

## SCHEDULES

### SCHEDULE 2

#### REQUIREMENTS

#### PART 1

#### REQUIREMENTS

##### *Interpretation*

1. In this Schedule—

“contaminated land” has the same meaning as that given in section 78A of the Environmental Protection Act 1990<sup>(1)</sup>;

“European protected species” has the same meaning as in regulations 42 (European protected species of animals) and 44 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017<sup>(2)</sup>;

“the Design Council’s Design Review panel” means the group of independent professionals assembled by the Design Council (registered charity number 272099) to undertake reviews of the design of infrastructure projects in accordance with guidance published by the Design Council from time to time;

“the first iteration EMP” means the document of that description referred to in Schedule 10 (documents to be certified) being the first iteration environmental management plan submitted with the application for this Order and certified as the first iteration environmental management plan by the Secretary of State for the purposes of this Order;

“flood risk assessment” means the document of that description set out in Schedule 10 certified by the Secretary of State as the flood risk assessment for the purposes of this Order;

“the Manual of Contract Documents for Highway Works” means the document of that name published electronically by or on behalf of the strategic highway authority for England or any equivalent replacement published for that document;

“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981<sup>(3)</sup>;

“the Outline Landscape and Ecological Management and Monitoring Plan” means the document of that description referred to in Schedule 10 and certified by the Secretary of State as the Outline Landscape and Ecological Management and Monitoring Plan for the purposes of this Order;

“PAS 2080” means PAS 2080: 2016 Carbon management in infrastructure, a specification published by the British Standards Institution;

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(1) 1990 c. 43. Section 78A was inserted by section 57 of the Environment Act 1995 (c. 25) and amended by section 86(2) of the Water Act 2003 c. 37.

(2) S.I. 2017/1012.

(3) 1981 c. 69.

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“preliminary works” means archaeological investigations and mitigation works, ecological surveys and mitigation works, environmental surveys and monitoring, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, establishment of work areas and compounds, diversion and laying of underground apparatus and site clearance, the temporary display of site notices or information and the receipt of construction plant and equipment, and the erection of construction plant and equipment for the preliminary works;

“REAC” means the register of environmental actions and commitments contained in the first iteration EMP;

“the second iteration EMP” means the second revision of the first iteration EMP which is refined during the construction stage for the consented project, in advance of construction;

“the third iteration EMP” means the third revision of the first iteration EMP, which builds upon the second iteration EMP refined at the end of the construction stage to support future management and operation.

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**Commencement Information**

**I1** Sch. 2 para. 1 in force at 7.12.2022, see [art. 1](#)

*Time limits*

**2.** The authorised development must commence no later than the expiration of 5 years beginning with the date that this Order comes into force.

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**Commencement Information**

**I2** Sch. 2 para. 2 in force at 7.12.2022, see [art. 1](#)

*Detailed design*

**3.—(1)** The authorised development must be designed in detail and carried out so that it is compatible with the preliminary scheme design shown on the works plans and the engineering drawings and sections, unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority and the local highway authority on matters related to their functions and provided that the Secretary of State is satisfied that any amendments to the works plans and the engineering drawings and sections showing departures from the preliminary scheme design would not give rise to any materially new or materially worse environmental effects in comparison with those reported in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding engineering drawings and sections and the undertaker must make those amended details available in electronic form for inspection by members of the public.

(3) No part of the authorised development is to commence until options for the detailed design of that part of the authorised development have been submitted to the Design Council’s Design Review panel and the undertaker has received and considered the advice of the Design Council’s Design Review panel in respect of the detailed design of that part of the authorised development.

(4) The undertaker must, in the course of developing the detailed design of the authorised development consult with the relevant planning authority, local highway authority and other parties identified in the Community Engagement Plan.

(5) No part of the authorised development is to commence until details of the external appearance of the Mottram Underpass and Roe Cross Road Bridge to be constructed pursuant to Work Nos. 32 and 33, the River Etherow Bridge to be constructed pursuant to Work No. 35, and the noise barriers to be constructed pursuant to Work No. 66 have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and local highway authority on matters related to their functions.

(6) The authorised development must be carried out in accordance with the approved details referred to in sub-paragraph (5).

