

Intermodal Logistics Park North Ltd

INTERMODAL LOGISTICS PARK NORTH (ILPN)

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

Project reference TR510001

DRAFT Explanatory Memorandum for Statutory Consultation

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Planning Act 2008

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

Regulation 5(2)(c)

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

DRAFT EXPLANATORY MEMORANDUM

October 2025

**Regulation 5(2)(c) Infrastructure Planning (Applications: Prescribed Forms and
Procedure) Regulations 2009 (as amended)**

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THIS DRAFT EXPLANATORY MEMORANDUM 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 ALONGSIDE THE DRAFT DEVELOPMENT CONSENT ORDER (“DCO”) AS THE PROPOSED DEVELOPMENT PROCEEDS THROUGH ITS CONSULTATION STAGES AND SUBSEQUENT EXAMINATION.

THE DRAFT DCO CONTAINS TEXT IN ITALICS IN ORDER TO REFER TO DOCUMENTATION OR PROVISIONS WHICH IT IS ANTICIPATED WILL BE PREPARED IN DUE COURSE AND SUBMITTED WITH THE APPLICATION BUT WHICH 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 ASSOCIATED WITH THE PROPOSED DEVELOPMENT ARE FINALISED – THE DRAFT DCO DOES NOT INCLUDE DETAILED WORKS RELATING TO SPECIFIC HIGHWAY MITIGATION MEASURES – PLEASE SEE PARAGRAPH 1.3 BELOW AND REFER TO THE HIGHWAY MITIGATION OPTIONS REPORT FOR FURTHER DETAIL.

INTRODUCTION

1. Introduction

- 1.1 This draft explanatory memorandum has been prepared on behalf of Intermodal Logistics Park North Ltd (“the Applicant”) to explain the context of, and provisions in, the draft Development Consent Order (“DCO”) produced for the statutory consultation being undertaken between 28 October and 23 December 2025.
- 1.2 It forms part of the suite of draft documentation upon which the Applicant is consulting as part of its Stage 2 statutory consultation ahead of its proposed application for the Intermodal Logistics Park North Strategic Rail Freight Interchange 202X pursuant to section 37 of the Planning Act 2008. The application will seek approval of a draft DCO for a new rail freight interchange, warehousing and associated infrastructure on land to the east of the M6 motorway, to the south of the Chat Moss Line and to the west of Winwick Lane.
- 1.3 The Applicant initially carried out Stage 1 consultation from 27 January to 21 March 2025. As part of its Stage 2 statutory consultation, the Applicant will be inviting feedback in respect of a Highway Mitigation Options Report containing details of a number of potential interventions – consisting of 14 remote junctions and a new piece of highway infrastructure. Following the close of consultation, the Applicant intends to rationalise and to identify a final set of highway mitigation measures

once the traffic modelling and transport assessment for the development proposals have been completed. Accordingly, a second targeted Stage 2 statutory consultation, focusing upon highways (and associated impacts), and the final set of highway mitigation measures which the Applicant proposes to implement, is proposed to be undertaken in Q1 of 2026. The Applicant anticipates that its application for development consent will be submitted to the Secretary of State in Q2 2026.

- 1.4 The Applicant is engaging with various stakeholders to inform the detail of the proposed drafting of the DCO including in relation to the draft Requirements and the Schedules of Protective Provisions.
- 1.5 The draft DCO has taken into account guidance produced by the Planning Inspectorate including 'Nationally Significant Infrastructure Projects: Advice on the Preparation and Submission of Application Documents'¹ and Advice Note Fifteen: Drafting Development Consent Orders². This draft explanatory memorandum has been prepared to explain the purpose and the effect of provisions in the draft DCO.³
- 1.6 The terminology used in this document is consistent with the glossary set out in the PEIR accompanying the Stage 2 consultation which can be viewed on the project website – www.tritaxbigbox.co.uk/our-spaces/intermodal-logistics-park-north/.
- 1.7 The Applicant is Intermodal Logistics Park North Ltd, a limited company under the beneficial ownership of Tritax Big Box REIT plc.

DCO OVERVIEW

2. DCO Overview

- 2.1 The DCO is the document that identifies and governs the development proposals. It contains wide ranging powers to enable project delivery in recognition that the development applied for is nationally significant⁴ which should be brought forward as soon as possible in the national interest.
- 2.2 The scope of the DCO can broadly be divided into five elements:

¹ Updated July 2025.

² Updated March 2025.

³ As required by Regulation 5(2)(c) Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 SI 2009/2264 as amended.

⁴ Being, as a matter of law, a nationally significant infrastructure project.

- a) It identifies the development that it is authorising and controls that development by applying requirements, which are similar to planning conditions attached to a planning permission.
 - b) It contains other orders, such as highway orders and footpath diversion orders, required for implementation of the development – avoiding the need for them to be obtained separately.
 - c) It provides powers of compulsory acquisition over land and interests in land in order that difficulties in reaching agreement on such acquisition do not frustrate delivery of the development.
 - d) It includes protective provisions for parties, such as utility companies, whose assets may be affected by the development; and
 - e) It contains miscellaneous other provisions with the objective of ensuring there is no obstacle to delivery of the development.
- 2.3 The DCO is essentially in two parts – the provisions in the first part (called ‘Articles’) set out all of the operative provisions and the schedules in the second part provide the detail.
- 2.4 The ‘main site’ of the development proposals is located on land to the east of the M6 motorway, to the south of the Chat Moss Line and to the west of Winwick Lane, incorporating a triangular parcel of land located to the west of Parkside Road and to the north of the Chat Moss Line (“the Main Site”). The location of, and context for, the Main Site can be seen on the draft Location Plan, the Parameters Plan and the Draft Illustrative Masterplan.
- 2.5 All of the land affected by the development proposals is referred to in the draft DCO as the ‘Order limits’. The draft Order limits are shown by a red line on the Location Plan and they fall primarily within the administrative boundaries of the Metropolitan Borough of St Helens, the Metropolitan Borough of Wigan and the Borough of Warrington.
- 2.6 The different elements of the development proposals are identified on the Components of the Proposed Development Plan and are described later in this explanatory memorandum.

SCOPE OF THE DCO

3. Scope of the DCO

- 3.1 The DCO for which approval will be sought is entitled “The Intermodal Logistics Park North Strategic Rail Freight Interchange Order”. The rail freight interchange, including warehousing, which is at the heart of the development proposals, meets the criteria set out in Section 26 of the Planning Act 2008 (as amended) (“the 2008 Act”).
- 3.3 The development proposals, subject of the DCO, (referred to hereinafter as “the Proposed Development”) will, when constructed:
- 3.3.1 be in England, and be more than 60 hectares in area⁵;
 - 3.3.2 be capable of handling goods from more than one consignor to more than one consignee and be capable of handling at least four trains per day⁶;
 - 3.3.3 be part of the railway network in England⁷;
 - 3.3.4 include warehouses to which goods can be delivered from the railway network in England either directly or from another form of transport⁸; and
 - 3.3.5 not be part of a military establishment⁹.

NSIP

- 3.4 The purpose of the DCO is to authorise the construction and use of the strategic rail freight interchange (“SRFI”), together with associated development.
- 3.5 The works which comprise the rail freight interchange NSIP will be carried out within the areas identified as Works Nos 1 to 7, and Works Nos 19, 20 on the draft Works Plans.

⁵ Section 26(3)
⁶ Section 26(4)
⁷ Section 26(5)
⁸ Section 26(6)
⁹ Section 26(7)

Associated Development

- 3.6 Associated development¹⁰ comprises development which is not an integral part of the NSIPs but is required to facilitate them. In this instance, it includes highway mitigation works (the final package of which is still to be settled). It also includes extensive green infrastructure including strategic landscaping and areas to be dedicated to biodiversity. These elements (save for the highway mitigation works) can be seen on the draft Parameters Plan and the draft Illustrative Masterplan.

The proposed development

- 3.7 The Proposed Development is outlined in Schedule 1 of the draft DCO by reference to the areas identified on the draft Works Plans. The Proposed Development is also described in other consultation draft documentation, in particular Chapter 3 of the Preliminary Environmental Information Report.
- 3.8 Schedule 1 does not specifically categorise the authorised development into an NSIP and associated development. This follows recent drafting examples and acknowledges the comments of Examining Authorities in recent Examinations. It is appropriate because even where NSIPs are separately defined, the list of works included as part of those NSIP works packages inevitably includes some associated development alongside them. Listing “associated development” as a separate part of the Schedule is therefore not strictly accurate.
- 3.9 The draft DCO will seek consent for, in summary, the following works:
- 3.9.1 a logistics park comprising up to c.767,000 square metres (“m2”) (gross internal area or GIA) of warehousing and ancillary buildings with a total footprint of up to 590,000m2 at ground floor level and up to 177,050m2 of mezzanine floorspace, comprising a mixture of units with the potential to be rail connected, rail served and rail accessible units;
 - 3.9.2 provision of a rail terminal capable of accommodating up to 16 trains (each up to 775m in length) per day, including connections to the mainline and ancillary development such as container storage, cranes for the loading and unloading of shipping containers, Heavy Goods Vehicle (“HGV”) parking, rail control building, fuelling facilities and staff facilities;

¹⁰ Section 115.

- 3.9.3 a rail turn-back facility within the Western Rail Chord capable of accommodating trains up to 775m in length;
- 3.9.4 new bridges across the Chat Moss Line to enhance connectivity and replace level crossings to improve safety;
- 3.9.5 closure and diversion of two rail level crossings (Parkside No. 1 and Lowton Moss);
- 3.9.6 provision of overnight lorry parking with welfare facilities and HGV fuelling facilities for users of the SRFI;
- 3.9.7 new internal roads and works to existing road infrastructure on the Main Site;
- 3.9.8 closure of existing access and provision of new access to Newton Park Farm and neighbouring properties;
- 3.9.9 new electricity substations;
- 3.9.10 new energy centre(s) and potential for battery storage;
- 3.9.11 provision of roof-mounted photovoltaic arrays and/or canopy photovoltaic arrays over parking areas capable of providing direct energy supply to buildings on which they are mounted and/or distributing and exporting power via the energy centre(s);
- 3.9.12 strategic landscaping and open space, including: bunds up to 3m above the reprofiled ground level, hard and soft landscape works, amenity features and planting;
- 3.9.13 earthworks to regrade the Main Site to provide development plateaus, appropriate access, connections to the railway, development plots and landscape zones;
- 3.9.14 habitat creation, enhancements, compensation and provision of publicly accessible space;
- 3.9.15 an amenity area to the north of the railway line bounded by rail lines and Parkside Road, providing amenity open space, landscaping and screening as well as including heritage interpretation;
- 3.9.16 farmland to the north of the Liverpool to Manchester railway and south of the A572 Newton Road for the provision of Biodiversity Net Gain requirements, new and realigned Public Rights of Way ("ProWs") and landscaping including tree belts to screen views from the north;

- 3.9.17 farmland to the east of Winwick Lane for the reuse of topsoil and landscaping including stopping up gaps in hedgerow and tree belts to screen views from the east;
- 3.9.18 noise attenuation measures;
- 3.9.19 new pedestrian and cycle access routes and connections and infrastructure including provision of new, and diversion of existing, PRow where required;
- 3.9.20 provision of a public transport hub;
- 3.9.21 demolition of existing on-site structures (including existing residential dwellings / farmsteads and commercial premises);
- 3.9.22 utility compounds, plant and service infrastructure;
- 3.9.23 security and safety provisions inside the SRFI including fencing and lighting;
- 3.9.24 drainage works including creation of attenuation ponds and sustainable drainage features;
- 3.9.25 development signage; and
- 3.9.26 highway mitigation measures.

Ancillary Matters

- 3.10 The draft DCO will also include powers for some ancillary matters as permitted by section 120 of the 2008 Act.
- 3.11 The draft DCO includes the following ancillary matters will be in the DCO. These provisions will authorise the carrying of actions to facilitate the development which are not, of themselves, development:
 - 3.11.1 powers to compulsorily acquire land or rights in order to ensure that the authorised development can be delivered in a timely fashion. The extent of such powers and the land to which they will ultimately relate has not been finalised at the date of the Stage 2 statutory consultation as discussions with the relevant affected parties are ongoing;
 - 3.11.2 highway orders such as traffic regulation orders and speed limit orders;
 - 3.11.3 the creation of new public rights of way and new private means of access.

PLANS AND OTHER DOCUMENTS

4. Plans and other documents

4.1 The consultation documentation for the Stage 2 statutory includes **drafts** of the following material:

- (a) A draft DCO;
- (b) This Explanatory Memorandum;
- (c) Preliminary Environmental Information Report;
- (d) Components of Proposed Development Plan;
- (e) Works Plans identifying the areas for the different works which are referred to in Schedule 1 in the draft DCO (“the Works”) and, where appropriate, show limits of deviation;
- (f) Location Plan identifying the context of the Application Site and the Order limits;
- (g) A Parameters Plan which identifies the parameters with which the Works must comply;
- (h) An Illustrative Masterplan is provided to assist in demonstrating a form of development of the Main Site which would comply with the draft parameters which have been assessed at this stage (as shown on the Parameters Plan); and
- (i) Other draft plans such as highway plans, rail plans and access and rights of way plans;
- (j) Various draft management plans which are referred to in the PEIR documentation and proposed to be secured through the DCO Requirements; and
- (k) A draft Commitments Register.

4.2 The full list of documents and plans are available to view on the project website – www.tritaxbigbox.co.uk/our-spaces/intermodal-logistics-park-north/.

THE PARAMETERS OF DEVELOPMENT

5. The parameters of development

5.1 The draft Parameters Plan identifies the parameters of the Proposed Development on the Main Site. This draft plan is the basis upon which the work on the preliminary environmental assessment has been carried out for the purposes of consultation.

- 5.2 The plan sets out the location of the various elements of the Proposed Development within the Main Site. It also identifies the maximum floorspace within each zone, the maximum overall floorspace, the finished floor levels and building height range and areas of strategic buffers and landscaping. The extent of the structural green infrastructure to be provided is also identified. These provide the “Rochdale Envelope” for the purposes of the environmental assessment of the development on the Main Site. This is in line with Planning Inspectorate Advice Note Nine “Using the Rochdale Envelope”¹¹.
- 5.3 Article 4 of the draft DCO ensures that the authorised development accords with the Parameters Plan.
- 5.4 The precise design of the authorised development, which is not detailed on the draft Parameters Plan, will be submitted to the relevant local planning authority for approval following the approval of the DCO (if it is approved) – in similar fashion to reserved matters being approved following an outline planning approval.
- 5.5 The authorised development will be controlled by the following provisions of the draft DCO:
- Article 4 (*Parameters of authorised development*) and Article 54 (*Governance of requirements and governance of protective provisions relating to highway works*);
 - the description of the Works (contained in Schedule 1) and the limits of deviation shown on the Works Plans;
 - the requirements in Schedule 2, which are subject to ongoing discussion with the relevant authorities and statutory undertakers; and
 - in respect of the highway works, the Highway Plans and the protective provisions relating to the highway works (*Parts 2 and 3 of Schedule 14*).
- 5.6 The provisions of draft Articles 4 and 54 function so that detail to be approved following the grant of the DCO must remain within the parameters upon which the environmental assessment was based. Permitting the approval of details subsequent to the making of the DCO, and the ability to change details approved, as provided for in Article 54(2), is in accordance with paragraph 17 of Advice Notice 15: Drafting Development Consent Orders.

