of Schedule 7 for the purpose of any enactment or instrument which refers to highways classified as such; and*
- (b) provided for the use of the classes of traffic defined in Schedule 4 (classes of traffic for purposes of special roads) to the 1980 Act as set out in column (4) of Part 1 of Schedule 7.*

(2) From the date on which the undertaker notifies the Secretary of State that the new highways described in Part 1 of Schedule 7 have been completed as evidenced by issue of the provisional certificate in accordance with paragraph [X] of Part 2 and paragraph [X] of Part 3 of Schedule 14 (protective provisions) or are open for through traffic, whichever is the earliest—

- (a) the body set out in column (5) of Schedule 7 is the highway authority for those highways; and*
- (b) the new highways identified as special roads in column (3) of Schedule 7 are classified as trunk roads for the purpose of any enactment or instrument which refers to highways classified as trunk roads.*

(3) The existing highways described in Part 2 (existing highways) Schedule 7 are to be classified as set out in column (5) of Part 2 of for the purpose of any enactment or instrument which refers to highways classified as such on the event in column (4) of Part 2.

Speed limits

17.—*(1) The order[s] referred to in column (1) and (2) of Part 1 (existing orders) of Schedule 8 (speed limits) is revoked as set out in column (3) of Part 1 of Schedule 8 upon the event listed in column (4) occurring.*

(2) Upon the event listed in column (3) of Part 2 (highways subject to [X] mph speed limit) of Schedule 8 no person is to drive any motor vehicle at a speed exceeding [X] miles per hour in the lengths of highway identified in column (2) of Part 2 of Schedule 8.

(3) Upon the event listed in column (3) of Part 3 (derestricted highways) of Schedule 8 the lengths of highway specified in column (2) of Part 3 of Schedule 8 cease to be restricted highways for the purpose of section 81 of the 1984 Act.

(4) During the period specified in column (4) of Part 4 (temporary speed limits) of Schedule 8 no person is to drive any motor vehicle at a speed exceeding the limit specified in column (2) of Part 4 of Schedule 8 along the lengths of highway specified in column (3) of Part 4 of Schedule 8.

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

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

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

- (a) have the same effect; and*

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

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

Traffic regulation

18.—(1) The order[s] referred to in column (1) of Part 1 (amendments to existing orders) of Schedule 9 (traffic regulation) is revoked as set out in column (2) of Schedule 9 upon the event listed in column (3) of Part 1 of Schedule 9 occurring.

(2) Subject to the provisions of this article and the consent (such consent not to be unreasonably withheld) of the relevant traffic authority, which consent may be subject to reasonable conditions, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction, operation, use or maintenance of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) suspend or 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, restrict, regulate or prohibit vehicular access to any road,

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

(3) The undertaker must not exercise the powers in paragraph (2) unless it has—

- (a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the relevant traffic authority; and
- (b) advertised its intention in such manner as the relevant traffic authority may specify in writing within 7 days of the relevant traffic authority's receipt of notice of the undertaker's intention under sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (2) is to—

- (a) have effect as if duly made by, as the case may be—
 - (i) the relevant traffic authority as a traffic regulation order under the 1984 Act; or
 - (ii) the local highway authority as an order under section 32 of the 1984 Act^(b); and
- (b) be deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement).

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (1) at any time.

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

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

^(a) S.I. 2011/935.

^(b) 1984 c. 27. Section 32 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51). There are other amendments to section 32 which are not relevant to this Order.

(8) If the relevant traffic authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (2) that is accompanied by all relevant information the relevant traffic authority is deemed to have given consent.

(9) An application made under paragraph (2) must include a statement that the provisions of paragraph (8) apply to that application.

Clearways and no waiting

19.—*(1) Subject to paragraphs (3) and (4), following the event specified in column (3) of Part 2 (clearways) of Schedule 9 (traffic regulation), no person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to wait on any part of a carriageway specified in columns (1) and (2) of that Part of that Schedule, other than a lay-by.*

(2) Subject to paragraphs (3) and (5), following the event specified in column (3) of Part 3 (no waiting at any time) of Schedule 9 no person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to wait at any time on any day on the sides of the carriageway specified in columns (1) and (2) of that Part of that Schedule or its adjacent verge.

(3) Nothing in paragraphs (1) and (2) applies—

(a) to render it unlawful to cause or permit a vehicle to wait on any part of the carriageway or verge, 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 carriageway or verge;

(iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the carriageway or verge of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A to the Communications Act 2003(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, National Highways, a safety camera partnership or the Driver and Vehicle Standards 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 Services 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 the person's control.

(4) Nothing in paragraph (1) applies to any vehicle selling or dispensing goods to the extent that 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 dispersed.

(a) 2003 c. 21.

(b) 1991 c. 56.

(c) 2000 c. 26.

(5) Nothing in paragraph (2) applies—

- (a) so as to prevent a vehicle waiting on any verge specified in paragraph (2) for so long as may be necessary—*
 - (i) to enable a person to board or alight from the vehicle;*
 - (ii) to enable goods to be loaded on to or unloaded from the vehicle; or*
 - (iii) to enable goods to be sold from the vehicle provided such goods are immediately delivered at, or taken into, premises adjacent to the vehicle from which the sale is effected;*
- (b) so as to prevent a vehicle waiting on any verge specified in paragraph (2) for so long as may be necessary to enable that vehicle, if it cannot conveniently be used for such purpose without waiting on such verge, to be used in connection with any building operation or demolition, the removal of any obstruction or potential obstruction to traffic, the maintenance, improvement or reconstruction of such verge or of a carriageway immediately adjacent to such verge or the erection, laying, placing, maintenance, testing, alteration, repair or removal of any structure, works or apparatus in, on, under or over that verge or carriageway; or*
- (c) to a vehicle waiting on any verge specified in paragraph (2) while any gate or other barrier at the entrance to premises to which the vehicle requires access or from which it has emerged is opened or closed.*

(6) Paragraphs (1) to (5) have effect as if made by a traffic regulation order under the 1984 Act and their application may be varied or revoked by such an order or by any other enactment which provides for the variation or revocation of such orders.

Motor Vehicle Restrictions

20.—*(1) No person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle, the maximum gross weight of which exceeds 7.5 tonnes, to enter or proceed within the zone specified in column (2) of Part 4 (environmental weight limit) of Schedule 9 (traffic regulation) between the points specified in column (3) of Part 4 of Schedule 9 following the event specified in column (4) of Part 4 of Schedule 9.*

(2) The restriction referred to in paragraph (1) does not apply in respect of—

- (a) anything done in accordance with any restriction or requirement indicated by traffic signs placed by or on behalf of the police; or*
- (b) vehicles being used—*
 - (i) in the service of a local authority or water authority in pursuance of statutory powers or duties;*
 - (ii) for police ambulance, fire and rescue authority or traffic officer purposes;*
 - (iii) for the purpose of agriculture on any land adjacent to the restricted roads;*
 - (iv) for the purpose of gaining access to or leaving any land and/or premises situated in or adjacent to the restricted roads or any roads accessible only therefrom;*
 - (v) in connection with the carrying out on land or any premises situated on or adjacent to the restricted roads of any building, industrial or demolition operation or the removal of any obstruction to traffic for the maintenance, improvement, reconstruction, cleansing or lighting of the road or any roads accessible only therefrom, or the laying, erection, alteration, or repair of any sewer under the restricted roads or of any main pipe or apparatus for the supply of gas, water or electricity or of any electronic communications apparatus thereunder or thereon, or for the placing, maintenance or removal of any traffic signs thereon; or*
 - (vi) for public transport.*

(3) No person, except upon the direction or with the permission of a police officer or traffic officer in uniform is to cause or permit any vehicle to proceed in the manner specified in column

(2) of Part 5 (prohibited movements) of Schedule 9 following the event specified in column (3) of Part 5 of Schedule 9.

(4) No person, except upon the direction or with the permission of a police officer or traffic officer in uniform, is to cause or permit any vehicle to proceed along the sections of the road specified in column (2) of Part 6 (vehicle prohibition) of Schedule 9 following the event specified in column (3) of Part 6 of Schedule 9 other than to gain access to or egress from—

(a) any premises situated on or adjacent to the said length of road; or

(b) any other premises or roads accessible from and only from the said length of road.

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

Agreements with highway authorities

21.—(1) A relevant highway authority and the undertaker may enter into agreements related to the authorised development with respect to—

- (a) the construction, and/or maintenance of any new highway, including any structure carrying the highway over the Chat Moss railway line and any railway authorised by this Order;
- (b) the strengthening, improvement, repair or reconstruction of any highway under the powers conferred by this Order;
- (c) the maintenance of landscaping within or adjacent to a highway constructed as part of the highway works;
- (d) the maintenance of highway related assets which fall outside of the extent of highway maintained by a relevant highway authority;
- (e) any stopping up, alteration or diversion of a highway as part of or to facilitate the authorised development;
- (f) the carrying out in the highway of any of the works referred to in article 9 (street works); or
- (g) the erection of signage in connection with the authorised development.

(2) Such an agreement may, without limitation on the scope of paragraph (1)—

- (a) make provision for the relevant highway authority to carry out any function under this Order which relates to the highway in question;
- (b) include an agreement between the undertaker and relevant highway authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

22.—(1) Subject to paragraphs (3), (4), (5) and (6) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised 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 undertaker under paragraph (1) must be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(a).

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

(4) No water may be discharged into a watercourse that flows into the highway drainage system without the consent of the relevant highway authority and such consent may be given subject to such terms and conditions as the relevant highway authority consider appropriate but such consent not to be unreasonably withheld or delayed.

(5) The undertaker 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 must not be unreasonably withheld; and

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

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under 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 2016(b).

(8) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board, a local authority or a sewerage undertaker; and

(b) other expressions excluding “watercourse”, which are used both in this article and in the Water Resources Act 1991 have the same meaning as in that Act.

(9) If a person who has received an application for consent under paragraphs (3) and (4) or approval under paragraph (5)(a) fails to notify the undertaker of its decision within 42 days of receiving the application submitted with all relevant information, that person is deemed to have granted consent or given approval as the case may be.

(10) Any application for consent under paragraph (3) and (4) or approval under paragraph (5)(a) must include a statement that the provisions of paragraph (9) apply to that application.

Authority to survey and investigate the land

23.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

(a) survey, monitor or investigate the land;

(b) without limitation to the scope of sub-paragraph (a), survey, monitor and or investigate the land and any buildings or structures on that land for the purpose of investigating the potential effects of the authorised development on that land or buildings or structures on that land or for enabling the construction, operation, use or maintenance of the authorised development;

(c) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove samples;

(d) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and

(a) 1991 c.56. Section 106 was amended by section 35(1) and (8) and section 43(2) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43) and, sections 36(2) and 99 of the Water Act 2003 (c. 37) (subject to the transitional provisions contained in article 6 of, and Schedule 3 to, S.I. 2004/641) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(b) S.I. 2016/1154. There are amendments to regulation 12 which are not relevant to this Order.

- (e) place on, leave on and remove from the land apparatus and welfare facilities for use in connection with the survey, monitoring and or investigation of land, the making of trial holes, and or the carrying out of ecological and or archaeological investigations.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner, who is not the undertaker, and occupier of the land.

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

- (a) must, if so required, 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 may be made under this article—

- (a) in land located within the highway boundary without the consent of the relevant highway authority; or
- (b) in a private street without the consent of the relevant street authority,

but such consent must not be unreasonably withheld or delayed.

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

(6) If either a highway authority or a street authority which has received an application for consent under paragraph (4) that includes all relevant information fails to notify the undertaker of its decision within 42 days of receiving the application the authority is deemed to have granted the consent.

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

(8) Any application for consent under paragraph (4) must include a statement that the provisions of paragraph (6) apply to that application.

Protective works to buildings and structures

24.—(1) Subject to the provisions of this article, the undertaker may at its own expense carry out the protective works to any building or structure which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

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

(3) For the purpose of determining how the powers under this article are to be exercised, the undertaker may enter and survey any building or structure to which the power applies and any land within its curtilage and place on, leave on, and remove from the building any apparatus and equipment for use in connection with the survey.

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

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

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

(5) Before exercising—

- (a) a power under paragraph (1) to carry out protective works to a building or structure;
- (b) a power under paragraph (3) to enter a building and land within its curtilage;
- (c) a power under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a power under paragraph (4)(b) to enter land,

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

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner and 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 as to whether the protective works proposed by the undertaker are necessary or expedient to be referred to arbitration under article 60 (arbitration).

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

(8) Subject to article 42 (no double recovery), nothing in this article relieves the undertaker from any liability to pay compensation under section 152(3) of the 2008 Act (compensation in cases where no right to claim as nuisance).

(9) Any compensation payable under paragraph (7) is to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

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

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

Removal of human remains

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

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

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

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

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

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

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium, and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

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

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

(8) If—

- (a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the Order limits;
- (b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days;
- (c) within 56 days after any order is made by a county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified, subject to paragraph (9) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be reinterred in individual containers which are to be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

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

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (3).

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

(12) No notice is required under paragraph (2) before the removal of any human remains where the undertaker is satisfied—

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

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

- (a) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased;
- (b) is, or is a child of, a brother, sister, uncle or aunt of the deceased;

- (c) is the lawful executor of the estate of the deceased; or
- (d) is the lawful administrator of the estate of the deceased.

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

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

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

(2) This article is subject to—

- (a) article 27 (time limit for exercise of authority to acquire land compulsorily);
- (b) article 29(2) (compulsory acquisition of rights and imposition of restrictive covenants);
- (c) article 30 (private rights); and
- (d) article 37(9) (temporary use of land for carrying out the authorised development).

Time limit for exercise of authority to acquire land compulsorily

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

- (a) no notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act as modified by this Order; and
- (b) no declaration is to be executed under section 4(a) (execution of declaration) of the 1981 Act as applied by article 33 (application and modification of the 1981 Act).