**Commencement Information**

**I3** Sch. 2 para. 3 in force at 7.12.2022, see [art. 1](#)

*Second Iteration EMP*

4.—(1) No part of the authorised development is to commence until a second iteration EMP, substantially in accordance with the first iteration EMP, for that part has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, the local highway authority and the Environment Agency on matters related to their functions.

(2) The second iteration EMP must be written in accordance with ISO 14001 and must—

- (a) be in accordance with the mitigation measures set out in the REAC;
- (b) contain a record of all sensitive environmental features that have the potential to be affected by the construction of the proposed development;
- (c) require adherence to working hours of 07:30–18:00 on Mondays to Fridays and 07:30–16:00 on Saturdays except for—
  - (i) movements to work, maintenance and general preparation works but not including running plant and machinery for a period of one hour either side of the above times;
  - (ii) night-time closures including for road crossings and final surfacing tie ins provided that the activity does not give rise to any materially new or materially worse environmental effects in comparison with those reported in the environmental statement;
  - (iii) any oversize deliveries or deliveries where daytime working would be excessively disruptive to normal traffic operation;
  - (iv) junction tie-in works;
  - (v) repair or maintenance of construction equipment;
  - (vi) removal of overhead power lines provided that the activity does not give rise to any materially new or materially worse environmental effects in comparison with those reported in the environmental statement;
  - (vii) overnight traffic management measures;
  - (viii) cases of emergency; and
  - (ix) as otherwise agreed by the relevant planning authority in advance provided that any other work carried out outside the specified working hours or any extension to

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- the working hours will only be permitted if there has been prior written agreement of the relevant environmental health officer of the relevant planning authority and provided that the activity does not give rise to any materially new or materially worse environmental effects in comparison with those reported in the environmental statement; and
- (x) provided that written notification of the extent, timing and duration of each activity is given to the relevant local authority in advance of any works that are to be undertaken outside of the specified hours, except in cases of emergency or for the repair or maintenance of construction equipment, which are to be notified to the relevant local authority as soon as is practicable;
- (d) include the Design Approach Document which must be in accordance with the version of that document forming part of the first iteration EMP and must include the following management plans which must be in accordance with the first iteration EMP, the REAC and the Outline Landscape and Ecological Management and Monitoring Plan—
- (i) Soil Resource Plan;
  - (ii) Noise and Vibration Management Plan;
  - (iii) Pollution Prevention Plan;
  - (iv) Emergency Spillage Response Plan;
  - (v) Emergency Flood Response Plan;
  - (vi) Dewatering Management Plan;
  - (vii) Construction Water Management Plan;
  - (viii) Site Waste Management Plan;
  - (ix) Materials Management Plan;
  - (x) Asbestos Management Plan;
  - (xi) Arboricultural Method Statement;
  - (xii) Community Engagement Plan;
  - (xiii) Nuisance Management Plan;
  - (xiv) Ecological Management Plan;
  - (xv) Traffic Management Plan;
  - (xvi) Biosecurity Management Plan;
  - (xvii) Invasive Non Native Management Plan;
  - (xviii) Landscape and Ecological Management and Monitoring Plan;
  - (xix) Archaeological Fieldwork Strategy; and
  - (xx) Carbon Management Plan;
- (e) contain a record of all applications made pursuant to section 61 of the Control of Pollution Act 1974 to demonstrate that where the undertaker is acting further to section 61 of that Act in relation to the construction of the authorised development the undertaker has included particulars in the application to demonstrate that the works that are the subject of the application, including the method by which they are to be carried out and the steps proposed to be taken to minimise noise resulting from the works, would not give rise to any materially new or materially worse environmental effects in comparison with those reported in the environment statement;
- (f) contain a record of the consents, commitments and permissions resulting from liaison with statutory bodies;