11 Updated March 2025

THE DRAFT ORDER

6. The draft Order

- 6.1 This section of the memorandum explains each Article of, and Schedules to, the DCO. The drafting of the Articles will be refined as the application proceeds through the pre-application process, including after this consultation and as a result of any feedback from the Planning Inspectorate. For that reason, the Articles are provisional at this stage, and may well change as the drafting progresses.
- 6.2 Commentary on the Articles notes where similar provisions have been included in other approved DCOs. In particular, regard has been had to other DCOs in respect of SRFI projects, being, The Daventry International Rail Freight Interchange Alteration Order 2014¹², The East Midlands Gateway Rail Freight Interchange and Highway Order 2016¹³, The Northampton Gateway Rail Freight Interchange Order 2019¹⁴ and The West Midlands Rail Freight Interchange Order 2020¹⁵, Regard has also been had to recently made highways DCOs including The A122 (Lower Thames Crossing) Development Consent Order 2025.¹⁶
- 6.3 In accordance with relevant guidance the commentary to the Articles also, where appropriate, identifies the provisions in the 2008 Act which authorise the inclusion of such powers within a DCO.
- 6.4 The DCO includes several provisions for deemed consent and approvals. These critical provisions have been included to facilitate the efficient and timely delivery of the Proposed Development. These provisions include safeguards to ensure that adequate information is provided to support the granting of the consent or approval. Where such information has been supplied, consent is deemed to have been given, allowing the development to proceed without delay or the need for negotiation with third parties. This approach is considered appropriate given the national importance of the Proposed Development and the timeframe for delivery.

¹² S.I. 2014 No. 1796.

¹³ S.I. 2016 No. 17.

¹⁴ S.I. 2019 No 1358 (as corrected by The Northampton Gateway Rail Freight Interchange (Correction) Order 2020 (S.I. 2020 No. 1670) and as amended by the Northampton Gateway Rail Freight Interchange (Amendment) Order 2023 (S.I. 2023 No 418)).

¹⁵ S.I. 2020 No. 511 (as corrected by The West Midlands Rail Freight Interchange (Correction) Order 2020 (S.I. 2020 No. 1163) and as amended by the West Midlands Rail Freight Interchange (Amendment) Order 2023 (S.I. 2023 No. 1132) and as further amended by the West Midlands Rail Freight Interchange (Amendment No. 2) Order 2025 (S.I. 2025 No. 481).

¹⁶ S.I. 2025 No 462.

There is precedent for this in many DCOs, including the recently made Cambridge Waste Water Treatment Plant Relocation Order 2025¹⁷.

- 6.5 The draft Requirements in Schedule 2 refer to various strategies and management plans. Some of these documents have not yet been prepared or are at an early draft stage and are therefore not provided for consultation. However, Schedule 2 demonstrates how the Applicant proposes to secure compliance with these documents. Copies will be submitted as part of the formal application to the Planning Inspectorate.

Part 1 - Preliminary

Preamble

- 6.6 The DCO begins with a preamble, as with all statutory instruments. Some of the wording in the consultation draft is in square brackets as it will not be known until after submission of the application whether the DCO will be examined by a single inspector or a panel of inspectors.

Article 1 (Citation and commencement)

- 6.7 This Article sets out the name of the Order and states the date on which it comes into force. It will not be completed unless and until the DCO is approved.

Article 2 (Interpretation)

- 6.8 This Article comprises, in the main, the definition of terms used throughout the DCO.
- 6.9 Definitions of note are:

- (a) “authorised development” refers to the development described in Schedule 1 (authorised development) and any other development authorised by the DCO as well as any works carried out under the requirements. The Applicant considers the reference to requirements to be necessary, because, in order to comply with the requirements, the Applicant may need to carry out works such as monitoring and surveys. These activities do not constitute development within the meaning of Section 32 of the 2008 Act.

¹⁷ S.I. 2025 No 452.

- (b) The definition of “undertaker” expressly refers to Intermodal Logistics Park North Ltd and in respect of part (b) of that definition, includes (in respect of the Main Site only), those persons who have the benefit of the Order in accordance with Section 156 of the 2008 Act. Limb (b), therefore, is specific to the Main Site only and not the entire Order limits. The effect of this is that the benefit of the Order as it applies to land within the Order limits but outside of the Main Site rests with Intermodal Logistics Park North Ltd in its entirety.

It should be noted that Article 7 restricts the benefit of the order in relation to the exercise of the compulsory acquisition powers and the carrying out of highway works to Intermodal Logistics Park North Ltd only.

- (c) “Commence” is defined in the draft DCO as:

“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;*
 - (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) receipt and 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;*

Carving out activities from the definition of ‘commence’ means that the undertaker can carry out what are, in effect, preliminary works, without having to discharge the requirements. The Applicant considers these activities to be either non-intrusive or low impact and therefore it is appropriate for these to be carried out without the undertaker having to

provide detail to the local planning authority and await approval. In some cases, the activities may be required to inform the requirement submissions themselves, in particular, the environmental surveys and monitoring. There is precedent for this in many DCOs, including The Sizewell C (Nuclear Generating Station) Order 2022.

- (d) Definitions of the “main site” and “highway works” have been added so that provisions are easily applicable to those elements of the development.
- (e) “maintain” which is defined as “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”. The references to adjust and alter are considered necessary as during maintenance, it may transpire that changes are required in order to ensure the continued operation. There is precedent for this in Lower Thames Crossing Order 2025. The definition is caveated by the requirement that such maintenance operations do not give rise to any materially new or different environmental effects and therefore there is a limit on the allowable range of activities. This is considered to be in line with the Planning Inspectorate’s Advice Note Fifteen guidance on such drafting.
- (f) The DCO uses the terms “Order limits” and “Order land”. “Order land” refers to land and interests which are subject to the powers of Part 5 of the draft DCO as described in the book of reference and shown on the land plans. The term “Order limits” means the limits shown on the works plans represented by a red line within which the authorised development may be carried out. “Order limits” covers all land within which the development may be carried out, including the “Order land”, as well as other land which is not subject to Part 5 powers, such as land in respect of which no compulsory acquisition or temporary possession powers are needed.
- (g) “Owner” is defined by reference to the Acquisition of Land Act 1981 and the definition in that Act is a person satisfying specified criteria ‘from time to time’. For this reason, the drafting does not include express reference to successors in title as such persons are captured by the wording ‘from time to time’.

- 6.10 The remainder of Article 2(1) is consistent with many other DCOs and sets out further matters relating to interpretation.
- 6.11 Article 2(3) provides that all distances, directions and lengths referred to in the Order are approximate, thus allowing for some tolerance between final measurement and those listed in the Order. This wording ensures that such works will still be authorised by the Order, save that such works are still limited by the limits of deviation in Article 4.
- 6.12 Article 2(11) provides that in the order, references to “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. This wording was included in the recently made A122 (Lower Thames Crossing Order) 2025¹⁸. It is intended to ensure that any changes to the DCO which result in betterment are not prohibited.

Part 2 - Principal Powers

Article 3 (Development consent granted by the Order)

- 6.13 This Article provides development consent for the authorised development to be carried out and used within the Order limits subject to the provisions of the Order.
- 6.14 The Article includes the reference to “use” because, although section 157 of the 2008 Act authorises the use of buildings in respect of which development consent is granted, there is no similar provision related to land. Further, whilst “use” is also expressly included in Articles 5 (for the rail infrastructure and warehousing) and 42 (for the railway), in those Articles, the “use” provision relates only to some specific works and not the “authorised development” in its entirety.
- 6.15 The Applicant has not included the wording “within the Order limits” at the end of Article 3(1). This is because it may be necessary for the Applicant to use powers outside of the Order limits, particularly in relation to the powers to survey land (Article 23) and to carry out protective works to buildings and structures (Article

¹⁸ S.I. 2025 No 462.

24). It is noted that this approach was endorsed by the Secretary of State in The A303 (Amesbury to Berwick Down) Development Consent (Correction) Order 2021¹⁹ in which an order was made to remove the wording “within the Order limits” from Article 4.

- 6.16 Article 3(2) provides that 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. Whilst the Applicant has carried out a review of local legislation, there may be acts or other enactments which could impede the authorised development. There is precedent for this in The A122 (Lower Thames Crossing) Order 2025.

Article 4 (Parameters of authorised development)

- 6.17 This Article identifies the parameters and limits of deviation within which the authorised development must be carried out by reference to various plans which identify those parameters and limits of deviation.
- 6.18 The Article permits exceptions to the application of the limits of deviation where the local planning authority is satisfied that it would not result in any materially new or materially different significant effects on the environment that have not been assessed in the Environmental Statement.
- 6.19 This approach accords with the guidance set out in Planning Inspectorate’s Advice Notes Nine and Fifteen is accepted as an appropriate way to provide for flexibility and address uncertainty, for example, ground conditions and to allow refinement through detailed design. Given the scale of the Proposed Development, it would not be feasible for the design to be fully fixed at this stage. If the DCO is granted the design will be refined following the making of the Order. The Requirements in Schedule 2 will provide a mechanism for approval of that design and the limits of deviation will provide the necessary flexibility. A similar approach has been adopted in made DCOs such as the Lake Lothing (Lowestoft) Third Crossing Order 2020²⁰, the Great Yarmouth Third River Crossing Development Consent Order 2020²¹.

¹⁹ S.I. 2021 No. 346.

²⁰ S.I. 2020 No. 474 (Article 5).

²¹ S.I. 2020 No. 1075 (Article 6).

- 6.20 This approach was authorised in many made DCOs, including The Northampton Gateway Rail Freight Interchange Order 2019 and the A303 Sparkford to Ilchester Dualling Development Consent Order 2021²².

Article 5 (Authorisation of Use)

- 6.21 This Article is included to expressly authorise the use of the authorised development, pursuant to section 157 of the 2008 Act. It authorises the operation and use of the rail freight interchange development and ensures that ancillary uses apply to the warehousing built pursuant to the DCO in the same way as if the warehousing were built pursuant to a planning permission. The Article follows the approach taken in Thames Tideway Tunnel, Article 4²³ and other more recent Development Consent Orders²⁴. As with Article 3, the use is made subject to the provisions of the DCO.

Article 6 (Maintenance of authorised development)

- 6.22 This Article allows the maintenance of the authorised development. Its inclusion is permitted by section 120(3) of the 2008 Act because maintenance of the authorised development is clearly related to the development to be consented. Article 6(1) provides that maintenance may be carried out any time, except to the extent that the DCO or any agreement made under the DCO provides otherwise. The latter reference to agreements is intended to capture agreements which may be required with third parties pursuant to the Protective Provisions in Schedule 14. It also provides a means for restricting the generality of the Article, if made by agreement.
- 6.23 The Article permits any activity within the definition of “maintain” set out in Article 2, but the inclusion of paragraph (3) means that maintenance activity 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 submitted pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017²⁵ is not authorised. This would be subject to the interpretive provision in Article 2(11) explained above.

²² S.I. 2021 No. 125 (Article 8).

²³ The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 SI 2016 No. 2384.

²⁴ The Northampton Gateway Rail Freight Interchange Order 2019 (S.I. 2019 No 1358) and The West Midlands Rail Freight Interchange Order 2020 (S.I. 2020 No. 511).

²⁵ S.I. 2017 No. 572 (as amended)

- 6.24 Maintenance of the highway works is not covered by this Article but is governed by the relevant provisions of *Parts 2 and 3 of Schedule 14* since those provisions detail the appropriate arrangements and authorisations relevant to highway maintenance. This approach was accepted in The M54 to M6 Link Road Development Consent Order 2022²⁶, Great Yarmouth Third River Crossing Development Consent Order 2020²⁷ and The Thurrock Flexible Generation Plant Development Consent Order 2022²⁸.

Article 7 (Benefit of the Order)

- 6.25 The DCO will benefit the “undertaker”, as defined in Article 2. In the case of the Main Site, this includes all parties who qualify under section 156 of the 2008 Act (principally being those with a legal interest in the Main Site). However, some powers will benefit only Intermodal Logistics Park North Ltd as follows:
- 6.25.1 Part 5 (Powers of Acquisition) will be for the sole benefit of Intermodal Logistics Park North Ltd to ensure that the Articles relating to the exercise of compulsory acquisition powers cannot be transferred unless the Secretary of State consents. This is because Intermodal Logistics Park North Ltd will be providing the security for the funding of any potential compensation as a result of exercising these powers; and
- 6.25.2 Only Intermodal Logistics Park North Ltd will have the power to carry out the highway works and deliver them in accordance with the protective provisions in *Parts 2 and 3 of Schedule 14* unless the Secretary of State consents to a transfer of those powers or the relevant highway authority takes over responsibility for carrying out the highway works in default of the undertaker, pursuant to the provisions of *Parts 2 and 3 of Schedule 14*.
- 6.26 In respect of the highway works, it is considered that the power to carry out the highway works should be restricted to the named undertaker as opposed to being available to all the owners of the land interests within the Order limits. This will ensure an orderly and comprehensive approach to the carrying out of the works and is also appropriate given that the nature of those works, and the protective

²⁶ S.I. 2022 No. 475 (Article 4)

²⁷ S.I. 2020 No. 1075 (Article 5)

²⁸ S.I. 2022 No. 157 (Article 5)

provisions relating to them, have been specifically discussed between Intermodal Logistics Park North Ltd and the relevant highway authorities.

- 6.27 Sub-paragraph 4 is included to ensure that any works which may be carried out by other parties, including “owners” under the protective provisions are authorised. This wording has been included in other Orders such as the M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016²⁹, The Northampton Gateway Rail Freight Interchange Order 2019 and The West Midlands Rail Freight Interchange Order 2020.

Article 8 (Transfer of the benefit of the Order)

- 6.28 This Article is included to set out the procedure to be followed in the event that a request to transfer the benefit of Part 5 (powers of and/or *Parts 2 and 3 of Schedule 14* (Protective Provisions) is made to the Secretary of State, as permitted by Article 7(2) and (3)(a).
- 6.29 Paragraph (3) provides that the exercise by a person of any benefits or rights conferred in accordance with any transfer under the Article is subject to the same restrictions, liabilities and obligations as would apply under the DCO if those benefits or rights were exercised by the undertaker. This ensures that any transferee does not take free from the provisions of the DCO and must still comply with its terms.
- 6.30 Paragraph (4) sets out the procedure for transferring the benefit of the DCO, namely, the undertaker must consult with the Secretary of State before seeking its consent and must give notice to the relevant planning authority and highway authority, if the transfer relates to the exercise of powers in their area. Paragraph (5) then sets out the requirements for a notice, ensuring that the notice will provide all of the required information in order that the Secretary of State may make an informed decision on the transfer.

Part 3 - Streets

Article 9 (Street works)

²⁹

S.I. 2016 No. 863 (Article 7(2))

- 6.31 This Article provides for the carrying out of the works described in paragraph (1) (a) – (j) for the purposes of the authorised development in respect of any of the streets set out in Schedule 3.
- 6.32 The inclusion of this Article in the Order provides a statutory right to undertake street works within the specified streets and means that the undertaker will not need to obtain a separate licence from the street authority under the New Roads and Street Works Act 1991 (“1991 Act”).
- 6.33 As confirmed in paragraph (2), the authority given by Article 9(1) is a statutory right for the purposes of sections 48(3) and 51(1) of the 1991 Act and the application of this legislation is permitted by section 120(5)(a) of the 2008 Act.
- 6.34 Paragraph (4) provides that provisions relating to major highway works in Part 3 of the 1991 Act which refer to the highway authority concerned shall, in relation to works which are major highway works, be construed as references to the undertaker. “Major highway works” is defined in Section 86 of the 1991 Act as follows:

in this Part “major highway works” means works of any of the following descriptions executed by the highway authority in relation to a highway which consists of or includes a carriageway—

- (a) reconstruction or widening of the highway,*
- (b) works carried out in exercise of the powers conferred by section 64 of the Highways Act 1980 (dual carriageways and roundabouts),*
- (c) substantial alteration of the level of the highway,*
- (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway,*
- (e) the construction or removal of a road hump within the meaning of section 90F of the Highways Act 1980,*
- (f) works carried out in exercise of the powers conferred by section 184 of the Highways Act 1980 (vehicle crossings over footways and verges),*
- (g) provision of a cattle-grid in the highway or works ancillary thereto, or*
- (h) tunnelling or boring under the highway.*

- 6.35 The effect of the above is that any works which would be “major highway works” if carried out by a highway authority in relation to one of its streets, will be major highway works if carried out under the DCO. This is relevant in relation to:

- 6.35.1 Section 84 of the 1991 Act which outlines the responsibilities and procedures when statutory undertakers' apparatus (including pipes, cables, ducts) is affected by major highway works;
- 6.35.2 Section 85 of the 1991 Act which provides for cost sharing measures. When such works affect undertakers' apparatus, the costs of necessary measures (e.g. relocation or protection) must be shared between the highway authority (which will apply to the Applicant in its capacity as the undertaker in the DCO) and the statutory undertaker as prescribed by regulations.