(2) The authority conferred by article 37 (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 undertaker remaining in possession of the land after the end of that period, if the land was entered and possession was taken before the end of that period.

(3) The applicable period for the purposes of section 4(b) (time limit for giving notice to treat) of the 1965 Act and section 5A(c) (time limit for general vesting declaration) of the 1981 Act (as modified by this Order) is the period of five years beginning on the day on which the Order is made.

Compulsory acquisition of land - incorporation of the mineral code

28. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(d) are incorporated into this Order subject to the modifications that—

- (a) paragraph 8(3) is not incorporated;
- (b) for the “acquiring authority” substitute “the undertaker”;
- (c) for “undertaking” substitute “authorised development”; and
- (d) for “compulsory purchase order” substitute “this Order”.

(a) Section 4 was amended by section 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

(b) Section 4 was amended by section 182(1) of the Housing and Planning Act 2016 (c. 22) and section 185(2) of the Levelling-up and Regeneration Act 2023 (c. 55).

(c) Section 5A was amended by section 182(2) of the Housing and Planning Act 2016 (c. 22) and section 185(3) of the Levelling-up and Regeneration Act 2023 (c. 55).

(d) 1981 c. 67.

Compulsory acquisition of rights and imposition of restrictive covenants

29.—(1) Subject to paragraph (2), the undertaker may acquire compulsorily such rights or impose such restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 27 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) and (2) of Schedule 11 (land in which only new rights, etc. may be acquired), the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights and the imposition of such restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) Subject to section 8(a) (other provisions as to divided land) of, and Schedule 2A (counter notice requiring purchase of land not in notice to treat) to, the 1965 Act (as substituted by Schedule 12 (modification of compensation and compulsory purchase enactments for creation of new rights and restrictive covenants)), where the undertaker acquires a right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 12 has effect for the purpose of modifying the enactments referred to in that Schedule 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 restrictive covenants.

(5) In any case where the acquisition of new rights or imposition of a restriction under paragraph (1) or (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

Private rights

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

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

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights and restrictions over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 29 (compulsory acquisition of rights and imposition of restrictive covenants) are extinguished in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant—

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

whichever is the earlier.

(a) Section 8 was amended by paragraph 2 of Schedule 17 to the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(b) Section 11(1) was amended by paragraph 14(3) of Schedule 4 to the Acquisition of Land Act 1981 (c. 67), paragraph 12(1) of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and section 186(2) of the Housing and Planning Act 2016 (c. 22).

(3) Subject to the provisions of this article, all private rights and restrictions over any part of the Order land which is owned by, vested in or acquired by the undertaker are extinguished on carrying out of any activity authorised by this Order which interferes with or breaches such rights.

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

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restriction under this Order is entitled to compensation in accordance with the terms of section 152 (compensation where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(6) This article does not apply in relation to any right to which section 138(a) (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 39 (statutory undertakers) applies.

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

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights over land or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of it;

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

(iv) the undertaker'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 undertaker and the person in or to whom the right 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 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 references to any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and including restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Power to override easements and other rights

31.—(1) Any authorised activity undertaken by the undertaker which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, regardless of whether it involves—

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

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

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

(3) Where any interest or right to which this article applies is interfered with or any restriction breached by any authorised activity in accordance with the terms of this article the interest or right

(a) Section 138 was amended by section 23(4) of the Growth and Infrastructure Act 2013 (c. 27) and S.I. 2017/1285.

is extinguished, abrogated or discharged at the time that the interference or breach in respect of the authorised activity in question commences.

(4) Subject to article 42 (no double recovery) in respect of any interference, breach, extinguishment, abrogation or discharge under this article, compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provisions as to compensation for injurious affection) of the 1965 Act^(a); and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or
 - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

(6) Nothing in this article is to be construed as restricting the entitlement of any person to compensation.

(7) Where a person deriving title under the undertaker by whom the land in question was acquired or appropriated—

- (a) is liable to pay compensation; and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(8) For the purposes of this article, “authorised activity” means—

- (a) the erection, construction, carrying out or maintenance of any building or works on land;
- (b) the erection, construction or maintenance or anything in, on, over or under land; or
- (c) the use of any land (including the temporary use of land).

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

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

Rights under or over streets

32.—(1) The undertaker may enter upon and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

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

(3) Paragraph (2) 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 undertaker acquiring any part of that person’s interest in the land, and who suffers loss by the exercise of that

(a) 1965 c. 56. Section 10 was amended by article 5(1) and (2) of, and paragraphs 59 and 63 of Schedule 1 to, S.I. 2009/1307.

power, is to 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 a statutory undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

(6) Paragraph (1) does not apply to any street which is part of the strategic road network

Application and modification of the 1981 Act

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

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

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

(4) In section 1 for subsection (2) there is substituted—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”

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

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

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

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

(8) In section 5B(b) (extension of time limit during challenge) for subsection (1) there is substituted—

“(1) If an application is made under section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 27 of the Intermodal Logistics Park North Strategic Rail Freight Interchange Order 202X is to be extended by—

- (a) a period equivalent to the period beginning with the day the application is made and ending on the day it is withdrawn or finally determined; or
- (b) if shorter, one year.”

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

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

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

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

-
- (a) Section 4 was amended by sections 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).
 - (b) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22) and amended by section 185(3) of the Levelling up and Regeneration Act 2023 (c. 55).
 - (c) Section 6(1) was amended by paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22).
 - (d) Section 7(1) was amended by paragraph 3 of Schedule 18 to the Housing and Planning Act 2016 (c. 22) and section 186(2) of the Levelling up and Regeneration Act 2023 (c. 55).

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

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

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

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

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

(15) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125(d) (application of compulsory acquisition provisions) of the 2008 Act (as modified by article 34 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of land under this Order.

Modification of Part 1 of the 1965 Act

34.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125(e) (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1)(f) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”.

(3) For “the three year period mentioned in section 4” substitute “the five year period mentioned in article 27 of the Intermodal Logistics Park North Strategic Rail Freight Interchange Order 202[X]”.

(4) In section 22 (2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 27 of the Intermodal Logistics Park North Strategic Rail Freight Interchange Order 202[X]”.

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

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 37 (temporary use of land for carrying out the authorised development) or 38 (temporary use of land for maintaining the authorised development) of the Intermodal Logistics Park North Strategic Rail Freight Interchange Order 202[X].”

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- (e) Section 8 was amended by paragraph 4 of Schedule 18 to the Housing and Planning Act 2016 (c. 22) and section 186(3) of the Levelling up and Regeneration Act 2023 (c. 55).
 - (a) Section 10 was amended by section 186(5) of the Levelling up and Regeneration Act 2023 (c. 55) and S.I. 2009/1307.
 - (b) Section 11 was amended by paragraph 52(3) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.
 - (c) Schedule A1 was inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).
 - (d) Section 125 was amended by paragraph 17 of Schedule 16 to the Housing and Planning Act 2016 (c. 22).
 - (e) Section 125 was amended by paragraph 17 of Schedule 16 to the Housing and Planning Act 2016 (c. 22).
 - (f) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).
 - (g) Schedule 2A was inserted by paragraph 3 of Schedule 17 to the Housing and Planning Act 2016 (c. 22)

Disregard of certain interests and improvements

35.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land, if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.

Set-off for enhancement in value of retained land

36.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land, under article 28 (compulsory acquisition of rights and imposition of restrictive covenants), the tribunal is to set off against the value of the rights or restrictive covenants so acquired—

- (a) any increase in the value of the land over which the new rights or restrictive covenants are required; and
 - (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,
- which will accrue to that person by reason of the construction of the authorised development.

(3) The 1961 Act is to have effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

Temporary use of land for carrying out the authorised development

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

- (a) enter on and take temporary possession of—
 - (i) the land specified in column (2) of Schedule 10 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule 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(a) of the 1965 Act (powers of entry) (other than in connection with the

(a) Section 11 was amended by paragraph 14(3) of Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), paragraph 12(1) of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

acquisition of rights or restrictive covenants only) and no declaration has been made under section 4(a) (execution of declaration) of the 1981 Act;

- (b) remove any buildings, apparatus, drainage, electric line, fences, debris and vegetation from that land that reasonably need to be removed in connection with the carrying out of the authorised development;
- (c) construct any permanent or temporary works (including the provision of means of access), haul roads, fencing, bridges, structures and buildings on that land;
- (d) use the land for the purposes of a working site (including storage of materials and siting of equipment and apparatus) with access in connection with the authorised development;
- (e) construct or carry out any works (including mitigation works or operations) or use the land for the purpose of the authorised development;
- (f) break up the surface of the land to construct the authorised development and in the event of an emergency to remove, recover, reposition, repair or maintain underground apparatus;
- (g) construct such works on that land as are mentioned in Schedule 1 (authorised development); and
- (h) carry out mitigation works required pursuant to the requirements in Part 1 of Schedule 2 (requirements).

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

(3) The undertaker 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) above, 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 10; or*
- (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land or has otherwise acquired the land subject to temporary possession.

(4) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, before giving up possession of the land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the condition it was in on the date on which possession of the land was first taken by the undertaker or such other condition as may be agreed with the owners of the land; but the undertaker is not required to—

- (a) remove any drainage works installed by the undertaker under this article;
- (b) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 3 (streets subject to street works);
- (c) restore the land on which any permanent works have been constructed under paragraph (1);
- (d) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;
- (e) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development;

(a) Section 4 was amended by sections 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

- (f) replace a building, structure, drain, electric line or fence removed under this article;
- (g) remove or reposition any apparatus belonging to statutory undertakers or any necessary mitigation works; or
- (h) restore the land on which any works have been carried out under paragraph (1)(h) insofar as the works relate to mitigation works identified in the environmental statement or required pursuant to the requirements in Part 1 of Schedule 2.

(5) Any dispute as to the satisfactory removal of temporary works and restoration of the land under paragraph (4) does not prevent the undertaker from giving up possession of the land.

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

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

(8) Subject to article 42 (no double recovery), nothing in this article affects any liability to pay compensation under section 152(a) (compensation in case where no right to claim in nuisance) of the 2008 Act 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 (6).

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

- (a) carrying out a survey of that land under article 23 (authority to survey and investigate the land); or
- (b) carrying out protective works under article 24 (protective works to buildings and structures).

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

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

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

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

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

Temporary use of land for maintaining the authorised development

38.—(1) Subject to paragraph [X] and Parts 2 and 3 of Schedule 14 (protective provisions), the undertaker may—

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

(a) Section 152 was amended by S.I. 2009/1307.

(b) Section 13 was amended by section 19 of, paragraph 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

- (b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
 - (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.
- (2) Paragraph (1) does not authorise the undertaker to take temporary possession of—
- (a) any house or garden belonging to a house; or
 - (b) any building (other than a house) if it is for the time being occupied.
- (3) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.
- (4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.
- (5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.
- (6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.
- (7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.
- (8) Nothing in this article affects any liability to pay compensation under section 152(a) (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).
- (9) Where the undertaker takes possession of land under this article, the undertaker is not to be required to acquire the land or any interest in it.
- (10) Section 13(b) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).
- (11) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of any of—
- (a) the authorised development or any of its parts;
 - (b) the public; or
 - (c) the surrounding environment.

Statutory undertakers

39.—(1) *Subject to Schedule 14 (protective provisions),* the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, any Order land belonging to statutory undertakers;
- (b) construct the authorised development in such a way as to cross underneath or over apparatus belonging to statutory undertakers and at other like bodies within the Order land; and

(a) Section 152 was amended by S.I. 2009/1307.

(b) Section 13 was amended by section 139 of, paragraph 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

- (c) extinguish the rights of, or restrictions for the benefit of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.
- (2) Paragraph (1)(c) has no effect in relation to apparatus in respect of which article 40 (apparatus and rights of statutory undertakers in stopped up streets) applies.
- (3) In this article, a reference to statutory undertaker includes a reference to a public communications provider (as defined in article 39(4) (recovery of costs of new connections)).

Apparatus and rights of statutory undertakers in stopped up streets

40.—(1) Where a street is stopped up under article 10 (permanent stopping up of streets) any statutory undertaker 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 10 any statutory undertaker whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

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

(3) Subject to the following provisions of this article the undertaker must pay to any statutory undertaker an amount equal to the cost reasonably incurred by the statutory undertaker 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 that new apparatus involves additional costs which would not have been incurred if the apparatus had been of the same type, capacity or land at the same depth as the existing apparatus, then the amount payable to the statutory undertaker is to be reduced by a sum equivalent to those additional costs.

(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 undertaker in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)), 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 statutory undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

(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 must be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs must be borne by the undertaker and the statutory undertaker in such proportions as may be prescribed by any such regulations.

(8) In this article—

- (a) reference to a statutory undertaker includes a public communications provider as defined in article 39(4) (recovery of costs of new connections); and
- (b) “relocation works” means work executed, or apparatus provided, under paragraph (2).

Recovery of costs of new connections

41.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 39 (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 undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 39, 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 undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 40 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this article—

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

No double recovery

42. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

Guarantees in respect of payment of compensation

43.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land unless it has first put in place—

- (a) a guarantee approved by the relevant local planning authority in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or
- (b) an alternative form of security for that purpose approved by the relevant local planning authority.

(2) The provisions are—

- (a) article 26 (compulsory acquisition of land);
- (b) article 28 (compulsory acquisition of land - incorporation of the mineral code);
- (c) article 29 (compulsory acquisition of rights and imposition of restrictive covenants);
- (d) article 30 (private rights);
- (e) article 32 (rights under or over streets);
- (f) article 37 (temporary use of land for carrying out authorised development);
- (g) article 38 (temporary use of land for maintaining authorised development); and
- (h) article 39 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order must be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

(5) An approval required under paragraph (1) must not be unreasonably withheld or delayed.