- (g) incorporate the measures for the construction stage identified in the environmental statement;
  - (h) be kept up to date with any material changes during construction and include a mechanism for consultation on such material changes with the relevant planning authority, the local highway authority and the Environment Agency on matters related to their functions; and
  - (i) include details of the process for the preparation of the third iteration EMP, which must include for the third iteration EMP to be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, the local highway authority and the Environment Agency on matters related to their functions.
- (3) The construction of the authorised development must be carried out in accordance with the approved second iteration EMP.
- (4) A third iteration EMP must be developed and completed by the end of the construction, commissioning and handover stage of the authorised development, in accordance with the process set out in the approved second iteration EMP.
- (5) The third iteration EMP must substantially accord with the measures for the management and operation of the authorised development included in the first iteration EMP and address the matters set out in the environmental statement and the approved second iteration EMP that are relevant to the operation and maintenance of the authorised development, and must contain—
- (a) the environmental information needed for the future maintenance and operation of the authorised development;
  - (b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the authorised development; and
  - (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies.
- (6) The third iteration EMP must require—
- (a) monitoring of air quality in the Tintwistle and Dinting Value Air Quality Management Areas;
  - (b) the implementation of mitigation measures if a breach of any national air quality objectives is reasonably attributable to the operation of the authorised development in those areas; and
  - (c) in the event that mitigations measures are put in place, such measures are to be approved in writing by the Secretary of State following consultation with the relevant local planning authority.
- (7) The authorised development must be operated and maintained in accordance with the approved third iteration EMP.

**Commencement Information**

**14** Sch. 2 para. 4 in force at 7.12.2022, see [art. 1](#)

*Landscaping*

**5.—(1)** No part of the authorised development is to commence unless a written landscaping scheme which sets out details of all proposed hard and soft landscaping works for that part has

been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its functions.

(2) The authorised development must be landscaped in accordance with the landscaping scheme approved under sub-paragraph (1).

(3) The landscaping scheme prepared under sub-paragraph (1) must reflect the mitigation measures set out in the REAC and must be based on the illustrative environmental masterplan annexed to the environmental statement.

- (4) The landscaping scheme prepared under sub-paragraph (1) must include details of—
- (a) location, number, species mix, size and planting density of any proposed planting;
  - (b) cultivation, importing of materials and other operations to ensure plant establishment;
  - (c) existing trees to be retained, with measures for their protection during the construction period;
  - (d) proposed finished ground levels; and
  - (e) implementation timetables for all landscaping works.

(5) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised standards and codes of good practice, as specified in the Landscape and Ecological Management and Monitoring Plan for the authorised development.

(6) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the Secretary of State, following consultation with the relevant planning authority on matters related to its function, gives consent to a variation.

#### Commencement Information

**I5** Sch. 2 para. 5 in force at 7.12.2022, see [art. 1](#)

### *Contaminated land and groundwater*

**6.—**(1) No part of the authorised development is to commence until for that part a remediation strategy or design statement, if remediation is not required, to deal with the risks associated with contamination of the site in respect of the authorised development has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and the Environment Agency on matters related to their functions.

(2) The remediation strategy or design statement, if remediation is not required, prepared under sub-paragraph (1) must include details of—

- (a) a site investigation, based on the preliminary risk assessment bearing reference HE551473-ARC-TPU-RP-CE-3199 reported in chapter 9 (geology and soils) of the environmental statement, to provide information for a relevant risk assessment of the risk to the identified receptors that may be affected, including those outside the Order limits;
- (b) the results of the site investigation and the relevant risk assessment referred to in sub-paragraph (a) and, based on these, an options appraisal and remediation strategy, where necessary, giving full details of the remediation measures required to render the land fit for its intended purpose and how they are to be undertaken; and

- (c) a verification plan, where necessary, providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy under sub-paragraph (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

(3) In the event that soil or water contamination, including groundwater, is found at any time when carrying out the authorised development, which was not previously identified and accounted for within the approved remediation strategy, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must update the remediation strategy in consultation with the relevant planning authority and the Environment Agency on matters related to their functions.

(4) Remediation, where necessary, must be carried out in accordance with the approved remediation strategy unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority and the Environment Agency on matters related to their functions.

(5) Where remediation is necessary, no part of the authorised development is to be brought into use until for that part a verification report demonstrating the completion of the works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and the Environment Agency on matters related to their functions. The verification report must include results of sampling and monitoring carried out in accordance with the approved details.

(6) The authorised development is not to commence until an updated hydrogeological risk assessment report that addresses the risks to the groundwater resources that may be impacted by the authorised development has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and the Environment Agency on matters related to their functions.

(7) The report prepared under sub-paragraph (6) must include details of—

- (a) the pre-construction baseline conditions of all features identified during a comprehensive water features survey;
- (b) an updated hydrogeological model for the area that has been identified as being affected by the construction of all elements of the authorised development;
- (c) suitable monitoring locations and parameters to be used for the duration of the construction of the authorised development and will serve as monitoring points for the verification of a successful scheme; and
- (d) a dewatering management plan containing a groundwater monitoring programme that must be implemented to ensure the continued safeguards of abstractions identified by the water features survey.