Article 10 (Power to alter layout, etc., of streets)

- 6.36 This Article relates to the streets in the Main Site which will be maintained as private roads. However, any alteration to those roads will still require the consent of the relevant street authority, notwithstanding that they are private roads. This power is required to ensure that delivery of the authorised development is not hindered by interference with existing streets.
- 6.37 This Article is not limited to specified streets in a Schedule, however, detailed design is still to be carried out and therefore it may not transpire that it is necessary to alter certain streets until the design progresses. Any alterations require the consent of the street authority, thereby limiting the generality of this otherwise permissive power.
- 6.38 A deemed consent provision has been included to ensure there is timeframe established for a route to a decision. This deemed consent approach is increasingly incorporated in many DCOs, sometimes with a shorter period of 28 days, for example, see Article 12(5) of the National Grid (Hinkley Point C Connection Project) Order³⁰. It was also included, with the 42-day period, as is proposed here, in The Northampton Gateway Rail Freight Interchange Order 2019 and The West Midlands Rail Freight Interchange Order 2020. Paragraph (3) requires the undertaker to inform the street authority of the deeming provisions when seeking consent, thus ensuring that the street authority is aware of the timescales.

- 6.39 The inclusion of the Article in the DCO is authorised pursuant to section 120(3) of the 2008 Act because any necessary works are related to the authorised development.

Article 11 (Permanent stopping up of streets)

- 6.40 This Article authorises the stopping up of streets in connection with the carrying out of the authorised development. The Article is drafted with reference to Schedule 4 which is split into two parts: streets to be permanently stopped up for which a substitute is to be provided and streets to be permanently stopped up for which no substitute is to be provided.
- 6.41 Where a street has been stopped up under the Article, all rights of way over or along the street are extinguished and the undertaker may use so much of the street as is bounded on both sides by the land owned by the undertaker, provided that it is used for the purposes of the authorised development.
- 6.42 In the case of streets to be stopped up where a substitute is to be provided, the street must not be stopped up unless the substitute has been completed to the reasonable satisfaction of the relevant street authority and is open for use or a temporary alternative route has been provided and maintained until completion of the new, substitute street.
- 6.43 The inclusion of the Article in the draft DCO is authorised pursuant to section 120(3) of the 2008 Act since any necessary works are related to the authorised development.

Article 12 (Temporary closure, alteration, prohibition, diversion and restriction of use of streets)

- 6.44 This Article authorises the undertaker to temporarily close, prohibit the use of, alter, divert or restrict the use of any street for the purposes of carrying out the authorised development. This can only be done with the consent of the relevant street authority (save where the undertaker is the street authority). This power is included to minimise potential conflicts between the authorised development works and the use of affected streets during construction. As with Article 11, deemed approval applies after 42 days and when making an application for consent, the undertaker must inform the street authority of this.

- 6.45 Article 12(1)(a) and (b) also permit the diversion of traffic or a class of traffic from the street and permit the undertaker to prevent pedestrians from passing along the street. In some circumstances, it may not be necessary to close a street in its entirety and subparagraphs (a) and (b) provide the undertaker with the ability to take an approach which is more convenient to users of the street.
- 6.46 The DCO uses the term ‘temporary closure’ rather than ‘temporary stopping up’ as the term ‘stopping up’ is used in both the Town and Country Planning Act 1990 and Highways Act 1980 to refer to permanent closure of a route.³¹
- 6.47 Paragraph (2) requires the undertaker to provide reasonable access for pedestrians going to or from a premises abutting a street affected by the Article.
- 6.48 Pursuant to paragraph (3), the undertaker may use as a temporary working site any street or public right of way which has been closed or worked on under the Article.
- 6.49 Paragraph (6) provides a mechanism for compensation for any persons who suffers loss as a result of the suspension of any private rights of way.

Article 13 (Public rights of way – creation, substitution, stopping up and closure of level crossings)

- 6.50 This Article provides that the undertaker may, in connection with the carrying out of the authorised development:
- 6.50.1 stop up the public rights of way in Part 1 of Schedule 5 and if the specified public right of way is stopped up, a substitute must be provided as described in Part 1 of that Schedule. Any temporary substitute right of way must be maintained by the undertaker until the opening of the permanent substitute, as per paragraph (3).
 - 6.50.2 stop up the public rights of way in Part 2 of Schedule 5 without providing a substitute; and
 - 6.50.3 provide the new right of way specified in Part 3 of Schedule 5.

³¹ save for Section 261 of the Town and Country Planning Act 1990 which concerns the ‘temporary stopping up’ of a highway for mineral working

- 6.51 The Article also confirms that where a level crossing is crossed by a public right of way which is stopped up, the level crossing may also be stopped up and discontinued at the same time.
- 6.52 The inclusion of a power to stop up a public right of way is permitted by section 136 of the 2008 Act, if the Secretary of State is satisfied that an alternative right of way will be provided, or an alternative is not required.
- 6.53 The provisions relating to the creation of the public rights of way are included in the draft DCO in order to facilitate the development and therefore their creation is “related” to the authorised development pursuant to section 120(3) of the 2008 Act.

Article 14 (Accesses)

- 6.54 This Article is included to allow for new access to be provided or existing accesses to be altered. The Articles provides that the undertaker may, for the purposes of the authorised development:
- 6.54.1 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.
 - 6.54.2 with the approval of the relevant highway authority or relevant street authority, form and lay out such other means of access 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. A request for a new access or to improve an existing access will be deemed approved in the absence of a notification from the relevant planning authority within 42 days. As with the other Articles in Part 3, deemed approval only applies where the planning authority has not notified the undertaker of its decision. In its request for approval, the undertaker must notify the relevant highway authority of the deeming provisions.
- 6.55 Pursuant to paragraph (2), any access works which are included and defined as part of the authorised development will not require any further consent other than through the provisions of *Parts 2 and 3 of Schedule 14 (Protective Provisions)*.

- 6.56 Paragraph (4) provides for the specified accesses in Part 1 of Schedule 6 (private means of access to be replaced) to be removed and replaced at the stage of the authorised development identified in column (4). Paragraph (5) provides for the specified accesses in Part 2 of Schedule 6 (private means of access to be closed for which no substitute is to be provided) to be closed at the stage of the authorised development identified in column (3), without the provision of a substitute.
- 6.57 The creation of the private accesses is permitted by Section 120(3) of the 2008 Act because the purpose for which the provisions relating to the creation of the private accesses are included in the DCO is to facilitate the development consented by the DCO, and therefore their creation is related to the authorised development.

Article 15 (Maintenance of highway works)

- 6.58 This Article provides for the maintenance of the highway works. It refers to the certification processes to be included in *Parts 2 and 3 of Schedule 14*. The Article has precedent in The Northampton Gateway Rail Freight Interchange Order 2019 and The West Midlands Rail Freight Interchange Order 2020.
- 6.59 The inclusion of this Article is permitted by section 120(3) of the 2008 Act because maintenance of the highway works is clearly “related” to the consent. The specification of the highway authority for the highway works is also authorised by section 120(4) and paragraph 23 of Part 1 to Schedule 5 of the 2008 Act.

Article 16 (Classification of highways)

- 6.60 The drafting of this Article is based on Articles in other Development Consent Orders³² and is required for this DCO in order to make provision for the classification of new highways within the Order limits as set out in Schedule 7.
- 6.61 The provision to classify the highways is specifically permitted by section 120(4) and paragraph 19 of Part 1 to Schedule 5 of the 2008 Act.

³² e.g. the Heysham to M6 Link Road Order 2013 S.I. 2013 No. 675, The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 S.I. 2016 No.17, The Northampton Gateway Rail Freight Interchange Order 2019 S.I. 2019 No 1358 and The West Midlands Rail Freight Interchange Order 2020 S.I. 2020 No 511

Article 17 (Speed limits)

- 6.62 This Article is based upon Articles in other Development Consent Orders, for example, the M1 Junction 10(a) Order,³³ and Houghton Regis Order³⁴, The East Midlands Gateway Rail Freight Interchange and Highway Order, The Northampton Gateway Rail Freight Interchange Order 2019 and The West Midlands Rail Freight Interchange Order 2020.
- 6.63 Paragraph 1 of this Article and Part 1 of Schedule 8 provide for amendments to existing orders, if required. Whether this is required is still to be determined.
- 6.64 The Article will allow the length of the highways to be identified in Schedule 8 to be subject to new speed limits as set out in that schedule following completion of the relevant part of the authorised development.
- 6.65 The Article also enables temporary speed limits during construction by agreement with the relevant highway authority.
- 6.66 The inclusion of the Article is permitted by section 120(3) of the 2008 Act, since the regulation of speed limits on the various highways is related to the provision of the highway works as part of the authorised development. The requirement of the various speed limits is also related to the classification of the various highways and is therefore permitted by section 120(4) and paragraph 19 of Part 1 of Schedule 5 of the 2008 Act.
- 6.67 Paragraph 7 provides that the new speed limits set by the Order may be varied in the future by the relevant traffic authority, as they could have been had they been imposed by an order under the Road Traffic Regulation Act 1984.

Article 18 (Traffic Regulation)

- 6.68 This Article enables amendments to existing traffic regulation orders if necessary as a result of the highway works. Whether this is required is still to be determined.

³³ The M1 Junction 10a (Grade Separation) Order 2013 S.I. 2013 No. 2808

³⁴ The Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014 S.I. 2014 No. 2637

- 6.69 The Article also provides for new permanent and temporary Traffic Regulation Orders to allow, with the consent from the relevant traffic authority, the imposition of orders which may be necessary for the carrying out of the works. These powers are similar to those contained in the Thames Tideway Order³⁵ and has more recently been authorised in The Southampton to London Pipeline Development Consent Order 2020³⁶.
- 6.70 Article 18(3) provides that 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 (3) at any time.
- 6.71 The inclusion in the DCO of this power falls within section 120(3) of the 2008 Act because the need for a Traffic Regulation Order in this manner would only be required as result of the authorised development.

Article 19 (Clearways and no waiting)

- 6.72 Article 19 allows for clearways along lengths of the new highway works. If needed, the lengths of road affected would be identified in Part 2 of Schedule 9 (clearways).
- 6.73 The Article also proposes the imposition of a “no waiting at any time” traffic regulation order. If this provision is needed, these lengths of road would be set out in Part 3 of Schedule 9 (No waiting at any time).
- 6.74 Similar to the inclusion of the Article authorising traffic regulation, this Article is related to the authorised development and is therefore permitted by section 120(3) of the 2008 Act.

Article 20 (Motor Vehicle Restrictions)

- 6.75 This Article deals with the imposition of weight restrictions as part of the overall highway mitigation measures. The Article provides that vehicles over 7.5 tonnes gross weight are prohibited from entering or proceeding within certain zones (which, if needed will be listed in Part 4 of Schedule 9) after the event specified in

³⁵ The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014 No. 2384) (Article 18).

³⁶ S.I. 2020 No 1099

column (4) of Part of Schedule 9, unless directed or permitted by a police or traffic officer in uniform.

6.76 The restriction does not apply to:

6.76.1 anything done in accordance with any restriction or requirement indicated by traffic signs placed by or on behalf of the police;

6.76.2 vehicles being used—

6.76.2.1 in the service of a local authority or water authority in pursuance of statutory powers or duties;

6.76.2.2 for police ambulance, fire and rescue authority or traffic officer purposes;

6.76.2.3 for the purpose of agriculture on any land adjacent to the restricted roads;

6.76.2.4 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;

6.76.2.5 in connection with activities carried out on land or premises located on or near the restricted roads, including building works, industrial operations, demolition, or the removal of traffic obstructions. This also covers works related to the maintenance, improvement, reconstruction, cleaning, or lighting of the road or any roads only accessible from it. Additionally, it includes the installation, modification, or repair of sewers, gas, water, electricity, or electronic communications infrastructure beneath or on the road, as well as the placement, upkeep, or removal of traffic signs; and

6.76.2.6 for public transport.

6.77 Paragraph (3) provides that 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 (1) of Part 5 of Schedule 9 following the event specified in column (3) of Part 5 of Schedule 9. This allows for the specific prohibited movements described in Schedule which are required to facilitate the development and its approach to the highway mitigation.

- 6.78 Paragraph (4) ensures that no vehicles (save for access) can travel the length of road that is being stopped up and converted to a bridleway.
- 6.79 Pursuant to paragraph (5), the restrictions are treated as if made under a Traffic Regulation Order under the Road Traffic Regulation Act 1984, and can be varied or revoked by such an order or other relevant legislation.

Article 21 (Agreements with Highway Authorities)

- 6.80 This Article is included to allow the undertaker to enter into agreements with the relevant highway authority relating to the construction/maintenance of a new highway, carrying out of works in the highway, stopping up, alteration or diversion of highways, the maintenance of the structure of any bridge carrying a highway over or under a railway and landscaping within or adjacent to a highway.
- 6.81 This Article is included in the draft DCO to cover any agreements that might be required with the relevant highway authority which are not covered by the protective provisions and therefore avoids the need to find an alternative statutory authority which may not be fit for purpose. For example, s.278 of the Highways Act 1980 can authorise works to the public highway however they have to be undertaken on behalf of the Highway Authority and be of public benefit, which would not necessarily be the case.
- 6.82 The Article is in similar form to that included in several DCOs including The National Grid (Hinkley Point C Connection Project) Order 2016³⁷, The Northampton Gateway Rail Freight Interchange Order 2019 and The West Midlands Rail Freight Interchange Order 2020.
- 6.83 The inclusion of this Article is permitted by section 120(3) of the 2008 Act because it would permit agreements related to the authorised development or matters ancillary to the authorised development.

Part 4 - Supplemental Powers

Article 22 (Discharge of water)

- 6.84 The first part of this Article uses the drafting of Article 14 in the general model provisions and is required in relation to the drainage of the land within the Order limits in connection with the carrying out and maintenance of the development.

³⁷

S.I. 2016 No 49

This Article provides that consent is required from the person who owns the relevant watercourse, public sewer or drain but such consent may not be unreasonably withheld. Its inclusion is permitted by section 120(3) as well as section 120(4) and specifically paragraph 26 of Part 1 to Schedule 5 of the 2008 Act.