Special category land

44.—(1) Upon entry by the undertaker onto the special category land under article 26 (compulsory acquisition of land) or article 29 (compulsory acquisition of rights and imposition of restrictive covenants), so much of the special category land as is required for the purposes of the exercise by the undertaker of the order rights is discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of the Order rights.

(2) In this article—

- (a) “the Order rights” means rights exercisable over the special category land by the undertaker under article 26 (compulsory acquisition of land); article 29 (compulsory acquisition of rights and imposition of restrictive covenants); article 37 (temporary use of land for carrying out the authorised development) or article 38 (temporary use of land for maintaining the authorised development);
- (b) “rights, incidents and trusts” means all such provisions attaching to the land, and in respect of the Highfield Moss and the land near to Junction 23 of the M6 motorway includes all such provisions attaching to that land contained in or having effect under the Common Registration Act 1965^(a), the Commons Act 2006^(b) and section 193 of the Law of Property Act 1925^(c); and
- (c) “special category land” has the same meaning as “common land” in article 2 (interpretation) of this Order.

PART 6

MISCELLANEOUS AND GENERAL

Operation and use of railways

45.—(1) The undertaker may operate and use the railway comprised in the authorised development and any other elements of the authorised development as a system, or part of a system, of transport for the carriage of goods.

^(a) 1965 c. 64.

^(b) 2006 c. 26.

(2) In respect only of that part of the existing Chat Moss railway within the order limits nothing in this order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 (the provision of railway services) of the Railways Act 1993.

Operational land for purposes of the 1990 Act

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

Charges

47. The undertaker may demand, take or recover or waive such charges for carrying goods on the railway comprised in the authorised development, and for any other services or facilities provided in connection with the operation of that railway, as it thinks fit.

Application of landlord and tenant law

48.—(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, operation, use or maintenance 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.

Defence to proceedings in respect of statutory nuisance

49. Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (summary proceedings by persons aggrieved by statutory nuisance)(a) in relation to a nuisance falling within section 79(1) of that Act (statutory nuisances and inspections therefore)(b) no order may be made, and no fine may be imposed, under section 82(2)(c) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent

(a) 1990 c. 43. There are amendments to this section which are not relevant to this Order.

(b) 1990 c. 43. Section 79(1) was amended by sections 101 and 102 of the Clean Neighbourhood and Environment Act 2005 (c. 16). There are other amendments to the Act which are not relevant to this Order.

(c) 1990 c. 43.

given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974^(a); or

- (ii) is a consequence of complying with a requirement of this Order and that it cannot be reasonably avoided;
- (b) the nuisance is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (c) it relates to premises used by the undertaker for the purposes of or in connection with the maintenance, operation or use of the authorised development and that the nuisance is attributable to the maintenance, operation or use of the authorised development which is being maintained, operated or used in compliance with a requirement or any other provision of this Order and that it cannot be reasonably avoided.

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

Felling or lopping of trees and removal of hedgerows

50.—(1) Save in respect of trees or shrubs which come within article 51 (trees subject to tree preservation orders), or article 52 (trees in conservation areas) the undertaker may fell or lop any tree, shrub or hedgerow within 15 metres of any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, shrub or hedgerow—

- (a) from obstructing or interfering with the construction, maintenance, use or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause unnecessary damage to any tree, shrub or hedgerow and must pay compensation to any person who suffers loss for any loss or damage arising from such activity.

(3) The undertaker may, for the purposes of the authorised development and subject to paragraph (2), undertake works to or remove any hedgerows within the Order limits that may be required for the purposes of constructing the authorised development.

(4) Any dispute as to a person's entitlement to compensation under paragraph (3), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(5) *The undertaker may, for the purposes of the authorised development but subject to paragraph (2) above—*

- (a) *remove those trees within the Order limits and specified in [Part 1 of Schedule 13 (removal of trees)];*
- (b) *remove those parts of the hedgerows within the Order limits and specified in [Part 2 of Schedule 13 (removal of hedgerows)]; and*
- (c) *remove those parts of the important hedgerows within the Order limits and specified in [Part 3 of Schedule 13 (removal of important hedgerows)].*

(6) The provisions of this article do not apply to any tree or hedgerow identified to be retained in the *landscaping scheme approved under requirement [X]* without the agreement of the relevant local planning authority.

(7) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997^(b).

(a) 1974 c. 40. Section 61(2) was amended by section 133(2) of, and Schedule 7 to, the Building Act 1984 (c. 55). Section 61(9) was amended by Schedule 24 to the Environment Act 1995 (c. 25), and section 162 of, and paragraph 15 of Schedule 15 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to the 1974 Act which are not relevant to this Order.

(b) S.I. 1997/1160.

Trees subject to tree preservation orders

51.—(1) The undertaker may fell or lop or cut back the roots of any tree or shrub within or overhanging land within the Order limits which is subject to a tree preservation order if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, operation, use or maintenance of the authorised development or any apparatus used in connection with the authorised development.

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

- (a) the undertaker 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; and
- (b) the duty contained in section 206(a)(replacement of trees) of the 1990 Act is not to apply.

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

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Trees in conservation areas

52.—(1) The undertaker may fell or lop any tree or shrub which is situated within a conservation area (designated under section 69 (designation of conservation areas) of the Planning (Listed Buildings and Conservation Areas) Act 1990)(b), including those identified on the hedgerow regulations and tree preservation plans, or cut back its roots if it reasonably believes it to be necessary to do so to prevent the tree or shrub from obstructing or interfering with the construction, operation, use or maintenance of the authorised development or any apparatus used in connection with the authorised development.

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

- (a) the undertaker 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; and
- (b) the duty contained in section 206(1)(c) (replacement of trees) of the 1990 Act is not to apply.

(3) The authority given by paragraph (1) constitutes an authorisation by an order granting development consent for the purposes of section 211(1A)(d)(preservation of trees in conservation areas) of the 1990 Act.

(4) 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 (determination of questions of disputed compensation) of the 1961 Act.

Protective Provisions

53. *Schedule 14 (protective provisions) to this Order has effect.*

Governance of requirements and governance of protective provisions relating to highway works

54.—(1) When in any requirement *or in Parts 2 and 3 of Schedule 14 (protective provisions)* approval or agreement is required of, or with, anybody in relation to the detail, carrying out or use of the authorised development (including for the avoidance of doubt the approval of details or plans under the requirements) such approval or agreement must not be given if it would permit

(a) Section 206 was amended by paragraph 11 of Schedule 8 to the Planning Act 2008 (c. 29).

(b) 1990 c. 9.

(c) Section 206 was amended by paragraph 11 of Schedule 8 to the Planning Act 2008 (c. 29).

(d) Section 211(1A) was inserted by paragraph 36(2) of Schedule 2 to the Planning Act 2008 (c. 29).

development which would give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 EIA Regulations^(a).

(2) When any details, plans or other matters have been agreed or approved by the relevant local planning authority under a requirement *or the relevant highway authority under a requirement or Parts 2 and 3 of Schedule 14* then they may subsequently be amended by agreement with the relevant local planning authority or relevant highway authority as the case may be provided that no amendments to those details, plans or other matters may be approved where such amendments would permit development outside the parameters of the authorised development referred to in article 4 (parameters of authorised development) or would give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 EIA Regulations.

Discharge of requirements and other approvals etc

55.—(1) Save as provided otherwise by this Order, paragraphs (1) and (2) of Part 2 (procedure for discharge of certain approvals) of Schedule 2 (requirements) is to have effect in relation to applications made pursuant to the requirements set out in Schedule 2.

(2) Save as provided otherwise by this Order, paragraph (3) of Part 2 of Schedule 2 is to have effect in relation to all consents, agreements, approvals or notices granted, refused or withheld in relation to—

- (a) the requirements set out in Part 1 of Schedule 2;
- (b) any document referred to in any requirement set out in Part 1 of Schedule 2; and
- (c) the functions of the local authority set out in sections 60 (control of noise on construction sites) and or 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974^(b).

(3) Where an application is made to, or a request is made of, the relevant local planning authority, relevant highway authority, street authority or the owner of a watercourse, sewer or drain or any other relevant person for any agreement or approval required or contemplated by any of the provisions of this Order, such agreement or approval must, if given, be given in writing and must not be unreasonably withheld or delayed.

Disapplication, application and modification of legislative provisions

56.—(1) Schedule 15 (miscellaneous controls) to this Order, which makes provision applying, modifying and excluding statutory provisions which relate to matters for which provision may be made by this Order, has effect.

Certification of plans and documents

57.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the plans and documents identified in Schedule 16 (certification of plans and documents) for certification that they are true copies of the plans and documents referred to in this Order.

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

(3) Where a plan or document certified under paragraph (1)—

(a) S.I. 2017/578 as amended by S.I. 2017/1012.

(b) Section 61 was amended by Schedule 7 to the Building Act 1984 (c. 55), Schedule 24 to the Environment Act 1995 (c. 25), and paragraph 15(3) of Schedule 15 to the Environmental Protection Act 1990 (c. 43). There are other amendments to section 61 which are not relevant to this Order.

- (a) refers to a provision of this Order (including any specified requirement) when it was in draft form; and
- (b) identifies that provision by number, or combination of numbers and letters, which is different from the number, or combination of numbers and letters by which the corresponding provision of this Order is identified in this Order as made,

the reference in the plan or document concerned must be construed for the purposes of this Order as referring to the provision (if any) corresponding to that provision in this Order as made.

Service of notices

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

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

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

(3) For the purposes of section 7 (references to service by post) 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 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 that 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 is 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 must 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).

(a) 1978 c. 30

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

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date may not be less than 7 days after the date on which the notice is given.

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

(10) In this article—

“electronic transmission” means a communication transmitted—

- (a) by means of electronic communications network; or
- (b) by other means but while in electronic form; and
- (c) “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.

Crown Rights

59.—(1) Nothing in this Order affects prejudicially any estate, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the undertaker or any licensee to use, enter on or in any manner interfere with any land or rights of any description (including any portion of the river—

- (a) belonging to His Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in section 227(a) (“Crown land” and “the appropriate Crown authority”) of the 2008 Act) which is for the time being held otherwise than by or on behalf of the crown.

(3) A consent under paragraph (1)—

- (a) may be given unconditionally or subject to terms and conditions ; and
- (b) is deemed to have been given in writing where it is sent electronically.

Arbitration

60.—(1) Subject to paragraph (2) 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—

- (a) in the case of matters pertaining to land and the surveying of such land, the president of the Royal Institute of Chartered Surveyors;
- (b) in the case of matters of legal interpretation, the president of the Law Society; and
- (c) in the case of all other matters the president of the Institute of Civil Engineers.

(a) Section 227 was amended by S.I. 2017/524.

(2) Paragraph (1) does not apply to any decisions of the Secretary of State made pursuant to the provisions of this Order.

Planning permissions etc.

61.—(1)— Any development, or any part of a development, within the Order limits which is constructed or used under the authority of a planning permission pursuant to Part 3 (control over development) of the 1990 Act (whether express or otherwise) either prior to or after the Order has come into force is to be disregarded at all times for the purposes of ascertaining whether or not an offence has been committed under the provisions of sections 160(b)(a) (development without development consent) and 161(c)(b) (breach of terms of order granting development consent) of the 2008 Act and such development or planning permission must not at any time be construed as preventing the further construction, maintenance or use of the authorised development (or any part of it) in accordance with this Order.

(2) To the extent any development carried out or used pursuant to a planning permission granted under Part 3 of the 1990 Act, any development consent granted (either prior to or after the Order has come into force) under the powers conferred by the 2008 Act or other equivalent consent, or compliance with any conditions or requirements of that permission or consent is inconsistent with the exercise of any power or right under this Order or the authorised development—

- (a) that inconsistency is to be disregarded for the purposes of establishing whether any development which is the subject matter of that permission or consent is capable of physical implementation; and
- (b) in respect of that inconsistency, no enforcement action under the 1990 Act may be taken in relation to development carried out or used pursuant to that permission or consent whether inside or outside the Order limits.

Signatory text

Address
Date

Name
Parliamentary Under Secretary of State
Department

SCHEDULES

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

In the Metropolitan Borough of St Helens, Metropolitan Borough of Wigan and the Borough of Warrington—

A nationally significant infrastructure project as defined in sections 14 and 26 of the 2008 Act and associated development within the meaning of section 115(2) (development for which development consent may be granted) of the 2008 Act comprising—

Work No. 1 - RAILWAY WORKS TO THE EXISTING CHAT MOSS LINE

Within the area shown on the works plans as Work No. 1—

(a) Section 160 was amended by S.I. 2015/664.

(b) Section 161 was amended by S.I. 2015/664. There are other amendments to section 161 which are not relevant to this Order.

Works to the existing Chat Moss line, the general arrangement of which is shown on the railway plans including—

- (a) the alteration of existing railway infrastructure including tracks points and signals;
- (b) connection to the new railway works (Work No. 2) including points and signals;
- (c) works to facilitate the construction of a shared use footway/cycleway bridge alongside Parkside Road and closure of Parkside level crossing; and
- (d) closure of Lowton level crossing.

Work No.2 - NEW RAILWAY WORKS

Within the area shown on the works plans as Work No. 2—

The construction of new railway lines from the Chat Moss line (Work No. 1) to the rail freight terminal (Work No. 3) the general arrangement of which is shown on the railway plans] including—

- (a) the construction of new railway tracks and associated rail infrastructure;
- (b) formation of new railway cutting and embankments and all necessary earthworks and drainage;
- (c) acoustic fencing;
- (d) railway infrastructure including drainage, signals, gantry mounted signals and signs;
- (e) intermodal freight loading/unloading facilities including gantry cranes, reach stackers and freight dock platforms;
- (f) works associated with the construction of a bridge taking Parkside Road (being part of Work No. 19) over the private railway; and
- (g) works associated with the closure of Newton Park Drive (the replacement for which will be a new access from Parkside Link Road to Newton Park Farm, Sycamore Cottage and surrounding buildings as shown on the access and rights of way plans (Work No. 18)).