(8) The authorised development must be carried out in accordance with the approved dewatering management plan as informed by the updated hydrogeological risk assessment.

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**Commencement Information**

**16** Sch. 2 para. 6 in force at 7.12.2022, see [art. 1](#)

*Protected species*

7.—(1) No part of the authorised development is to commence until for that part final pre-construction survey work has been carried out to establish whether European or nationally protected

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species are present on any of the land affected or likely to be affected by any part of the authorised development, or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Following pre-construction survey work or at any time when carrying out the authorised development, where—

- (a) a protected species is shown to be present, or where there is a reasonable likelihood of it being present;
- (b) application of the relevant assessment methods used in the environmental statement show that a significant effect is likely to occur which was not previously identified in the environmental statement; and
- (c) that effect is not addressed by any prior approved scheme of protection and mitigation established in accordance with this paragraph,

the relevant parts of the relevant works likely to affect the identified protected species must cease until a scheme of protection and mitigation measures has been submitted to and approved in writing by the Secretary of State.

(3) The undertaker must consult Natural England on the scheme referred to in sub-paragraph (2) prior to submission to the Secretary of State for approval, except where a suitably qualified and experienced ecologist, holding where relevant and appropriate a licence relating to the species in question, determines that the relevant works do not require a protected species licence.

(4) The relevant works under sub-paragraph (2) must be carried out in accordance with the approved scheme, unless otherwise agreed by the Secretary of State after the Secretary of State has consulted Natural England, and under any necessary licences.

**Commencement Information**

**17** Sch. 2 para. 7 in force at 7.12.2022, see [art. 1](#)

*Surface and foul water drainage*

**8.—**(1) No part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, reflecting the mitigation measures set out in the REAC including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation with the relevant lead local flood authority and the Environment Agency on matters related to their functions.

(2) The surface and foul water drainage system must be constructed in accordance with the approved details, unless otherwise agreed in writing by the Secretary of State following consultation with the relevant lead local flood authority on matters related to its function, provided that the Secretary of State is satisfied that any amendments to the approved details would not give rise to any materially new or materially worse environmental effects in comparison with those reported in the environmental statement.

**Commencement Information**

**18** Sch. 2 para. 8 in force at 7.12.2022, see [art. 1](#)



### *Flood risk assessment*

9.—(1) Subject to sub-paragraph (2), the authorised development must be carried out in accordance with the flood risk assessment or any update thereof approved by the Environment Agency, including the mitigation measures detailed in it, so that no part of the authorised development is predicted to result in any exceedance of the flood levels to properties and land shown in the flood risk assessment.

(2) Sub-paragraph (1) does not apply in any circumstance where the undertaker proposes to carry out a part of the authorised development otherwise than in accordance with the flood risk assessment or demonstrates to the Environment Agency's satisfaction, in consultation with the relevant lead local flood authority, that the part of the authorised development concerned would not result in an exceedance of the flood levels shown in the flood risk assessment.

(3) The authorised development is not to commence until a programme outlining the intended schedule and phasing of works and mitigation of flood risk during construction has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, relevant lead local flood authority and the Environment Agency on matters related to their functions.

(4) The authorised development must be carried out in accordance with the programme approved under sub-paragraph (3).

#### **Commencement Information**

**19** Sch. 2 para. 9 in force at 7.12.2022, see [art. 1](#)

### *Archaeological remains*

10.—(1) No part of the authorised development is to commence until for that part a written scheme for the investigation of areas of archaeological interest including a programme for post excavation analysis, reporting, publication or archiving, reflecting the relevant mitigation measures set out in the REAC, has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority, Greater Manchester Archaeological Advisory Service and the county archaeologist at Derbyshire County Council on matters related to their functions.

(2) The authorised development must be carried out in accordance with the scheme referred to in sub-paragraph (1).

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

(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be retained in situ and reported to the relevant planning authority as soon as reasonably practicable from the date they are identified.

(5) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (4) for a period of 14 days from the date of any notice served under sub-paragraph (4) unless otherwise agreed in writing by the relevant planning authority.

(6) If the relevant planning authority determines in writing that the archaeological remains require further investigation, no construction operations are to take place within 10 metres of the remains

until provision has been made for the further investigation and recording of the remains in accordance with details to be submitted in writing to, and approved in writing by, the relevant planning authority.