- 6.85 Section 146 of the 2008 Act applies if a DCO includes provision authorising the discharge of water into inland waters or underground strata and has the effect that the person to whom the order is granted does not also acquire the power to take water or require discharges to be made from such watercourses or underground strata.
- 6.86 The effect of section 146 is to make it explicit that although the DCO may confer power on the undertaker to put water into a watercourse or underground strata, the undertaker cannot then take water back out or require discharges to be made from such watercourse or underground strata under this Article.
- 6.87 The Article requires the undertaker to obtain consent as follows:
- 6.87.1 in relation to the discharge of water into any public sewer or drain in which case the consent or the person to whom owns the public sewer or drains must be provided; and
 - 6.87.2 no water may be discharged into a watercourse that flows into the highway drainage system without the consent of the relevant highway authority

Article 23 (Authority to survey and investigate the land)

- 6.88 This Article enables the undertaker to enter land within the Order limits or land which may be affected by the authorised development to survey or investigate. It is considered necessary to extend this power to land which outwith the Order limits in order to ensure that the undertaker has sufficient powers to survey all land which may be affected by the authorised development. This was accepted in the A122 (Lower Thames Crossing) Order 2025.
- 6.89 The provision is permitted by sections 120(3) and 120(4) of the 2008 Act, and specifically paragraph 12 of Part 1 to Schedule 5 and has become standard in many made DCO. The wording is necessary in order to ensure that the undertaker can safely carry out the authorised development and ensure that effects are as assessed

by the environmental statement. This general power also negates the need for the land to be compulsorily acquired.

6.90 In addition to surveying and monitoring, the Article also authorises the undertaker to:

6.90.1 make trial holes to investigate the nature of the surface layer and subsoil and to remove samples;

6.90.2 to carry out ecological and archaeological investigations; and

6.90.3 place apparatus and welfare facilities for use in connection with the surveying and monitoring of the land.

6.91 Paragraph (2) requires the undertaker to give at least 14 days' notice on the owner and occupier of the land before entering the land or leaving equipment on the land. Paragraph (3) sets out detail in relation to the actions of the person entering the land on behalf of the undertaker, namely:

6.91.1 they must provide written evidence of their authority to enter (if required); and

6.91.2 May take such vehicles and equipment as are necessary for the survey or investigation or to make trial holes.

6.92 Paragraph (4) provides that no trial holes may be made under the Article in land located within the highway boundary without the consent of the relevant highway authority; or in a private street without the consent of the relevant street authority, but such consent must not be unreasonably withheld

6.93 Paragraph (5) requires the undertaker to compensate the owners and occupiers for any loss and damage arising by exercise of the authority conferred by the Article.

6.94 Paragraph (6) provides that section 13 (refusal to give possession to acquiring authority) of the Compulsory Purchase Act 1965 applies to the entry onto, or possession of land under the Article to the same extent as it applies to the compulsory acquisition of land under the DCO by virtue of section 125 (*application of compulsory acquisition provisions*) of the 2008 Act. The effect of this is to provide an enforcement mechanism when entry onto land under this Article is refused.

Article 24 (Protective works to buildings and structures)

- 6.95 This Article allows the undertaker, at its own expenses, to carry out protective works to any building or structure affected by the authorised development where such works are considered necessary or expedient. The works may be carried out:
- 6.95.1 before or during the carrying out in the vicinity of the building or structure of part of the authorised development; and
- 6.95.2 such works may also be carried out after the completion of the part of the authorised development in the vicinity of the building or structure for a period of five years beginning within the day on which that part of the authorised development comes into use or becomes operational.
- 6.96 The Article includes compensation provisions in relation to the consequences of the protective works being undertaken.
- 6.97 This Article is permitted by section 120(3) of the 2008 Act as protective works to buildings affected by the authorised development is a matter ancillary to the grant of consent for the authorised development, and 120(4) and paragraph 10 (*“The protection of the property or interests of any person”*) of Part 1 to Schedule 5 of the 2008 Act.

Article 25 (Removal of human remains)

- 6.98 This Article authorises the removal of human remains from the Order limits and provides a process for notification and identification of the human remains as well as their re-internment or cremation. The Article requires the payment of the reasonable expenses associated with this process.
- 6.99 It is not anticipated that any human remains will be encountered during construction works but it is possible that human remains could be found within the Order limits. Without this Article, the express consent of the Secretary of State for Justice would be required for removal which would risk delay to the construction programme.

Part 5 - Powers Of Acquisition

Article 26 (Compulsory acquisition of land)

- 6.100 This Article authorises the compulsory acquisition of the Order land insofar as such land is required for the authorised development, or to facilitate it, or is incidental to it. The Article is subject to:
- 6.100.1 article 27 (time limit for exercise of authority to acquire land compulsorily),
 - 6.100.2 article 29 (compulsory acquisition of rights),
 - 6.100.3 article 30 (private rights), and
 - 6.100.4 article 37(9) (temporary use of land for carrying out the authorised development).
- 6.101 “Order land” is defined in Article 2 as “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.”
- 6.102 Detail of the reasons for the power to acquire each parcel of land will be set out in the Statement of Reasons submitted with the DCO Application.

Article 27 (Time limit for exercise of authority to acquire land compulsorily)

- 6.103 This Article imposes a time limit of five years from the date the DCO comes into force for the exercise of compulsory acquisition powers by way of a notice to treat or general vesting declaration. The time limit for exercising the compulsory acquisition powers under Part 1 of the Compulsory Purchase Act 1965 is disapplied by section 125(3)(a) of the 2008 Act. This Article therefore imposes a time limit which is linked to the time period in which the authorised development is required to commence (see requirement 1), in accordance with section 154(3) of the 2008 Act.
- 6.104 Article 27(3) provides that the authority conferred by Article 33 (temporary use of land for carrying out the authorised development) also ceases at the end of the period of five years, save that the undertaker is not prevented from remaining in possession of the land after that period expires, if possession was taken before the end of that period.

Article 28 (Compulsory acquisition of land – incorporation of the mineral code)

- 6.105 This Article incorporates the 'mineral code' into the draft DCO. The effect of this is that existing minerals under land are exempt from being automatically acquired pursuant to the exercise of compulsory acquisition. It also enables the undertaker to prevent a minerals owner from working existing minerals and provides the undertaker with the ability to compensate the owner for any inability to do so as a result of the development.
- 6.106 The drafting is in a similar form to many made DCOs such as The A428 Black Cat to Caxton Gibbet Development Consent Order 2022³⁸ and the Lake Lothing (Lowestoft) Third Crossing Order 2020³⁹.

Article 29 (Compulsory acquisition of rights and imposition of restrictive covenants)

- 6.107 This Article allows for the compulsory acquisition of existing rights and the power to create and acquire new rights as well as the imposition of restrictive covenants. The ability to acquire new rights ensures that the undertaker is able to seek a lesser interference with land where this is appropriate (whether in the context of new or existing rights) as the authorised development is implemented.
- 6.108 In respect of the Order land which may be specified in Schedule 11, the undertaker's powers of acquisition will be limited to the acquisition of such new rights and the imposition of such restrictive covenants as may be required for the purpose specified in that Schedule.
- 6.109 Paragraph (5) provides that where the acquisition of new rights or the imposition of a restriction under the Order is required for a statutory undertaker, the undertaker may, with the consent of the Secretary of State transfer the powers to the statutory undertaker.
- 6.110 The Article is permitted by section 120(4) and paragraphs 1⁴⁰ and 2 of Part 1 to Schedule 5 of the 2008 Act.

³⁸ S.I. 2022 No. 934 (Article 33)

³⁹ S.I. 2020 No. 474 (Article 24)

⁴⁰ Paragraph 1 refers to "land" but section 159 of the 2008 Act confirms that in this context, "land" includes a right in, on, over or under land.

- 6.111 The approach requires a modification to compulsory purchase and compensation provisions and this is dealt with in Schedule 12 (Modifications of compensation and compulsory purchase enactments for creation of new rights and restrictive covenants), which is permitted by section 120(5)(a) of the 2008 Act.

Article 30 (Private rights)

- 6.112 This Article extinguishes private right over land from the date of acquisition by the undertaker (whether compulsorily or by agreement) or on the date of entry on the land by the undertaker pursuant to the powers of entry in Section 11 of the 1965 Act (whichever is the earlier). It is necessary to extinguish private rights in order to implement and carry out the Proposed Development.
- 6.113 Paragraph (2) permits the extinguishment of private rights in land over which new rights are acquired or restrictive covenants imposed, insofar as their continuance would be inconsistent with the exercise of the new right or compliance with the restrictive covenant.
- 6.114 Paragraph (3) provides that the power to extinguish private rights over land owned by the undertaker within the Order limits are extinguished on commencement of any activity authorised by the DCO which interferes with or breaches such rights.
- 6.115 Paragraph (4) confirms that all private rights over land of which the undertaker takes temporary possession under the DCO are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.
- 6.116 Compensation is addressed in paragraph (5) which states that any person who suffers loss by the extinguishment or suspension is entitled to compensation.

Article 31 (Power to override easement and other rights)

- 6.117 This Article provides that any “authorised activity” by the undertaker within the Order limits is authorised if done in accordance with the DCO, regardless of whether it involves either an interference with an interest to right or a breach of restriction as to the use of the land arising by virtue of a contract. The effect of this is that any such rights will be present an impediment to delivery. The Article is necessary in order to provide certainty that the authorised development will not be prevented due to third party rights.

- 6.118 “Authorised activity” is defined in paragraph (8) as:
- 6.118.1 the erection, construction, carrying out or maintenance of any building or works on land;
 - 6.118.2 the erection, construction or maintenance or anything in, on, over or under land; or
 - 6.118.3 the use of any land (including the temporary use of land).
- 6.119 The Article provides for compensation to be payable to the beneficiary of any right that is extinguished, breached, abrogated or discharged. This is permitted by sections 120(3), 120(4) and paragraphs 2 and 3 of Part 1 to Schedule 5 of the 2008 Act. The power is also supplementary to Articles 26 and 30 of the draft DCO and its inclusion is therefore necessary to give full effect to the draft DCO and so is permitted by section 120(5)(c) of the 2008 Act.

Article 32 (Rights under or over streets)

- 6.120 This Article permits the undertaker to enter on and appropriate interests within streets where required for the purpose of the authorised development. Compensation is payable for any loss or damage to structures along the relevant street.
- 6.121 Whilst the Article provides that the undertaker is not required to acquire any part of the street or any easement or right, paragraph (3) sets out the exclusions in relation to this, namely, it does not apply in relation to any subway, tunnel or underground building; or (b) any cellar, vault, arch, projection, or other construction in, on or under a street which forms part of a building fronting onto the street.

Article 33 (Application and modification of the 1981 Act)

- 6.122 This Article applies the vesting procedures in the Compulsory Purchase (Vesting Declarations) Act 1981 to the exercise of powers of compulsory acquisition pursuant to the Order. It gives the undertaker the option to acquire land via the process set out under the 1981 Act, by way of a vesting declaration,, rather than the notice to treat procedure. This Article incorporates and reflect the changes brought about by the Housing and Planning Act 2016.

- 6.123 This Article is in a similar for to the equivalent provisions found in other Orders such as The West Midlands Rail Freight Interchange Order 2020⁴¹ and the Boston Alternative Energy Facility Order 2023⁴².

Article 34 (Modification of Part 1 of the 1965 Act)

- 6.124 This Article modifies the provisions Part 1 of the Compulsory Purchase Act 1965 as applied to the Order by section 125 of the 2008 Act and as with the preceding Article, this provision reflects the changes introduced by the Housing and Planning Act 2016. The Article is needed to ensure that the DCO is consistent with the 1965 Act.
- 6.125 The application of the Compulsory Purchase (Vesting Declarations) Act 1981 is permitted by section 120(5)(a) of the 2008 Act.
- 6.126 Paragraph (4) confirms that the notice periods introduced by the Housing and Planning Act 2016 do not apply to the temporary possession or use of land under Articles 36 (temporary use of land for carrying out the authorised development) and 37 (temporary use of land for maintaining the authorised development) of the DCO.

Article 35 (Disregard of certain interests and improvements)

- 6.127 Article 35 reflects section 4 (assessment of compensation) of the Acquisition of Land Act 1981 and provides for the Upper Tribunal (Lands Chamber) to disregard certain interests in and enhancements to the value of land for the purposes of assessing the compensation payable for the exercise of compulsory acquisition powers where the creation of the interest or the making of the improvements was designed to obtain compensation or increase compensation. Sections 120(3) and 120(5)(a) and Schedule 5 of the 2008 Act allow the application in a DCO of statutory provisions which relate to the payment of compensation.
- 6.128 This Article mirrors drafting that can be found in recent DCOs including The M25 Junction 28 Development Consent Order 2022⁴³, The Lake Lothing (Lowestoft) Third Crossing Order 2020⁴⁴, The A303 (Amesbury to Berwick Down)

⁴¹ S.I. 2020 No. 511 (Article 30)

⁴² S.I. 2023 No. 778 (Article 31)

⁴³ S.I. 2022 No. 573 (Article 50)

⁴⁴ S.I. 2020 No. 474 (Article 38)

Development Consent Order 2023⁴⁵ and The A47 North Tuddenham to Easton Development Consent Order 2022⁴⁶.

Article 36 (Set-off for enhancement in value of retained land)

- 6.129 Article 38 reflects the principles in sections 6B to 6E of the Land Compensation Act 1961 and provides that in assessing the compensation payable to any person in respect of the acquisition of land, the Upper Tribunal (Lands Chamber) shall set off against the value of the land any increase in value of the retained land belonging to that person arising out of the construction of the authorised development. Sections 120(3) and 120(5)(a) and Schedule 5 of the 2008 Act allow the application in a DCO of statutory provisions which relate to the payment of compensation.
- 6.130 The Article can be found in many made DCOs such as The A428 Black Cat to Caxton Gibbet Development Consent Order 2022⁴⁷, the Lake Lothing (Lowestoft) Third Crossing Order 2020⁴⁸, A303 Sparkford to Ilchester Dualling Development Consent Order 2021⁴⁹ and The A47 Wansford to Sutton Development Consent Order 2023⁵⁰.

Article 37 (Temporary use of land for carrying out the authorised development)

- 6.131 Pursuant to this Article, the undertaker may, in connection with carrying out the authorised development:
- 6.131.1 enter on and take temporary possession of land specified in Schedule 10 for the purposes specified in that Schedule (in which case the undertaker is limited to remain in possession of the land 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 the Schedule).
- 6.131.2 enter onto any other Order land in respect of which no notice of entry has been served under Section 11 of the 1965 Act and no declaration

⁴⁵ S.I. 2023 No. 834 (Article 35)

⁴⁶ S.I. 2022 No. 911 (Article 45)

⁴⁷ S.I. 2022 No. 934 (Article 32)

⁴⁸ S.I. 2020 No. 474 (Article 39)

⁴⁹ S.I. 2021 No. 125 (Article 36)

⁵⁰ S.I. 2023 No. 218 (Article 45)

has been made under Section 4 of the 1981 Act (in which case the undertaker is limited to remain in possession of the land after the end of the period of one year beginning with the date of completion of the work for which temporary possession of this land was taken unless the undertaker has already served a notice to treat or general vesting declaration).

- 6.131.3 enter on and take temporary possession of the Order land for the activities set out in paragraph (1)(b) to (h). It is considered that this approach is beneficial for affected landowners since it could limit or reduce the permanent land take where highway works limits of deviation are lesser than the full extent of the works area identified, which would not be known until the works had been finalised.
- 6.132 The undertaker may not compulsorily acquire any of the land specified in Schedule 10 (Land of which temporary possession may be taken), save that the undertaker may carry out protective works under Article 24 (authority to survey and investigate the land) and Article 24 (protective works to buildings and structures).
- 6.133 The final paragraph in this Article mirrors the drafting in Article 33(3) of The Boston Alternative Energy Facility Order 2023 and has been included to provide the ability to, in the event of a potential risk or safety alert, enter land to put right a danger subject to giving such period of notice as is reasonably practical in the circumstances. In all other cases not less than 14 days' notice must be given.

Article 38 (Temporary use of land for maintaining the authorised development)

- 6.134 Pursuant to this Article, the undertaker may, in connection with maintaining the authorised development:
 - 6.134.1 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
 - 6.134.2 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

- 6.134.3 construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.
- 6.135 The Article does not authorise the undertaker to take temporary possession of any house or garden belonging to a house or any building if it is occupied (as per paragraph (2)).
- 6.136 As with Article 34, paragraph 9 is based on the drafting in Article 34(4) of The Boston Alternative Energy Facility Order 2023 and has been included to provide the ability to, in the event of a potential risk or safety alert, enter land to put right a danger subject to giving such period of notice as is reasonably practical in the circumstances. In all other cases not less than 14 days' notice must be given.