Work No.3 - RAIL FREIGHT TERMINAL

Within the area shown on the works plans as Work No. 3—

The construction of a rail freight terminal to connect with the rail infrastructure described in Work No. 2 the general arrangement of which is shown on the railway plans including—

- (a) construction of an intermodal freight loading/unloading terminal including but not exclusively—
 - (i) railway sidings to load/unload freight and cripple sidings;
 - (ii) gantry cranes, crane rails, reach stackers and freight dock platforms; and
 - (iii) freight and container storage areas;
- (b) earthworks to achieve a terminal plateau;
- (c) demolition of existing buildings;
- (d) railway infrastructure including signals and signs;
- (e) rail freight terminal refuelling and maintenance areas;
- (f) terminal entrance and exit gateways, loading lanes, internal roads, gatehouses and parking areas;
- (g) rail freight terminal administrative building including staff and visitor welfare facilities;
- (h) storage and workshop buildings;
- (i) HGV parking and welfare facilities;
- (j) security fencing and lighting; and
- (k) drainage.

Work No. 4 - RAIL SERVED WAREHOUSING

Within the area shown on the works plans as Work No. 4 on the works plans—

(1) The construction of rail served warehousing (including ancillary offices and other buildings) within the areas identified as zones A - F on the parameters plan, including—

- (a) earthworks to provide development plateaux;
- (b) construction of development plateaux;
- (c) demolition of existing buildings;
- (d) warehouses and ancillary buildings and structures;
- (e) gatehouses;
- (f) service yards and vehicle and cycle parking;
- (g) drainage, swales, bunding, landscape and planting works;
- (h) weighbridges;
- (i) vehicle, cycle, equestrian and pedestrian access routes and signage;
- (j) roof mounted photovoltaics;
- (k) external plant;
- (l) vehicle maintenance, washing and refuelling facilities and electric vehicle charging units;
- (m) hardstandings;
- (n) container storage;
- (o) energy centre;
- (p) electricity substation;
- (q) ancillary buildings including estate management offices;
- (r) private railway tracks and associated infrastructure;
- (s) a mobility hub;
- (t) new, stopped up and diverted footpaths and cycle tracks as shown on the access and rights of way plans; and
- (u) the closure of existing private means of accesses shown on the access and rights of way plans.

(2) Within the area identified as zones D and E on the parameters plan the diversion of an existing culvert.

(3) Within the area identified as zone F on the parameters plan HGV parking and welfare facilities.

Work No. 5 - ESTATE ROAD

Within the area shown on the works plans as Work No. 5—

(1) The construction of infrastructure on the main site including—

- (a) private estate roads;
- (b) roundabouts and other junctions;
- (c) connections with the Parkside Road realignment (Work No. 19) and the principal access to the main site (Work No. 20);
- (d) footways and shared use footways/cycleways;
- (e) vehicle lay-bys; and
- (f) bus stops and shelters.

(2) Within the area identified as zones D and E on the parameters plan the diversion of an existing culvert.

Work No. 6 - LANDSCAPING

Within the area shown on the works plans as Work No. 6—

- (1) The provision of hard and soft landscape works including—
 - (a) demolition of existing buildings and structures;
 - (b) earthworks to create screening bunds and to provide development plateaux;
 - (c) soft landscaping within and surrounding the development, integrating and enhancing green infrastructure and incorporating biodiversity enhancements;
 - (d) basins for surface water attenuation (including flood alleviation related drainage infrastructure);
 - (e) new, stopped up and diverted footpaths, and cycle tracks as shown on the access and rights of way plans;
 - (f) wildlife habitat creation and improvements;
 - (g) amenity open space;
 - (h) noise attenuation including acoustic fencing and landscape screening;
 - (i) signage and totems located within the areas as areas for development signage indicated on the parameters plan; and
 - (j) the creation of emergency access.
- (2) Within the area identified as zones D and E on the parameters plan the diversion of an existing culvert.

Work No. 7 - HIGHFIELD MOSS PROTECTION ZONE

Within the area shown on the works plans as Work No.7—

- (a) new, stopped up and diverted footpaths, and cycle tracks as shown on the access and rights of way plans;
- (b) habitat creation and improvements;
- (c) bunds and fencing for boundary treatment;
- (d) drainage; and
- (e) within the area identified as zones D and E on the parameters plan the diversion of an existing culvert.

Work No. 8 - NORTHERN MITIGATION AREA

Within the area shown on the works plans as Work No.8—

- (a) new, stopped up and diverted footpaths, and cycle tracks as shown on the access and rights of way plans;
- (b) deposition of topsoil;
- (c) provision of biodiversity enhancement works including—
 - (i) woodland, tree and hedgerow planting;
 - (ii) scrub and other grassland; and
 - (iii) ponds and ditches; and
- (d) mitigation planting for priority farmland bird species.

Work No. 9 - AMENITY AREA

Within the area shown on the works plans as Work No. 9—

- (a) the provision of amenity open space;
- (b) landscaping and screening;

- (c) heritage interpretation boards;
- (d) new, stopped up and diverted footpaths, and cycle tracks as shown on the access and rights of way plans; and
- (e) deposition of topsoil.

Work No. 10 - SOILS REUSE AREA

Within the area shown on the works plans as Work No. 10—

- (a) deposition of topsoil;
- (b) clearing of and making good existing watercourses;
- (c) earthworks to create screening bunds;
- (d) works to reinstate farmland including agricultural planting;
- (e) woodland, tree and hedgerow planting;
- (f) soft landscaping within and surrounding the development, integrating and enhancing green infrastructure and incorporating biodiversity enhancements; and
- (g) temporary haul roads, access to and from and crossings over highways.

Work No. 11 - ACTIVE TRAVEL ROUTE TO LANE HEAD

Within the area shown on the works plans as Work No. 11—

- (a) construction of a shared use footway/cycle track along Winwick Lane connecting from the cycle track constructed as part of Work No. 22 to Newton Road in Lane Head; and
- (b) signage.

Work No. 12 - HEATH LANE ACTIVE TRAVEL ROUTE

Within the area shown on the works plans as Work No. 12—

- (a) works to provide cycle measures along Heath Lane; and
- (b) removal of vegetation for the improvement in visibility at the bend opposite No.2 Heath Lane.

Work No. 13 - ACTIVE TRAVEL ROUTE TO NEWTON-LE-WILLOWS

Within the area shown on the works plans as Work No. 13—

- (a) construction of a shared use footway/cycle track along Parkside Road and Southworth Road connecting from the Parkside Road realignment constructed as part of Work No. 19 to Newton-Le-Willows; and
- (b) temporary compound.

Work No. 14 - FOUL SEWER OUTFALL TOWARDS GOLBORNE DALE ROAD AND SOUTHWORTH ROAD

Within the area shown on the works plans as Work No. 14 the construction of a foul sewer to Golborne Dale Road and Southworth Road.

Work No. 15 - FOUL SEWER OUTFALL TOWARDS SANDY BROW LANE

Within the area shown on the works plans as Work No. 15 the construction of a foul sewer to a point northeast of Kenylo Bridge.

Work No. 16 - SURFACE WATER OUTFALL AT KENYON HALL FARM

Within the area shown on the works plans as Work No. 16 the construction of a surface water culvert across Kenyon Hall Farm.

Work No. 17- SURFACE WATER OUTFALL AT SHERBROOK HOUSE

Within the area shown on the works plans as Work No. 17 the construction of a surface water culvert across land at the property known as ‘Sherbrook’ House.

Work No. 18 - ACCESS TO NEWTON PARK FARM AND SYCAMORE COTTAGE

Within the area shown on the works plans as Work No. 18 the construction of a new private means of access from Parkside Link Road to Newton Park Farm, Sycamore Cottage and surrounding buildings and shown on the access and rights of way plans.

Work No. 19 - PARKSIDE ROAD REALIGNMENT

Within the area shown on the works plans as Work No. 19 the construction of a new alignment for Parkside Road connecting Parkside Link Road to the Parkside Road bridge and including the construction of a new bridge over the new railway works (Work No. 2) and the construction of a cycle track bridge over the Chat Moss line.

Work No. 20 - PRINCIPAL ACCESS TO THE MAIN SITE

Within the area shown on the works plans as Work No. 20 construction of the principal access into the main site the general arrangement of which is shown on the highway plans including—

- (a) construction of a roundabout on the Parkside Link Road to form the access to the main site connecting to Work No 5; and
- (b) bus stops and shelters.

Work No. 21 - WINWICK LANE (ST HELENS)

Within the area shown on the works plans as Work No. 21—

- (a) stopping up, diversion and creation of private means of access as shown on the access and rights of way plans; and
- (b) signage.

Work No. 22 - WINWICK LANE (WARRINGTON)

Within the area shown on the works plans as Work No. 22—

- (a) stopping up, diversion and creation of private means of access as shown on the access and rights of way plans; and
- (b) signage.

THIS DRAFT SCHEDULE DOES NOT CURRENTLY INCLUDE POTENTIAL HIGHWAY MITIGATION / REMOTE JUNCTION WORKS – PLEASE REFER TO PEIR APPENDIX 7.2: HIGHWAY MITIGATION OPTIONS REPORT FOR FURTHER DETAIL.

Further works

The following further works provided that such works do not give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 EIA regulations—

(1) Within the areas shown on the works plans as Work Nos. 1 – 6 the provision of—

- (a) weighbridges;
- (b) internal estate roads and accesses;
- (c) parking facilities for all vehicles including cycles and electric vehicles;
- (d) site preparation works, site clearance, regrading and adjustments to ground levels and excavation;
- (e) footways, cycle tracks, permissive paths for pedestrians and cyclists, bridleways, ramps, footpath linkages and crossing facilities;
- (f) water supply works, foul drainage and storage, foul pumping stations, surface water management systems, drainage conveyance system, balancing ponds (surface and underground), attenuation and culverting;
- (g) utilities and services including connections to mains services and provision of utilities infrastructure including primary and secondary electricity substations, catenary and pressure reducing stations;
- (h) demolition of existing buildings and surface structures;
- (i) public art;
- (j) security fencing;
- (k) gatehouses, barriers and CCTV;
- (l) acoustic barriers;
- (m) the clearing of and making good to existing watercourses, works to alter the course of or otherwise interfere with a watercourse;
- (n) ducting;
- (o) removal of existing hedgerows and making good;
- (p) swales, landscaping, fencing, bunds, embankments, aprons, abutments, shafts, foundations, retaining walls, wing walls, cuttings, landscaping and boundary treatments, earthworks and earthwork retaining structures;
- (q) environmental mitigation;
- (r) pavements, surface treatments, kerbs and channels;
- (s) works to alter or remove road furniture;
- (t) refurbishment works to existing structures;
- (u) traffic signs, traffic signals, surface course and carriageway markings;
- (v) lighting and electrical equipment;
- (w) diversion of sewers, pipelines, utilities and services;
- (x) works for the benefit or protection of land affected by the authorised development;
- (y) works required for the strengthening, improvement, maintenance or reconstruction of any streets; and
- (z) works associated with archaeology and heritage investigation.

(2) Within the area of land described on the works plans as Work nos. 11, 12, 13, 14, 21 and 22 the provision where appropriate of—

- (a) removal of existing and creation of new private means of accesses in the locations shown on the access and rights of way plans;
 - (b) fencing for boundary treatment and acoustic barriers;
 - (c) safety barriers;
 - (d) surface water drainage works including swales, attenuation, outfalls, headwalls and culverting;
 - (e) ducting;
 - (f) bunds, embankments, cuttings, landscaping, earthworks and earthwork retaining structures;
 - (g) pavements, surface treatments, refuge islands, kerbs and channels;
 - (h) footways, cycle tracks, bridleways and footpath linkages;
 - (i) traffic signs, traffic signals and road markings;
 - (j) street lighting and electrical equipment;
 - (k) retaining walls;
 - (l) diversion and provision of utilities including foul water sewers; and
 - (m) demolition of structures.
- (3) Within the area of land described on the works plans as Work Nos. 1 to 22 temporary works as necessary including but not limited to—
- (a) traffic management;
 - (b) earthworks, trenching, ducting and stock piling of topsoil and subsoil material;
 - (c) statutory undertakers plant diversions;
 - (d) haulage roads;
 - (e) temporary road construction;
 - (f) signage and fencing;
 - (g) rail sidings;
 - (h) construction compounds including temporary buildings, welfare facilities, batching plants, storage and parking areas; and
 - (i) drainage systems.
- (4) Such other works as may be necessary or expedient for the purpose of or in connection with the construction or use of the authorised development.