(7) On completion of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be agreed with the county archaeologist.

(8) For the purposes of this requirement, reference to part shall include the preliminary works where the preliminary works comprise intrusive ground works.

**Commencement Information**

**I10** Sch. 2 para. 10 in force at 7.12.2022, see [art. 1](#)

*Fencing*

**11.** Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with Volume 1, Series 0300 of the Manual of Contract Documents for Highway Works except where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development.

**Commencement Information**

**I11** Sch. 2 para. 11 in force at 7.12.2022, see [art. 1](#)

*Carbon management*

**12.—(1)** No part of the authorised development is to commence until for that part a Carbon Management Plan has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and the local highway authority on matters related to their functions.

(2) The authorised development must be carried out in accordance with the Carbon Management Plan approved under sub-paragraph (1).

(3) The Carbon Management Plan prepared under sub-paragraph (1) must adhere to the principles of PAS 2080 and must—

- (a) quantify the construction stage carbon emissions that are identified at the preliminary scheme design stage;
- (b) set out the consideration given to the use of construction methods, materials and other means to reduce carbon emissions and identify a target for a reduction in construction stage carbon emissions from the preliminary scheme design stage to the completion of the authorised development; and
- (c) provide a comparison of the construction stage carbon emissions, use of construction methods, materials and other means to reduce carbon emissions for the authorised development with other projects identified in consultation with the relevant planning authority and local highway authority.

(4) The undertaker must maintain up to date reports of the construction stage carbon emissions, use of construction methods and materials to reduce carbon emissions; and how those compare with the Carbon Management Plan, until the date of completion of the authorised development.

(5) The adherence of the Carbon Management Plan to the principles of PAS 2080, the construction stage carbon emissions quantified in the Carbon Management Plan, and the up to date reports referred to in sub-paragraph (4), must be verified by an independent body approved by the Secretary of State.

(6) The Carbon Management Plan prepared under sub-paragraph (1) and the up to date reports referred to in sub-paragraph (4), as verified in accordance with sub-paragraph (5), must be available in electronic form for inspection by members of the public until the date of completion of the authorised development.

**Commencement Information**

**I12** Sch. 2 para. 12 in force at 7.12.2022, see [art. 1](#)

*Piling*

**13.**—(1) No part of the authorised development is to commence until for that part a Piling Design Statement has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to their functions.

(2) The authorised development must be carried out in accordance with the Piling Design Statement approved under sub-paragraph (1).

(3) The Piling Design Statement prepared under sub-paragraph (1) must include details of—

- (a) options for the proposed piling method at each location where piling is proposed;
- (b) for each piling method option at each location, noise and vibration mitigation measures and anticipated noise and vibration effects on identified receptors that are likely to be affected;
- (c) the proposed piling method and noise and vibration mitigation measures at each location; and
- (d) justification of why rotary bored piling is not feasible in any location where the use of percussive piling would lead to more adverse noise or vibration effects on the identified receptors that are likely to be affected.

**Commencement Information**

**I13** Sch. 2 para. 13 in force at 7.12.2022, see [art. 1](#)

*Details of consultation*

**14.**—(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule following consultation with another party, the undertaker must provide such other party with not less than 21 days for any response to the consultation and thereafter the details submitted to the Secretary of State for approval must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation.

(2) At the time of submission to the Secretary of State for approval, the undertaker must provide a copy of the summary report referred to under sub-paragraph (1) to the relevant consultees referred to in the requirement in relation to which approval is being sought from the Secretary of State.

(3) The undertaker must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, but only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.

(4) Where the consultation responses are not reflected in the details submitted to the Secretary of State for approval, the undertaker must state in the summary report referred to under sub-

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paragraph (1) the reasons why the consultation responses have not been reflected in the submitted details.

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**Commencement Information**

**I14** Sch. 2 para. 14 in force at 7.12.2022, see [art. 1](#)

*Amendments to approved details*

**15.** With respect to any requirement which requires the authorised development to be carried out in accordance with the details or schemes or plans approved under this Schedule, the approved details or schemes or plans are taken to include any amendments that may subsequently be approved in writing by the Secretary of State.

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**Commencement Information**

**I15** Sch. 2 para. 15 in force at 7.12.2022, see [art. 1](#)

**Changes to legislation:**

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