Article 39 (Statutory undertakers)

- 6.137 Pursuant to this Article, the undertaker may (subject to *Schedule 14 (Protective Provisions)*):
- 6.137.1 acquire compulsorily, or acquire new rights or impose restrictive covenants over, any Order land belonging to statutory undertakers;
- 6.137.2 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
- 6.137.3 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.
- 6.138 The inclusion of the Article is authorised by section 127(2) and (3) and section 138 of the 2008 Act.
- 6.139 The Applicant considers that any statutory undertakers' land affected can be replaced (or relocated/diverted) without serious detriment to the carrying on of the undertaking, and there are Protective Provisions proposed in this regard. The Applicant is continuing to negotiate with the various parties which will have the benefit of the Protective Provisions and expects that Schedule 14 will change as these negotiations progress.

Article 40 (Apparatus and rights of statutory undertakers in stopped up streets)

- 6.140 This Article protects statutory undertakers' rights (including public communications providers as defined in section 151(1) of the Communications Act 2003⁵¹) where their apparatus is under, in, along or across a street which has been stopped up under the draft DCO.
- 6.141 The Article also provides that a statutory undertaker must remove or relocate its apparatus at the reasonable request of the undertaker, in which circumstances the undertaker must bear the cost of the relocation. The provision is linked to Article 10.
- 6.142 The inclusion of this Article is authorised by sections 120(3) as well as 120(4) and paragraph 14 of Part 1 to Schedule 5 of the 2008 Act, which allows provision for the removal, disposal or re-siting of apparatus.

Article 41 (Recovery of costs of new connections)

- 6.143 Pursuant to this Article, where any apparatus of a public utility undertaker or of a public communications provider is removed under article 39, 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 in effecting an alternative supply.

Article 42 (No double recovery)

- 6.144 The purpose of this Article is to secure the established principle that a claimant in compulsory purchase is to be compensated for no more and no less than his or her loss. It ensures that compensation is not payable in respect of the same loss or damage under both the Order and other compensation regimes.
- 6.145 It is considered necessary because it is important that the DCO is clear that compensation payable under it is not to be paid more than once. The 'no double recovery' article also protects the promoter in the event that there is a risk of double recovery under other powers of the Order outside of compulsory

⁵¹ Defined as being (a) a provider of a public electronic communications network; (b) a provider of a public electronic communications service; or (c) a person who makes available facilities that are associated facilities by reference to a public electronic communications network or a public electronic communications service;

acquisition that can give rise to loss – including for example temporary possession, protective provisions and the survey power.

- 6.146 The provision is included in many made Orders such as The Triton Knoll Electrical System Order 2016 (Article 28), The Northampton Gateway Rail Freight Interchange Order 2019 (Article 37) and The West Midlands Rail Freight Interchange Order 2020 (Article 37) The Cottam Solar Project Order 2024 (S.I. 2024 No. 943), The National Grid (Bramford to Twinstead Reinforcement) Order 2024 (S.I. 2024 No. 958) and The Associated British Ports (Immingham Eastern Ro-Ro Terminal) Development Consent Order 2024 (S.I. 2024 No. 1014).
- 6.147 It is a supplementary provision and its inclusion is authorised by section 120(5)(d) of the 2008 Act as well as sections 120(3) and 120(4) and paragraph 36 of Part 1 to Schedule 5 of the 2008 Act.

Article 43 (Guarantees in respect of payment of compensation)

- 6.148 This Article is included as security in respect of payment of compensation for any interests which are affected by the exercise of the relevant compulsory powers listed. It will ensure that no compulsory acquisition powers can be exercised until appropriate security for the liabilities of the undertaker to pay compensation in respect of that acquisition has been provided to the relevant local planning authority.
- 6.149 The Article is related to the powers for the acquisition of land and is therefore related to paragraph 1 of Part 1 of Schedule 5 to the 2008 Act. Its inclusion is therefore authorised by section 120(4) of the 2008 Act.
- 6.150 The requirement to provide a form of security for potential compensation as a result of exercising compulsory acquisition powers is a generally accepted principle which has been included in various recent approved Orders⁵². It is not considered necessary or appropriate for a guarantee or other form of security to be provided for any other provision or implementation of the DCO.
- 6.151 The Article provides that nothing 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. The Applicant considers 15 years from the exercise of the

⁵² e.g. The Triton Knoll Electrical System Order 2016 (S.I. 2016 880) (Article 37) The Northampton Gateway Rail Freight Interchange Order 2019 (S.I. 2019 No 1358) (Article 23) and The West Midlands Rail Freight Interchange Order 2020 (S.I. 2020 No 511) (Article 23).

relevant power to be a reasonable time period for such a guarantee/security, and indeed this time period has been accepted in many recent DCOs, such as the Boston Alternative Energy Facility Order 2023⁵³ and The Riverside Energy Park Order 2020.⁵⁴

Article 44 (Special category land)

- 6.152 This Article is included in acknowledgement of the fact that the Order limits include special category land – this being common land forming part of the Highfield Moss and common land near to Junction 23 of the M6 motorway.
- 6.153 The Applicant is proposing works relating to certain footpath closures and reprovision in proximity of the boundaries of the Highfield Moss. However, based upon the Applicant’s understanding of the extent of the common land in this location, informed by Wigan Borough Council records, no interaction is currently anticipated between the aforesaid works and the common land within the Highfield Moss.
- 6.154 Turning to the common land near to Junction 23 of the M6 motorway. The Applicant has consulted St Helens Borough Council records and there is the potential for the highway mitigation works required in connection with the Proposed Development (but which are still the subject of consideration and assessment) to interact with, and for there to be some encroachment upon, the common land. At this stage, more detail is needed in respect of the extent of the common land in proximity of Junction 23. Furthermore, subject to the refinement exercise which the Applicant is proposing to undertake as regards the works required to mitigate the effects of traffic generated by the Proposed Development, a more in depth assessment of the impact on the common land, and how to minimise it, will be undertaken and consideration will be given to the need for replacement common land if necessary.

⁵³ S.I. 2023 778

⁵⁴ S.I. 2020 419

Part 6 - Miscellaneous and General

Article 45 (Operation and Use of Railways)

- 6.155 This Article is based on the Article contained within Schedule 2 of the model provisions (model provisions for Railways). It has been included as the authorised development includes a railway but has amended from the Article in those model provisions to allow only for the carriage of goods as the authorised development will not be used for passenger trains. The provision is included pursuant to sections 115 and 120(3) of the 2008 Act.

Article 46 (Operational land for the purposes of the 1990 Act)

- 6.156 This Article will ensure that land within the Order limits will be treated as operational land of a statutory undertaker for the purposes of the Town and Country Planning Act 1990. The provision is included pursuant to sections 115 and 120(3) of the 2008 Act.
- 6.157 “Operational land” is land which is used by statutory undertakers for the purpose of carrying on their undertaking any land in which an interest is held for that purpose. Sections 264(3) and (4) of the 1990 Act provide that land is operational land if:
- 6.157.1 there is, or at some time has been, in force with respect to it a specific planning permission for its development; and
 - 6.157.2 that development, if carried out, would involve or have involved its use for the purpose of the carrying on of the statutory undertakers’ undertaking.
- 6.158 With this Article, the development will benefit from the appropriate permitted development rights afforded to statutory undertakers.
- 6.159 This Article is permitted by section 115 and section 120(3) of the 2008 Act.

Article 47 (Charges)

- 6.160 This Article is based on an Article at Schedule 2 of the model provisions (model provisions for Railways) and allows the undertaker to impose charges for the carrying of goods on the railway, or for other services or facilities connected to its

operation. As with Article 45, amendments have been included, as the proposed railway is to be used for the carriage of goods only. The provision is authorised by section 120(4) and paragraph 18 of Part 1 to Schedule 5 of the 2008 Act.

Article 48 (Application of landlord and tenant law)

- 6.161 This Article provides for the overriding of landlord and tenant law so far as it would prejudice the operation of any agreement for leasing the whole or part of the authorised development or the right to operate the same or any agreement entered into by the undertaker for the construction, maintenance, use or operation of the authorised development. This is considered necessary as it is intended that ultimately parts of the authorised development will be leased, particularly the warehousing.

Article 49 (Defence to proceedings in statutory nuisance)

- 6.162 This Article is based upon an Article in the model provisions and appears in other approved DCOs. It provides a defence to proceedings under the Environmental Protection Act 1990 brought in relation to a nuisance caused by noise or vibration (specified in Section 79(1) of that Act) in certain circumstances:
- 6.163 in the course of carrying out construction or maintenance of the authorised development, and for which notice has been given under section 60 or consent obtained under section 61 of the Control of Pollution Act 1974 or which cannot be reasonably avoided as a consequence of the authorised development; or
- 6.164 is a consequence of complying with a requirement of the DCO and it cannot be reasonably avoided; or
- 6.165 is a consequence of the construction or maintenance of the authorised development before completion of construction and it cannot be reasonably avoided; or
- 6.166 relates to premises used by the undertaker for the purpose of or in connection with the maintenance, operation or use of the authorised development and that nuisance is attributable to the operation and use of the authorised development which is being operated or used in compliance with a requirement of the Order.
- 6.167 The Article is included as authorised by section 158 of the 2008 Act.

Article 50 (Felling or lopping of trees and removal of hedgerows)

- 6.168 This Article is based upon an Article in the model provisions. It enables the undertaker to fell or lop any tree hedgerow or shrub within 15 metres of any part of the authorised development or cut back its roots, where it believes that it is necessary to prevent the tree hedgerow or shrub from interfering with the authorised development. It is included pursuant to sections 120(3) and 120(4) and paragraph 13 of Part 1 to Schedule 5 of the 2008 Act.
- 6.169 The article also provides express consent for the removal of the trees, hedgerows and important hedgerows which will be specified in Schedule 13 as being removed.
- 6.170 The Article makes provision for compensation to be payable for any loss or damage arising, as authorised by section 120(4) and paragraph 26 of Part 1 to Schedule 5 of the 2008 Act.

Article 51 (Trees subject to tree preservation orders)

- 6.171 The Article provides that the undertaker may fell or lop or cut back the roots of any tree which is subject to a tree preservation order or shrub to prevent it from obstructing or interfering with the construction, maintenance, operation or use of the authorised development. This applies to a tree subject to a tree preservation order made before or after the date of the Order.
- 6.172 The Article applies to trees within or overhanging the Order limits.
- 6.173 Without this Article, the undertaker could be delayed from carrying out the authorised development by having to obtain consent. It also removes the risk of consent being refused which could frustrate the delivery of the authorised development.

Article 52 (Trees in conservation areas)

- 6.174 The Article permits the undertaker to fell or lap any tree or shrub in a conservation area or cut back its roots if it reasonably believes it to be necessary to do so prevent obstruction or interference with the authorised development. Compensation is payable for loss or damage.

Article 53 (Protective Provisions)

- 6.175 The Article gives effect to the protective provisions which will be contained in Schedule 14.

Article 54 (Governance of requirements and governance of protective provisions relating to highway works)

- 6.176 The Article provides flexibility for details to be approved pursuant to requirements (and in the case of the highway works, protective provisions) and ensures that any details approved do not take the development outside the scope of the authorised development or beyond the scope of what has been assessed in the environmental statement.
- 6.177 Paragraph (1) is clear that all initial approvals under the requirements and Part 2 and 3 of Schedule 14 are governed by Article 4 and prevents details being approved which lead to a form of development outside the scope of that which has been assessed. Paragraph (2), in accordance with Advice Note Fifteen: Drafting Development Consent Orders provides that approvals may be amended but any changes to approved details also must not go beyond the parameters that have been assessed.
- 6.178 The flexibility that is allowed for is of paramount importance for the authorised development. If no provision is made for the subsequent approval of details (and variations within the constraints referred to) then the development would be significantly disadvantaged against other large scale distribution sites and its ability to compete with those sites for occupiers would be adversely affected.
- 6.179 Paragraph (3) gives effect to the appeal procedure to be contained in Part 2 of Schedule 2 in relation to the approval of details pursuant to the requirements.

Article 55 (Discharge of requirements and other approvals)

- 6.180 This Article deals with the procedure to be applied for the discharge of the various consents and approvals required under the Order.

Article 56 (Disapplication, application and modification of legislative provisions)

- 6.181 This Article gives effect to Schedule 15 which incorporates and modifies legislative provisions which are necessary for carrying out the authorised development and is

included in the DCO as permitted by section 120(5) of the 2008 Act. The Appendix to this Explanatory Memorandum details the justification for each disapplication, application and modification of legislation.

Article 57 (Certification of plans and documents)

- 6.182 This Article provides for the certification of the plans and documents referred to in the DCO. These will be listed in Schedule 16.

Article 58 (Service of Notices)

- 6.183 This Article provides for the service of notices under the DCO and allows certainty regarding the procedure for service, for example, under Article 23 (Authority to survey and investigate the land). The Article is included pursuant to section 120(3) of the 2008 Act.

Article 59 (Crown rights)

- 6.184 This Article prevents the undertaker from acquiring any Crown land (as defined in the 2008 Act), or from otherwise interfering with such land without the written consent of the relevant Crown authority. This Article reflects the provisions of section 135 of the 2008 Act.

Article 60 (Arbitration)

- 6.185 This Article is included in case of any dispute regarding the provisions of this Order, except where it is expressly dis-applied, as it will be in the case of some of the protective provisions which will provide their own dispute resolution mechanisms. The provision is included pursuant to sections 120(3) and 120(4) and paragraph 37 of Part 1 to Schedule 5 of the 2008 Act.

Article 61 (Planning permissions etc.)

- 6.186 This article is included to address the potential effects of the Hillside judgment in relation to overlapping planning consents. It is considered to be an appropriate provision to ensure clarity as to the impact of such overlapping consents and their continued validity.

Schedules

Schedule 1 (Authorised Development)

- 6.187 This Schedule describes the authorised development for which Development Consent is sought, including associated development.
- 6.188 The Works are listed below and the area of the Application Site to which they relate can be seen on the Works Plans.

Work Number	Description
1	Railway works to the existing Chat Moss Line
2	New Railway Works
3	Rail Freight Terminal
4	Rail Served Warehousing
5	Estate Road
6	Landscaping
7	Amenity Highfield Moss Protection Zone
8	Northern Mitigation Area
9	Amenity Area
10	Soils Reuse Area
11	Active Travel Route to Lane Head

Work Number	Description
12	Heath Lane Active Travel Route
13	Active Travel Route to Newton-le-Willows
14	Foul Sewer Outfall towards Golborne Dale Road and Southworth Road
15	Foul Sewer Outfall towards Sandy Brow Lane
16	Surface Water Sewer Outfall towards Kenyon Hall Farm
17	Surface Water Sewer Outfall towards Sherbrook House
18	Access to Newton Park Farm and Sycamore Cottage
19	Parkside Road Realignment
20	Principal Access to Main Site
21	Winwick Lane (St Helens)
22	Winwick Lane (Warrington)

- 6.189 The Schedule includes a note explaining that it does not yet include the proposed highway mitigation for the Proposed Development. This will be updated once those proposals are finalised as explained in the Highway Options Mitigation Report.
- 6.190 Schedule 1 also includes **“Further Works”** the precise location of which it is not appropriate to identify. This enables the provision of such works across the areas of works noted within those sub-paragraphs. The approach is included in several made DCOs including The Northampton Gateway Rail Freight Interchange Order

2019, The West Midlands Rail Freight Interchange Order 2020 and the Cambridge Waste Water Treatment Plant Relocation Order 2025.