SCHEDULE 2 REQUIREMENTS

Article 3

PART 1 REQUIREMENTS

Interpretation

1. In this Part of this Schedule—

“biodiversity impact assessment” means the document of that description referred to in Schedule 16 and certified as the biodiversity impact assessment by the Secretary of State for the purposes of this Order;

“CEMP” means the document of that description referred to in Schedule 16 and certified as the construction environmental management plan by the Secretary of State for the purposes of this Order;

“commencement of construction works” means the carrying out of a material operation, as defined in section 155 of the 2008 Act (when development begins), as part of the authorised development, with the exception of any works related to archaeological investigation, ecological mitigation or site investigation;

“construction traffic management plan” means the document of that description referred to in Schedule 16 and certified as the construction traffic management plan by the Secretary of State for the purposes of this Order;

“delivery, servicing and HGV management strategy” means the document of that description referred to in Schedule 16 and certified as the delivery, servicing and HGV management strategy by the Secretary of State for the purposes of this Order;

“design code” means the document of that description referred to in Schedule 16 and certified as the design code by the Secretary of State for the purposes of this Order;

“employment, skills and training plan” means the document of that description referred to in Schedule 16 and certified as the employment, skills and training plan by the Secretary of State for the purposes of this Order;

“energy strategy” means the document of that description referred to in Schedule 16 and certified as the energy strategy by the Secretary of State for the purposes of this Order;

“flood risk assessment” means the document of that description referred to in Schedule 16 and certified as the flood risk assessment by the Secretary of State for the purposes of this Order;

“framework travel plan” means the document of that description referred to in Schedule 16 and certified as the framework travel plan by the Secretary of State for the purposes of this Order;

“illustrative landscape masterplan” means the document of that description referred to in Schedule 16 and certified as the illustrative landscape strategy by the Secretary of State for the purposes of this Order;

“lighting strategy” means the document of that description referred to in Schedule 16 and certified as the lighting strategy by the Secretary of State for the purposes of this Order;

“outline landscape and ecological management plan” means the document of that description referred to in Schedule 16 and certified as the outline landscape and ecological management plan by the Secretary of State for the purposes of this Order;

“passive provision” means in relation to electric vehicle charging points, the design and construction of the relevant part of the development so as not to preclude the provision of the remainder of the electric charging points referred to in paragraph 5(3) of Part 1 of this Part of this Schedule at a later date;

“phase” means a phase of the authorised development as shown in the latest written phasing scheme approved by the relevant planning authority pursuant to requirement 4;

“public rights of way appraisal and strategy” means the document of that description referred to in Schedule 16 and certified as the public rights of way appraisal and strategy by the Secretary of State for the purposes of this Order;

“rail infrastructure” means the provision of any rail infrastructure as part of the authorised development excluding any such works to the existing the Chat Moss Line or the West Coast Mainline or within the operational estate of Network Rail;

“site waste and materials management plan” means the document of that description referred to in Schedule 16 and certified as the site waste and materials management plan by the Secretary of State for the purposes of this Order;

“sustainable drainage strategy” means the document of that description referred to in Schedule 16 and certified as the sustainable drainage statement by the Secretary of State for the purposes of this Order;

“sustainable access and movement strategy” means the document of that description referred to in Schedule 16 and certified as the sustainable access and movement strategy by the Secretary of State for the purposes of this Order.

Time limit

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

Amendments to approved details

3.—(1) With respect to any requirement which requires details to be submitted in accordance with a plan or document listed in requirement 1, the relevant planning authority may approve an amendment or variation to such a document or plan in writing in accordance with sub-paragraph (3).

(2) With respect to any requirement which requires the authorised development or any phase to be carried out in accordance with details approved by the relevant planning authority or another person, the authorised development or phase must be carried out in accordance with the details as approved unless an amendment or variation is agreed in writing by the relevant planning authority or that other person in accordance with sub-paragraph (2).

(3) amendments to or variation from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Such agreement may only be given in relation to immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority or (as the case may be) by that other person that the subject matter of the amendment or variation sought is unlikely to give rise to any materially greater environmental effect from those assessed in the environmental statement.

(4) The approved details must be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority or that other person.

Phasing of development

4.—(1) No commencement construction works are to take place until a written phasing scheme setting out all the phases of the authorised development, has been submitted to and approved in writing by the relevant planning authority.

(2) The written phasing scheme must include phasing details of—

- (a) earthworks;
- (b) rail infrastructure;
- (c) roads and bridges;
- (d) highway works;
- (e) surface water and foul drainage;
- (f) development plots;
- (g) landscape works and planting, including bunding and acoustic fencing;
- (h) public rights of way and the creation of private means of access;
- (i) the energy centre; and
- (j) mains utility services.

(3) The authorised development must be carried out in accordance with the approved phasing scheme.

Detailed design approval

5.—(1) Commencement of construction works must not take place on any phase until details of that phase have been submitted to and approved in writing by the relevant planning authority. The

details of each phase must be in accordance with the parameters plans and the principles set out in the design code.

(2) The details of each phase must include details of the following where they are located within that phase—

- (a) rail infrastructure, rail freight terminal, container storage and container returns area;
- (b) built development design and layout (including external plant);
- (c) vehicular circulation routes;
- (d) cycle tracks and footpaths including highway crossing points for pedestrian and bicycle traffic;
- (e) telecommunication masts;
- (f) energy centre;
- (g) hard and soft landscaping;
- (h) surface and foul drainage;
- (i) vehicle, cycle and motorcycle parking including the location and quantum of electrical charging points;
- (j) embankments and bunds;
- (k) site levels and finished floor levels;
- (l) roads within the main site;
- (m) bridges;
- (n) fuelling and maintenance areas;
- (o) freight storage area (including containers);
- (p) weighbridges;
- (q) gatehouses;
- (r) security fencing;
- (s) substations;
- (t) flagpoles;
- (u) public transport infrastructure;
- (v) the height, position, form, construction and appearance of acoustic barriers;
- (w) fencing, walls and other permanent means of enclosure;
- (x) location and quantum of bin stores;
- (y) any temporary site notices or advertisements;
- (z) permanent advertisements;
- (aa) temporary accesses and rights of way;
- (bb) any temporary means of enclosure;
- (cc) outdoor gym and seating areas;
- (dd) sprinkler tanks;
- (ee) external canopies;
- (ff) standby generators
- (gg) site compounds; and
- (hh) cycle storage.

(3) A minimum of 20% of the total number of car parking spaces to be provided within the authorised development is to be equipped with electrical vehicle charging and passive provision for the remainder.

(4) Each phase must be carried out in accordance with the approved details for that phase.

Public Rights of Way and Level Crossing Closures

6.—(1) The undertaker must stop up the public rights of way identified in column (1) of the following table by no later than the stage of the authorised development set out in column (2) of that table or such later stage as agreed by the relevant body identified in column (3) or such successor body as may replace them in function.

(1) <i>Public right of way</i>	(2) <i>Stage of the authorised development by which time the stopping up must have been completed</i>	(3) <i>Relevant body</i>
St Helens Footpath 608 to the extent shown by the dashed red line between point 28 and 29 on the access and rights of way plan	Commencement of Work No. 4	St Helens Borough Council
St Helens Footpath 621 to the extent shown by the dashed red line between point 26 and 27 on the access and rights of way plan	Commencement of Work No. 4 or Work no 6	St Helens Borough Council
St Helens Footpath 621 to the extent shown by the dashed red line between point 26 and 12 on the access and rights of way plan	Commencement of Work No. 6 or Work No. 2	Wigan Council
Wigan 006/85/10 to the extent shown by the broken red line between point 1 and point 2 on the access and rights of way plan	Commencement of Work No. 8	Wigan Council
Wigan 006/94/10 to the extent shown by the broken red line between point 13 and point 14 on the access and rights of way plan	Commencement of Work No. 7 or Work No. 1	Wigan Council
Wigan 006/101/10 to the extent shown by the broken red line between point 30 and point 34 on the access and rights of way plan	Commencement of Work No. 3, Work No. 4, Work No. 5, Work No 6 or Work No. 22	Wigan Council

(2) Notwithstanding the provisions of sub-paragraph (1), the rail freight terminal forming part of Work No. 3 must not commence operation (which for the purposes of this sub-paragraph shall include any testing of rail tracks within the rail freight terminal which may take place before the commencement of commercial operation) until the following level crossings have been closed in accordance with article 13—

- (a) Lowton Level Crossing; and
- (b) Parkside Level Crossing.

Track Not Shown on the Definitive Map

7.—(1) The undertaker must close the track not shown on the definitive map identified in column (1) of the following table by no later than the stage of the authorised development set out in column (2) of that table or such later stage as agreed by the relevant body identified in column (3) or such successor body as may replace them in function.

<i>(1) Track not shown on the definitive map</i>	<i>(2) Stage of the authorised development by which time the closure must have been completed</i>	<i>(3) Relevant body</i>
(2) Track not shown on the definitive map to the extent shown by the broken blue line between point 30 and point 31 on the access and rights of way plan	Commencement of Work No. 3, Work No. 4 or Work No. 7	St Helens Borough Council

Construction Environmental Management Plan

8.—(1) Prior to commencement of construction works on each phase a detailed construction environmental management plan for that phase, in accordance with the principles set out in the CEMP, must be submitted to and approved in writing by the relevant planning authority.

(2) The detailed construction environmental management plan for each phase must include—

- (a) details of the methods to control noise and vibration arising from construction activities;
- (b) details of a dust management plan setting out the methods to be used to control dust from the site;
- (c) details of a materials management plan;
- (d) details of all temporary lighting, temporary signage, temporary fencing, temporary buildings, temporary compound areas and temporary parking areas including arrangements for their removal following completion of construction;
- (e) an arboriculture method statement detailing measures to protect retained trees and hedgerows
- (f) details of built development and construction buffers which must be a minimum of 50 metres from Highfield Moss Site of Special Scientific Interest;
- (g) measures to protect the safety and amenity of public rights of way users during construction;
- (h) details of existing and proposed landscaping which needs to be protected during construction;
- (i) details of areas to be used for the storage of fuel, oil and other chemicals, including measures to prevent pollution;
- (j) details of any groundwater contamination remediation strategy;
- (k) an earthworks specification, remediation strategy and verification report informed by ground investigation work;
- (l) proposals for gas monitoring and associated gas protection measures for buildings if required;
- (m) proposals for the disposal of asbestos if required;
- (n) details of site rules and communication with the community; and
- (o) a record of all sensitive environmental features that have the potential to be affected by the construction of the proposed development.

(3) The approved detailed construction environmental management plan for each phase must be complied with during the construction works in that phase until the completion of construction works on that phase. The detailed construction environmental management plan for each phase is to be kept under review by the undertaker and updated if necessary as construction proceeds and any such update to the detailed construction environmental management plan is to be approved in writing by the relevant planning authority.

Travel Plan

9.—(1) The provisions of the framework site wide travel plan must be complied with at all times following commencement of the authorised development.

(2) Within three months of the occupation of each individual warehouse unit an occupier-specific travel plan for that warehouse is to be submitted to, and approved in writing by, the relevant planning authority following consultation with the relevant highway authority. Each occupier specific travel plan must be in accordance with the framework travel plan and include provisions for promoting the travel plan across the occupiers work force for the site. Each occupier must comply with their occupier specific travel plan from not less than six months of the date on which they first occupy the relevant warehouse unit for the duration of the occupation of the relevant warehouse by that occupier. Each occupier must monitor the operation of the occupier specific travel plan for the period of their occupation.

Sustainable Access and Movement Strategy

10. The sustainable access and movement strategy must be implemented and complied with at all times.

Rail

11. No more than 147,468 sqm square metres of warehouse floorspace to be provided as part of the authorised development may be occupied until the rail freight terminal which is capable of handling a minimum of four 775m trains per day and any associated rail infrastructure has been constructed and is available for use.

Container Stack Height

12.—(1) The height of the container stack within the area identified on the parameters plan up to 7 high must not exceed 20.3m.

(2) The height of the container stack within the area identified on the parameters plan up to 5 high must not exceed 14.5m.

Archaeology

13.—(1) No phase is to commence until such time as a written scheme of investigation for that phase, informed by the provisions of the archaeological mitigation strategy, has been submitted to and approved in writing by the relevant planning authority.

(2) The written scheme of investigation submitted for approval must include—

- (a) the statement of significance and research objections;
- (b) details of the on-site recording methodology;
- (c) details of sampling, analysis and reporting strategy;
- (d) details of monitoring arrangements;
- (e) details of timetable and personnel; and
- (f) details of post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material.

(3) A copy of any analysis, reporting and publication required as part of the written scheme of investigation must be deposited with the regional archive agreed with the relevant planning authority within one year of the date of completion of the authorised development or such other period as may be agreed in writing by the relevant planning authority or specified in the written scheme of investigation. Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in situ and reported by way of a notice to the relevant planning authority, as soon as reasonably practicable from the date they are

identified, until an appropriate archaeological mitigation is agreed with the relevant planning authority.

(4) Each phase must be carried out in accordance with the approved written scheme of investigation.

Sustainable Drainage

14.—(1) No phase is to commence until a detailed sustainable drainage strategy for that phase has been submitted to and approved in writing by the relevant planning authority. The detailed sustainable drainage strategy must be in accordance with the sustainable drainage strategy.

(2) The development of each phase must be carried out in accordance with the approved sustainable drainage strategy for that phase.

Surface Water

15.—(1) No phase is to commence until a surface water drainage scheme for that phase based on sustainable drainage principles and the assessment of the hydrological and hydrogeological context of the development in accordance with the flood risk assessment has been submitted to and approved in writing by the relevant planning authority. The scheme must include—

- (a) the limitation of surface water run-off generated by all rainfall events up to the critical 1 in 100 year return period rainfall event (plus 20% for climate change) to the equivalent greenfield rate;
- (b) detailed design (plans, cross sections and calculations) in support of any surface water drainage scheme, including details of any attenuation system and the outfall arrangements;
- (c) details in relation to the management of surface water on site during construction of the development in order to mitigate flood risk, and for the removal of suspended solids from surface water discharging from the site. Details shall demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection; and
- (d) infiltration testing to BRE Digest 365 or suitable evidence that infiltration methods of disposal on-site is not technically viable. Where infiltration results indicate that infiltration is a viable method of surface water disposal, the surface water strategy should be amended to incorporate infiltration disposal methods.

(2) The surface water drainage scheme for each phase must be implemented in accordance with the approved scheme for that phase.

(3) No phase is to be occupied until details of the long-term maintenance of the surface water drainage system within that phase have been submitted to and approved in writing by the relevant planning authority. The maintenance details must include—

- (a) details of routine maintenance, access, remedial actions and monitoring of the separate elements of the surface water drainage system that will not be adopted by a third party; and
- (b) where relevant, procedures that must be implemented in the event of pollution incidents.

(4) The long term maintenance strategy for each phase must be implemented in accordance with the approved details for that phase.