- 6.191 All of the “Further Works” are subject to the provisos contained in the Schedule including the test of “significant adverse environmental effects” pursuant to paragraph 13 of Schedule 2 of the 2017 EIA Regulations.

Schedule 2 (Requirements)

Part 1 (Requirements)

- 6.192 Part 1 of Schedule 2 contains the Applicant’s currently proposed draft requirements pursuant to section 120(1) of the 2008 Act.
- 6.193 Section 120(2) states that requirements “*may in particular include*”:
- (a) requirements which are akin to conditions which could have been imposed on the grant of a permission or consent which would have been required for the development, were it not required to be authorised by the DCO; or
 - (b) requirements to obtain the approval of the Secretary of State or any other person, if they do not fall within (a) above.
- 6.194 The National Policy Statement for National Networks (“NPSNN”) provides guidance as to the imposition of requirements and states that they should only be imposed if they are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable in all other respects (Paragraph 4.9).
- 6.195 The proposed requirements are set out below. The requirements will be discussed with the various stakeholders, including the local authority and highway authorities and refined as required.
- 6.196 The draft requirements currently refer to a number of proposed management plans, some of which are not included in the consultation material (such as the Habitat Management and Monitoring Plan and the Landscape Scheme). These plans / schemes will be included within the DCO Application and the Applicant has therefore proposed requirements to demonstrate that compliance with such plans will be secured through the DCO. For further details in respect of requirements 3-

33, please see the draft DCO and the Commitments Register. The detailed drafting of the requirements will evolve as the submission draft of the DCO, a copy of which will form part of the application to authorise the Proposed Development, is finalised. The table below will be updated to summarise the final proposed Requirements once they have been finalised for the DCO Application submission.

Requirement Number	Requirement Detail
1	Interpretation This part of the Requirements details the defined terms and their meaning. The Requirements have their own defined terms, outside of Article 2, as these defined terms are only used in Schedule 2.
2	Time Limit Paragraph 2 provides that the authorised development must commence no later than the expiration of five years beginning with the date on which the DCO comes into force. Section 154 of the 2008 Act requires development for which development consent is granted to be begun before end of the (a) prescribed period or (b) such other period as specified in the order granting consent. The current prescribed period is five years, as per Regulation 6(1) of The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015⁵⁵ which provides that: <i>Development for which development consent is granted must be begun before the end of a period of five years beginning on the date on which the order granting development consent is made.</i> The Applicant considers that given the scale of the Proposed Development and the investigations, survey and monitoring work required prior to commencement, five years is an appropriate period of time in which to commence development.

Requirement Number	Requirement Detail
3	Amendments to Approval Details
4	Phasing of Development
5	Detailed Design Approval
6	Public Rights of Way and Level Crossing Closures
7	Track Not Shown on the Definitive Map
8	Construction Environmental Management Plan
9	Travel Plan
10	Sustainable Access and Movement Strategy
11	Rail
12	Container Stack Height
13	Archaeology
14	Sustainable Drainage
15	Surface Water
16	Contaminated Land
17	Construction Hours

Requirement Number	Requirement Detail
18	Energy Strategy
19	Delivery, Servicing and HGV Management Strategy
20	Landscape and Ecological Management Plan
21	Habitat Management and Monitoring Plan
22	Landscape Strategy
23	Site Waste and Materials Management Plan
24	Construction Traffic Management Plan
25	Temporary Highway Accesses
26	Public Rights of Way Strategy
27	Control of Operational Noise
28	Acoustic Barriers
29	Biodiversity Net Gain
30	Lighting
31	Foundation Works Risk Assessment
32	Carbon Management Plan

Requirement Number	Requirement Detail
33	Employment, Skills and Training Plan

Part 2 – Procedure for Approvals etc

- 6.197 This part deals with the procedure for approvals and appeals. It is based on Appendix 1 to Planning Inspectorate Advice Note Fifteen: Drafting Development Consent Orders.

Schedule 3 (Streets subject to street works)

- 6.198 This Schedule will set out the streets that would be subject to street works (including reference to the location and the specific street).

Schedule 4 (Streets to be permanently stopped up)

- 6.199 This Schedule will set out the streets to be permanently stopped up, with and without a substitute being provided.

Schedule 5 (Public Rights of Way)

- 6.200 This Schedule will set out the public rights of way:
- 6.200.1 to be permanently stopped up for which a substitute is to be provided;
 - 6.200.2 to be permanently stopped up for which no substitute is to be provided;
 - 6.200.3 new public rights of way to be created; and
 - 6.200.4 the status of public rights of way to be modified.

Schedule 6 (Private means of access)

- 6.201 This Schedule will set out the private means of access to be replaced, to be closed (for which no substitute is to be provided) and new private means of access to be created.

Schedule 7 (Classification of Highways)

- 6.202 This Schedule will deal with the classification of highways as required to accommodate the proposed highway works and amendments.

Schedule 8 (Speed Limits)

- 6.203 This Schedule will deal with the speed limits for the proposed highway works and amendments.

Schedule 9 (Traffic Regulation)

- 6.204 Schedule 9 will deal with traffic regulation orders as appropriate, including amendments to existing orders, clearways and no waiting, environmental weight limit, prohibited movements and vehicle prohibitions should they be needed.

Schedule 10 (Land of which temporary possession may be taken)

- 6.205 This Schedule will, should it be needed, set out the land of which only temporary possession may be taken for the purposes of the construction of the authorised development pursuant to Article 37 with reference to the appropriate purposes for which temporary possession may be taken.

Schedule 11 (Land in which only new rights may be created)

- 6.206 This Schedule, should it be needed, will list those plots of land in which only new rights may be created.

Schedule 12 (Modifications of compensation and compulsory purchase enactments for creation of new rights and restrictive covenants)

- 6.207 This Schedule modifies existing compensation legislation including the Land Compensation Act 1973 and the Compulsory Purchase Act 1965. It has been updated to reflect any necessary changes arising as a result of the Housing and Planning Act 2016.

Schedule 13 (Removal of trees and hedgerows)

- 6.208 This Schedule will list the trees and hedgerows which are to be removed, consent for which is given by Article 50.

Schedule 14 (Protective provisions)

- 6.209 Schedule 14 will include draft provisions to protect the interests of various bodies whose assets it is currently understood may be affected by the proposed development. They will be subject to discussion with the parties concerned. The Applicant currently anticipates that they will include:

- Part 1: Network Rail
- Part 2: National Highways
- Part 3: St Helens Borough Council, Warrington Borough Council and Wigan Borough Council, each a local highway authority
- Part 4: St Helens Borough Council, Warrington Borough Council and Wigan Borough Council, each a Lead Local Flood Authority
- Part 5: SP Electricity North West Limited
- Part 6: United Utilities Water Limited
- Part 7: Cadent Gas Limited
- Part 8: Electricity and Gas Undertakers
- Part 9: Operators of electronic communications code networks

Schedule 15 (Miscellaneous Controls)

- 6.210 This Schedule sets out various legislative provisions which are to be modified or excluded from being applied to the Proposed Development. The relevant provision and the reason for its modification or exclusion is detailed in the table below:

Schedule 16 (Certification of Plans and Documents)

- 6.211 This Schedule will list the various plans and documents that are to be certified by the Secretary of State for the purposes of the DCO. The documents listed currently are those referred to in the draft DCO.

Eversheds Sutherland (International) LLP

October 2025

Appendix: Article 55 and Schedule 15 – Disapplication, application and modification of legislative provisions

Schedule 15: Miscellaneous Controls			
dDCO provision		Relevant Legislation	Applicant's Justification
Schedule 15 Paragraph 1	Section 141 of the Highways Act 1980	141 Restriction on planting of trees etc in or near carriageway (1) Subject to sections 64 and 96 above and section 142 below, no tree or shrub shall be planted in a made-up carriageway, or within 15 feet from the centre of a made-up carriageway. (2) If a tree or shrub is planted in contravention of this section the highway authority for the highway or, in the case of a highway maintainable by reason of tenure, enclosure or prescription, the person liable to maintain the highway, may by notice given either to the owner or to the occupier of the land in which the tree or shrub is planted require him to remove it within 21 days from the date of service of the notice. (3) If a person fails to comply with a notice under subsection (2) above he is guilty of an offence and liable to a fine not exceeding [level 1 on the standard scale] and if the offence is continued after conviction he is guilty of a further	The Applicant has sought to disapply these provisions because the details and provisions are dealt with in the DCO (including the protective provisions) and its associated plans.

Schedule 15: Miscellaneous Controls

dDCO provision		Relevant Legislation	Applicant's Justification
		offence and liable to a fine not exceeding 50p for each day on which the offence is so continued.	
	Section 167 of the Highways Act 1980	167 Powers relating to retaining walls near streets (1) This section applies to any length of a retaining wall, being a length— (a) any cross-section of which is wholly or partly within 4 yards of a street; and (b) which is at any point of a greater height than 4 feet 6 inches above the level of the ground at the boundary of the street nearest that point; but does not apply to any length of a retaining wall erected on land belonging to any transport undertakers so long as that land is used by them primarily for the purpose of their undertaking or to any length of a retaining wall for the maintenance of which a highway authority are responsible.	This provision is disapplied because, as above, the details and provisions are dealt with in the DCO (including the protective provisions) and its associated plans. The DCO will deal with the necessary approvals in this regard and the statutory provision is therefore to be disapplied to ensure that only one approval mechanism is required.

Schedule 15: Miscellaneous Controls

dDCO provision		Relevant Legislation	Applicant's Justification
		(2) No length of retaining wall, being a length which when erected will be a length of retaining wall to which this section applies, shall be erected otherwise than in accordance with plans, sections and specifications approved by the local authority in whose area the street is situated; and before giving such approval that authority, if they are not the highway authority for the street, shall consult the highway authority. (3) Any person aggrieved by the refusal of a local authority to approve any plans, sections and specifications submitted to them under this section may appeal to a magistrates' court. (4) If a person erects a length of retaining wall in contravention of this section, he is guilty of an offence and liable to a fine not exceeding [level 3 on the standard scale]. (5) If a length of retaining wall to which this section applies is in such condition (whether for want of repair or some other reason) as to be liable to endanger persons using the street,	

Schedule 15: Miscellaneous Controls

dDCO provision	Relevant Legislation	Applicant's Justification
	the local authority in whose area the street is situated may, by notice served on the owner or occupier of the land on which that length of wall is, require him to execute such works as will obviate the danger. (6) Where the power conferred by subsection (5) above is exercisable in relation to a length of wall and has not been exercised by the local authority empowered to exercise it, then, if that authority are not the highway authority for the street in question, the highway authority may request the local authority to exercise the power; and if the local authority refuse to comply with the request or fail within a reasonable time after the request is made to them to do so, the highway authority may exercise the power. (7) Subsections (2) to (7) of section 290 of the Public Health Act 1936 (appeals against and the enforcement of, certain notices under that Act) apply to any notice served under subsection (5) above as they apply to such notices as are mentioned in subsection (1) of that section, but subject to the following modifications:—	

Schedule 15: Miscellaneous Controls

dDCO provision		Relevant Legislation	Applicant's Justification
		(a) references to the local authority are to be construed as including references to the highway authority; (b) for paragraph (f) of subsection (3) there is substituted the following paragraph— “(f) that some other person ought to contribute towards the expense of executing any works required by the notice”. (8) Sections 300 to 302 of the Public Health Act 1936 (supplementary provisions relating to appeals under the said section 290) apply, with the necessary modifications, to appeals brought by virtue of subsection (7) above. (9) In this section “retaining wall” means a wall, not forming part of a permanent building, which serves, or is intended to serve, as a support for earth or other material on one side only.	

Schedule 15: Miscellaneous Controls

dDCO provision		Relevant Legislation	Applicant's Justification
	Section 169(1) of the Highways Act 1980	169 Control of scaffolding on highways. (1) Subject to subsection (6) below no person shall, in connection with any building or demolition work or the alteration, repair, maintenance or cleaning of any building, erect or retain on or over a highway any scaffolding or other structure which obstructs the highway (hereafter in this section referred to as a "relevant structure") unless he is authorised to do so by a licence in writing issued for the purposes of this section by the highway authority (hereafter in this section referred to as "a licence") and complies with the terms of the licence; and a licence may contain such terms as the authority issuing it thinks fit.	This provision is disapplied in order that the Applicant may erect scaffolding without the need for a licence. The Applicant considers that an express licence is not required as the Applicant will seek consent for these works as part of the Requirements pursuant to Schedule 2 of the DCO.
	Section 172 of the Highways Act 1980	172 Hoardings to be set up during building etc. (1) Subject to subsection (2) below, a person proposing to erect or take down a building in a street or court, or to alter or repair the outside of a building in a street or court, shall, before beginning the work, erect a close boarded hoarding or fence to the satisfaction of the appropriate authority so as to separate the building from the street or court.	This provision is disapplied in order that the Applicant does not need a separate consent from the relevant authority to in order not to erect a hoarding or fence in relation to works to a building in a street. The Applicant considers that an express consent is not required as the Applicant will

Schedule 15: Miscellaneous Controls

dDCO provision		Relevant Legislation	Applicant's Justification
		For the purposes of this section the appropriate authority, in relation to any street or court, is the council of the county [, metropolitan district] or London borough in which it is situated or, if it is situated in the City, the Common Council. (2)The obligation to erect a hoarding or fence imposed by subsection (1) above may be dispensed with if the appropriate authority so consent. (3)Where a person has erected a hoarding or fence in compliance with subsection (1) above, he shall— (a)if the appropriate authority so require, make a convenient covered platform and handrail to serve as a footway for pedestrians outside the hoarding or fence; (c) maintain the hoarding or fence and any such platform and handrail in good condition to the satisfaction of the authority during such	address this as part of the Requirements pursuant to Schedule 2 of the DCO.

Schedule 15: Miscellaneous Controls

dDCO provision	Relevant Legislation	Applicant's Justification
	time as the authority may require; (d) (c)if the authority so require, sufficiently light the hoarding or fence and any such platform and handrail during the hours of darkness; and (d)remove the hoarding or fence and any such platform and handrail when required by the authority. (4)A person aggrieved by the refusal of a consent under subsection (2) above or by a requirement under subsection (3) above may appeal to a magistrates' court. (5)Subject to any order made on appeal, if a person contravenes this section he is guilty of an offence and liable to a fine not exceeding [level 3 on the standard scale]; and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding £2 for each day on which the offence is so continued.	

Schedule 15: Miscellaneous Controls

dDCO provision		Relevant Legislation	Applicant's Justification
	Section 173 of the Highways Act 1980	173 Hoardings to be securely erected. (1) No person shall use for any purpose a hoarding or similar structure that is in, or adjoins, any street unless it is securely fixed to the satisfaction of the council who, in relation to that street, are the appropriate authority for the purposes of section 172 above. (2) If a person contravenes this section he is guilty of an offence and liable to a fine not exceeding [level 1 on the standard scale]; and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding £1 for each day on which the offence is so continued.	As above, the details of hoardings will be dealt with as part of the Requirements and therefore to avoid duplication of controls, the Applicant considers it appropriate to disapply this section.
Schedule 15 Paragraph 3	Section 56(1) and (1A) of the New Roads and Street Works Act 1991	56 Power to give directions as to timing of street works (1) If it appears to the street authority— (a) that proposed street works are likely to cause serious disruption to traffic, and	Article 9 and <i>Parts 2 and 3 of Schedule 14 (protective provisions)</i> deal with the detail and approvals relating to notices and road space booking. These provisions are therefore disapplied to ensure only one approval mechanism is needed.