Contaminated Land

16.—(1) No commencement of construction works is to take place until a remediation strategy to deal with any risks associated with contamination of land and controlled waters for that phase has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency. This strategy must include the following components—

- (a) a preliminary risk assessment which has identified—
 - (i) all previous uses;
 - (ii) potential contaminants associated with those uses;
 - (iii) a conceptual model of the site indicating sources, pathways and receptors; and
 - (iv) potentially unacceptable risks arising from contamination at the site
 - (b) a site investigation scheme, based on sub-paragraph (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
 - (c) the results of the site investigation and the detailed risk assessment referred to in sub-paragraph (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;
 - (d) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in sub-paragraph (c) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components requires the written consent of the relevant planning authority.
- (2) The remediation strategy for each phase must be implemented in accordance with the approved strategy for that phase.
- (3) No phase of the authorised development is to be brought into use until a verification report demonstrating that any works required by the approved remediation strategy for that phase have been completed has been submitted to and approved in writing by the relevant planning authority following consultation with the Environment Agency. The report must include results of sampling and monitoring carried out in accordance with the approved verification plan.

Construction Hours

17.—(1) Construction works relating to the authorised development must not take place on Sundays, bank holidays, public holidays, nor otherwise outside the hours of 7:00 to 19:00 on week days and Saturdays.

- (2) The restrictions in sub-paragraph (1) do not apply to construction works where these—
- (a) are carried out within existing buildings or buildings constructed as part of the authorised development;
 - (b) works to the railway including works to existing bridges and installation of the new pedestrian bridge across the Chat Moss Railway Line;
 - (c) works to the highway agreed with the relevant highway authority;
 - (d) are carried out with the prior approval of the relevant planning authority;
 - (e) are associated with slip form working;
 - (f) deliveries, movements to work, maintenance and general preparation works but not including running plant and machinery for a period of one hour either side of the above times;
 - (g) any oversize deliveries or deliveries where daytime working would be disruptive due to normal traffic operation;
 - (h) removal or protection of overhead powerlines;
 - (i) are associated with an emergency;
 - (j) overnight traffic management measures; and
 - (k) completion of an operation that would otherwise cause greater interference with the environment/general public if left unfinished.
- (3) Any emergency works carried out under sub-paragraph (2)(i) must be notified to the relevant planning authority within 72 hours of their commencement.

Energy strategy

18.—(1) No phase of the authorised development is to be occupied until a detailed energy strategy for that phase has been submitted to and approved in writing by the relevant planning authority. Each detailed energy strategy submitted must be in accordance with the outline energy strategy.

(2) The energy strategy for each phase must be implemented in accordance with the approved detailed energy strategy for that phase and complied with throughout the occupation of that phase.

Delivery, Servicing and HGV Management Strategy

19. The delivery, servicing and HGV management strategy must be complied with at all times following the first occupation of any warehouse floorspace on the authorised development.

Landscape and Ecological Management Plan

20.—(1) No phase is to commence until a detailed landscape and ecological management plan for that phase has been submitted to and approved in writing by the relevant planning authority. The detailed landscape and ecological management plan must be in accordance with the principles set out in the outline landscape and ecological management plan.

(2) The content of any detailed landscape and ecological management plan will—

- (a) identify features of ecological importance;
- (b) provide a management framework for the conservation and enhancement of habitats and other features of ecological interest; and
- (c) provide a work schedule (including an annual work plan).

(3) Any detailed landscape and ecological management plan must be implemented as approved as part of the relevant phase of the authorised development. Any review of a detailed landscape and ecological management plan is to be approved in writing by the relevant planning authority.

Habitat Management and Monitoring Plan

21.—(1) *Subject to sub-paragraph (3) no phase is to commence until a detailed habitat management and monitoring plan for that phase has been submitted to and approved in writing by the relevant planning authority. The detailed habitat management and monitoring plan must be in accordance with the principles set out in the habitat management and monitoring plan*

(2) *Any detailed habitat management and monitoring plan approved under sub-paragraph (1) must include an implementation timetable and must be carried out as approved in writing by the relevant planning authority.*

(3) *If a phase does not include habitat management and monitoring then a statement from the undertaker must be provided to the relevant planning authority prior to the relevant phase being commenced, confirming that the phase includes no ecological mitigation or management and therefore no ecological mitigation and management plan is required for that phase pursuant to sub-paragraph (1). A phase for which a notification has been given in accordance with this sub-paragraph must not commence until the relevant planning authority has confirmed in writing that no ecological mitigation and management plan is required for that phase.*

(4) *Where specified as required in the framework ecological mitigation and management plan, works must be supervised by a suitably qualified person or body.*

Landscape Scheme

22.—(1) *No phase is to commence until a written landscaping scheme for that phase (including any strategic landscaping included within that phase) in accordance with the illustrative landscape masterplan has been submitted to and approved in writing by the relevant planning authority.*

(2) The written landscaping scheme must be in accordance with the parameters plans and must include details of all proposed soft landscaping works, including—

- (a) location, number, species, size, layout, method of trees support, plant protection measures and planting density of any proposed planting;*
- (b) cultivation, importation of materials and other operations to ensure plant establishment;*
- (c) a programme for the implementation of the works; and*
- (d) a landscape management plan setting out for a period of 30 years from completion of that phase the arrangements for future maintenance including methods of funding and future monitoring, review and the maintenance of new trees, shrub, hedgerows, woodlands and grassed areas and retained trees, shrub, hedgerows, woodlands and grassed areas.*

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

(4) The detailed written landscape scheme for each phase must be implemented in accordance with the approved scheme for that phase.

Site Waste and Materials Management Plan

23.—(1) Prior to the commencement of construction work on each phase of the authorised development a detailed site waste and materials management plan for that phase in accordance with the principles set out in the site waste and materials management plan must be submitted to and approved by the relevant planning authority.

(2) The detailed site waste and materials management plan for each phase must be implemented in accordance with the approved plan for that phase.

Construction Traffic Management Plan

24.—(1) Prior to the commencement of construction works on each phase a detailed construction traffic management plan for that phase must be submitted to and approved by the relevant planning authority following consultation with the relevant highway authority. The detailed construction traffic management plan must be in accordance with the principles set out in the construction traffic management plan and must include—

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

(2) Notices must be erected and maintained thorough the period of construction at every entrance to and exit from the construction site, indicating to drivers the approved routes for traffic entering and leaving the construction site.

(3) The detailed construction traffic management plan for each phase are to be kept under review by the undertaker and updated if necessary with the approval of the relevant planning authority following consultation with the relevant highway authority.

(4) The detailed construction traffic management plan for each phase must be implemented in accordance with the approved plan for that phase.

Temporary highway accesses

25.—(1) Prior to commencement of construction works on any phase details of the siting, design and layout of any new or modified temporary means of access between any part of the Order limits and the public highway to be used by vehicular traffic during construction of that phase, and the means of reinstating any such means of access after completion of construction shall be submitted to and approved by the relevant planning authority following consultation with the relevant highway authority.

(2) Any works for the layout of any new or modified temporary means of access and the means for reinstating any such means of access referred to in sub-paragraph (1) above for each phase are to be carried out in accordance with the approved details for that phase.

Public Rights of Way Strategy

26.—(1) Prior to commencement of construction works on any phase a detailed public rights of way strategy for that phase in accordance with the principles set out in the public rights of way appraisal and strategy must be submitted to and approved by the relevant planning authority following consultation with the relevant highway authority.

(2) The detailed public rights of way strategy for each phase must be implemented in accordance with the approved strategy for that phase.

Control of Operational Noise

27.—(1) Prior to their installation, details of all mechanical and ventilation plant and any other noisemaking machinery, or mobile plant (including HGV chiller units) that is intended to be used within the main site, must be submitted to and approved in writing by the relevant planning authority including details of mitigation measures to any machinery and the provision of details of automated hardware and software to lift and place containers. This will include an assessment of the expected noise impact at relevant receptors in accordance with BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound and BS8233:2014 Guidance on sound insulation and noise reduction for buildings (or such other amendment or replacement of such documents as shall apply at the time of submission of the relevant application). The assessment will consider noise from the proposed plant and machinery to demonstrate compliance with government and local policy on noise. The installation of all mechanical and ventilation plant and any other noisemaking machinery or mobile plant (including HGV chiller units) must be carried out in accordance with the approved details. Any fixed plant or ventilation equipment must also be installed and operated in accordance with manufacturers' instructions at all times.

Acoustic Barriers

28.—(1) Acoustic barriers to be provided as part of any phase in accordance with the details approved pursuant to requirement 5 and must be completed prior to the first occupation of that phase.

(2) The acoustic barriers must be maintained and retained for the lifetime of the authorised development.

Biodiversity Net Gain

29.—(1) The authorised development must be delivered in accordance with the biodiversity net gain strategy to deliver an overall 10% biodiversity net gain in respect of the authorised development (taken as a whole) *in accordance with the principles set out in the biodiversity impact assessment calculations.*

Lighting

30.—(1) No phase of the authorised development is to be commenced until a report detailing the lighting scheme for all permanent external lighting to be installed in that phase has been submitted

to and approved by the relevant planning authority. The reports and schemes submitted and approved must be in accordance with the lighting strategy and include the following—

- (a) a layout plan with beam orientation;
- (b) an Isolux contour map showing light spillage to 1 lux both vertically and horizontally and areas identified in the detailed habitat management and monitoring plan approved pursuant to requirement 21 as being of ecological importance;
- (c) measures to avoid glare on surrounding railway and highways.

(2) The lighting scheme for each phase must be implemented and maintained in accordance with the approved strategy for that phase and may be reviewed by the undertaker as necessary with the approval of the relevant planning authority. No external lighting other than that approved under this requirement may be installed.

Foundation Works Risk Assessment

31.—(1) Prior to commencement of construction works on any phase a detailed foundation works risk assessment must be submitted to and approved by the relevant planning authority.

(2) The detailed foundation works risk assessment must be implemented in accordance with the approved foundation works risk assessment for that phase.

Carbon Management Plan

32.—(1) Prior to commencement of construction works on any phase a detailed carbon management plan for that phase in accordance with the principles set out in the carbon management plan must be submitted to and approved by the relevant planning authority.

(2) The detailed carbon management plan for each phase must be implemented in accordance with the approved plan for that phase.

Employment, Skills and Training Plan

33.—(1) Prior to commencement of construction works on any phase an employment, skills and training plan in respect of employees to be involved in the construction of that phase must be submitted to and approved in writing by the relevant planning authority.

(2) Within three months following the first occupation and any subsequent change in occupation of any warehouse an employment, skills and training plan in respect of employees to be employed in that warehouse must be submitted to and approved in writing by the relevant planning authority.

(3) The approved employment, skills and training plans in respect of employees to be involved in the construction of the authorised development and in each warehouse must be implemented and complied with at all times.

PART 2

PROCEDURE FOR DISCHARGE OF CERTAIN APPROVALS

Applications made for certain approvals

(1) Where an application has been made to a discharging authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order the discharging authority must give notice to the undertaker of its decision on the application before the end of the decision period.

(2) For the purposes of sub-paragraph (1), the decision period is—

- (a) where no further information is requested under paragraph 2, 42 days from the day immediately following that on which the application is received by the discharging authority;

- (b) where further information is requested under paragraph 2, 42 days from the day immediately following that on which the further information has been supplied by the undertaker under paragraph 2; or
- (c) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in paragraph (a) or (b).

Further information

(1) In relation to any application to which this Part of this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is necessary to enable it to consider the application.

(2) If the discharging authority considers such further information to be necessary it must, within 10 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the discharging authority does not give such notification as specified in sub-paragraph (2) it is to be deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

Fees

(1) Where an application is made to the discharging authority for consent, agreement or approval in respect of a requirement pursuant to Part 1 of this Schedule, the fee that would have been payable had the fee been determined under the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, as though the application were a reserved matters application, is to be paid to that authority.

(2) Any fee paid under this Part of this Schedule must be refunded to the undertaker within 42 days of—

- (a) the application being rejected as invalidly made; or
- (b) the discharging authority failing to determine the application within the decision period as determined under paragraph 1, unless within that period the undertaker agrees, in writing, that the fee is to be retained by the discharging authority and credited in respect of a future application.

Appeals

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

- (a) the discharging authority refuses an application for any consent, agreement or approval required or contemplated by any of the provisions of this Order or grants it subject to conditions;
- (b) the discharging authority does not give notice of its decision to the undertaker within the decision period specified in paragraph 1;
- (c) on receipt of a request for further information under paragraph 2 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The appeal process is as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) expiry of the decision period as determined under paragraph 1;

- (b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the discharging authority and the requirement consultees;
 - (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to determine the appeal (“the appointed person”) (Appointed by the Planning Inspectorate on behalf of the Secretary of State) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
 - (d) the discharging authority and the requirement consultees must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person; and
 - (e) the appeal parties shall make any counter-submissions to the appointed person within 20 business days of receipt of written representations under paragraph (d).
- (3) The appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.
- (4) The appointment of the person pursuant to sub-paragraph (c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.
- (5) If the appointed person considers that further information is necessary to enable consideration of the appeal the appointed person must, as soon as practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.
- (6) Any further information required under sub-paragraph (5) is to be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 10 business days of that date.
- (7) On an appeal under this paragraph, the appointed person may—
- (a) allow or dismiss the appeal; or
 - (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to the appointed person in the first instance.
- (8) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the prescribed time limits, or set by the appointed person under this paragraph.
- (9) The appointed person may proceed to a decision even though no written representations have been made within the prescribed time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.
- (10) The decision of the appointed person on an appeal is to be final and binding on the appeal parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.
- (11) If an approval is given by the appointed person under this Part of this Schedule, it is deemed to be an approval for the purpose of any consent, agreement or approval required under the Order or for the purpose of Part 1 of this Schedule (requirements) as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person’s determination.
- (12) Except where a direction is given under sub-paragraph (13) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed

person are to be met by the undertaker. The costs of the appointed person are calculated based on the applicable day rate for a Single Inspector as if he or she were appointed under s78/ s79 of the 2008 Act. See the National Infrastructure Planning website for more information.

(13) On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance published by the Department for Communities and Local Government on 6th March 2014 or any circular or guidance which may from time to time replace it.

Interpretation of this Part of this Schedule

(1) In this Part of this Schedule—

“the appeal parties” means the discharging authority, the undertaker and any requirement consultees;

“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971; and

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

SCHEDULE 3

Article 9

STREETS SUBJECT TO STREET WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street within the Order limits subject to street works</i>
District of [X]	[X]

SCHEDULE 4

Article 11

STREETS TO BE PERMANENTLY STOPPED UP

PART 1

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of Stopping up</i>	<i>(4)</i> <i>New street to be substituted</i>	<i>(5)</i> <i>Stage of the authorised development</i>
Metropolitan Borough of St Helens	A573 Parkside Road	The existing highway within the area marked i on the access and rights of way plans (Document 2.4C) shown edged dark blue with grey and white hatching.	The proposed highway within the area marked ii on the access and rights of way plans (Document 2.4C) shown edged brown with brown hatching	Opening to traffic of Work No. 19

PART 2

STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of Stopping up</i>	<i>(4)</i> <i>Stage of the authorised development</i>
District of [X]	[X]	[X]	[X]

SCHEDULE 5

Article 13

PUBLIC RIGHTS OF WAY

PART 1

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

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Public right of way to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Substitute to be provided</i>	<i>(5)</i> <i>Stage of the authorised development by which time the stopping up must be completed</i>
Metropolitan Borough of Wigan	Public footpath 006/85 (part)	The existing footpath between the points marked 1-2 on the access and rights of way plans (Documents 2.4A and 2.4C) shown with a dashed red line.	Proposed public footpath between the points marked 1-3 on the access and rights of way plans (Document 2.4A) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the relevant local highway authority.	Completion of Work No. 8
Metropolitan Borough of St Helens and Metropolitan Borough of Wigan	Public footpath 621 (part)	The existing footpath in the Metropolitan Borough of St Helens between the points marked 4-5-6 on the access and rights of way plans (Document 2.4A) shown with a dashed red line.	(i) In the Metropolitan Borough of Wigan the proposed public footpath between the points marked 7-8-9 on the access and rights of way plans (Document 2.4A) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the relevant local highway authority; and (ii) In the Metropolitan Borough of St Helens the proposed public footpath between the points marked 9-10-11-12 on the access and rights of way plans (Document 2.4A) shown indicatively with a dashed and dotted brown line	Completion of Work Nos. 5, 6 and 8

Metropolitan Borough of Wigan	Public footpath 006/94 (part)	The existing footpath between the points marked 13-14 on the access and rights of way plans (Document 2.4A) shown with a dashed red line.	on a detailed alignment to be agreed with the relevant local highway authority. (i) Proposed public footpath between the points marked 13-15-16 on the access and rights of way plans (Documents 2.4A and 2.4B) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the relevant local highway authority; and (ii) Proposed public footpath between the points marked 17-18 on the access and rights of way plans (Documents 2.4A and 2.4B) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the relevant local highway authority	Completion of Work Nos. 1, 6 and 17
Metropolitan Borough of St Helens	Track not shown on definitive map	The existing track (not shown on the definitive map) between the points marked 24-25-5 on the access and rights of way plans (Document 2.4C) shown with a dashed blue line.	Proposed public footpath between the points marked 22-10-11-12 on the access and rights of way plans (Document 2.4C) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the relevant local highway authority.	Completion of Work Nos. 6 and 7
Metropolitan Borough of St Helens	Public footpath 621 (part)	The existing footpath between the points marked 27-26-12 on the access and rights of way plans (Document 2.4C) shown with a dashed red line.	Proposed public footpath between the points marked 22-10-11-12 on the access and rights of way plans (Document 2.4C) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the relevant local highway authority.	Completion of Work Nos. 6 and 7
Metropolitan Borough of St Helens and Metropolitan Borough of Wigan	Track not shown on definitive map	(i) The existing track (not shown on the definitive map) in the Metropolitan Borough of St Helens between the points marked 30-31 on the access and rights of way plans (Document 2.4D) shown with a dashed blue line; and (ii) The existing track (not shown on the definitive map) in the	Proposed public footpath in the Metropolitan Borough of St Helens between the points marked 11-33 on the access and rights of way plans (Documents 2.4C and 2.4D) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the relevant local highway authority.	Completion of Work No. 7

Metropolitan Borough of Wigan	Public footpath 006/101	Metropolitan Borough of Wigan between the points marked 31-32 on the access and rights of way plans (Document 2.4D) shown with a dashed blue line. The existing footpath between the points marked 30-34 on the access and rights of way plans (Document 2.4D) shown with a dashed red line.	Proposed public footpath between the points marked 33- 35-36 on the access and rights of way plans (Document 2.4D) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the relevant local highway authority.	Completion of Work Nos. 4, 6 and 7
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PART 2

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

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Public right of way to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>Stage of the authorised development</i>
Metropolitan Borough of St Helens	Track not shown on definitive map	The existing track (not shown on the definitive map) between the points marked 25-26 on the access and rights of way plans (Document 2.4C) shown with a dashed blue line.	Commencement of any of Work Nos. 2 or 6
Metropolitan Borough of St Helens	Public footpath 608	The existing footpath between the points marked 28-29 on the access and rights of way plans (Documents 2.4C and 2.4D) shown with a dashed red line.	Commencement of any of Work Nos. 4 or 5

PART 3

NEW PUBLIC RIGHTS OF WAY TO BE CREATED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Public right of way to be created</i>	<i>(3)</i> <i>Extent of new public right of way to be created</i>	<i>(4)</i> <i>Stage of the authorised development</i>
Metropolitan Borough of Wigan	Cycle track	Proposed cycle track between the points marked 19-20 on the access and rights of way plans (Document 2.4B) shown indicatively with a	Completion of Work No. 11

Metropolitan Borough of St Helens	Cycle track	dashed pink line on a detailed alignment to be agreed with the relevant local highway authority. Proposed cycle track between the points marked 21-22-23 on the access and rights of way plans (Document 2.4C) shown indicatively with a dashed pink line on a detailed alignment to be agreed with the relevant local highway authority.	Completion of Work No. 13
Metropolitan Borough of Wigan	Public footpath	Proposed public footpath between the points marked 35-15 on the access and rights of way plans (Documents 2.4A and 2.4D) shown indicatively with a dashed and dotted brown line on a detailed alignment to be agreed with the relevant local highway authority.	Completion of Work No. 7
Metropolitan Borough of St Helens	Cycle track	Proposed cycle track between the points marked 37-38 on the access and rights of way plans (Document 2.4D) shown indicatively with a dashed pink line on a detailed alignment to be agreed with the relevant local highway authority.	Completion of Work Nos. 6 and 22
Metropolitan Borough of Wigan	Cycle track	Proposed cycle track between the points marked 38-36-16 on the access and rights of way plans (Documents 2.4B and 2.4D) shown indicatively with a dashed pink line on a detailed alignment to be agreed with the relevant local highway authority.	Completion of Work Nos. 6 and 22

SCHEDULE 6

Article 14

PRIVATE MEANS OF ACCESS

PART 1

PRIVATE MEANS OF ACCESS TO BE REPLACED

<i>(1) Area</i>	<i>(2) Private means of Access</i>	<i>(3) Replacement</i>	<i>(4) Stage of the authorised development</i>
Metropolitan Borough of St Helens	The existing private means of access marked B on the access and rights of way plans (Document 2.4C) shown shaded purple.	Replacement private means of access marked C on the access and rights of way plans (Document 2.4C) shown hatched turquoise.	Completion of Work No. 18
Metropolitan Borough of St Helens	The existing private means of access	Replacement private means of access	Completion of Work Nos. 6 and 13

	marked D on the access and rights of way plans (Document 2.4C) shown shaded purple.	marked E on the access and rights of way plans (Document 2.4C) shown hatched turquoise.	
Metropolitan Borough of St Helens	The existing private means of access marked F on the access and rights of way plans (Document 2.4C) shown shaded purple.	Replacement private means of access marked G on the access and rights of way plans (Document 2.4C) shown hatched turquoise.	Opening to traffic of Work No. 19
Metropolitan Borough of St Helens	The existing private means of access marked J on the access and rights of way plans (Document 2.4C) shown shaded purple.	Replacement private means of access marked K on the access and rights of way plans (Document 2.4C) shown hatched turquoise.	Opening to traffic of Work No. 19
Metropolitan Borough of St Helens	The existing private means of access marked O on the access and rights of way plans (Document 2.4C) shown shaded purple.	Replacement private means of access marked P on the access and rights of way plans (Document 2.4C) shown hatched turquoise.	Completion of Work No. 5

PART 2

PRIVATE MEANS OF ACCESS TO BE CLOSED FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private Means of Access</i>	<i>(3)</i> <i>Stage of the authorised development</i>
Borough of Warrington and Metropolitan Borough of Wigan	The existing private means of access marked A on the access and rights of way plans (Document 2.4B) shown shaded purple.	Commencement of any of Work Nos. 4, 6 or 22
Metropolitan Borough of St Helens	The existing private means of access marked L on the access and rights of way plans (Document 2.4C) shown shaded purple.	Commencement of Work No. 4 to the northeast of A573 Parkside Road
Metropolitan Borough of St Helens	The existing private means of access marked M on the access and rights of way plans (Document 2.4C) shown shaded purple.	Commencement of Work No. 4 to the northeast of A573 Parkside Road
Metropolitan Borough of St Helens	The existing private means of access marked N on the access and rights of way plans (Document 2.4C) shown	Commencement of Work No. 4 to the southwest of A573 Parkside Road

Borough of Warrington and Metropolitan Borough of St Helens	shaded purple. The existing private means of access marked S on the access and rights of way plans (Document 2.4D) shown shaded purple.	Commencement of any of Work Nos. 4, 6 or 22
Borough of Warrington and Metropolitan Borough of Wigan	The existing private means of access marked T on the access and rights of way plans (Document 2.4D) shown shaded purple.	Commencement of any of Work Nos. 4, 6 or 22
Borough of Warrington and Metropolitan Borough of Wigan	The existing private means of access marked U on the access and rights of way plans (Document 2.4D) shown shaded purple.	Commencement of any of Work Nos. 4, 6 or 22
Borough of Warrington and Metropolitan Borough of Wigan	The existing private means of access marked V on the access and rights of way plans (Document 2.4D) shown shaded purple.	Commencement of any of Work Nos. 4, 6 or 22
Borough of Warrington and Metropolitan Borough of Wigan	The existing private means of access marked W on the access and rights of way plans (Document 2.4D) shown shaded purple.	Commencement of any of Work Nos. 4, 6 or 22

PART 3

NEW PRIVATE MEANS OF ACCESS CREATED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private means of Access</i>	<i>(3)</i> <i>Stage of the authorised development</i>
Metropolitan Borough of St Helens	The private means of access marked I on the access and rights of way plans (Document 2.4C) shown hatched turquoise.	Opening to traffic of Work No. 19
Metropolitan Borough of St Helens	The private means of access marked Q on the access and rights of way plans (Document 2.4D) shown hatched turquoise.	Completion of Work No. 20
Metropolitan Borough of St Helens	The private means of access marked R on the access and rights of way plans (Document 2.4D) shown hatched turquoise.	Completion of Work No. 20

SCHEDULE 7
CLASSIFICATION OF HIGHWAYS

Article 16

PART 1
NEW AND DIVERTED HIGHWAYS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Extent of Highway</i>	<i>(3)</i> <i>Classification</i>	<i>(4)</i> <i>Classes of Traffic</i>	<i>(5)</i> <i>Relevant Highway Authority</i>
District of [X]	[X]	[Trunk Road]	[All purpose]	[National Highways]

PART 2
EXISTING HIGHWAYS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Extent of Highway</i>	<i>(3)</i> <i>(i) Current Classification</i> <i>(ii) Relevant Highway Authority</i>	<i>(4)</i> <i>Event determining change of classification</i>	<i>(5)</i> <i>Proposed classification</i>	<i>(6)</i> <i>Classes of Traffic</i>	<i>(7)</i> <i>Relevant Highway Authority</i>
District of [X]	[X]	(i) [Principal road] (ii) [St Helens Council]	[X]	[Trunk Road]	[All purpose]	[National Highways]

SCHEDULE 8
SPEED LIMITS

Article 17

PART 1
EXISTING ORDERS

<i>(1)</i> <i>Statutory Instrument/Order Title</i>	<i>(2)</i> <i>S.I. Number</i>	<i>(3)</i> <i>Changes</i>	<i>(4)</i> <i>Event</i>
[X]	[X] No. [X]	[X]	[X]

PART 2
HIGHWAYS SUBJECT TO [] MPH SPEED LIMIT

<i>(1)</i> <i>Highway</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Event</i>
[X]	[X]	[X]

PART 3
DERESTRICTED HIGHWAYS

<i>(1)</i> <i>Highway</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Event</i>
[X]	[X]	[X]

PART 4
TEMPORARY SPEED LIMITS

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Temporary Limit to be imposed</i>	<i>(3)</i> <i>Description</i>	<i>(4)</i> <i>Duration</i>
[X]	[X]mph	[X]	[X]

SCHEDULE 9
TRAFFIC REGULATION

Articles 18, 19 & 20

PART 1
AMENDMENTS TO EXISTING ORDERS

<i>(1)</i> <i>Statutory Title</i>	<i>(2)</i> <i>Instrument/ Order Changes</i>	<i>(3)</i> <i>Event</i>
[X]	[X]	[X]

PART 2
CLEARWAYS

<i>(1)</i> <i>Highway</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Event</i>
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[X]

[X]

[X]

PART 3

NO WAITING AT ANY TIME

<i>(1)</i> <i>Highway</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Event</i>
[X]	[X]	[X]

PART 4

ENVIRONMENTAL WEIGHT LIMIT

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Zone</i>	<i>(3)</i> <i>Terminal Points</i>	<i>(4)</i> <i>Event</i>
District of [X]; Parish of [X]	[X]	(i) [X]; (ii) [X].	[X]

PART 5

PROHIBITED MOVEMENTS

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Description of prohibited movement</i>	<i>(3)</i> <i>Event</i>
District of [X]; Parish of [X]	[X]	[X]

PART 6

VEHICLE PROHIBITION

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Event</i>
District of [X]; Parish of [X]	[X]	[X]

SCHEDULE 10

Article 37

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown</i>	<i>(3)</i> <i>Purpose for which</i>	<i>(4)</i> <i>Relevant part of the</i>
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<i>on land plan</i>	<i>temporary possession may be taken</i>	<i>authorised development</i>
District of [X]		

SCHEDULE 11

Article 29

LAND IN WHICH ONLY NEW RIGHTS ETC MAY BE ACQUIRED

<i>(1) Number of plot shown on land plans</i>	<i>(2) Purpose of which rights may be acquired and restrictive covenants may be imposed</i>
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SCHEDULE 12

Article 29

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

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications set out in this Schedule as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

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

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

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 5(5) of Schedule 12 to the Intermodal Logistics Park North Strategic Rail Freight Interchange Order 202X;
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 5(8) of Schedule 12 to the Intermodal Logistics Park North Strategic Rail Freight Interchange Order 202X) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land,

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

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(b) has effect subject to the modifications set out in sub-paragraph (2).