Schedule 15: Miscellaneous Controls

dDCO provision	Relevant Legislation	Applicant's Justification
	(b) that the disruption would be avoided or reduced if the works were carried out only at certain times [or on certain days (or at certain times on certain days)], the authority may give the undertaker such directions as may be appropriate as to the times [or days (or both)] when the works may or may not be carried out. [(1A) Where it appears to a street authority— (a) that subsisting street works are causing or are likely to cause serious disruption to traffic, and (b) that the disruption would be avoided or reduced if the works were to continue to be carried out only at certain times or on certain days (or at certain times on certain days), the authority may give the undertaker such directions as may be appropriate as to the times or days (or both) when the works may or may not continue to be carried out.]	

Schedule 15: Miscellaneous Controls

dDCO provision		Relevant Legislation	Applicant's Justification
	Section 56A of the New Roads and Street Works Act 1991	[56A Power to give directions as to placing of apparatus] [(1) Where— (a) an undertaker is proposing to execute street works consisting of the placing of apparatus in a street (“street A”), (b) placing the apparatus in street A is likely to cause disruption to traffic, and (c) it appears to the street authority that— (i) there is another street (“street B”) in which the apparatus could be placed, and (ii) the conditions in subsection (2) are satisfied, the authority may by direction require the undertaker not to place the apparatus in street A (but may not require him to place the apparatus in street B). (2) The conditions referred to in subsection (1)(c) are that— (a) disruption to traffic would be avoided or reduced if the apparatus were to be placed in street B; (b) placing the apparatus in street B would be a reasonable way of achieving the purpose for which the apparatus is to be placed; and	Article 9 and <i>Parts 2 and 3 of Schedule 14 (protective provisions)</i> deal with the detailed highway design which will include arrangements relating to placing or apparatus. These provisions are therefore disappplied to ensure only one approval mechanism is needed.

Schedule 15: Miscellaneous Controls

dDCO provision	Relevant Legislation	Applicant's Justification
	(c) it is reasonable to require the undertaker not to place the apparatus in street A. (3) A direction under this section may be varied or revoked by a further such direction. (4) The procedure for giving a direction under this section shall be prescribed by the Secretary of State. (5) The Secretary of State may by regulations make provision for appeals against directions under this section, including provision as to the persons who may determine appeals and the procedure to be followed on an appeal. (6) An undertaker who executes works in contravention of a direction under this section commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale. (7) An undertaker shall be taken not to have failed to fulfil any statutory duty to afford a supply or service if, or to the extent that, his failure is attributable to a direction under this section. (8) The Secretary of State may issue or approve for the purposes of this section a code of practice giving practical guidance as to the exercise by street authorities of the power	

Schedule 15: Miscellaneous Controls

dDCO provision		Relevant Legislation	Applicant's Justification
		conferred by this section; and in exercising that power a street authority shall have regard to the code of practice.]	
	Section 58(1) of the New Roads and Street Works Act 1991	58 Restriction on works following substantial road works (1) Where it is proposed to carry out substantial road works in a highway, the street authority may by notice in accordance with this section restrict the execution of street works during the [prescribed period] following the completion of those works. For this purpose substantial road works means works for road purposes, or such works together with other works, of such description as may be prescribed.	The Applicant considers the disapplication of this provision necessary to ensure the delivery of the development is not frustrated, for example, the Applicant may need to carry out works where other works may have been recently completed.
	Section 61(1) of the New Roads and Street Works Act 1991	61 Protected streets (1) The consent of the street authority is required for the placing of apparatus by an undertaker in a protected street, except as mentioned below. The following are “protected streets” for this purpose—	This provision is disapplied to ensure that the Applicant is able to divert apparatus placed in a special road. The DCO will deal with any such necessary approvals.

Schedule 15: Miscellaneous Controls

dDCO provision		Relevant Legislation	Applicant's Justification
		(a) any highway or proposed highway which is a special road in accordance with section 16 of the Highways Act 1980, and (b) any street designated by the street authority as protected.	
	Section 62(2) of the New Roads and Street Works Act 1991	62 Supplementary provisions as to designation of protected streets (2) Where a street has been designated as protected the street authority may direct an undertaker to remove or change the position of apparatus placed in the street at a time when it was not so designated. The authority shall indemnify the undertaker in respect of his reasonable expenses in complying with such a direction.	The Applicant considers this provision should be disapplied to ensure that any apparatus will not then be directed to be moved, since the placing of them will have been agreed under the DCO.

Schedule 15: Miscellaneous Controls

dDCO provision		Relevant Legislation	Applicant's Justification
	Section 62(4) of the New Roads and Street Works Act 1991	62 Supplementary provisions as to designation of protected streets (4) Where a designation is made or withdrawn the street authority may give such directions as they consider appropriate with respect to works in progress in the street when the designation comes into force or ceases to have effect.	The Applicant considers that the protective provisions and DCO should properly deal with the designation of any streets and therefore the statutory provision should not apply.
	Section 63(1) of the New Roads and Street Works Act 1991	63 Streets with special engineering difficulties (1) The provisions of Schedule 4 have 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.	Detailed design is covered through the DCO including the protective provisions and therefore the statutory provision is disapplied to ensure only one governing mechanism.
	Section 74 of the New Roads and Street Works Act 1991	74 Charge for occupation of the highway where works unreasonably prolonged (1) The Secretary of State may make provision by regulations requiring an undertaker executing street works in a maintainable highway to pay a charge to the highway authority where—	The timeframe/schedule for the carrying out and completion of the works is to be governed by the DCO and protective provisions and therefore this provision needs to be disapplied to ensure that only the DCO

Schedule 15: Miscellaneous Controls

dDCO provision	Relevant Legislation	Applicant's Justification
	(a) the duration of the works exceeds such period as may be prescribed, and (b) the works are not completed within a reasonable period. (2) For this purpose “a reasonable period” means such period as is agreed by the authority and the undertaker to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable, for completion of the works in question. In default of agreement, the authority's view as to what is a reasonable period shall be acted upon pending the decision of the arbitrator. [(2A) The regulations may prescribe exemptions from the requirement to pay charges.] (3) The regulations may provide that if an undertaker has reason to believe that the duration of works will exceed the	is the appropriate governing mechanism.

Schedule 15: Miscellaneous Controls

dDCO provision	Relevant Legislation	Applicant's Justification
	prescribed period he [shall give to the authority, in such manner as may be prescribed, notice containing] an estimate of their likely duration— (a) in the case of works in connection with the initial placing of apparatus in the street in pursuance of a street works licence, together with his application for the licence, (b) in the case of other works (not being emergency works), together with his notice under section 55 (notice of starting date) [or notification under paragraph 2(1)(d) of Schedule 3A (notification of proposed works)], or (c) in the case of emergency works, as soon as reasonably practicable after the works are begun, and that the period stated in an estimate [contained in a notice given to an authority in such manner] shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.	

Schedule 15: Miscellaneous Controls

dDCO provision	Relevant Legislation	Applicant's Justification
	(4) The regulations may also provide that if it appears to the undertaker that by reason of matters not previously foreseen or reasonably foreseeable the duration of the works— (a) is likely to exceed the prescribed period, (b) is likely to exceed the period stated in his previous estimate, or (c) is likely to exceed the period previously agreed or determined to be a reasonable period, he [shall give to the authority, in such manner as may be prescribed, notice containing] an estimate or revised estimate accordingly, and that if he does so any previous estimate, agreement or determination shall cease to have effect and the period stated in the new estimate shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.	

Schedule 15: Miscellaneous Controls

dDCO provision	Relevant Legislation	Applicant's Justification
	(5) The amount of the charge shall be determined in such manner as may be prescribed by reference to the time taken to complete the works and the extent to which the surface of the highway is affected by the works. Different rates of charge may be prescribed according to the place and time at which the works are executed and such other factors as appear to the Secretary of State to be relevant. [(5A) The regulations may— (a) prescribe more than one rate of charge in respect of the same description of works, and (b) provide that charges are to be paid in respect of any works of that description at the rate which appears to the highway authority to be appropriate in relation to those works.	

Schedule 15: Miscellaneous Controls

dDCO provision	Relevant Legislation	Applicant's Justification
	(5B) The regulations may make provision for the determination of the duration of works for the purposes of the regulations. (5C) And they may, in particular, make provision for works to be treated as beginning or ending on the giving of, or as stated in, a notice given by the undertaker to the highway authority, in the prescribed manner, in accordance with a requirement imposed by the regulations.] (6) The regulations may make provision as to the time and manner of making payment of any charge. (7) The regulations shall provide that a highway authority may reduce the amount, or waive payment, of a [charge— (a) in any particular case, (b) in such classes of case as they may decide or as may be prescribed, or	

Schedule 15: Miscellaneous Controls

dDCO provision	Relevant Legislation	Applicant's Justification
	(c) in all cases or in all cases other than a particular case or such class of case as they may decide or as may be prescribed]. [(7A) The regulations may make provision as to— (a) the application by [strategic highways companies or] local highway authorities of sums paid by way of charges, and (b) the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges. (7B) The regulations may create in respect of any failure to give a notice required by the regulations a criminal offence triable summarily and punishable with a fine not exceeding [level 4] on the standard scale.] (8) The first regulations for the purposes of this section shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament;	

Schedule 15: Miscellaneous Controls			
dDCO provision		Relevant Legislation	Applicant's Justification
		subsequent regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.	

Section 74A of the New Roads and Street Works Act 1991	74A Charge determined by reference to duration of work (1) The Secretary of State may make provision by regulations requiring an undertaker executing street works in a maintainable highway to pay to the highway authority a charge determined, in the prescribed manner, by reference to the duration of the works. (2) The regulations shall not require charges to be paid to [a strategic highways company or] a local highway authority unless the Secretary of State has approved it for the purposes of the regulations by order made by statutory instrument. (3) The regulations may prescribe exemptions from the requirement to pay charges. (4) The regulations may prescribe different rates of charge according to— (a) the extent to which the surface of the highway is affected by the works, (b) the place and time at which the works are executed, and (c) such other factors as appear to the Secretary of State to be relevant. (5) The regulations may— (a) prescribe more than one rate of charge in respect of the same description of works, and	As above, the timeframe/schedule for the carrying out and completion of the works is to be governed by the DCO and protective provisions and therefore this provision needs to be disapplied to ensure that only the DCO is the appropriate governing mechanism.
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	(b) provide that charges are to be paid in respect of any works of that description at the rate which appears to the highway authority to be appropriate in relation to those works. (6) The regulations may make provision for the determination of the duration of works for the purposes of the regulations. (7) And they may, in particular, make provision for works to be treated as beginning or ending on the giving of, or as stated in, a notice given by the undertaker to the highway authority, in the prescribed manner, in accordance with a requirement imposed by the regulations. (8) The regulations may make provision as to the time and manner of making payment of charges. (9) The regulations shall provide that a highway authority may reduce the amount, or waive payment, of a charge— (a) in any particular case, (b) in such classes of case as they may decide or as may be prescribed, or (c) in all cases or in all cases other than a particular case or such class of case as they may decide or as may be prescribed. (10) The regulations may make provision as to— (a) the application by [strategic highways companies or] local highway authorities of sums paid by way of charges, and	
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	(b) the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges. (11) The regulations may create in respect of any failure to give a notice required by the regulations a criminal offence triable summarily and punishable with a fine not exceeding [level 4] on the standard scale. (12) The regulations may require disputes of any prescribed description to be referred to an arbitrator appointed in accordance with the regulations. (13) The first regulations under this section shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament; subsequent regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.	
<i>Schedule 3A to the New Roads and Street Works Act 1991 where a notice under section 54 (advance notice of certain works) or 55 (notice of starting date of works) of that Act(b) is given in respect of the authorised development</i>		
No notice under paragraph 2(1)(d) of Schedule 3A to the New Roads and Street Works Act 1991 shall have effect to require	[SCHEDULE 3A Restriction on Works Following Substantial Street Works] Notice by authority of proposed restriction (1) The street authority may publish a notice— (d) requiring any other undertakers who propose to execute street works in that part of the highway, and who have not already done so, to notify the authority of their proposed	The Applicant disapplies these provisions because the DCO, including protective provisions, cover carrying out of the works and it is prudent to ensure that there is no additional, separate statutory provision.

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	the notification of works proposed to be carried out in the course of the authorised development.	works within the period specified in the notice (“the notice period”).	
	No directions under paragraph 3 of Schedule 3A to the New Roads and Street Works Act 1991 may be issued to the undertaker.	[SCHEDULE 3A Restriction on Works Following Substantial Street Works] Completion of notified works 3 (1) After the expiry of the notice period the street authority may issue directions to— (a) the undertaker proposing to execute the substantial street works, (b) any undertakers who have given notice under paragraph 2 in respect of works they propose to execute, and (c) any undertakers who have previously given notice of works they propose to execute in the part of the highway specified under paragraph 2(1)(c). (2) A direction to an undertaker under this paragraph is a direction as to the date on which he may begin to execute the works proposed by him. (3) Where—	The Applicant disapplies these provisions because the DCO, including protective provisions, cover carrying out of the works and it is prudent to ensure that there is no additional, separate statutory provision.

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		(a) a direction is given to an undertaker under this paragraph as respects the date on which he may begin to execute the works proposed by him, and (b) he begins to execute those works before that date, he is guilty of an offence. (4) After the expiry of the notice period, any undertaker who, before completion of the works referred to in sub-paragraph (1)(a) to (c), executes any other street works in the part of the highway specified under paragraph 2(1)(c), commits an offence. (5) Sub-paragraph (4) does not apply— (a) where an undertaker executes emergency works; or (b) in such other cases as may be prescribed. (6) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.	
	(13) Paragraph 3(4) of Schedule 3A to the New Roads and Street Works Act 1991 shall not apply in relation to the execution of works in the	[SCHEDULE 3A Restriction on Works Following Substantial Street Works] Completion of notified works (4) After the expiry of the notice period, any undertaker who, before completion of the works referred to in sub-paragraph (1)(a) to (c), executes any other street works in the part of the highway specified under paragraph 2(1)(c), commits an offence.	The Applicant disapplies these provisions because the DCO, including protective provisions, cover carrying out of the works and it is prudent to ensure that there is no additional, separate statutory provision.

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	course of the authorised development.		
	Paragraph 5(1) of Schedule 3A to the New Roads and Street Works Act 1991 shall not apply in relation to the execution of works in the course of the authorised development	[SCHEDULE 3A Restriction on Works Following Substantial Street Works] Effect of direction imposing restriction 5 (1) Where a direction under paragraph 4 is in force, an undertaker may not during the period specified in the direction execute street works in the part of the highway to which the restriction relates.	The Applicant disapplies these provisions because the DCO, including protective provisions, cover carrying out of the works and it is prudent to ensure that there is no additional, separate statutory provision.
Schedule 15 Paragraph 4	Section 42 of the Local Government (Miscellaneous Provisions) Act 1976	42 Certain future local Acts etc to be subject to the planning enactments etc except as otherwise provided (1) An Act or order to which this section applies shall have effect subject to— (a) the provisions of the enactments relating to town and country planning; (b) the provisions of the enactments relating to historic buildings and ancient monuments; (c) ...	This provision is disapplied to ensure certainty so that no unknown future enactment restricts the authorised development.

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		[(d) Part II of the Food and Environment Protection Act 1985 (which relates to deposits in the sea)], except so far as the Act or order expressly provides otherwise. (2) This section applies to an Act or order which is— (a) a local Act passed after or in the same Session as this Act; (b) a provisional order confirmed by an Act so passed; or (c) an order which is made in the exercise of powers conferred by an Act and comes into force after the passing of this Act or in the same Session as this Act, and which authorises the carrying out on land specified in the Act or order of works of a kind so specified.	
Schedule 14 Paragraph 6	No order, notice or regulation under the Environment Act 1995 in	Sections 97 – 99 Environment Act 1995	This provision needs to be disapplied to ensure that the Hedgerow Regulations don't apply to those

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	relation to the preservation of hedgerows, has effect in relation to the authorised development.		hedgerows which are authorised to be removed under the DCO.
Schedule 16 Paragraph 7	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() shall not apply to the authorised development	Water Resources Act 1991	The disapplication of byelaws including future byelaws is sought on the basis that they address matters whose merits and acceptability can, and will, already have been sufficiently considered and resolved if the DCO is made. Such matters should therefore not be the subject of further regulatory consideration or control, which would cause unnecessary uncertainty and duplication, and may unjustifiably delay the implementation of the Scheme. The development has been assessed within the Environmental Statement accompanying the DCO application and the powers to carry out the development conferred under the

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			DCO will have only be conferred on the Applicant following examination of those powers (and of the accompanying ES). However, the terms of a byelaw made under the relevant provisions of the 1991 Act could still operate to fetter those powers if granted. The Applicant considers that any byelaws are therefore required to be disapplied under the DCO in their application to the development authorised under it.
	Disapplication of section 23 of the Land Drainage Act 1991 in relation to watercourses for which the relevant planning authority is the drainage board concerned	23 Prohibition on obstructions etc in watercourses (1) No person shall— (a) erect any mill dam, weir or other like obstruction to the flow of any ordinary watercourse or raise or otherwise alter any such obstruction; or [(b) erect a culvert in an ordinary watercourse, or (c) alter a culvert in a manner that would be likely to affect the flow of an ordinary watercourse,]	The Applicant proposes to disapply this provision to avoid the need to secure future consents, as is permitted by s120(5) of the 2008 Act. The DCO includes at article 22 provisions relating to the discharge of water and the Articles includes a requirement to obtain consent.

		without the consent in writing of the drainage board concerned. [(1A) Consent under this section may be given subject to reasonable conditions. (1B) An internal drainage board or lead local flood authority must consult the [appropriate agency] before carrying out work within subsection (1)(a), (b) or (c) if the board or authority is “the drainage board concerned” for the purposes of this section. (1C) The drainage board concerned must have regard to any guidance issued by the [appropriate supervisory body] about the exercise of the board's functions under this section.] (2) The drainage board concerned may require the payment of an application fee by a person who applies to them for their consent under this section; and the amount of that fee shall be £50 or such other sum as may be [prescribed] [and the amount of the fee shall be determined in accordance with a prescribed charging scheme].	
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		(3) Where an application is made to the drainage board concerned for their consent under this section— (a) the consent is not to be unreasonably withheld; and (b) if the board fail within two months after the relevant day to notify the applicant in writing of their determination with respect to the application, they shall be deemed to have consented. (4) In subsection (3) above “the relevant day”, in relation to an application for a consent under this section, means whichever is the later of— (a) the day on which the application is made; and (b) if at the time when the application is made an application fee is required to be paid, the day on which the liability to pay that fee is discharged. (5) If any question arises under this section whether the consent of the drainage board concerned is unreasonably withheld, that question shall be referred to a single arbitrator to be agreed between the parties or, failing such agreement, to be appointed by the President of the	
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		Institution of Civil Engineers on the application of either party. (6) Nothing in this section shall apply— (a) to any works under the control of a navigation authority, harbour authority or conservancy authority; or (b) to any works carried out or maintained under or in pursuance of any Act or any order having the force of an Act. (7) The power of the Ministers to make an order under subsection (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament. [(7A) In subsection (2) above “prescribed” means specified in, or determined in accordance with, an order made by the Ministers; and any such order may make different provision for different cases, including different provision in relation to different persons, circumstances or localities.]	
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		(8) Subject to section 8 above, references in this section and [sections 24 and 25] below to the drainage board concerned— (a) in relation to a watercourse in an internal drainage district, are references to the drainage board for that district; and [(b) in relation to a watercourse in an area outside an internal drainage district, are references to the lead local flood authority for the area]. [(9) Lead local flood authority” has the meaning given by section 6 of the Flood and Water Management Act 2010.]	
	Disapplication of Section 32 of the Land Drainage Act 1991	32 Variation of awards (1) Where any award made under any public or local Act contains any provision which in any manner affects or relates to the drainage of land, including any provision affecting the powers or duties of any drainage body or other person with respect to the drainage of land, the [appropriate agency]— (a) may submit to the appropriate Minister for confirmation a scheme for revoking, varying or amending that provision; and	This section is disappplied due to the disapplication of section 23 and the applicable provision relating to land drainage being the DCO and not the LDA.

		(b) shall submit such a scheme if it is directed to do so by the appropriate Minister on an application under subsection (2) below. (2) An application may be made to the appropriate Minister for such a direction as is mentioned in subsection (1)(b) above by any person who is under any obligation imposed by the award or by any internal drainage board. (3) An application under subsection (2) above shall not be entertained unless— (a) the applicant has requested the [appropriate agency] to submit a scheme under this section; and (b) the [appropriate agency] has either refused to do so or failed to do so within six months or has submitted a scheme different from that which was requested. (4) A scheme under this section with respect to any award may— (a) provide for commuting, on the basis on which the obligations to which section 33 below relates are to be	
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		commuted, the obligation of any person under the award to repair or maintain any drainage works; (b) contain such incidental, consequential or supplemental provisions as are necessary or proper for the purposes of the scheme; (c) be revoked or varied by a subsequent scheme under this section. (5) The appropriate Minister may by order made by statutory instrument confirm any scheme submitted to him under this section, either with or without modifications. (6) Schedule 3 to this Act shall apply with respect to an order confirming a scheme under this section. (7) An order confirming a scheme under this section may contain provisions with respect to the persons by whom all or any of the expenses incurred by the appropriate Minister or other persons in connection with the making or confirmation of the order, or the making of the scheme, are to be borne. (8) In this section “the appropriate Minister” —	
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		(a) in relation to England, means the Minister; and (b) in relation to Wales, means the Secretary of State.	
	Disapplication of Byelaws made under Section 66 of the Land Drainage Act 1991	N/A - Generic provision relating to any byelaws made under the Land Drainage Act 1991	The disapplication of byelaws including future byelaws is sought on the basis that they address matters whose merits and acceptability can, and will, already have been sufficiently considered and resolved if the Order is made. Such matters should therefore not be the subject of further regulatory consideration or control, which would cause unnecessary uncertainty and duplication, and may unjustifiably delay the implementation of the Scheme. The development has been assessed within the Environmental Statement accompanying the DCO application and the powers to carry out the development conferred under the DCO will have only be conferred on the applicant following a close

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			examination of those powers (and of the accompanying ES). However, the terms of a byelaw made under the relevant provisions of the 1991 Act could still operate to fetter those powers if granted. The Applicant considers that any byelaws are therefore required to be disapplied under the DCO in their application to the development authorised under it. This is consistent with many other made DCOs for example the recently made Longfield Solar Farm Order 2023 (S.I. 2023 No. 734).
	Disapplication of section 28E of the Wildlife and Countryside Act 1981	[28E Duties in relation to sites of special scientific interest] [(1) The owner or occupier of any land included in a site of special scientific interest shall not while the notification under section 28(1)(b) remains in force carry out, or cause or permit to be carried out, on that land any operation specified in the notification unless— (a) one of them has, after service of the notification, given [Natural England] notice of a proposal to carry out the	The Applicant requires the disapplication of this provision to ensure certainty that the DCO authorises the works and that any notification under this provision wouldn't apply, since Natural England's approval for relevant works would be secured pursuant to the DCO.

		operation specifying its nature and the land on which it is proposed to carry it out; and (b) one of the conditions specified in subsection (3) is fulfilled. (2) Subsection (1) does not apply to an owner or occupier being an authority to which section 28G applies acting in the exercise of its functions. (3) The conditions are— (a) that the operation is carried out with [Natural England's] written consent; (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act[, section 15 of the 1968 Act or section 7 of the Natural Environment and Rural Communities Act 2006] [, section 7 of the Natural Environment and Rural Communities Act 2006 or section 16 of the Environment (Wales) Act 2016]; (c) that the operation is carried out in accordance with a management scheme under section 28J or a management notice under section 28K.	
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		(4) A consent under subsection (3)(a) may be given— (a) subject to conditions, and (b) for a limited period, as specified in the consent. (5) If [Natural England] do not consent, they shall give notice saying so to the person who gave the notice under subsection (1). (6) [Natural England] may, by notice given to every owner and occupier of any of the land included in the site of special scientific interest, or the part of it to which the consent relates— (a) withdraw the consent; or (b) modify it (or further modify it) in any way. (7) The following—	
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		(a) a consent under subsection (3)(a) granting consent subject to conditions or for a limited period, and (b) a notice under subsection (5) or (6), must include a notice of [Natural England's] reasons for imposing the conditions, for the limitation of the period, for refusing consent, or for withdrawing or modifying the consent, and also a notice of the matters set out in subsection (8). (8) The matters referred to in subsection (7) are— (a) the rights of appeal under section 28F; (b) the effect of subsection (9); and (c) in the case of a notice under subsection (6), the effect of section 28M. (9) A withdrawal or modification of a consent is not to take effect until— (a) the expiry of the period for appealing against it; or	
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		(b) if an appeal is brought, its withdrawal or final determination. (10) [Natural England] shall have power to enforce the provisions of this section.]	
Schedule 15 Paragraph 9	Section 60(4) of the Control of Pollution Act 1974	(4) In acting under this section the local authority shall have regard— (a) to the relevant provisions of any code of practice issued under this Part of this Act; (b) to the need for ensuring that the best practicable means are employed to minimise noise; (c) (d) before specifying any particular methods or plant or machinery, to the desirability in the interests of any recipients of the notice in question of specifying other methods or plant or machinery which	

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		would be substantially as effective in minimising noise and more acceptable to them; (d)to the need to protect any persons in the locality in which the premises in question are situated from the effects of noise.	
	Section 60(7) of the Control of Pollution Act 1974	(7)A person served with a notice under this section may appeal against the notice to a magistrates' court within twenty one days from the service of the notice.	
	Section 61(7) of the Control of Pollution Act 1974	(7)If— (a)the local authority does not give a consent within the said period of twenty-eight days; or (b)the local authority gives its consent within the said period of twenty-eight days but attaches any condition to the consent or limits or qualifies the consent in any way, the applicant may appeal to a magistrates' court within twenty-one days from the end of that period	
	Section 61(9) of the Control of Pollution Act 1974	A consent given under this section shall contain a statement to the effect that the consent does not of itself constitute any ground of defence against any proceedings instituted	

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		under ... [section 82 of the Environmental Protection Act 1990].	
Schedule 15 Paragraph 10	This Order shall not constitute a planning permission for the purpose of Part 11 of the 2008 Act (community infrastructure levy) notwithstanding the definition of planning permission contained within article 5 of the 2010 Regulations (meaning of planning permission).	5 Meaning of “planning permission” For the purposes of Part 11 of PA 2008, “planning permission” means— (a) planning permission granted by a local planning authority under section 70, 73 or 73A of TCPA 1990; (b) planning permission granted by the Secretary of State under the provisions mentioned in sub-paragraph (a) as applied by sections 76A(10), 77(4) and 79(4) of TCPA 1990 (including permission so granted by a person appointed by the Secretary of State in accordance with regulations made under Schedule 6 to TCPA 1990); (c) planning permission granted or modified under section 177(1) of TCPA 1990 (grant or modification of planning permission on appeals against enforcement notices); (d) modification of a planning permission under section 97 or 100 of TCPA 1990;	The Applicant requires the disapplication of CIL to the development to ensure that the CIL provisions to ensure there are no unforeseen liabilities on the undertaker arising from any CIL yet to be introduced (there is no applicable CIL currently in place in respect of the development). It is common for CIL to be dis-applied in DCOs and it is reasonable and justifiable for the Applicant to ensure that it is aware of its financial commitments under the DCO.

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		(e) planning permission granted by an order made under section 102 or 104 of TCPA 1990 (orders requiring discontinuance of use or alteration or removal of buildings or works); (f) development consent granted by an order made under section 114(1)(a) of PA 2008; or (g) a general consent. (2) But planning permission does not include planning permission granted for a limited period. (3) In paragraph (1)(g) “general consent” means— (a) planning permission granted— (i) by a development order made under section 59 of TCPA 1990, (ii) by a local development order adopted under section 61A of TCPA 1990,	
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		[(iia) by a neighbourhood development order made under section 61E [or 61Q (community right to build orders)] of TCPA 1990,] (iii) by a simplified planning zone scheme within the meaning of sections 82 and 83 of TCPA 1990, (iv) in accordance with section 90 of TCPA 1990 (development with government authorisation), or (v) by an enterprise zone scheme adopted under Schedule 32 to the Local Government, Planning and Land Act 1980; or (b) development authorised by an Act of Parliament or an order approved by both Houses of Parliament which designates specifically the nature of the development authorised and the land on which it may be carried out.	
Schedule 15 Paragraph 11	Disapplication of Regulation 4 of the Town and Country Planning (Control of Advertisements)	4 Requirement for consent (1) Subject to paragraph (2), no advertisement may be displayed unless consent for its display has been granted—	The Applicant seeks to disapply the need for advertisement consent for any advertisement which is located in the areas identified on the parameters plans. This makes use of the “one stop

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	(England) Regulations 2007	(a) by the local planning authority or the Secretary of State on an application in that behalf (referred to in these Regulations as “express consent”); or (b) by regulation 6 (referred to in these Regulations as “deemed consent”). (2) An advertisement to which, by virtue of regulation 1(3), Parts 2 and 3 of these Regulations do not apply may be displayed without express consent or deemed consent. (3) In determining an application for consent for the display of advertisements, the local planning authority may have regard to any material change in circumstances likely to occur within the period for which the consent is requested.	shop” approach, and the Applicant considers it is reasonable to remove the need to obtain a further consent outside of the DCO for the advertisement boards required for the development. .
Schedule 15 Paragraph 12	Section 25 of the Burial Act 1857	25 Offence of removal of body from burial ground (1) It is an offence for a body or any human remains which have been interred in a place of burial to be removed unless one of the conditions listed in subsection (2) is complied with. (2)The conditions referred to in subsection (1) are—	The Applicant considers it necessary to disapply this section, which creates an offence to remove a body or human remains, as there is a detailed procedure for the removal of a body or human remains in Article 25.

		(a)the body or remains is or are removed in accordance with a faculty granted by the court; (b)the body or remains is or are removed in accordance with the approval of a proposal under the Care of Cathedrals Measure 2011 (No. 1) by the Cathedrals Fabric Commission for England or a fabric advisory committee; (c)unless the body or remains is or are interred in land which is subject to the jurisdiction of the court or its or their removal requires or require the approval of a proposal under the Care of Cathedrals Measure 2011, the body or remains is or are removed under a licence from the Secretary of State and in accordance with any conditions attached to the licence. (3)A person who removes a body or remains in contravention of subsections (1) and (2) is liable, on summary conviction, to a fine not exceeding level 1 on the standard scale. (4)In subsection (2)(a) and (c) “court” means [(a)]the consistory court of the diocese or, in the diocese of Canterbury, the commissary court of that diocese [, or	
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		(b)any other court or body referred to in section 9, 16, 19 or 21 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (Arches and Chancery Courts, Court of Ecclesiastical Causes Reserved, Commission of Review, Privy Council) and having jurisdiction to determine the matter.]]	
Schedule 15 Paragraph 13	Neighbourhood Planning Act 2017	Chapter 1	The Applicant considers it necessary to disapply provisions relating to temporary possession in the Neighbourhood Planning Act 2017 as although such provisions are not yet in force, they may come into force during the construction of the authorised development. The Applicant considers it appropriate that it has certainty that the temporary possession regime under the DCO will apply. This approach has been accepted in many DCOs, including in The A122 (Lower Thames Crossing) Order 2025.