(a) Section 5A(5A) was inserted by paragraph 4(2) of Schedule 17 to the Housing and Planning Act 2016 (c. 22).
(b) 1973 c. 26

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

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

Application of Part 1 of the 1965 Act

4. Part 1 of the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act, and modified by article 33 (modification of Part 1 of the 1965 Act) to the compulsory acquisition of land under article 23 (compulsory acquisition of land) applies to the compulsory acquisition of a right by the creation of a new right under article 26 (compulsory acquisition of rights)—

- (a) with the modifications specified in paragraph 5; and
- (b) with other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows—

(2) References in the 1965 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.

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

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right 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.”

(4) 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 (persons without power to sell their interests);
- (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 is vested absolutely in the acquiring authority.

(5) Section 11(a) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 23 (compulsory acquisition of land), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right; and sections 11A(b) (powers of entry: further notices of entry), 11B(c) (counter-notice requiring possession to

(a) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(b) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

be taken on a specified date), 12(a) (penalty for unauthorised entry) and 13(b) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

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

(7) Section 22 (interests omitted from purchase) of the 1965 Act, as modified by article 33(2) (modification of Part 1 of the 1965 Act) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 32 (application of the 1981 Act) of the Intermodal Logistics Park North Strategic Rail Freight Interchange Order 202X in respect of the land to which the notice to treat relates.

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

Counter-notice requiring purchase of land

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

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

Response to counter-notice

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

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

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

(c) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016 (c. 22).
(a) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).
(b) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
(c) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

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

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

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

Determination by Upper Tribunal

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

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

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

- (a) the effect of the acquisition of the right;
- (b) the use to be made of the right proposed to be acquired; and
- (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

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

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

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

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

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 13

Articles 50, 51 & 52

REMOVAL OF TREES AND HEDGEROWS

PART 1

REMOVAL OF TREES

<i>(1) Plan</i>	<i>(2) Tree</i>
tree and hedgerow removal plan (drawing number [X])	the tree shown [X]

PART 2
REMOVAL OF HEDGEROWS

<i>(1) Plan</i>	<i>(2) Hedgerow</i>
tree and hedgerow removal plan (drawing number [X])	the part of the hedgerow shown [X]

PART 3
REMOVAL OF IMPORTANT HEDGEROWS

<i>(1) Plan</i>	<i>(2) Important Hedgerow</i>
tree and hedgerow removal plan (drawing number [X])	the part of the hedgerow shown [X]

SCHEDULE 14
PROTECTIVE PROVISIONS

Article 53

PART 1
FOR THE PROTECTION OF RAILWAY INTERESTS

PART 2
FOR THE PROTECTION OF NATIONAL HIGHWAYS LIMITED

PART 3
FOR THE PROTECTION OF THE LOCAL HIGHWAY AUTHORITIES

PART 4
FOR THE PROTECTION OF THE LEAD LOCAL FLOOD AUTHORITIES

PART 5
FOR THE PROTECTION OF SP ELECTRICITY NORTH WEST LIMITED

PART 6
FOR THE PROTECTION OF UNITED UTILITIES WATER LIMITED

PART 7
FOR THE PROTECTION OF CADENT GAS LIMITED

PART 8
FOR THE PROTECTION OF ELECTRICITY AND GAS UNDERTAKERS

PART 9
FOR THE PROTECTION OF OPERATORS OF ELECTRONIC
COMMUNICATIONS CODE NETWORKS

SCHEDULE 15
MISCELLANEOUS CONTROLS

Article 56

Public general legislation

Introduction

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

Highways Act 1980

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

(2) Section 167 of the 1980 Act(b) (powers relating to retaining walls near streets) do not apply in relation to—

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

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

New Roads and Street Works Act 1991

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

(2) Section 56A of the 1991 Act(e) (power to give directions as to placing of apparatus) shall not apply in relation to the placing of apparatus in the course of the authorised development.

(3) No restriction under section 58(1) of the 1991 Act(f) (power to impose restriction on execution of street works in the twelve months following completion of substantial road works) has effect in relation to the authorised development.

(4) Section 61(1) of the 1991 Act (under which the consent of the street authority is required for the placing of apparatus in a protected street) does not apply to the placing of apparatus in the course of the authorised development.

(5) Section 62(2) of the 1991 Act (power following designation of a protected street to require removal or repositioning of apparatus already placed in the street) does not apply in relation to apparatus placed in the course of the authorised development.

(6) Section 62(4) of the 1991 Act (power when designation as protected street commences or ceases to give directions with respect to works in progress) does not apply in relation to the authorised development.

(7) Section 63(1) of the 1991 Act (under which Schedule 4 to that Act has effect for requiring the settlement of a plan and section of street works to be executed in a street designated by the street authority as having special engineering difficulties) does not apply in relation to the authorised development.

(8) Sections 74 and 74A of the 1991 Act(g) (charge for occupation of the highway and charge determined by reference to duration of works) do not apply in relation to the authorised development.

(a) 1980 c. 66. Section 141 was amended by sections 37 and 46 of the Criminal Justice Act 1982 (c. 48).

(b) 1980 c. 66. Section 167 was amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48).

(c) Section 173 was amended by section 46 of the Criminal Justice Act 1982 (c. 48).

(d) 1991 c. 22. Section 56(1) and (1A) were amended by section 43 of the Traffic Management Act 2004 (c. 18).

(e) 1991 c. 22. Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).

(f) 1991 c. 22. Section 58(1) was amended by section 51(1), (2) of the Traffic Management Act 2004 (c. 18).

(g) 1991 c. 22. Section 74 was amended by sections 256 and 274 of, and Part V(2) of Schedule 31 to, the Transport Act 2000 (c. 38), section 40(4) and section 52(5) of the Traffic Management Act 2004 (c. 18), and section 1(6) of, and paragraphs 113

(9) Schedule 3A to the 1991 Act (restriction on works following substantial street works) shall not apply where a notice under section 54 (advance notice of certain works) or 55 (notice of starting date of works) of that Act(a) is given in respect of the authorised development.

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

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

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

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

Local Government (Miscellaneous Provisions) Act 1976

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

Environment Act 1995

5. No order, notice or regulation under the Environment Act 1995(c) in relation to the preservation of hedgerows, has effect in relation to the authorised development.

Water Resources Act 1991

6. The provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw-making powers of the authority) to the Water Resources Act 1991(d) does not apply to the authorised development.

Land Drainage Act 1991

7. The following do not apply to the authorised development:

- (a) section 23 (prohibition of obstructions, etc. in watercourses) of the Land Drainage Act 1991(e) in relation to watercourses for which a relevant local planning authority is the drainage board concerned;

and 119 of Part 2 of Schedule 1 to, the Infrastructure Act 2015 (c. 7). Section 74A was inserted by section 255(1) of the Transport Act 2000 (c. 38) and was amended by section 1(6) of, and paragraphs 113 and 120 of Part 2 of Schedule 1 to, the Infrastructure Act 2015 (c. 7) and section 40(4) of the Traffic Management Act 2004 (c. 18).

- (a) 1991 c. 22. Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004 (c. 18). Section 54 was amended by section 40(1) and (2) and section 49(1) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18). Section 55 was amended by section 40(1) and (2), section 49(2) and section 51(1) and (9) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
- (b) 1976 c. 57. Section 42 was amended by section 6(2) of, and the Schedule to, the Ports (Finance) Act 1985 (c. 30), and section 15 of the Food and Environment Protection Act 1985 (c. 48).
- (c) 1995 c.25.
- (d) 1991 c. 57. Paragraph 5 was amended by section 106 of the Natural Environment and Rural Communities Act 2006, section 31 of, and paragraphs 40 and 49 of Schedule 2 to the Flood and Water Management Act 2010 (c. 29), and sections 84 and 146(1) of, and paragraph 3 of Schedule 11 to, the Marine and Coastal Access Act 2009 (c. 23). Paragraph 6 was amended by section 105 of, and paragraph 6 of Schedule 15 to, the Environment Act 1995 (c. 25), sections 233(1), 224 and 321 of, and paragraphs 20 and 24 of Schedule 16 and Part 5(b) of Schedule 22 to, the Marine and Coastal Access Act 2009 (c. 23). Paragraph 6A was inserted by section 103(3) of the Environment Act 1995 (c. 25).
- (e) 1991 c. 59. Section 23 was amended by section 31 of, and paragraphs 25 and 32 of Schedule 2 to, the Flood and Water Management Act 2010 (c. 29).

- (b) section 32 (variation of awards) of the Land Drainage Act 1991(a);
- (c) The provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991(b).

Wildlife and Countryside Act 1981

8. Section 28E (duties in relation to sites of special scientific interest) of the Wildlife and Countryside Act 1981(c) does not apply to the authorised development.

Control of Pollution Act 1974

9.—(1) Where a local authority is acting further to section 60(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development and works before completion of construction then that local authority must also have regard to the noise levels referred to in the environmental statement and the principles of the code of construction practice.

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

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

Planning Act 2008 – Application of the 2010 Regulations (Community infrastructure Levy)

10. This Order does not constitute a planning permission for the purpose of Part 11 (community infrastructure levy) of the 2008 Act notwithstanding the definition of planning permission contained within regulation 5 (meaning of planning permission) of the Community Infrastructure Levy Regulations 2010(e).

Town and Country Planning (Control of Advertisements) (England) Regulations 2007

11. Regulation 4 (requirement for consent) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007(f) does not apply to any advertisement erected in the location and in accordance with the parameters shown on the parameters plan.

Burial Act 1857

12. Section 25 (offence of removal of body from burial ground) of the Burial Act 1857(g) does not apply to the authorised development.

Neighbourhood Planning Act 2017

13. The provisions of the Neighbourhood Planning Act 2017(h) do not apply in so far as they relate to the temporary possession of land under articles 37 (temporary use of land for carrying out the authorised development) and 38 (temporary use of land for maintaining the authorised development) of this Order.

(a) 1991 c. 59.

(b) 1991 c.59. Section 66 was amended by section 31 of, and paragraphs 25 and 38 of Schedule 2 to, the Flood and Water Management Act 2010 (c. 29) and section 86(1) and (3) of the Water Act 2014 (c. 21).

(c) 1981 c. 69. Section 28E was amended by section 105(1) of, and paragraphs 79 and 80 of Part 1 of Schedule 11 to, Natural Environment and Rural Communities Act 2006 (c. 16).

(d) Section 61(9) was amended by Schedule 24 of the Environment Act 1995 (c. 25) and paragraph 15(3) of Schedule 15 to the Environmental Protection Act 1990 (c. 43).

(e) S.I. 2010/948.

(f) S.I. 2007/783.

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

(h) 2017 c. 20.

SCHEDULE 16

Article 57

CERTIFICATION OF PLANS AND DOCUMENTS

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

Document/Plan

access and rights of way plans

Key Plan

Sheet 1

[X]

book of reference

bridge plans

carbon management plan

CEMP

design approach document

energy strategy

environmental statement

framework travel plan

highway classification plans

Key Plan

Sheet 1

[X]

highway general arrangement plans

Key Plan

Sheet 1

[X]

highway plans

Key Pan

Sheet 1 – [X]

[X]

illustrative landscape masterplan

lighting strategy

phasing plans

parameters plan

railway plans

speed limit plans

Key Plan

Sheet 1

[X]

traffic regulation plans

Key Plan

Sheet 1

[X]

tree and hedgerow removal plans

works plans

Key Plan

Sheet 1

[X]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent for, and authorises Intermodal Logistics Park North Ltd to construct, operate and maintain, the new Intermodal Logistics Park North Strategic Rail Freight Interchange and associated development. The undertaker is authorised by the Order to acquire compulsorily land and rights over land. The Order also authorises the making of alterations to the highway network, stopping up and diversion of public rights of way and the discharge of water.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 57 (certification of plans and documents) of this Order may be inspected free of charge at the offices of St Helens Borough Council, Town Hall, Victoria Square, St Helens WA10 1HP and Wigan Council, Town Hall, Library Street, Wigan WN1 1YN.